

# **2016 Amended and Restated Declaration of Condominium for Fleetwood Plaza Condominiums<sup>1</sup>**

## **RECITAL**

WHEREAS, FLEETWOOD PROPERTIES, INC., by means of that Declaration Creating Ownership and Establishing Restrictions, Covenants, and Conditions for Fleetwood Plaza Condominiums, recorded in Deed Book 622 at page 751, et seq.<sup>2</sup>, of the Henderson County Registry of Deeds (hereinafter referred to as the "Original Declaration"), did create FLEETWOOD PLAZA CONDOMINIUMS; and

WHEREAS, Fleetwood Properties, Inc., did by means of the Original Declaration, reserve the right to add certain properties described in Exhibit A of the Original Declaration to Fleetwood Plaza Condominiums; and

WHEREAS, Fleetwood Properties, Inc., did add certain properties to Fleetwood Plaza Condominiums by means of eleven (11) Supplements to the Original Declaration recorded in Deed Book 641 at page 563, in Deed Book 645 at page 503, in Deed Book 656 at page 435, in Deed Book 665 at page 152, in Deed Book 669 at page 309, in Deed Book 673 at page 249, in Deed Book 680 at page 303, in Deed Book 686 at page 127, in Deed Book 695 at page 759, in Deed Book 698 at page 793, and in Deed Book 708 at page 274 of the Henderson County Registry of Deeds; and

WHEREAS, by means of that Supplement Number Eleven to the Original Declaration, recorded in Deed Book 708 at page 274 of the Henderson County Registry of Deeds, Fleetwood Properties, Inc., did complete Fleetwood Plaza Condominiums, consisting of 63 Units and Common Elements, by submitting the remainder of the property described in Exhibit A of the Original Declaration to Fleetwood Plaza Condominium which Fleetwood Properties, Inc., had reserved the right to submit pursuant to the Original Declaration; and

WHEREAS, pursuant to Article VI of the Original Declaration, FLEETWOOD PLAZA REGIME, a North Carolina non-profit corporation whose membership is limited to and consists of all owners of Units in Fleetwood Plaza Condominiums (hereinafter referred to as the Regime or Association), was established to administer the condominium property; and

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<sup>1</sup> This version of the Declaration was originally generated by converting the 2007 PDF version to a Microsoft Word document. Many corrections were made "by hand", and explanatory footnotes added. A number of changes were made by amendments approved by the owners at the Annual Meeting held on September 12, 2016; those amendments are incorporated herein and identified via footnotes.

<sup>2</sup> The subsequent Deed Book and Page references are DB943/p539, DB960/p367, DB964/p343, DB982/p191, DB1000/p503, DB1075/p297, DB1076/p683, DB1234/p389, DB1322/p672, DB1680/p7.

WHEREAS, Article XIII, Paragraph 1, of the Original Declaration provided a process by which the owners of Units in Fleetwood Plaza could amend the Original Declaration and the Original Declaration has been duly amended by those four instruments recorded in Deed Book 747 at page 687, in Deed Book 770 at page 712, in Deed Book 880 at page 461, and in Deed Book 905 at page 531 in the Henderson County Registry of Deeds; and

WHEREAS, the Original Declaration and Bylaws, as amended by that instrument recorded in Deed Book 770 at page 712 in the Henderson County Registry of Deeds, may be amended by the vote of the unit owners holding a majority of the percentage interest, provided that such amendment shall become effective only when a certificate, duly executed and acknowledged by the President of the Regime, certifying to such amendment shall have been duly recorded in the office of the Register of Deeds for Henderson County, North Carolina; and

WHEREAS, a majority of the unit owners voted at the December 10, 1997, special meeting of the Regime to amend and restate the Original Declaration and Bylaws as is hereby done for the purpose of submitting Fleetwood Plaza Condominium to N. C. Gen. Stat. § 47C-1-102, et seq., the North Carolina Condominium Act, and to incorporate all previous amendments and supplements to the Original Declaration into one unified document;

NOW THEREFORE, the Original Declaration as amended including eleven supplements referenced above and the Original Bylaws as amended are now amended by striking them in their entireties except for the purpose of preserving legal descriptions and the whole of the Condominium Property as found in the original Declaration and supplements and by simultaneously substituting therefore the following Amended and Restated Declaration and Bylaws by which the Condominium Property shall be governed. These Amended and Restated Declaration and Bylaws were recorded in Deed Book 941 at page 752 in the Henderson County Registry of Deeds.

WHEREAS, a majority of the unit owners voted at the September 10, 2001, annual meeting of the Regime to amend and restate the amended Declaration to revise Article 8 which involved Insurance, the Board has ordered these amendments be recorded in the Henderson County Registry of Deeds.

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## DECLARATION

### Article 1

#### **Submission to North Carolina Condominium Act**

The real property and improvements which comprise Fleetwood Plaza Condominiums are hereby submitted to the provisions of the North Carolina Condominium Act (N.C. Gen. Stat. § 47C-1-101 et seq.) (referred to hereafter and in the Bylaws as the "Condominium Act") in accordance with the provisions of the Condominium Act and particularly as is permitted by N.C. Gen. Stat. § 47C-1-102(b). Submission of the governance, administration, and operation of the Condominium to the Condominium Act is for the benefit of all Owners at Fleetwood Plaza Condominiums and to allow the Owners to take advantage of the expanded statutory basis for the governance of condominiums offered by the Condominium Act.

### Article 2

#### **Description of Condominium**

**Section 2.1 Name.** The name of the condominium is Fleetwood Plaza Condominiums (sometimes referred to herein as "Fleetwood Plaza" or "Condominium").

**Section 2.2 Location.** The Condominium is located in Henderson County, North Carolina. Metes and bounds, graphic descriptions, and plans of improvements constituting the Condominium, identifying the Units and the Common Elements thereof are more precisely set forth in Exhibits attached to the Original Declaration and the eleven supplements to the Original Declaration, recorded with the Original Declaration and eleven supplements to the Original Declaration in the Henderson County, North Carolina, Registry of Deeds and the references to Deed Books and page numbers set forth above.<sup>3</sup>

### Article 3

#### **Definitions**

In accordance with Section 47C-1-103 of the Condominium Act and unless specifically provided otherwise or the context otherwise requires, the following terms as used in the Declaration and Bylaws for the Condominium shall have the following meanings:

**Section 3.1 Allocated Interests** means the undivided interest in the Common Elements, time common expense liabilities, and votes in the Association allocated to each Condominium Unit.

**Section 3.2 Assessments** means any and all sums levied by the Association against any Unit and its Owner as common expenses or other charges to include but not be limited to common expense liabilities, special assessments, specific assessments, fines, late charges, interest and attorney's fees as set forth in the Declaration and Bylaws.

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<sup>3</sup> In the previous PDF version, the references appear prior to the printing of the Declaration. These references are: STATE OF NORTH CAROLINA, COUNTY OF HENDERSON, References: DB 622/751, DB 641/563, DB 645/503, DB 656/435, DB 665/152, DB 669/309, DB 673/249, DB 680/303, DB 686/127, DB 695/759, DB 698/793, DB 708/274, DB 736/693, DB 747/687, DB 770/712, DB 880/461, DB 905/531, DB 941/252.

**Section 3.3 Association, Regime or Unit Owners Association or Condominium**

**Association** means Fleetwood Plaza Regime, a North Carolina non-profit corporation and its Successors.

**Section 3.4 Board or Board of Directors** means the Board of Directors of Fleetwood Plaza Regime which is the governing body on behalf of and for the Association designated the Executive Board in N. C. Gen. Stat. § 47C-1-103(13); **Director or Directors** means a member or members of the Board.

**Section 3.5 Bylaws** means the Bylaws of Fleetwood Plaza Regime which are incorporated by reference as "Exhibit A", attached hereto.

**Section 3.6 Charter or Corporate Charter** means the Articles of Incorporation of Fleetwood Plaza Regime, an incorporated non-profit condominium association, as shown in "Exhibit B" to this Declaration and which is hereby incorporated by reference.

**Section 3.7 Common Elements** means all portions of the Condominium other than the Units, including Limited Common Elements.

**Section 3.8 Common Expenses** mean expenses or financial liabilities for the operation of and connected in any way with the administration of the Condominium. These include:

- a. Expenses of administration, maintenance, repair or replacement of the Common Elements;
- b. Expenses defined, referred to, or declared to be common expenses by the Documents or by the Condominium Act;
- c. Expenses agreed upon as common expenses by the Association;
- d. Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association; and
- e. Expenses levied against or which may be allocated to any particular Unit and Unit Owner for fines, late charges, interests, costs of collection, and attorney's fees.

**Section 3.9 Common Expense Liability** means the liability for common expenses allocated to each Unit pursuant to N.C. Gen Stat. § 47C-2-107 and for any other common expense or charge in accordance with the Declaration and Bylaws.

**Section 3.10 Condominium** means Fleetwood Plaza, that real estate, and improvements thereon, as described in Article 2 of this Declaration and in the exhibits and instruments referenced therein.

**Section 3.11 Declaration** means this Amended and Restated Declaration of Condominium, Fleetwood Plaza Condominiums, the Documents filed of record in accordance with the Condominium Act for the purpose of creating the Condominium, and including any duly recorded amendments to such Documents.

**Section 3.12 Documents** mean the Declaration, Plans recorded and filed, the Corporate Charter, the Bylaws, and the Rules and Regulations as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is part of that Document.

**Section 3.13 Limited Common Element** means a portion of the Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Units, including, but not limited to those areas so designed in the Plans filed as exhibits to the Original Declaration and the eleven supplements thereto, which are hereby incorporated by reference and those elements so designated in Article 6 of this Declaration.

**Section 3.14 Majority of the Total** Votes in the Association means fifty percent (50%) of the Unit Owners entitled to vote, plus one voter, being thirty-two.

**Section 3.15 Mortgage** shall refer to any mortgage, deed of trust, deed to secure debt or other transfer, or conveyance for the purpose of securing the performance of an obligation.

**Section 3.16 Notice and Opportunity to be Heard** mean the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association and the right for an opportunity to be heard thereon. The procedures for such notice and opportunity to be heard are set forth in Article VIII of the Bylaws.<sup>4</sup>

**Section 3.17 Officer** shall mean those individuals who are elected by the Board to serve as officers of the Association to include President, Vice President, Secretary, Treasurer and such other support and offices as the Board may determine necessary.

**Section 3.18 Person** means a natural person, corporation, business, trust, estate trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

**Section 3.19 Plans** means those Plans recorded in the Unit Ownership File of the Henderson County Registry, which are referenced by the Original Declaration and Supplemental Declarations.

**Section 3.20 Resident** means and includes owners, their immediate family members, tenants, and lessees.

**Section 3.21 Supplemental Declarations** means those eleven supplements to the Original Declaration recorded in the Henderson County Registry of Deeds by Fleetwood Properties, Inc. which are referenced above in the Recital hereto, including all Exhibits and Plans recorded therewith, which are hereby incorporated by reference.

**Section 3.22 Unit or Condominium Unit** means the physical portion of the Condominium designated for separate ownership or occupancy whose boundaries are as set forth in Article 4 in this Declaration.

**Section 3.23 Unit Owner or Owner or Member** means a person or persons who own a Unit that is (are) the record Owner(s) of a Unit within the Condominium but shall not mean a mortgage holder.

**Section 3.24 Upkeep** means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.<sup>5</sup>

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<sup>4</sup> This reference is erroneous. Article VIII of the Bylaws was amended by deletion, by vote of the Unit Owners at the September 12, 2016, Annual Meeting, and the content relocated and restated in Article 22 of this Declaration. The reference was not corrected at that time.

<sup>5</sup> Section 3.24 was added by amendment, by vote of the Unit Owners at the September 12, 2016, Annual Meeting.

## **Article 4**

### **Units**

**Section 4.1 Unit Designations and Descriptions.** The Condominium consists of sixty-three (63) separate Condominium Units designated and identified as follows:

BUILDING, UNIT NO. OF CONDOMINIUM	PERCENTAGE OF UNDIVIDED INTEREST
Sugarloaf, Unit 1	1 and 37/63 <sup>rds</sup> %
Sugarloaf, Unit 2	" "
Sugarloaf, Unit 3	" "
Sugarloaf, Unit 4	" "
Mitchell, Unit 1	" "
Mitchell, Unit 2	" "
Mitchell, Unit 3	" "
Mitchell, Unit 4	" "
Pinnacle, Unit 1	" "
Pinnacle, Unit 2	" "
Pinnacle, Unit 3	" "
Pinnacle, Unit 4	" "
Grant, Unit 1	" "
Grant, Unit 2	" "
Grant, Unit 3	" "
Grant, Unit 4	" "
Hammond, Unit 1	" "
Hammond, Unit 2	" "
Hammond, Unit 3	" "
Hammond, Unit 4	" "
Turkey Knob, Unit 1	" "
Turkey Knob, Unit 2	" "
Turkey Knob, Unit 3	" "
Turkey Knob, Unit 4	" "
Jeter, Unit 1	" "
Jeter, Unit 2	" "
Jeter, Unit 3	" "
Jeter, Unit 4	" "
Stone, Unit 1	" "
Stone, Unit 2	" "
Stone, Unit 3	" "
Stone, Unit 4	" "
Weathero, Unit 1	" "
Weathero, Unit 2	" "
Weathero, Unit 3	" "

Weathero, Unit 4	" "
Bearwallow, Unit 1	" "
Bearwallow, Unit 2	" "
Bearwallow, Unit 3	" "
Bearwallow, Unit 4	" "
Poplar, Unit 1	" "
Poplar, Unit 2	" "
Poplar, Unit 3	" "
Rich, Unit 1	" "
Rich, Unit 2	" "
Rich, Unit 3	" "
Rich, Unit 4	" "
Hightop, Unit 1	" "
Hightop, Unit 2	" "
Hightop, Unit 3	" "
Hightop, Unit 4	" "
Little Pisgah, Unit 1	" "
Little Pisgah, Unit 2	" "
Little Pisgah, Unit 3	" "
Little Pisgah, Unit 4	" "
Little Pisgah, Unit 5	" "
Little Pisgah, Unit 6	" "
Pisgah, Unit 1	" "
Pisgah, Unit 2	" "
Pisgah, Unit 3	" "
Pisgah, Unit 4	" "
Pisgah, Unit 5	" "
Pisgah, Unit 6	" "
TOTAL	100%

The principal materials of which the buildings are constructed are as follows: The buildings are wood frame buildings with cement footings and concrete or cinder block foundations. The exterior is of brick veneer, cedar siding and stucco board. The roofs are covered with fiberglass or asphalt shingles on plywood underlayment.

- a. Description of Buildings: Fleetwood Plaza Condominiums is comprised of fifteen residential buildings. Each building contains between three (3) and six (6) units which are connected to one another. Each unit is designated on the Plans recorded in the Unit Ownership File in the Henderson County Registry of Deeds as referenced by the Original Declaration and the eleven supplemental declarations thereto.
- b. Unit Dimensions: Each unit shall include all the space within the boundaries thereof. Each unit is bounded both as to horizontal and vertical boundaries by the unexposed facing of drywall (the facing next to shuts or structural portions of buildings) and unexposed facing of finish molding or paneling of its walls and

ceilings, and the unfinished upper surface of floors. It is the intent hereof that the unit will include all interior drywall, paneling and molding and any surface finish, or wallpaper, and all finished flooring, such as exposed wooden flooring, vinyl or linoleum floor covering, matting and carpeting, but will not include studs, supports and wall insulation, concrete slabs, floor or ceiling joists. Each unit shall be deemed to include the interior and exterior of any and all doors, windows, sliding glass doors, and other closure. However, all exterior colors shall be in good taste in keeping with the general decor of the development, and in case of dispute, shall be subject to the decision of the Board of Directors. Included as part of a unit are all door locks or other security or mechanical devices which control; the opening and closing of doors and windows. Included also as part of a unit are the following:

- i. the heating and air conditioning systems serving the unit, wherever located;
- ii. the electrical wiring and service system, wherever located, from the service meter to the place where it connects with all uses within the unit;
- iii. the plumbing for water service from the last junction with a water line serving another unit to its end use in a unit;
- iv. the drainage or sewer plumbing from its collection point in a unit to their junction with a line serving any other unit; and
- v. television and radio antenna or cable systems serving the unit, wherever located.

All open deck ceiling fans and all outdoor lights which are controlled from within the unit shall be a part of the unit. The repair and replacement of all the items denominated in this paragraph shall be the responsibility of the Unit Owner; however, the type and style of such outdoor fans and lights shall be subject to the control of the Board of Directors.

In interpreting this Declaration and its Plans, the actual physical boundaries of a unit as originally constructed, or of a unit reconstructed in substantial compliance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in this Declaration, or its Plan, regardless of settling or lateral movement of the building, and regardless of minor variances between boundaries shown on the Plans, and those of the Unit. Each Unit designation, type unit, and percentage interest in the Common Elements are set out in Article 4, Section 4.1 of this Declaration.

**Section 4.2 Fractional Interests.** The undivided fee simple fractional interest in the Common Elements of the condominium and in the common expenses of the Association for each unit is equal. There are sixty-three (63) units, so the interest of each unit is 1 and 37/63rds percent. Said fractional interests are set out above and were formulated by the developer, Fleetwood Properties, Inc. in the Original Declaration and the eleven supplements thereto. These interests and their formulation are now in accordance with Section 47C-2-107 of the Condominium Act. Common expenses shall be shared by the Owners on the basis of the percentage interest of each Unit. Each Unit shall have one (1) vote on every matter for which a vote of the membership is required by the Documents.

## **Article 5**

### **Common Elements**

**Section 5.1 Common Elements.** Common elements include all parts of the Condominium located outside the boundaries of the respective Units, including but not limited to:

- a. The land on which the buildings are erected and all the land surrounding the buildings that lies within the boundaries of the land from time to time subject to this Declaration, and exterior walls, roofs, interior walls (except the drywall, paneling, molding and floor covering), ceilings, floors, etc., and every part of the buildings and property other than the condominium units.
- b. The foundation and structural members, including columns, girders, beams and supports.
- c. All installations designed and intended for common use or to serve more than one unit such as, but not limited to, electrical service, gas and plumbing, and telephone, whether located in common areas or in condominium units, excluding from such installations all parts thereof, and all items affixed or connected thereto not designed or intended for common use or by more than one unit.
- d. Easements for access, maintenance, repair, reconstruction, or replacement of the above-mentioned common areas and facilities and all other services necessary or convenient to the existence, maintenance, safety and use of the property.
- e. The yards, landscaping, fences, non-public roads and driveways, parking areas, carports, walks, retaining walls, and all paved areas.
- f. All maintenance and recreational areas.
- g. All sewer lines and sewer lift station systems.
- h. Any portion of the property shown and designated on the Plans as Common Area or Limited Common Area.

The maintenance of the common elements shall be as set forth in this Declaration and the Bylaws of the Association.

**Section 5.2 Percentage Interest.** The Unit Owners shall own the Common Elements, including the Limited Common Elements as tenants in common, with each unit having appurtenant thereto the percentage interest in said Common Areas and Facilities as set forth in Article 4, Section 4.1 hereof; provided, however, the use of the Limited Common Elements shall be restricted as set forth in Article 6 of this Declaration.

**Section 5.3 Inseparability of Percentage Interest.** The percentage interest in the Common Elements cannot be separated from the unit to which it appertains and shall automatically be conveyed or encumbered with the unit, even though such interest is not expressly mentioned or described in the deed or other instrument.

**Section 5.4 No Partition.** The Common Elements shall remain undivided and no right to partition the same or any part thereof shall exist except as provided in the Condominium Act, this Declaration, and the Bylaws. Nothing contained herein, however, shall be deemed to prevent ownership of a condominium unit by more than one person, either as tenants by the entireties, or as tenants in common, or in any other form by law permitted.

**Section 5.5 Use of Common Elements.** Each Unit Owner shall have the right to use the Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other unit owners. The Board shall, if any question arises, determine the purpose for which a part of the Common Elements is intended for use. The Board shall have the right to promulgate rules and regulations limiting the use of some or all of the Common Elements to unit owners and their guests and to promulgate rules and regulations to provide for the exclusive use of a part of the Common Elements by a unit owner and his or her guests for special occasions, which exclusive use may be conditioned upon, among other things, payment of a fee. Any unit owner may delegate, in accordance with the provisions of this Declaration and the Bylaws and reasonable Rules and Regulations of the Board, his right to use the Common Elements to the immediate members of his family living in the Unit, to a limited number of guests, or to tenants who reside in his condominium unit.

## **Article 6**

### **Limited Common Elements**

The limited common elements are designated in Exhibits to the Original Declaration and Supplemental Declaration, and in the Plans therein referenced as "Limited Common Areas and Facilities". A Unit Owner shall be entitled to the exclusive use or use with other Unit Owners served by the limited common elements appurtenant to certain Units. Limited common elements shall not be separate and apart from the Common Elements in general, being limited only in that they are reserved to the use of certain Units. Such limited common elements include all balconies, decks, terraces, patios (concrete slabs), trash storage areas, outside stairways and entrance areas, carports, parking spaces and any other area so designated on the Plans or designated by the Board of Directors as a limited common element appurtenant to a Unit.

Exclusive use of the limited common elements may be delegated by an Owner to the immediate members of his family, his guests, or tenants who reside in the Unit. Owners may place plants, furniture, or similar items within the limited common elements adjacent to or appurtenant to the Unit, subject to reasonable rules and regulations duly adopted by the Board. No Owner shall build or construct any storage or workshop facility or similar structure within the limited common elements without the prior written approval of the Board of Directors.

## **Article 7**

### **Use Restrictions and Purpose**

**Section 7.1 Residential.** Each of the units now constructed or to be constructed on the property shall be, and the same hereby are, restricted exclusively to single-family residential use, and shall be occupied only by a single family, its nurses, aides, servants, or caretakers, and guests. The provisions of this Paragraph do not apply to property being used by the Regime as incidental to the operations and organization of the Regime.

**Section 7.2 Restrictions in General.** The units and Common Elements of the Condominium are subject to the restrictions contained in this Declaration and as may be set forth in the Bylaws and Rules and Regulations of the Association. All Owners and other persons are

subject to these restrictions and subject to the enforcement sanctions as are set forth in the Condominium Act, this Declaration, and Bylaws.

**Section 7.3 Business Activities.** No business activities shall be conducted on any portion of the property, provided, however, the foregoing restrictions shall not apply to the Regime as provided above; provided further, private offices may be maintained in a unit so long as such use is incidental to the primary residential use of the unit and is approved by the Board of Directors. The property shall not be used in any way or for any purpose which may endanger the health of or unreasonably disturb the Owner of any Unit or any resident thereof. The Board of Directors of the Association shall, in its sole discretion, determine what constitutes a health hazard or unreasonable disturbance. No Owner shall make any use of a Unit or store or keep anything in a Unit which will increase the insurance rates for the Association or for other Unit Owners.

**Section 7.4 Alterations and Attachments by Unit Owner.** No Unit Owner shall make structural alterations or modifications to his unit or to any of the Common Elements, or Limited Common Elements, without the written approval of the Board of Directors. The Board of Directors shall not approve of any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety, or overall appearance of the Condominium Property.

**Section 7.5 Motor Vehicles.** No motor vehicles (other than private passenger vehicles), boat, boat trailer, mobile home, motor home, trailer, or any similar items shall be stored in or upon the Common Elements, or Limited Common Elements, unless placed upon a portion of the Common Elements, or Limited Common Elements, which is designated for such purpose, or which may be designated from time to time by the Board for the storage of such items.

**Section 7.6 Signs.** No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted or affixed by any Owner on any portion of the exterior or interior (if visible from the outside) of any unit or on any portion of the Common Elements without written permission from the Board. In its sole discretion, the Board may have signs erected on the common elements for identification or for such other purposes as the Board finds necessary.

**Section 7.7 Prohibitions in Use of Common Elements.** Except where indicated on the Plans and exhibits attached to the Original Declaration and Supplemental Declarations, or on specific approval of the Board, the Common Elements, including Limited Common Elements, shall not be used for temporary or permanent storage of supplies, personal property, trash, or refuse of any kind, except in common trash receptacles placed at the discretion of the Board, nor shall they be used in any way for the drying or airing of clothing, rugs, or other fabrics. Entrances, sidewalks, yards, driveways, parking areas and stairways shall not be obstructed in any way. In general, no activities shall be carried on nor condition maintained by any Unit Owner either in his unit or upon the Common Elements, if such activities should despoil, or tend to despoil, the appearance of the Condominium Property. It is expressly acknowledged and agreed by all parties concerned that this section is for the mutual benefit of all owners on the condominium property and is necessary for the protection of the unit owners and is enforceable by the Board or any one or more unit owners.

**Section 7.8 Animals.** No animal shall be kept on the Condominium Property, except normal, small household pets ordinarily kept in homes. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint as is necessary to prevent them from being or becoming obnoxious or offensive on account of noise, odor, unsanitary conditions, or other nuisance. No savage or dangerous animal shall be kept or permitted on the Condominium Property. No more than one household pet may be housed within a unit without written permission of the board. No pets may be permitted to run loose upon the Common Elements, and any Unit Owner who causes or permits any animal to be brought or kept upon the Condominium Property shall indemnify and hold the Regime harmless for and from any loss, damage, or liability which it sustains as a result of the presence of such animal on the Condominium Property, regardless of whether the Regime or the Board has given its permission therefore. Whenever such pet is allowed outside the living unit, then the pet must be on a leash and any animal droppings which occur during such time as the pet is outside the living unit must be immediately collected by the owner.

**Section 7.9 Access to Units.** The Regime or its agent shall have access to each unit from time to time during reasonable working hours, upon oral or written notice to its owner, as may be necessary for the maintenance, repair, or replacement of any of the Common Elements, including Limited Common Elements. The Regime or its agent shall also have access to each unit at all times without notice as may be necessary to make emergency repairs to prevent damage to Common Elements, to another unit, or to the unit itself.

**Section 7.10 Subdividing.** No unit may be divided or subdivided into smaller units, nor any portion thereof sold or otherwise transferred, without first amending the Declaration to show the changes in the units to be affected thereby; provided that any amendment to this Declaration providing for the subdivision into smaller units must be approved by ninety percent (90%) of the Unit Owners entitled to cast votes at a meeting of the membership called for such purpose.

**Section 7.11 Nuisances.** No nuisances shall be allowed upon the Condominium Property and no person shall engage in any use, practice, or activity upon such property which is noxious, offensive, or a source of annoyance to Unit Owners or which reasonably interferes with the peaceful possession and proper use of the property by any unit owner. The Board, in its sole discretion, shall have the power and authority to decide what acts or actions constitute a nuisance. All parts of the property shall be kept in a clean and sanitary condition. No rubbish, refuse, or garbage shall be allowed to accumulate and no fire hazard shall be allowed to exist. Any unit owner (or his family, tenants, guests or agents) who shall dump or place any trash or debris upon any portion of the property shall be liable to the Regime for the actual cost of removal thereof and the same shall be added to and become a part of the assessment next coming due to which the unit owner is subject.

**Section 7.12 Antenna.** There shall be no exterior antenna for television, radio, citizen band, ham radio, nor any other exterior fixture or appliance for electronic devices or for transmission or receipt of communication signals except with the written express permission of the Board of Directors. Antenna may be placed within attic areas. Notwithstanding the restrictions in this paragraph, in the event that the Federal Communications Commission issues regulations governing the placement of antennas or satellite dishes in condominiums, the Board is hereby authorized to develop and enforce further rules, in accordance with such regulations, for the placement of antennas and/or satellite dishes.

**Section 7.13 Lawful Use.** No immoral, improper, or unlawful use shall be made of the Condominium Property nor any part thereof. All valid laws, zoning ordinances, and regulations of governmental bodies having jurisdiction thereof shall be observed.

**Section 7.14 Weatherization of Units.** At all times a Unit Owner shall maintain sufficient heat in his unit to prevent the freezing of any water pipes and shall follow similar weatherization procedures as established by the Board from time to time.

**Section 7.15 Restriction on Transfer of Common Areas.**<sup>6</sup> The Regime shall not seek to abandon, partition, subdivide, encumber, sell or transfer any portion of the Common Elements, without the written approval of owners and mortgage holders of units totaling eighty percent (80%) of the percentage interest in the Common Elements, and one hundred percent (100%) of those having use of Limited Common Areas thereby affected. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this paragraph.

**Section 7.16 Rules and Regulations.** The Board may from time to time promulgate reasonable rules and regulations respecting the restrictive covenants set out in this Article, but such rules and regulations shall be consistent with the restrictions and not in derogation of or intended as an amendment thereof.

**Section 7.17 Leasing of Units.** Leasing of units shall be conducted as set forth in Article 13 of this Declaration.

**Section 7.18 Prohibition of Time-Sharing.** Time-sharing and time shares as defined in the North Carolina Time Share Act (N.C. Gen. Stat. § 93A-39 et seq.) of any unit in the Condominium is prohibited.

**Section 7.19 General.** The Board of Directors may, from time to time, without consent of members, promulgate, modify, or delete rules and regulations applicable to the units, Common Elements, or Condominium Property as a whole. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting by the vote of Owners holding a majority of the total votes in the Association. Such rules and regulations may be enforced by the Association in accordance with the Condominium Act, the Declarations and By-laws, to include but not be limited to the imposition of monetary fines and penalties.

All Unit Owners, tenants, mortgagees, and occupants of Units shall comply with the Declaration, By-Laws, and Rules and Regulations. The acceptance of a deed or the exercise of any incident of Ownership or the entering into any lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Declaration, By-laws and Rules and Regulations are accepted by, ratified by and are binding on all Unit Owners, tenants, mortgagees, occupants and their guests and invitees.

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<sup>6</sup> Section 7.15 appears as amended on 6/13/2007.

## **Article 8**

### **Insurance<sup>7</sup>**

**Section 8.1 Authority to Purchase Insurance.** All required or permitted insurance policies (other than title insurance and insurance on betterments and improvements to the Units and Limited Common Elements, if any) upon the property (other than the personal property of the Owners) shall be purchased by the Association in the name of the Association, as Trustees for the Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or memoranda of insurance to the Association and to any Owner, mortgagee, or beneficiary of a deed of trust. Each Owner may obtain insurance, at his own expense, affording coverage upon his Unit, his personal property and betterments and for his personal liability as may be permitted or required by law, and such insurance shall, if available, contain a waiver of subrogation as to any claims against Owners, the Association and their respective servants, agents and guests.

**Section 8.2 Insurance Coverages.** The following insurance coverage shall be maintained in full force and effect by the Association:

Casualty insurance covering the Common Elements, and to the extent reasonably available, the Units, including all buildings and all improvements upon the land and all personal property included within the Condominium, except such personal property as may be owned by the Owners, shall be procured in an amount equal to one hundred percent (100%) of the maximum insurable replacement value thereof (exclusive of land, excavation and foundations) as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) loss or damage by flood; and, (c) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief. Casualty insurance obtained for the buildings and improvements shall provide such coverage commonly known as "all-inclusive building" coverage and/or "completed Unit" coverage as such terms are used in the insurance industry, and shall include, but not be limited to, all components of the Units together with fixtures, cabinets, built in appliances and all other such improvements which were part of the original completed Units, except for betterments and improvements installed by the Owner.

Public liability and property damage insurance in such reasonable amounts and covering all occurrences commonly insured against including, death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements, and in such forms as shall be required by the Association, including, but not limited to, legal liability, hired automobiles, non-owned automobile and off-premises employee coverage. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Owners as a group to an Owner.

- a. Worker's Compensation Insurance if and to the extent necessary to meet the requirements of North Carolina law

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<sup>7</sup> Article 8 was amended by substitution of this new article, by vote of the Unit Owners at the September 12, 2016, Annual Meeting.

- b. Officers and Directors Liability Insurance in such amount as the Board may determine. Such insurance shall contain a cross liability endorsement
- c. Such other insurance as the Board of Directors may determine to be necessary.

**Section 8.3 Premiums - Common Expenses.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Owners of Units.

**Section 8.4 Deductibles.** The deductible, if any, on any insurance policies maintained by the Association shall be paid by the Association as a Common Expense. In the event that the cause of any damage or destruction of any portion of the Condominium originated in or through the Common Elements or an apparatus located within the Common Elements, the Association may assess (i) any deductible amount necessitated by either the intentional act or omission, negligence, abuse, misuse or neglect of an Owner, or his or her family, guest, tenant, or the family or guest of said tenant, against such Owner; and (ii) a proportionate share of the deductible amount to any Owner whose Unit is repaired (or which Owner is compensated) by funds from the insurance policies maintained by the Association, based on the proportionate amount of insured loss incurred to the Unit relative to the total insured loss to the Common Elements and other Units. In the event that the cause of any damage or destruction to any portion of the Condominium originated in or through a Unit or any component thereof, then the Owner of said Unit shall pay the deductible under the Association's master casualty policy without regard to whether the Owner was negligent. If an Owner fails to pay the deductible assessed against his or her Unit and the Association pays the deductible cost owed by the Owner, then the deductible cost paid by the Association shall be charged to the Unit as an assessment for which the Association shall have a lien.

**Section 8.5 Insurance Claim Adjustment.** Any loss covered by the property insurance maintained by the Association shall be adjusted with the Association; provided, however, all insurance policies purchased by the Association shall be for the benefit of the Association and the Owners and their Mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association as Trustee. The Trustee shall hold such proceeds in trust for the benefit of the Owners and their respective Mortgagees as their interests may appear.

**Section 8.6 Mortgagee-Insurance Proceeds.** In the event a mortgage endorsement has been issued for a Unit, the share of any insurance proceeds of the Owner shall be held for the Mortgagee and the Owner as their interests may appear, but nothing herein contained shall be construed so as to give any Mortgagee the right to determine or participate in the determination of reconstruction or repair.

**Section 8.7 Use of Insurance Proceeds.** Proceeds of insurance policies received by the Association shall be disbursed first for the repair, reconstruction, or restoration of the damaged property, and Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Condominium is terminated except as specified in Article 9.

**Section 8.8 Reimbursement of Initial Insurance Premiums.** Declarant shall pay the premium(s) of the initial insurance policies required by this Article and shall be reimbursed for the pro rata portion of the cost thereof by each Owner at the time each Unit is conveyed to a Person other than Declarant, or reimbursed by the Association.

**Section 8.9 Insurance Policy Requirements.** Insurance policies carried pursuant to this Article shall provide that:

- a. Each Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;
- b. The insurer waives its right to subrogation under the policy against any Owner or members of his household, if applicable;
- c. No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy;
- d. If, at the time of any loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; and
- e. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each Mortgagee or beneficiary under a deed of trust to whom certificates or endorsements have been issued at their respective last known addresses.

**Section 8.10 Insurance Coverage-Betterments.** The Association shall not be required to maintain insurance coverage for any betterments or improvements to the Units and/or Limited Common Elements added by any Owner and an Owner may be required to maintain such liability coverage as is otherwise provided herein.

**Section 8.11 Insurance Availability Notification.** If the insurance described in this Article is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners.

**Section 8.12 Fidelity Insurance.** If desired, the Association may maintain fidelity insurance.

**Section 8.13 Unit Owner's Insurance.** Each Unit Owner may obtain insurance at his or her own expense for contents and personal property coverage or any other coverage obtainable and to the extent and in an amount such Owner deems necessary to protect his or her interest; provided however, that any such insurance shall provide that it is without contribution as against the insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association due to the portion of the insurance purchased by a Unit Owner under this section, such Unit Owner shall be liable to the Association to the extent of such reduction and shall pay the amount of such reduction upon demand and shall assign the proceeds of that Unit Owner's insurance to the extent of such reduction to the Association.

Additionally, each Unit Owner shall pay for and keep in force comprehensive personal liability insurance for damage to person or property of others occurring within such Owner's Unit, another Unit or upon the common elements, in such amounts as the Board of Directors from time to time determines, but in no case less than One Hundred Thousand Dollars (\$100,000.00) for each occurrence. If an Owner does not carry such insurance and, as a result, the Association or another Owner incurs any cost or damages; then any and all such cost and costs of repair shall be an assessment against the uninsured Owner.

Improvements, alterations and betterments made to units by individual unit owners (or their predecessors) shall be separately insured by each individual unit owner under the provisions of this section if they were not insured by the Association under its policies.

Unit owners are free to purchase and should consider purchasing loss-assessment coverage under their individual policies under this section in the event that the insurance limits of the Association policies are ever exceeded (which could result in the Association having to impose assessments on individual unit owners to make up for any insurance shortfall).

## **Article 9**

### **Reconstruction or Repair of Casualty Damage<sup>8</sup>**

**Section 9.1 Reconstruction-Costs.** Any portion of the Condominium for which insurance is required pursuant to Article 8 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of all Owners of Units not to be rebuilt or Owners of Units assigned to Limited Common Elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated or to lienholders, as their interests may appear, and (3) the remainder of the proceeds shall be distributed to all of the Owners or lienholders, as their interests may appear, in proportion to their Common Element interest. If Owners vote not to rebuild any Unit, that Unit's allocated interests automatically shall be reallocated upon the vote as if the Unit had been condemned pursuant to N.C. Gen. Stat. § 47C-1-107(a), and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations. Unless otherwise prohibited, any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein.

**Section 9.2 Estimates of Replacement Costs.** Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors deems necessary or appropriate.

**Section 9.3 Priority of Repair.** When the damage is to Common Elements, Limited Common Elements and Units, the insurance proceeds will be applied first to the costs of repairing the Common Elements, secondly to the cost of repairing the Units, and thirdly to the cost of repairing the Limited Common Elements.

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<sup>8</sup> Article 9 was amended by substitution of this new article, by vote of the Unit Owners at the September 12, 2016, Annual Meeting.

**Section 9.4 Association Right to Insurance Adjustments.** Each Owner shall be deemed to have delegated to the Association his right to adjust with insurance companies all losses under policies purchased by the Association.

## **Article 10**

### **Easements and Additional Rights**

**Section 10.1 Encroachments.** In addition to the easements created by Section 47C-2-114 of the Condominium Act, in the event that, by reason of destruction, reconstruction, rehabilitation, alteration or improvement of the building or improvements compromising a part of the Condominium Property, any part of the Common Elements now or hereafter encroaches upon any part of any unit, or any part of any Unit now or hereafter encroaches upon any part of the common elements or upon any part of another Unit, an easement for the continued existence and maintenance of each encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the common elements or Units so encroached upon.

**Section 10.2 Owners' Easement of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Elements, and the easement granted herein shall be appurtenant to and shall pass with the title to every unit, subject to the following provisions:

- a. the right of the Association to suspend the voting rights and rights to use of the recreational facilities by an Owner for any period during which any assessment against that Owner's Unit remains unpaid for a period of sixty (60) days or more or for any infraction of its published rules and regulations;
- b. the right of the Association to limit the number of guests of Owners;
- c. the right of the Association to borrow money for the purpose of maintaining, improving, or repairing the Common Elements and facilities; and
- d. the right of the Association to determine the time and manner of use of the recreational facilities by the Owners.

If an Owner leases his/her Unit, the Owner shall transfer and assign to the lessee for the term of the lease any and all rights and privileges that the Owner has to use the Common Elements and Limited Common Elements of the Condominium, to include, but not be limited to, the use of any and all recreational facilities or other amenities. Such Owner shall during the term of such lease have no rights to the use of any recreational facilities or the common elements.

**Section 10.3 Easements of Association.** There shall exist the following easements from each Unit Owner to the Association for the benefit of the Association and each other Unit Owner (as the case may be)

- a. Easements through the Common Elements for ingress and egress for all persons making use of such common elements in accordance with the terms of the Documents;

- b. Easements through the units, facilities, and Common Elements for maintenance, repair, and replacement of the Units and common elements including control of pests. Use of these easements, however, for access to the Units shall be limited to reasonable hours, except that access may be had at any time in case of emergency;
- c. Every portion of a unit which contributes to the structural support of the condominium buildings shall be burdened with an easement of structural support for the benefit of the Common Elements; and
- d. Easements through the units and through the Common Elements for all facilities for the furnishing of utility services within the building, which facilities shall include, but not be limited to, conduits, drainage, plumbing, and wiring.

**Section 10.4 Utility Easements.** There is hereby created a blanket easement upon, across, over, and under all of the Condominium Property for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewers, storm drainage, gas, telephones, and electricity and a master television antenna system. An easement is further granted to all police, fire protection, ambulance, and all similar persons to enter upon the Common Elements in the performance of their duties. Further, an easement is hereby granted to the Association, its respective officers, agents and employees, and to any management company selected by the Association to enter in or to cross over the common elements provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, drains, electrical lines, water lines, or other utilities may be installed or relocated on said property except as approved by the Board of Directors. Should any utility company furnishing a service covered by the general easement herein provided request a specific easement by separate recordable Document, the Board of Directors shall have the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this article shall in no way affect any other recorded easement on said premises.

**Section 10.5 Emergency Entry.** In case of any emergency originating in or threatening any unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors, or any other person authorized by it, or the Managing Agent, shall have the right to enter such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

Should no key be available for a unit into which emergency entry is required, in such time frame as the Association or its designated representatives shall in its sole discretion determine, then the Association has the right to make a forcible entry. The Association shall be held harmless from and not be liable for any damage caused by or resulting from such forcible entry.

## **Article 11**

### **Assessment and Collection of Common Expenses**

**Section 11.1 Purpose of Assessments.** The assessments for common expenses as described in Section 47C-3--115 of the Condominium Act and as otherwise provided for in the Documents shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of units in the Condominium as may be more specifically authorized from time to time by the Board.

**Section 11.2 Apportionment of Common Expenses.** Except as set forth in this Article, common expenses shall be assessed against all units in accordance with the allocation of percentage interest in the common expenses as set forth in this Declaration pursuant to Section 47C-2-107(a).

**Section 11.3 Common Expenses Attributable to Fewer than All Units.**

- a. If a common expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner's unit.
- b. Fees, charges, late charges, fines, all collection costs, including reasonable attorney's fees actually incurred and interest charged against a Unit Owner pursuant to the Condominium Act, Declaration, Bylaws and Rules and Regulations are enforceable as common expense assessments.

**Section 11.4 Lien for Assessments.<sup>9</sup>**

Any assessment levied against a unit remaining unpaid for a period of 30 days or longer shall constitute a lien on that Unit when filed of record in the Office of the Clerk of Superior Court of Henderson County in the manner provided therefor by Article 8 of N.C. Gen. Stat§ 44. The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. For purposes of foreclosing a lien the Association is the "mortgagee" and "trustee", as defined by N.C. Gen. Stat. §45-21.1, of said lien with a power of sale. As the owner of the indebtedness secured by the lien, the Association, acting through the Board may, in their discretion, substitute a trustee in accord with N.C. Gen. Stat. § 45-10, by the execution of a written instrument properly recorded pursuant to Chapter 47 of the North Carolina Statutes. Fees, charges, late charges, fines, collection costs, attorney's fees, and interest charged pursuant to Sections 47C-3-102(10), (11), and (12), 47C-3-107(d), 47C-3-107A, and 47C-3-115, the Declaration, Bylaws, and Rules and Regulations, are enforceable as assessments under this Section.

- a. The lien under this Section is prior to all other liens and encumbrances on a unit except
  - i. liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the unit) recorded before the docketing of the lien in the Office of the Clerk of Superior Court, and
  - ii. liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.
- b. A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessment becomes due; provided, that if an Owner of a unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

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<sup>9</sup> Section 11.4 appears as amended on 6/13/2007.

- c. This Section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit the Association taking a deed in lieu of foreclosure.
- d. A judgment, decree or order in any action brought under this Section must include costs and reasonable attorney's fees for the prevailing party.
- e. Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a unit, obtains title to the Unit as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such Unit which became due prior to acquisition of title to such Unit by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the Unit Owners including such purchaser, and its heirs, successors and assigns.
- f. An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the North Carolina General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided as provided in Article 29A of Chapter 1 of the North Carolina General Statutes.

**Section 11.5 Computation of Operating Budget and Annual Assessment.** It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Condominium during the coming fiscal year and amounts necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The Board shall cause the budget and the annual assessments to be levied against each unit for the coming fiscal year. Within 30 days after adoption of any proposed budget for the condominium, the Board shall provide a summary of the budget to all Unit Owners, and shall set a date for a meeting of the Unit owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing the summary. There shall be no requirement that a quorum be present at the meeting. The budget and the assessment established therefrom shall be ratified unless disapproved at the meeting by a majority of the total Association vote. Notwithstanding the foregoing, however, in the event that the membership disapproves the proposed budget or the Board fails for any reason to so determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the current year shall continue for the succeeding year.

**Section 11.6 Personal Liability of Unit Owners.** The Unit Owner of a unit at the time any common expense assessment or portion thereof is due and payable is personally liable for such assessment, for any interest, if applicable, and for all costs of collection including, but not limited to, reasonable attorney's fees actually incurred.

The grantee of a Unit shall be jointly and severally liable with the grantor Owner for all unpaid assessments against the latter for his proportionate share of the common expenses 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.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided, the annual assessment installment payments shall

be late and the Unit Owner in default if not paid on or before the tenth (10th) day such installment becomes due.

**Section 11.7 Acceleration.** If the Unit Owner shall be in default in payment of any assessment or charge, including, but not limited to, the regular installments based on the annual budget, the Board of Directors may accelerate the remaining assessments, including regular installments based on the annual budget, special assessments, and specific assessments, upon ten (10) days written notice to such Unit Owner whereupon the entire unpaid balance shall become due and payable upon the date stated in such notice.

**Section 11.8 No Waiver of Liability for Common Expenses.** No Unit Owner may exempt himself or herself from liability for payment of the common expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the unit against which the assessments are made.

**Section 11.9 Special Assessments.**

- a. If the annual assessment proves inadequate for any year or in the event of an emergency, the Board may at any time levy a special assessment against all Owners.
- b. The Board of Directors may levy special assessments for capital improvements upon the Common Elements and for such other matters as the Association shall determine; provided, however, prior to becoming effective any such special assessment shall be approved by the affirmative vote of a majority of the total votes in the Association at a special meeting duly called for that purpose.

**Section 11.10 Capital Budget and Contribution.** The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set the required capital contribution, if any, in an amount sufficient to meet the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required may be fixed by the Board and included within the budget and assessment as provided in Section 11.5 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

**Section 11.11 Interest, Late Charges, and Payments.** In accordance with N.C. Gen. Stat. 47C-3-115(b), the Association hereby establishes that any past due common expense assessment or installment thereof shall bear interest at the maximum rate allowed by law.

The Board shall set a late charge to be assessed against Unit Owners for late payment of any common expense assessments or installment thereof.

Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

**Section 11.12 Surplus Funds.** Any surplus funds of the Association remaining after payment of or provisions for common expenses and any prepayment shall be retained in the general operating funds or long range fund of the Association in the sole discretion of the Board and no such surplus funds shall be paid to Unit Owners nor shall such surplus funds be used as a credit to reduce future common expense assessments.

## **Article 12**

### **Association of Unit Owners**

**Section 12.1 Association Authority.** The Association shall manage and administer the Condominium and shall have all powers and duties granted to it in the Condominium Act and the Documents.

**Section 12.2 Association Membership.** All Unit Owners by virtue of their ownership of a unit in the Condominium are members of the Unit Owners' Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Act and the Documents, such Owners shall be entitled to one (1) vote for each Unit in which they hold the interest required for membership.

**Section 12.3 Powers and Duties.** Acting by and through its Board of Directors and/or its membership in accordance with the provisions of the Documents, the Association shall have the powers and duties necessary for the administration of the affairs of the Condominium which shall include, but not be limited to, the following:

- a. Adopt and amend Bylaws and Rules and Regulations;
- b. Adopt and amend budgets for revenues, expenditures, and reserves;
- c. Collect assessments for common expenses for Unit Owners;
- d. Hire and terminate managing agents and other employees, agents, and independent contractors;
- e. Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Condominium;
- f. Make contracts and incur liabilities;
- g. Regulate the use, maintenance, repair, replacement, and modification of Common Elements;
- h. Cause additional improvements to be made as a part of the Common Elements subject to the provisions of Section 12.6 of this Article:
- i. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that Common Elements may be conveyed or subjected to a security interest only pursuant to Section 47C-3-112 of the Condominium Act;
- j. Grant easements, leases, licenses, and concessions through or over the Common Elements;
- k. Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements other than Limited Common Elements described in Subsections 47C-2-102(2) and (4) of the Condominium Act and for services provided to Unit Owners;
- l. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines not to exceed One Hundred Fifty Dollars (\$150.00) per violation of the Declaration, Bylaws, and Rules and Regulations of the Association pursuant to Section 47C-3-107A of the Condominium Act;

- m. Impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale certificates required by Section 47C-4-109 of the Condominium Act, or statements of unpaid assessments;
- n. Provide for the indemnification of and maintain liability insurance for its officers, directors, employees and agents;
- o. Assign its right to future income, including the right to receive common expense assessments;
- p. Exercise all other powers that may be exercised in this State by non-profit corporations;
- q. Exercise any other powers necessary and proper for the governance and operation of the Association.

**Section 12.4 Maintenance Responsibility.** The respective maintenance responsibilities, to include preventive maintenance, of the Association and the Unit Owners shall be as provided in the Bylaws.

**Section 12.5 Right to Assign Future Income.** The Association may assign its future income, including its right to receive and collect common expense assessments, only by the affirmative vote of Owners of Units to which at least a majority of the votes in the Association are allocated at a meeting called for that purpose.

**Section 12.6 Additions and Alterations by the Board of Directors.** Whenever in the judgement of the Board of Directors the Common Elements shall require additions, alterations, or improvements costing in excess of Ten Thousand Dollars (\$10,000.00) during any period of twelve (12) consecutive months, and the making of such additions, alterations, or improvements shall have been approved by a majority of the total votes in the Association at a special or annual meeting or by written consent, the Board of Directors shall proceed with such additions, alterations, or improvements and shall assess all Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements costing Ten Thousand Dollars (\$10,000.00) or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval of the Owners and the cost thereof shall constitute part of the Common Expense. Notwithstanding the foregoing, if, in the opinion of not less than 80% of the members of the Board of Directors, such additions, alterations, or improvements are exclusively or substantially exclusively for the benefit of the Owner or Owners requesting the same, such requesting Owners shall be assessed and pay therefore in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

## **Article 13**

### **Leases and Sales**

In order to assure a community of congenial resident Owners and thus protect the value of the units, the sale or leasing of a Unit by an Owner shall be subject to the following provisions so long as the Condominium shall be owned in accordance with the terms and conditions of the Documents and the Condominium Act:

**Section 13.1 Renting or Leasing of Units.** Units may be rented only in their entirety; no fraction or portion may be rented. No transient tenants shall be permitted. All leases must be

for a term of not less than one (1) year except by written permission of the Board of Directors in its sole discretion.<sup>10</sup> No more than six (6) units can be leased at any one time except in the case of hardship, which shall be determined by the Board of Directors in its sole discretion.<sup>11</sup> All leases and lessees are subject to the provisions of the Declaration, Bylaws, and Rules and Regulations. The Unit Owner must make available to the tenant copies of the Declaration, Bylaws, and Rules and Regulations. All leases and lessees are subject to the approval by the Board of Directors which shall not be unreasonably withheld. Unit Owners must provide the Board with a copy of the proposed lease and arrange for an interview between the prospective tenant and the Board or its designee, prior to allowing occupancy of the Unit by a tenant. The Board shall not discriminate against any prospective tenant on the basis of race, religion, national origin, age, disability, familial status or for any other unlawful purpose.

"Leasing" for purposes of this Declaration is defined as regular occupancy of a unit by any person other than the Owner for which the Owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

Any lease of a unit in the Condominium shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not incorporated into a lease such covenants nevertheless apply to the Unit through the existence of this covenant. Any lessee, by occupancy in a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

- a. Liability for Assessments. Upon written request by the Association, lessee shall pay to the Association all unpaid common expense assessments, as lawfully determined and made payable during the term of the lease and any other period of occupancy by lessee; provided, however, lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. This provision shall not be construed to release the Unit Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.
- b. Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee agrees to abide by and comply with all provisions of the Declaration, Bylaws, and Rules and Regulations adopted pursuant thereto. Owner agrees to cause all occupants of his or her unit to comply with the Declaration, Bylaws, and the Rules and Regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and Rules and Regulations adopted pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or Rules and Regulations for which a fine is imposed, such fine shall be assessed against the lessee; provided,

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<sup>10</sup> This sentence was revised on 9/15/1998 by first amendment to this Declaration. On August 4, 2014, The Board identified that "a hardship exists to the Fleetwood community because of the number of absentee owners who are rarely if ever at Fleetwood" and voted to increase the limit from 6 to 8, effective October 1, 2014.

however, if the fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines constitute a lien against the Unit in accordance with the Condominium Act and Declaration. Any lessee charged with a violation of the Declaration or Bylaws, or Rules and Regulations adopted pursuant thereto, is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction as set forth in the Bylaws.

Any violation of the Declaration or Bylaws, or Rules and Regulations adopted pursuant thereto, is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with North Carolina law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee on behalf of and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees actually incurred and court costs associated with the eviction, shall be assessed against the unit and the Owner thereof as a common expense, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof

- c. Any lease agreement for a unit at the Condominium shall contain equivalent language and equivalent terms and conditions to the Board's recommended and approved lease agreement. The current version of the Board's recommended and approved lease is attached hereto as Exhibit "C". However, the Board is authorized to amend the recommended and approved lease from time to time.

**Section 13.2 Notice of Sale or Lease.** Any Owner intending to sell or lease his or her unit shall give notice in writing to the Board of Directors of such intention at the time the Unit goes under contract and provide such other information as the Board may reasonably require. Any Owner intending to lease his or her Unit shall provide to the Board or its designated agent a copy of the signed lease within fifteen days of the signing of the lease and prior to occupancy. Failure to provide a copy of the lease will result in the imposition of a fine against the Owner. The Board of Directors shall have authority to make and to enforce reasonable rules and regulations in order to enforce this provision, including the right to impose fines.

## **Article 14** **Amendments**

Except for certain cases of amendments as referenced in Section 47C-2-117 (a) of the Condominium Act, and in those cases whereby this Declaration requires a greater majority for such an amendment, this Declaration may be amended only by vote or written agreement of Unit Owners of units to which at least Sixty Seven Percent (67%) of the votes in the Association are allocated. The procedure for amendment shall follow the procedure set forth in Section 47C-2-117 of the Condominium Act. No amendment shall become effective until recorded in the office of the Register of Deed's in Henderson County, North Carolina.

## **Article 15**

### **Architectural Standards and Control**

No Owner, occupant, lessee or lessor, or any other person may make any encroachment onto the Common Elements, exterior change, alteration, or construction (including planting or landscaping in any form), nor erect, place, or post any sign, object, light, or thing on the exterior of the buildings or any other common element, or on any place or thing in the Condominium visible from the outside of a unit, without first obtaining the written approval of the Board of Directors of the Association or its designee. The Board may establish general exceptions to this section in duly adopted Rules and Regulations.

To obtain such permission for any aforementioned change or alteration, the plans and specifications showing the nature, kind, shape, height, materials, and location shall have been submitted in writing to the Board or its designee. The Board or its designee may promulgate written guidelines for the exercise of the review of such plans. The Board or its designee, in its sole discretion, may hire an architect or other professional designer to analyze the plans and specifications to help in the review. Any costs incurred will be paid for by the Unit Owner proposing such plans.

The Board or its designee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours, to enter upon any unit to inspect any Unit and any improvements thereon for the purpose of ascertaining whether these restrictive covenants have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry. In the event said Board or its designee fails to approve or to disapprove such design and location within sixty (60) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with.

An Owner, on behalf of himself and his successors-in-interest, shall assume all responsibilities for maintenance, repair, and replacements and for insurance to and on such change, modification, addition, or alteration.

## **Article 16**

### **Enforcement Powers<sup>12</sup>**

**Section 16.1 Rules Making Authority.** The Condominium shall be used only for those uses and purposes set out in the Declaration and Bylaws. The Board of Directors shall have the authority to make, modify, repeal, and to enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of units and the Common Elements, so long as copies of all such Rules and Regulations are furnished to all Owners; provided, however, any Rule or Regulation may be repealed by the affirmative vote or written consent of a

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<sup>12</sup> Article 16 was amended by deletion of the former Section 16.2, "Fining Powers", by vote of the owners at the Annual Meeting of September 12, 2016; the substance now appears in Article 22. Section 16.3 was renumbered as Section 16.2.

majority of the total Association vote at an annual or special meeting. No rule or regulation shall be in conflict with either the Declaration or the Bylaws.

**Section 16.2 Abatement and Enjoinment of Violations.** In addition to any other remedies provided for herein, the Association through the Board shall have the power to enter upon a unit or any portion of the Common Elements to abate or remove, using such force as may be reasonably necessary, any erection, thing, or condition which violates the Declaration, Bylaws, or Rules and Regulations. Unless an emergency situation exists, the Board shall give the violating Unit Owner ten (10) days written notice of its intent to exercise such abatement and an opportunity to be heard. All costs of abatement, including reasonable attorney's fees actually incurred, shall be assessed against the violating Unit Owner and shall be collected as provided for herein for the collection of assessments.

Additionally, the Association through the Board shall have the power to enjoin or to remedy by appropriate legal proceeding, either at law or in equity, the continuance of any violation of the Declaration, Bylaws, or Rules and Regulations. All costs of any such legal action, including reasonable attorney's fees actually incurred, shall be assessed against the violating Unit Owner and shall be collected as provided for herein for the collection of assessments.

## **Article 17** **Condemnation**

If part or all of the Condominium is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 47C-1-107 of the Condominium Act.

## **Article 18** **Termination**

Termination of the Condominium shall be accomplished only in accordance with Section 47C-2-118 of the Condominium Act.

## **Article 19** **Miscellaneous Provisions**

**Section 19.1 Captions.** The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

**Section 19.2 Gender.** The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

**Section 19.3 Waiver.** No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 19.4 Invalidity.** The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

**Section 19.5 Conflict.** The Documents are intended to comply with the requirements of the Condominium Act and Chapter 55-A of the North Carolina General Statutes. In the event of any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

**Section 19.6 Preparer.** This Declaration was prepared by James M. Lloyd, Robert E. Dungan P.A., 33 Page Avenue, Suite 200, Asheville, North Carolina 28801.

**Section 19.7 Service of Process.** The person to receive service of process shall at all times be the registered agent of the Association as set forth in the Articles of Incorporation or as may be changed from time to time by filing the appropriate change of registered agent form with the North Carolina Secretary of State.

## **Article 20**

### **Maintenance and Repair of Common Elements by the Association**<sup>13</sup>

**Section 20.1 Association Upkeep of Common Elements.** Other than the Upkeep of Limited Common Elements required by the Owner, the Association shall be responsible for the Upkeep of the Common Elements, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Elements or in a Unit for the furnishing of utility and/or other services to the Common Elements or other Units.

**Section 20.2 Maintenance Standard.** The minimum standard for Upkeep of the Common Elements to be performed by the Association shall be determined, from time to time, by the Board of Directors in its sole discretion. If any incidental damage is caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the Upkeep of any Common Elements, the Association shall, at its expense, repair such incidental damage.

**Section 20.3 Damage Caused by Owner.** Whenever the Upkeep of any item for which the Association is obligated to perform at its expense is occasioned by any act of an Owner, his tenants, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of such Upkeep, except that the Owner who is responsible for the act causing the damage (whether done by himself or his tenants, guests or invitees) shall be required to pay such portion of the cost of such Upkeep as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such Upkeep.

Whenever the Upkeep of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by an act of an Owner, his tenants, guests or invitees, and such loss or damage is not covered by any insurance maintained in force by the Association, the Owner who is responsible for the act causing the damage (whether done by himself or his tenants, guests or invitees) shall be required to pay the cost of such Upkeep.

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<sup>13</sup> Article 20 was added by amendment, by vote of the Unit Owners at the September 12, 2016, Annual Meeting. The content replaces content previously included in the Bylaws, Article VII.

**Section 20.4 Liability for Damage.** Establishment of liability for damage caused by the Owner of a Unit or the Association is subject to the provisions of N.C. Gen. Stat. § 47C-3-107(d).

## **Article 21** **Maintenance and Repair by Owners of Units**<sup>14</sup>

**Section 21.1 Owner Upkeep of Units.** Every Owner shall perform promptly all Upkeep within his Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, or adversely impair the ability to rent such Owner's Unit or any other Unit, and every Owner shall be expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Unit shall be liable and responsible for the Upkeep of all portions of their Unit set forth in Article 4, including, without limitation, air conditioning and heating equipment, fans or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service solely to his Unit. Such Owner further shall be responsible and liable for the Upkeep of the surfaces of any and all walls, ceilings and floors in the interior of his Unit including painting, decorating and furnishings, and all other accessories in his Unit.

**Section 21.2 Maintenance-Insurance Proceeds.** Whenever the Upkeep of any item for which the Owner of a Unit is obligated to perform at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of performing such Upkeep, except that the Owner of such Unit shall be, in said instance, required to pay such portion of the costs of such Upkeep as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such Upkeep.

**Section 21.3 Limited Common Elements.** Except as otherwise stated herein, all betterments and improvements added to the Limited Common Elements by the Owners are a part of the respective Units and shall be maintained by the respective Owners. The cost of Upkeep of the Limited Common Elements shall be paid by the Owners to whom the exclusive right to use the Limited Common Elements are allocated. Notwithstanding this Section, the Board may, in its reasonable discretion, designate the cost of Upkeep of Limited Common Elements as a Common Expense when said Upkeep is required pursuant to a common plan for the overall Upkeep of the Common Elements.

## **Article 22** **Compliance and Enforcement**<sup>15</sup>

**Section 22.1 General Remedies.** Every Owner and any occupant of any Unit shall comply with the Association Documents and the Act. Failure to comply shall be grounds for an action

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<sup>14</sup> Article 21 was added by amendment, by vote of the Unit Owners at the September 12, 2016, Annual Meeting. The content replaces content previously included in the Bylaws, Article VII.

<sup>15</sup> Article 22 was added by amendment, by vote of the Unit Owners at the September 12, 2016, Annual Meeting. The content replaces content previously included in the Bylaws, Article VIII.

by the Association to recover sums due, for damages, injunctive relief or any other remedy available at law and equity or under the Act.

**Section 22.2 Enforcement/Sanctions.** The Board or such other Association agent with the Board's approval, may impose sanctions for violations of Association Documents after notice and a hearing in accordance with the procedures set forth in the Act and Section 22.3 of this Declaration. Such sanctions may include, without limitation:

Imposing reasonable monetary fines which shall constitute a lien upon the Unit of the violator;

Suspending an Owner's right to vote;

Suspending any Person's right to use any facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from the Unit; and

Suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association.

**Section 22.3 Hearing Procedures.** Except as may be otherwise specifically authorized by the Association Documents, and permitted by the Association Documents, the Board shall not (i) impose a fine or penalty, (ii) undertake permitted remedial action, or (iii) suspend voting or infringe upon other rights of a Member or other occupant of a Lot or Unit for violations of the Association Documents, or for assessments or other amounts due and owing to the Association remaining unpaid for a period of thirty (30) days, or longer, unless and until the following procedure is completed:

**Notice.** The Board, or an adjudicatory panel appointed by the Board, shall serve the Owner or Occupant of a Unit alleged to have violated the Association Documents or the Act (the "Responsible Person") with a written notice of a hearing to be held by the Board of the Association in executive session, or before an adjudicatory panel appointed by the Board; provided, however, that any adjudicatory panel appointed by the Board shall be composed of members of the Association who are not officers of the Association or members of the Board. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which shall not be less than ten (10) days from the giving of the notice; (iii) an invitation to attend the meeting and produce any statement, evidence and witness on behalf of the Responsible Person; and (iv) the proposed sanction to be imposed. The notice prescribed herein may be served by mailing a copy of said notice to the Responsible Person by placing said notice in the United States mail, postage prepaid, by any method as permitted for the service of summons as set forth in Rule 4 of the North Carolina Rules of Civil Procedure or by the delivery of said notice by an officer, director or agent of the Association to the Responsible Person or to any person who may be served on the Responsible Person's behalf as provided in said Rule 4.

**Hearing.** The hearing shall be held in executive session of the Board or an adjudicatory panel appointed by the Board pursuant to the notice affording the member a reasonable opportunity to be heard. Any adjudicatory panel appointed by the Board shall be composed

of Members who are not officers of the Association or members of the Board. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of deliver, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the Responsible Person appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. In addition, a written statement of the results of the hearing and the sanction, if any, imposed shall be mailed by the United States mail, postage prepaid, by the Association to the violator.

Appeal. If the hearing is held before an adjudicatory panel, following such hearing and notice of a decision adverse to the violator, the Responsible Person shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the managing agent of the Association, President or Secretary of the Association within fifteen (15) days after the date of the decision, said written notice to contain information by which the Board may notify the Responsible Person of the date of the appeal hearing. If no adjudicatory panel is appointed by the Board, no right of appeal shall exist.

Sanction as Assessment. Pursuant to the provisions of this Section, a fine may be imposed by the Association is an amount not exceeding One Hundred and No/100 Dollars (\$100.00) (or any greater amount as may be provided otherwise by law or the Act) per violation of the Association Documents and without further hearing, for each day more than five (5) days after the decision to impose such fine that the violation occurs. Any such fine shall be an assessment as set forth in this Declaration and the Act. If it is decided pursuant to the provisions of this Section that a suspension of privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.

**Section 22.4 Self Help Remedies.** In addition to other rights set forth in the Association Documents and the Act, upon violation or breach of any provision of the Association Documents, the Board shall have the right: (i) to enter a Unit or Limited Common Element appurtenant thereto, on which or as to which such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Association Documents, and the Board shall not thereby be deemed guilty in any manner of trespass, (ii) to use self-help to remove or cure any violation of the Association Documents (including, without limitation, the towing of vehicles); or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; provided, however, that before any construction or improvements may be altered or demolished, except in emergencies, judicial proceedings shall be instituted by the Association against such defaulting Owner or its tenant.

**Section 22.5 Cumulative Remedies/Attorneys' Fees.** The Association shall have all powers and remedies under the Act and the Association Documents which shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Association Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

**Section 22.6 Association's Right Not to Take Action.** The Association shall not be obligated to pursue enforcement action in any particular case, such decisions to be within the discretion of the Board, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (a) the Association's position is not strong enough to justify taking any or further action; or (b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or justify expending Association funds; or, (d) it is not in the best interest of the Association, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such covenant, restriction, rule or provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, rule or provision, nor shall it preclude any Owner from taking action at law or in equity to enforce the Association Documents.

**Section 22.7 Enforcement by Owner.** Nothing set forth in this Article shall prevent any aggrieved Owner from instituting any available remedy in law or in equity for a violation of the Association Documents.

# **Exhibit A – Bylaws for Fleetwood Plaza Condominiums**

## **Article I** **General**

**Section 1. Applicability.** These Bylaws provide for the self-government of Fleetwood Plaza Condominiums in accordance with the Articles of Incorporation for Fleetwood Plaza Regime, a North Carolina non-profit corporation, and the Amended and Restated Declaration of Condominium for Fleetwood Plaza Condominiums recorded in the Henderson County, North Carolina, Registry of Deeds.

**Section 2. Name.** The name of the corporation is Fleetwood Plaza Regime (hereinafter referred to as the "Association" or the "Regime").

**Section 3. Membership.** As provided in the North Carolina Condominium Act (N.C. Gen. Stat. 47C-1-101 et seq.) [hereinafter referred to as the "Condominium Act"], an Owner of a Unit shall become a Member of the Association upon taking title to the Unit and shall remain a Member for the entire period of ownership. If title to a Unit is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Unit. Membership does not include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to each Unit and shall be transferred automatically by conveyance of that Unit and may be transferred only in connection with the transfer of title.

**Section 4. Voting.** Each Unit shall be entitled to one (1) vote which may be cast in accordance with the terms herein. A vote may be cast by the Owner, or by a lawful proxy, as provided below, and shall be allocated as provided in the Declaration. When more than one person owns a Unit, the vote for such Unit shall be exercised as they between or among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit. In the event of disagreement among such persons and an attempt by two or more of them to cast such vote or votes, such persons shall not be recognized and such vote or votes shall not be counted. The Board may prohibit any owner from voting, either in person or by proxy, or from being elected to the Board of Directors if such owner is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

**Section 5. Majority.** As used in these Bylaws, for any vote of the membership held in accordance with or pursuant to the Declaration, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty percent (50%) of the total number of eligible votes, owners, or other groups. Unless otherwise specifically stated, the words "majority vote" shall mean more than fifty percent (50%) of the eligible votes of the Association represented at a meeting in person or by proxy. Unless otherwise provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

**Section 6. Purpose.** The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the contributions to the common expenses, arranging for the management of the Condominium, enforcing the Declaration and these Bylaws, and performing all of the other acts that may be required to be performed by the Association by the Condominium Act and the Declaration. The Association shall also amend and supplement the system of administration, the Declaration and these Bylaws as may be required from time to time and perform all other things or acts required or permitted to the Association under the Condominium Act. Except as to those matters which either the Condominium Act, the Declaration, these Bylaws or the North Carolina Nonprofit Corporation Act specifically require to be performed by the vote of the Association, the administration of the foregoing responsibilities shall be performed by the Board of Directors, as is more particularly set forth below.

## **Article II** **Definitions**

Terms as used in these Bylaws shall have the meanings as set forth in Article 3 of the Declaration unless specifically provided otherwise or the context otherwise requires.

## **Article III** **Meetings of Members**

**Section 1. Annual Meetings.** The regular annual meeting of the members shall be held on the second Monday in September at a time and place designated by the Board of Directors.

**Section 2. Substitute Annual Meetings.** If an Annual Meeting is not held on the day designated by these Bylaws, then a Substitute Annual meeting shall be called in accordance with Sections 4 and 5 of this Article. A meeting so called shall be designated and treated for all purposes as an Annual Meeting.

**Section 3. Special Meetings.** Special meetings of the members for any purpose may be called at any time by the President, and shall be called upon the request of a majority of the Board of Directors, or upon the written request of Unit owners having twenty percent (20%) of the votes in the Association.

**Section 4. Notice of Meetings.** It shall be the duty of the Secretary to mail or to cause to be delivered to the Unit Owners a notice of each annual or special meeting of the Association at least ten (10) days and not more than fifty (50) days prior to each annual or special meeting. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or officer. In the case of a Special Meeting, the notice of the meeting shall state specifically the purpose or purposes for which the meeting was called. Notices shall be delivered personally or mailed to each Owner of record at his Unit; if any Owner wishes notice to be given at an address other than his Unit, the Owner shall designate by notice in writing to the Secretary

such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**Section 5. Waiver of Notice.** Waiver of notice of a meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof, unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat, unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**Section 6. Quorum.** The presence of Owners entitled to cast one-half (50%) of the eligible votes of the Association, in person or by proxy, shall constitute a quorum.

**Section 7. Adjournment.** Any meeting of the Owners may be adjourned from time to time by the President or Chairperson or by a vote of the Owners holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

**Section 8. Proxy.** Any Member entitled to vote may do so by written proxy duly executed by the Member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be filed with the Secretary prior to the opening of the meeting for which it is to be used and must be dated. No proxy shall be revocable except by written notice delivered to the Association before a meeting or, if at the meeting, to the person presiding.

**Section 9. Vote by Written Ballot.** In accordance with Section 55A-7-08 of the North Carolina Nonprofit Corporation Act, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the Association delivers by mail or otherwise a written ballot to every member entitled to vote on the matter.

**Section 10. Conduct and Business.** Robert's Rules of Order (latest edition) shall govern the conduct of the meeting, when not in conflict with the Declaration, Articles of Incorporation, these Bylaws, or any ruling made by the person presiding over the meeting.

## **Article IV**

### **Board of Directors**

**Section 1. Composition.** The affairs of the Association shall be governed by a Board of Directors. The Board shall be composed of five (5) directors. Each director shall be an Owner, or the spouse of an Owner of at least one Unit; provided, however, a husband and wife may not serve on the Board at the same time.

**Section 2. Election and Term of Office.** Directors shall be elected by vote of those persons present, in person or by proxy, at the annual meeting, a quorum being present. Those persons receiving the most votes shall be elected to the number of positions to be filled. The term of office for directors shall be for three (3) years, commencing from the date of elections and continuing until the election of successors. Election of the directors shall be staggered such that two (2) directors shall be elected one year for a three (3) year term of office, and the following year two (2) directors shall be elected for a three (3) year term of office, and the following year one (1) director shall be elected for a three (3) year term of office, all successors being elected at the annual meeting.

**Section 3. Nomination.** Nominations for election to the Board of Directors shall be by a Nominating Committee consisting of a Chairperson, who shall be a member of the Board, and at least two (2) members of the Regime. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the members to serve from the close of the annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall, in its discretion, determine; however, in no event shall the nominations be less than the number of vacancies. Nominations may also be made from the floor of the annual meeting.

**Section 4. Removal of Members of the Board of Directors.** At any regular or special meeting of the Association duly called at which a quorum is present, any one or more of the members of the Board of Directors may be removed, with or without cause, by at least a sixty-seven percent (67%) vote of all persons present and entitled to vote at such meeting and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any member of the Board of Directors who has been absent without an excuse from three (3) consecutive Board meetings may be removed from the Board by the vote of a majority of the Board members present at a Board meeting, a quorum being had.

**Section 5. Vacancies.** Vacancies in the Board of Directors caused by any reason, other than the removal of a director by a vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each person so selected shall serve until a successor shall be elected at the next annual meeting of the Association to fill the unexpired portion of the term.

**Section 6. Compensation.** No Member of the Board shall receive any compensation from the Regime for acting as such; provided, however, each Director, upon approval of the Board, shall be reimbursed for reasonable out-of-pocket expense incurred and paid by him on behalf of the Regime, and nothing herein shall prohibit the Regime from compensating a Director for unusual and extraordinary services rendered to the extent authorized by the Members of the Association at any meeting called for that purpose; further provided, each Director, by assuming office, waive his right to institute suit against or make claim upon the Regime for compensation.

**Section 7. Organizational Meeting.** The first meeting of a newly elected Board shall be held within ten (10) days of election at such time and place as may be determined by the directors.

**Section 8. Regular Meetings.** Meetings of the Board of Directors shall be held regularly at such time and place as shall be determined from time to time by the Board. There shall be a minimum of six (6) meetings of the Board of Directors per year.

**Section 9. Special Meetings.** Special Meetings of the Board of Directors may be called by the President on three (3) days' notice to each director given by mail, in person or by telephone, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors shall be called by the Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

**Section 10. Waiver of Notice.** Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall also constitute a waiver of notice by him of the time and place of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 11. Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Robert's Rules of Order (latest edition) shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Act, the Declaration, the Articles of Incorporation, these Bylaws, or an ruling made by the person presiding over the meeting. A majority of directors shall constitute a quorum for the transaction of business. A decision of the Board of Directors shall be by a majority of those directors present at the duly called meeting. The President may vote.

**Section 12. Action Without a Meeting.** Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the Board of Directors. Any action taken without a meeting, must be unanimously agreed upon by the Board and written consent to the action by all Directors must be filed with the minutes of the Board of Directors.

**Section 13. Tie Votes.** In the event of a tie vote by the Board of Directors, the President may, in addition to his vote as a Board member, exercise a supplemental vote to break the tie vote.

**Section 14. Powers and Duties.** The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the

Condominium and may do all such acts and things as are not by the Declaration, Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the Association Members. The Board shall have the power to adopt, modify, and repeal such reasonable rules and regulations as it deems necessary and appropriate for the governance of the Condominium or the administration of the affairs of the Association and to impose sanctions for violations thereof including, without limitation, monetary fines. Such powers and duties shall include but not be limited to:

- a. Adopt and amend Rules and Regulations;
- b. Adopt and amend budgets for revenues, expenditures, and reserves;
- c. Collect assessments for common expenses for Unit Owners;
- d. Hire and terminate managing agents and other employees, agents, and independent contractors;
- e. Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Condominium;
- f. Make contracts, open bank accounts, and incur liabilities;
- g. Regulate the use, maintenance, repair, replacement, and modification of common elements;
- h. Cause additional improvements to be made as a part of the common elements within the limits of expenditures permitted by the Declaration and/or Bylaws;
- i. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to Section 47C-3-112 of the Condominium Act;
- j. Grant easements, leases, licenses, and concessions through or over the common elements;
- k. Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements described in Subsections 47C-2-102(2) and (4) of the Condominium Act and for services provided to Unit Owners;
- l. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines not to exceed One Hundred Fifty Dollars (\$150.00) per violation (on a daily basis for continuing violations) of the Declaration, Bylaws, and Rules and Regulations of the Association pursuant to Section 47C-3-107A of the Condominium Act;
- m. Impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale certificates required by Section 47C-4-109 of the Condominium Act, or statements of unpaid assessments;
- n. Provide for the indemnification of and maintain liability insurance for its officers, directors, employees and agents;
- o. Borrow money and assign its right to future income, including the right to receive common expense assessments subject to approval of the purpose of the borrowing by a majority of the vote of the members of the Association;
- p. Prepare, execute, certify and record amendments to the Declaration and Bylaws on behalf of the Association;
- q. Exercise any other powers conferred by the Declaration or Bylaws;
- r. Exercise all other powers that may be exercised in this State by nonprofit corporations; and

- s. Exercise any other powers necessary and proper for the governance and operation of the Association.

**Section 15. Management Agent.** The Board of Directors may employ for the Condominium a professional management agent or agents, at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize. Any management contract shall contain a termination clause permitting termination without cause and without penalty, upon no more than thirty (30) days written notice.

**Section 16. Architectural Standards.** The Board may establish an Architectural Standards Committee for the purpose of establishing and maintaining architectural standards on Condominium property, as hereinafter provided.

**Section 17. Additional Committees.** The Board may establish such other committees as it deems desirable.

**Section 18. Committee Chairpersons and Members.** The Board shall elect the chairperson and approve the members of each committee established.

## **Article V** **Officers**

**Section 1. Designation.** The officers of the Regime shall consist of a President, a Secretary a Treasurer, and such Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and other officers as the Board may from time to time elect. Except f o r the President, no officer need be a member of the Board.

**Section 2. Election of Officers.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board following each annual meeting of t h e members and shall hold office at the pleasure of the Board of Directors and until a successor is elected.

**Section 3. Removal of Officers.** Upon the affirmative vote o f a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected.

**Section 4. President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the North Carolina Nonprofit Corporation Act.

**Section 5. Vice Presidents.** The Vice Presidents, if any, in the order of their election, unless otherwise determined by the Board shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

**Section 6. Secretary.** The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with North Carolina law.

**Section 7. Treasurer.** The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. Furthermore, the Treasurer shall cause an annual audit or review of the Regime's books as directed by the Board or the Association pursuant to Article IX, Section 6 of these Bylaws.

**Section 8. Amendments to Declaration and Bylaws.** The Board of Directors shall prepare and the President shall execute, certify, and record amendments to the Declaration and Bylaws on behalf of the Association. The Secretary shall attest to such execution and certification.

## **Article VI**

### **Indemnification of Officers and Directors**

The Association shall indemnify every officer and director against any and all expenses, including legal fees, reasonably incurred by or imposed upon such officer or director in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer or director, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance or malfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall as a common expense maintain adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

## **Article VII**

### **Miscellaneous**<sup>16</sup>

**Section 1. Notices.** Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

- a. if to a Unit Owner, at the address which the Unit Owner has designated in writing and filed with the Secretary, or, if no such address has been designated, at the address of the Unit of such Owner; or
- b. if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in accordance with subsection (a) hereof.

**Section 2. Severability.** The invalidity of any part of the Declaration or these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of the Declaration or these Bylaws.

**Section 3. Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the Declaration or these Bylaws or the intent of any provision thereof.

**Section 4. Gender and Grammar.** The use of the masculine gender in the Declaration or these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

**Section 5. Fiscal Year.** The fiscal year shall be set by resolution of the Board of Directors.

**Section 6. Audit.** An audit or review of the accounts of the Association shall be made annually in the manner directed by the Board and results communicated to each of the members. However, after having received the Board's audit or review at the annual meeting, the Owners may, by a majority of the total Association vote, require that the accounts of the Association be audited as a common expense by an independent accountant.

**Section 7. Conflicts.** In the event of conflicts between the North Carolina Condominium Act, the Declaration, these Bylaws, and Board Resolutions, the Condominium Act, the Declaration, the Bylaws and Board Resolutions shall control, in that order.

**Section 8. Amendment.** These Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding a majority of the total votes entitled to be cast on the amendment. Notice of any meeting at

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<sup>16</sup> The former Article VII, "Maintenance Responsibility", and Article VIII, "Enforcement Procedures", were deleted by vote of owners at the Annual Meeting of September 12, 2016. The substance of these two articles now appear in the Declaration as Articles 20-21 and Article 22, respectively. Article IX was renumbered as Article VII.

which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is recorded in the Registry of Deeds of Henderson County, North Carolina.

**Section 9. Books and Records.** All members of the Association and all mortgagees shall, upon written request, be entitled to inspect all books and records of the Association during normal business hours at the office of the Association or other place designated reasonably by the Board of Directors as the depository of such books and records.

## **Exhibit B**

### **Articles of Incorporation**

I, the undersigned, being more than 18 years of age, and acting as incorporator for the purposes of creating a non-profit corporation under the laws of the state of North Carolina as contained in Chapter 55A of the General Statutes of North Carolina entitled "Non-Profit Corporation Act," and the several amendments thereto, do hereby set forth:

1. The name of the corporation is Fleetwood Plaza Regime.
2. The period of duration of the corporation is perpetual.
3. The purposes for which the corporation is organized are:
  - A. To provide for the acquisition, construction, management maintenance and care of association property.
  - B. To serve as the governing body of the association of unit owners of the Fleetwood Plaza Condominium located or to be located in the Fleetwood Section of the Town of Laurel Park located in Henderson County, North Carolina.
  - C. To conduct a fraternal association among members of the corporation.
  - D. To promote the moral and social welfare of its members.
  - E. To facilitate and maintain good and neighborly relations among neighbors.
  - F. To promote the appearance of the real estate known as Fleetwood Plaza Condominiums and of the real estate owned by the members, individually, so as to make more attractive the property owned by the association, condominium units owned by the individual members, and common areas and facilities and limited common areas and facilities owned as tenants in common by the individual members.
  - G. Notwithstanding any of the provisions of these Articles, exclusively for those purposes which will qualify the corporation as a homeowners association within the meaning of §5211 of the Internal Revenue Code of 1954, as amended (or the corresponding provision of any future United States Internal Revenue law).
4. The corporation shall have one class of members, the designation, qualifications and rights of which shall be set forth in the initial By-Laws adopted by the directors or in any amendments thereto.
5. The directors of the corporation shall be elected or appointed in the manner and for the term provided in the By-Laws.
6. No part of the net earnings of the corporation shall inure (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by rebate of excess membership dues, fees, or assessments) to the benefit of, or be distributable to, its directors, officers, members, or other private persons. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activity not permitted to be carried on by a homeowners' association as defined in 4528 of the Internal

Revenue Code of 1954, as amended (or the corresponding provision of any future United States Internal Revenue law).

7. The name and address of the initial registered agent of the corporation in the state of North Carolina is Richard S. Merrill, Jr., 228 North Church Street, Hendersonville, Henderson County, North Carolina, 28739.
8. The number of directors constituting the initial Board of Directors shall be three. The names of the persons who are to serve as the initial Board of Directors are:

NAME	ADDRESS
Richard S. Merrill, Jr.	228 North Church Street Hendersonville, Henderson County, NC 28739
Thomas H. Pride	Route 2, Box 269, Bearwallow Road Hendersonville, Henderson County, NC 28719
Charles M. Tinsley	226 Robinwood Trail Hendersonville, Henderson County, NC 289739

9. The name and address of the incorporator is as follows: Richard S. Merrill, Jr., 228 North Church Street, Hendersonville, Henderson County, North Carolina, 28739.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 11th day, August, 1982.

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RICHARD S. MERRILL, JR.

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

# Exhibit C

## Lease Agreement

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

### LEASE AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, by and between  
\_\_\_\_\_  
(hereinafter called "Lessor"), and  
\_\_\_\_\_  
(hereinafter called "Lessee");

### WITNESSETH

That in consideration of the mutual covenants hereinafter set forth, the parties do hereby covenant and agree as follows:

1. **PREMISES LEASED, TERM OF LEASE, AND OCCUPANCY** Lessor does hereby rent and lease to Lessee condominium unit # \_\_\_\_\_ at \_\_\_\_\_ in Fleetwood Plaza Condominiums (hereinafter the "Premises"), for a term of \_\_\_\_\_ month(s) commencing on \_\_\_\_\_, 19\_\_\_\_, and ending on \_\_\_\_\_, 19\_\_\_\_, midnight. Either Lessor or Lessee may terminate the tenancy at the expiration of the Initial Term by giving written notice to the other at least \_\_\_\_\_ days prior to the expiration date of the Initial Term. In the event such written notice is not given or if the Lessee holds over beyond the Initial Term, the tenancy shall automatically become a \_\_\_\_\_ to \_\_\_\_\_ tenancy upon the same terms and conditions herein and \_\_\_\_\_ (period) \_\_\_\_\_ (period) may thereafter be terminated by either Lessor or Lessee by giving the other \_\_\_\_\_ days written notice prior to the last day of the then current period of the tenancy.

2. **RENT** Lessee covenants and agrees to pay to Lessor at \_\_\_\_\_ a monthly rent equal to \$ \_\_\_\_\_ promptly on the first day of each rental month in advance during the term of this Lease. The first rental payment, which shall be prorated if the Initial Term commences on a day other than the first day of the applicable rental payment period, shall be due on \_\_\_\_\_ and shall constitute payment for the period \_\_\_\_\_ (date) ending \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ (date)

3. **LATE PAYMENTS AND RETURNED CHECKS** Time is of the essence in this Agreement, and if Lessor elects to accept rent after the \_\_\_\_\_ day of the month, a late charge, upon

request of Lessor, of \$ \_\_\_\_\_ may be charged as additional rent. In the event Lessee's rent check is dishonored by the bank, Lessee agrees to pay Lessor \$ \_\_\_\_\_ as a handling charge and, if appropriate, the late charge. Returned checks shall be redeemed by cash, a cashier's check, certified check, or money order. If more than two checks are returned, Lessee agrees to pay all future rents and charges in the form of cash, a cashier's check, a certified check, or money order.

4. **SECURITY DEPOSIT** The Lessee shall deposit with the Lessor the sum of \$ \_\_\_\_\_ to secure the faithful performance of the Tenant's promises and duties contained herein (the "Security Deposit"). The Lessor will deposit the Security Deposit in a Trust Account with \_\_\_\_\_ having an address of \_\_\_\_\_ to secure the performance of the Lessor's obligation to refund the Security Deposit as herein provided.

The Security Deposit shall be held, and upon the termination of the tenancy be returned to Lessee within thirty (30) days after the unit is vacated if:

- i. The lease term has expired or this Agreement has been terminated by both parties;
- ii. All monies due Lessor by Lessee have been paid; and
- iii. The Premises are not damaged and are left in the same condition as exists at time execution of this Lease, normal wear and tear excepted.

The deposit may be applied by Lessor to satisfy all or part of Lessee's obligations, and such application shall not prevent Lessor from claiming damages in excess of the deposit. Lessee agrees not to apply the deposit to any rent payment and also agrees to pay \$ \_\_\_\_\_ for re-keying locks if all keys are not returned. Lessee acknowledges receipt of \_\_\_\_\_ keys.

In the event that any part of the deposit has been used by Lessor in accordance with the terms of this Agreement or applicable law, Lessee shall upon demand immediately deposit with Lessor a sum equal to the amount so applied by Lessor so that Lessor shall have the full deposit on hand at all times during the lease term including any extension, renewal or holdover term. In the event of any permitted assignment or sublease of this Agreement by Lessee, the deposit shall be deemed to be held by Lessor as a deposit made by Lessee's assignee and Lessor shall have no further liability to return such deposit to the assignor.

THE SECURITY DEPOSIT MAY, IN THE DISCRETION OF EITHER THE LESSOR OR THE AGENT, BE DEPOSITED IN AN INTEREST-BEARING ACCOUNT WITH THE BANK OR SAVINGS INSTITUTION IDENTIFIED ABOVE. ANY INTEREST EARNED UPON THE SECURITY DEPOSIT, WHETHER THE SECURITY DEPOSIT IS DEPOSITED IN A TRUST ACCOUNT OR HELD OTHERWISE SHALL ACCRUE FOR THE BENEFIT OF, AND SHALL BE PAID TO, THE LESSOR, OR AS THE LESSOR DIRECTS. SUCH INTEREST, IF ANY, MAY BE WITHDRAWN BY LESSOR OR AGENT FROM SUCH ACCOUNT AS IT ACCRUES AS OFTEN AS IS PERMITTED BY THE TERMS OF THE ACCOUNT.

5. **ASSOCIATION IS THIRD PARTY BENEFICIARY** Lessee and Lessor acknowledge that Fleetwood Plaza Regime, a North Carolina non-profit corporation, (hereinafter called the "Association") is a third-party beneficiary of the promises made in this Lease Agreement.

**6. COMPLIANCE AND ENFORCEMENT BY ASSOCIATION** Lessee shall comply strictly with the Declaration of Condominium (hereinafter the "Declaration"), the By-Laws of the Association (hereinafter the "By-Laws"), and with the Rules and Regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee or any occupant or person living with Lessee of any provision of the Declaration, By-Laws or the Rules and Regulations adopted thereunder shall constitute a default under this Lease.

In order to enforce the provisions of this Lease Agreement, the Association may bring an action against the Lessor or Lessee for damages or injunctive relief or may impose any other sanction authorized by the Declaration or By-Laws or available at law or in equity including, without limitation, all remedies available to a landlord upon breach or default of a lease (including eviction). Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter.

Lessor hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the Lessee for breaches resulting from the violation of the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, including the power and authority to evict the Lessee on behalf and for the benefit of the Lessor, in accordance with the terms thereof. In the event the Association proceeds to evict the Lessee, any costs including attorney's fees and court costs, associated with the eviction shall be specially assessed against the unit and the Lessor, such being deemed hereby as an expense which benefits the Lessor.

Lessor hereby represents that Lessee has been given a copy of Declaration, By-laws and the Rules and Regulations of Fleetwood Plaza Condominiums and Fleetwood Plaza Regime, that Lessee has read them, and that Lessee is bound by them.

If a Lessee or a person living with the Lessee, violates the Declaration, By-Laws or a Rule or Regulation for which a fine is imposed, such fine may be assessed against the Lessee; provided, however if the fine is not paid by the Lessee within the time period set by the Board of Directors of the Association, Lessor shall pay the fine upon notice from the Association of Lessee's failure to pay the fine. Unpaid fines shall constitute a lien against Lessor's unit.

**7. PAYMENT OF ASSESSMENTS** Upon written request by the Association. Lessee shall pay to the Association all unpaid annual assessments and special assessments, as lawfully determined and made payable during and prior to the term of this Agreement and any other period of occupancy by Lessee; provided that Lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Association's request. All payments made under this Paragraph shall reduce, by the same amount, Lessee's obligation to make monthly rental payments. If Lessee fails to comply with the Association's request to pay assessments, Lessee shall pay to the Association all late or delinquent charges, interest, and costs of collection including but not limited to, reasonable attorney's fees actually incurred, to the same extent Lessee would be required to make such

payments to the Association if Lessee were the owner of the Premises during the term of this Agreement and any other period of occupancy by the Lessee.

8. **POSSESSION** Lessor shall not be liable for damages to Lessee for failure to deliver possession of the Premises to Lessee at the commencement of the term if such failure is due to no fault of the Lessor. Lessor shall use his or her best efforts to give possession of the Premises to the Lessee at the beginning of Lessee's term.

9. **MAINTENANCE AND INDEMNIFICATION** Lessee accepts Premises in the condition in which they are now and as suited for the use intended by Lessee. Lessor shall not be required to make any repairs or improvements on the Premises, except that on written notice from the Lessee of any defect rendering the Premises unsafe or untenantable, Lessor shall remedy such defective condition. Lessee shall comply with all notices and other requirements, including the Declaration, By-Laws and Rules and Regulations of the Association concerning maintenance and repair. Lessee shall be liable for and shall indemnify and hold Lessor harmless from any damage or injury to the person or property of Lessee or any other person if such damage or injury be due to the act or neglect of the Lessee or any other person in his control or employ, or if such damage or injury be due to any failure of Lessee to report in writing to Lessor any defective condition which Lessor would be required to repair under the terms hereof on notice from Lessee. Lessee releases Lessor from liability for and agrees to indemnify Lessor against all losses incurred by Lessor as a result of (a) Lessee's failure to fulfill any condition of this Agreement; (b) any damage or injury happening in or about the Premises to Lessee's invitees or licensees or such person's property; (c) Lessee's failure to comply with any requirements imposed by any governmental authority and as provided in Paragraph 6 hereof; and (d) any judgment, lien, or other encumbrance filed against the Premises as a result of Lessee's action. Lessor shall not be liable for damage to Lessee's property of any type for any reason except where such is due to Lessor's negligence.

10. **USE** Lessee shall not use or allow the Premises to be used for any disorderly or unlawful purposes or in any manner offensive to others, and Lessee shall comply with all applicable laws and ordinances. Lessee shall not remodel or make any structural changes to the Premises, nor shall Lessee remove any fixture therefrom.

Lessor transfers and assigns to Lessee for the term of the lease any and all rights and privileges that Lessor has to use the common elements of the Development, to include, but not be limited to, the use of any and all recreational facilities or other amenities.

11. **UTILITIES** All utility bills for services separately metered or billed to the Premises during the lease term shall be paid by \_\_\_\_\_. To avoid any freeze damage, heat must be maintained at not lower than 55° F during the winter.

12. **PETS** To the extent that Lessor permits its Lessee to keep any pets, Lessee shall be permitted to keep only those common household pets which are permitted by the Declaration, By-Laws, and Rules and Regulations of the Association.

13. **VEHICLES: PARKING** The Lessee agrees to park motor vehicles in the areas designated by the Board of Directors of the Association. Only passenger vehicles shall be parked on common areas, unless placed upon a portion of the Common Elements or Limited Common which is

designated for such purpose, or which may be designated from time to time for the storage of such items. No more than two vehicles per Unit may be parked on Association property. "Passenger vehicles" specifically exclude commercial trucks, recreational vehicles, boats, boat trailers, trailers, motor homes and commercial vans.

14. **ASSIGNMENT AND SUBLEASING** Lessee shall not assign this Lease or sublet.

15. **CASUALTY** If the Premises are rendered untenable by fire, storm, earthquake or other casualty, this Lease shall terminate as of the date of such destruction or damage, and rental shall be accounted as of that date.

16. **ACCESS** Lessor, his or her agents, and the agents of the Association shall have the right of access to the Premises, upon notice to Lessee, between the hours of 8:00 a.m. and 8:00 p.m., for inspection and maintenance. In case of emergency, such parties may enter at any time to prevent property damage or personal injury.

17. **DISCLOSURE** The owner of record of the Premises or person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for demands and notice is:

\_\_\_\_\_ (owner) (agent)

\_\_\_\_\_ (address)

\_\_\_\_\_

The person authorized to manage the Premises is:

\_\_\_\_\_

\_\_\_\_\_ (address)

\_\_\_\_\_

18. **HOLDOVER** Lessee shall not remain in possession of the within-leased Premises after the expiration of this Lease. Any holding over of the within-leased Premises by Lessee after the expiration of this Lease without a written renewal thereof or written consent from Lessor or Lessor's agents and the Board of Directors of the Association, shall not constitute a tenant-at-will interest on behalf of Lessee, but Lessee shall become a tenant at sufferance. There shall be no renewal whatsoever of this Lease by operation of law.

19. **SURRENDER** Whenever under the terms hereof Lessor is entitled to possession of Premises, Lessee shall at once surrender same to Lessor in as good condition as at present, natural wear and tear excepted and Lessee shall remove all of Lessee's effects therefrom. Lessor may forthwith re-enter Premises and repossess himself or herself thereof and remove all persons and effects therefrom, using such force as may be necessary without being guilty of forcible entry or detainer, trespass, or other tort.

20. **ABANDONMENT** If Lessee removes or attempts to remove property from the Premises other than in the usual course of continuing occupancy without first having paid Lessor all monies due, the Premises may be considered abandoned, and Lessor shall have the right without notice, to store or dispose of any property left on the Premises by Lessee. Lessor shall also have the right to store or dispose of any of Lessee's property remaining on the Premises after termination of this Agreement. Any such property shall be considered Lessor's property, and title thereto shall rest in Lessor. Lessor shall have the right to re-rent the Premises after Lessee abandons same.

21. **DEFAULT** Any breach or violation of any provision of this Agreement by Lessee shall give Lessor the right to terminate this Agreement or to take possession and hold Lessee liable for the remainder of the term. Should possession be obtained, Lessor, at Lessor's option, may re-rent the Premises as Lessee's agent at the risk and cost of the defaulting Lessee, whose default shall not relieve him or her of liability for the difference between the rent herein reserved and the rent actually received by Lessor during the term remaining after such default occurs.

22. **CONDEMNATION** In the event that the Premises or any part thereof (other than common elements, the taking of which does not prevent continued occupancy of the Premises) is taken by any authority exercising the power of eminent domain, this Lease shall terminate as of the date possession shall be taken by the condemner. Lessee waives all claims against Lessor or any condemning authority by reason of the complete or partial taking of the Premises, and shall not be entitled to receive any part of any award which Lessor may receive, hereby quitclaiming all interest therein to Lessor.

23. **SUBORDINATION OF RIGHTS** Lessee's and Lessor's rights shall be subject to all rights of the Association and any bona fide mortgage or deed of trust which is now or may hereafter be placed upon the Premises by Lessor.

24. **ENTIRE AGREEMENT AND WAIVER** This Agreement contains the entire agreement of the parties, and no representation, inducement, promises or agreements not contained herein shall be of any force or effect. No failure of Lessor to exercise any power given Lessor hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

25. **REMEDIES CUMULATIVE** All remedies under this Agreement or by law or equity shall be cumulative. If suit for any breach of this Agreement establishes a breach by either Lessor or Lessee, the party found in breach shall pay to the other party all expenses incurred in connection therewith, including, but not limited to, attorney's fees.

26. **APPROVAL OF BOARD OF DIRECTORS** This Agreement is subject to the approval of the Board of Directors of the Association and shall become effective only upon such written approval.

27. **ILLEGAL ACTIVITIES** The conduct of any unlawful activities on the Premises shall constitute a breach of this Agreement.

28. **SUCCESSORS** This Agreement shall inure to the benefit of and shall bind the heirs, successors, personal representatives and assigns of all parties to this Agreement.

29. **SPECIAL STIPULATIONS**

- a. Lessee is obligated to abide by the winterization procedures as established by the Board from time to time (reference Article 7, Section 7.14).

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

LESSOR: \_\_\_\_\_ (signature)

Name: \_\_\_\_\_ (please print)

LESSEE: \_\_\_\_\_ (signature)

Name: \_\_\_\_\_ (please print)

LESSEE: \_\_\_\_\_ (signature)

Name: \_\_\_\_\_ (please print)

\_\_\_Approved

\_\_\_Not Approved

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**FLEETWOOD PLAZA REGIME**

By: \_\_\_\_\_  
For the Board of Directors

## Exhibit D

### Rules, Regulations, Recommendations and Information

The text below is deliberately formatted in two different colors, whose intent is as follows:

- **black text** is used for titles and for substantive content (i.e., some action or behavior is required or prohibited);

- **green text** is used for (a) informational content (i.e., no action is required or constraint implied) or (b) to express a recommendation (as opposed to a requirement).

**Important Note:** This is only a summary of these important items. It is published for helpful use as a general information document. For many of these items, additional details can be found by following the references to other documents.

### Changes in Use Restrictions, Rules, Requirements, Recommendations, and Other Guidelines

In the interests of Fleetwood resident, the Board may promulgate, modify, or delete any of the following items. [See Declaration, Section 7.19]

### Compliance [See Declaration, Article 22]

All residents shall comply with both the “letter and spirit” of the following items.

### Needed Access

Official representatives of Fleetwood Plaza Regime, Inc. will have access to each unit for maintenance, repairs and inspections deemed necessary, upon oral or written notice to its owner. Notice will, understandably, be waived in emergency situations. [See Declaration, Articles 7.9 and 10.5]

### Assessment Policy [See Declaration, Article 11]

Questions occasionally come up concerning Fleetwood’s assessment policy as it relates to the late payment penalty. First, the due date is the key to understanding how the late payment penalty works. The due date for assessment remittance is the first day of each fiscal quarter, i.e., the first day of October, January, April and July. Statements are mailed to the address of record or hand delivered to the mailbox of those in residence on or before the 15th of the month preceding the due date.

A ten-day grace period beyond the due date is extended to allow for extenuating circumstances. Any payment received after the tenth day following the due date that is not postmarked prior to the due date will automatically be assessed a penalty of five percent (5%) payable immediately upon notification. [See Declaration, Article 11.11] Payment must be in the Regime mailbox at 400 Fleetwood Plaza Drive on or before the tenth, whether mail is delivered on the tenth or not, i.e., Sundays, Federal holidays. etc.

### **Usage**

- All units are restricted exclusively to single-family residential use. [See Declaration, Section 7.1]
- No unit may be divided or subdivided into smaller units unless the Declaration is amended. [See Declaration, Section 7.10]
- No commercial business activities shall be conducted on any portion of the property except in the unit owner's own individual unit. Even in these instances, written Board approval must be obtained. [See Declaration, Section 7.3]
- No activities shall be carried on nor condition maintained by any unit owner, either in his unit or upon common areas, if such activities should despoil, or tend to despoil, the appearance of the condominiums or the reasonable enjoyment of other residents. [See Declaration, Section 7.7]
- No nuisances, as determined by the Board, shall be allowed upon the condominium property. [See Declaration, Section 7.11]
- No unit owner is permitted to lease his/her unit for transient, hotel or time-sharing purposes. [See Declaration, Section 7.18]
- All leases must be for no less than one year; no more than eight units may be leased at any one time. [See Declaration, Article 13]

### **Door Keys**

If you change the locks on your doors, which is certainly within your right to do, it is required that you submit copies of the keys for emergencies. [See Declaration, Section 10.5] The keys should be given to 1) the Board President or Emergency Coordinator; and 2) your building captain. [See Fleetwood Organizational Plan] Other than your building captain, your emergency key is kept in a lock box that is kept inside the locked records file room in the maintenance annex of the Clubhouse. Only authorized officials have the access code to the key box and the key to the file room.

### **Pets** [See Declaration, Section 7.8]

- No more than one pet per unit.
- Maximum weight is subject to approval by interview of the owners and pets by the Board.
- Pets should not be allowed to create a nuisance in terms of noise (barking, yipping, growling, etc.)
- Whenever such pet is allowed outside the living unit, then the pet must be on a leash.

- Persons who walk pets are responsible for immediately cleaning up after their animals and discarding securely bagged pet droppings in the household garbage only.
- Cat litter may not be disposed of in toilets.

### **Speed Limit**

Do not exceed the posted limit of 14 miles per hour.

### **Vehicles and Parking** [See Declaration, Articles 7.5, 7.7]

- Only two passenger vehicles (e.g., automobiles, non-commercial pickup trucks, motorcycles) are allowed to park on a continuing basis at any unit. This restriction is not intended to prohibit short-term parking of additional vehicles by visitors and guests, space allowing.
- Customarily, the carport space closest to the carport storage shed is used by the upper unit and the other carport space by the lower unit. Second vehicles may be parked behind the vehicle in the carport, in driveway side spaces, or upper circle spaces.
- Owners may park a third passenger vehicle at another unit which has an unused space available provided they have received explicit permission from the owner of said unit. Parking at a neighbor's unit without permission is not allowed.
- Trucks, RV's, pickup trucks for commercial use, vehicles that have more than four wheels, trailers, motor homes and commercial vans are not allowed. (This restriction refers to unit residents' vehicles; commercial vehicles are of course allowed while providing services to residents.)
- No recreational vehicles (boat, trailer, mobile home, motor home or similar) shall be stored in or upon common areas or facilities. Temporary parking and/or use (generally, less than five days) will be considered by the Board upon request.
- Parking on the road is not allowed at any time.
- Parking at the Clubhouse is allowed only on a short-term basis (no more than 24 hours).
- No vehicle may be parked on or driven over unpaved areas (except for police, fire, or emergency vehicles or construction/repair/service vehicles which need access to a specific work location).

### **Storage in Carports**

- Customarily, the carport space closest to the carport storage shed is used by the upper unit and the other carport space by the lower unit.
- Overhead storage belongs to the upper unit.

### **Open Decks**

Heavy loads such as large flower boxes, hot tubs and the storage of firewood, etc. are prohibited on open decks.

## **Firewood**

Should be stored 18" away from the building foundation and wall, including garbage area enclosures, and all other foundation walls. This requirement will preclude firewood being stored on porches or decks.

## **Chimney Cleaning**

Units that burn firewood in their fireplaces MUST be professionally cleaned at least once a year in consideration of the protection of the entire building. [See Declaration, Section 7.11.]

## **Fire Extinguishers**

Insurance carriers and fire departments generally recommend that households install at least one dry chemical extinguisher in a location either in or convenient to the kitchen.

## **Smoke Alarms**

Both battery and wired smoke alarms, should be replaced after ten years use. Batteries are generally recommended to be replaced twice a year. (The date of change to/from daylight savings time is a good reminder point.)

## **Portable Grills**

The use of portable charcoal, gas and/or electric grills on open decks and porches (on both levels, including patios) is prohibited. Further, when such grills are used on lawns and grassy areas, they must be ten (10) feet from any Fleetwood building.

## **Garden Hoses**

Should be put away after use, rather than left on sidewalks, yards or gardens where they create a walkway hazard and an unattractive appearance.

## **Signs** [See Declaration, Section 7.6]

No sign, advertisement, notice, or other lettering shall be exhibited, inscribed, painted or affixed on any portion of the exterior (or interior if visible from the outside) without written permission from the Board. This prohibition also includes signs displayed in or on motor vehicles (other than bumper stickers), if those motor vehicles are regularly parked at Fleetwood. Exceptions exist for political signs (see revised declarations.)

## **Winterizing** [See Declaration, Section 7.14]

All unit occupants must follow the winterization regulations. These are found on the website. A reopening checklist is also posted on the website. [See Winterizing-Reopening Checklist]

## **Building Modifications** [See Declaration, Section 7.4] [See Regulations Governing Modifications, below]

- Building and grounds modifications must be pre-approved by the Board of Directors.
- No unit owner shall make structural alterations or modifications to his unit or to common areas & facilities without first getting written approval from the Board.
- Modifications that modify the external appearance of units must also be pre-approved by the Board.

## **Regulations Governing Building and Grounds Modifications**

STATEMENT OF POLICY: It shall be mandatory that a unit owner convey to a potential buyer the responsibility for the maintenance of all Board approved modifications or additions to a Limited Common Element and the maintenance of all Board approved grounds modifications or additions.

MODIFICATIONS TO GROUNDS: Unit owner request for landscaping modifications or additions will only be granted subject to the unit owner's agreement to restore the area to its original state (at owner's expense) or to confirm before closing that the buyer agrees to maintain the modified area. This condition will include all subsequent ownership.

MODIFICATIONS TO BUILDINGS: Any changes to the Limited Common Elements (Declaration, Article 6) that have been made by any owner, past or present, are the responsibility of the owner-of-record. The expense of maintaining the alterations or additions to meet safety and aesthetic standards, as defined by Fleetwood Plaza Regime, Inc., will be borne by the owner-of-record. Should the Board of Directors determine that the owner is not properly maintaining the alterations or additions, Fleetwood Plaza authority to contract for the repairs or modifications at the owner's expense. If it is necessary to remove any addition or alteration during the course of maintenance efforts, Fleetwood will not be responsible for restoration of the addition or change. All work will be done by a Contractor approved by Fleetwood. Fleetwood will retain a record of all additions or alterations to the Limited Common Elements.

As in the past; requests for approval of any additions/alterations within the Limited Common Elements must be made in writing to the Board and approved by same before any work is undertaken.

## **Soundproofing Policy**

When any hard surface is placed as flooring in the upstairs units of any Fleetwood buildings, adequate sound proofing material must be installed before the finished surface is put in place. Hard surfaces include, but are not limited to the following, tile, wood, laminates, poured hard surfaces, slate and other natural quarried products, plus synthetic hard surface flooring. Board approval is required for any new, replacement, or additional hard surface placed in upstairs units. The request should include the type surface, the sound proofing material to be used, and the name of the contractor doing the work. Recommendations for sound proofing materials may be obtained by contacting the Chair of the Building Maintenance Committee.

## **Cable TV, Internet, and Phone Connections**

Consistent with the limitations on exterior changes, Board approval must be obtained before stringing lead-in or any external wires across the exterior of any building. Further, there shall be no exterior antenna or dishes unless approved by the Board. [See next section, on exterior antennas.]

## **Exterior Antennas**

In order to provide broadcast television service to one or more residents of any residential building at Fleetwood Plaza, the installation of external antennas is approved, subject to the following conditions:

1. Only an antenna approved by the Board may be installed.
2. Installation must include a lightening arrestor, properly grounded.
3. Installation must be via attachment to a chimney; only one (1) antenna per chimney is allowed.
4. Ownership, installation, and maintenance of the antenna and associated cables, connectors, etc., and any damage to the building caused by the antenna, cables, connectors, etc. during or subsequent to installation, are the responsibility of the individual (owner or lessee) or group of individuals in a given building who agree to purchase, install, and use the antenna.
5. If one wishes to purchase and install an approved antenna, he/she should first contact others in his/her building to determine whether they have an interest in sharing the use of the antenna (and, presumably, the cost of purchase, installation, and maintenance).
6. Prior to the date of installation of an antenna, the individual or group in a given building involved in the installation and joint use of the antenna must notify the Board of the installation and receive Board approval of the routing of the antenna cable and location of any splitter(s).
7. If some but not all individuals in a given building install an antenna, they may not subsequently unreasonably deny access to and use of that antenna by a new owner or lessee, provided a reasonable cost-sharing arrangement has been identified.

## **Fleetwood's Waste System, Sewage, and Other Topics**

Please personally review this information with all of your unit occupants, visitors, cleaning and trades people.

**Do not use the toilets in your unit to dispose of anything other than human waste and toilet paper.**

Sewage from Fleetwood Plaza is collected at the sewer lift station on Pinewood Circle at the foot of Fleetwood.

When anything other than human body waste and toilet paper is flushed down a toilet, it jams the grinder pumps and burns out the motors. This then shuts down the entire sewer system

that includes ALL of the TOILETS, SINKS, TUBS, SHOWERS, DISH AND CLOTHES WASHERS in Fleetwood's 63 units and our Clubhouse.

Again, **the system will not handle anything but human waste and toilet paper.**

The grinder pumps will NOT handle...

baby wipes (including so-called "flushable")  
diapers of any kind  
dental floss  
sanitary pads - tampons  
condoms  
disposable underwear  
underwear of any type

cleaning rags  
rubber gloves  
gauze dressings  
facial tissues - cotton balls  
paper towels  
cooking oil  
oils of any kind

The sewer system at Fleetwood belongs to the Fleetwood unit owners... nobody else. Repair costs get very expensive (several thousand dollars per call when a motor burns out or a line gets plugged). Any costs are borne by all Fleetwood owners. PLEASE be mindful and vigilant about this issue.

Also, please make sure your guests and visitors follow these guidelines.

#### **Garbage, Water & Sewer Service:**

The Town of Laurel Park and the City of Hendersonville furnish these services. Please review the separate portion of the website for these guidelines. [See Item #7 in the Fleetwood Welcome Packet]

#### **Snow and Ice Removal**

When snow and ice conditions occur, the Fleetwood Regime will act as follows:

The weather forecast and existing conditions will be evaluated to determine if snow and/or ice removal is necessary. If the outlook is such that it appears the snow and ice will melt during the day, no action will be taken. If the conditions indicate that the snow and ice will remain during the day and continue into the next day, then arrangements will be made to obtain removal service as soon as possible. When removal service is activated the contractor will remove snow and ice from the sidewalks up to the front stoop or steps of the units and will clear a path to the mailboxes. Owners may engage services for additional removal at their option. Please note that stairs to the upper units are the responsibility of the owner and Fleetwood does not remove snow and ice from these steps. It is recommended that owners have snow melt and the proper tools for step cleaning.

## **Use of Clubhouse**

The Clubhouse is for the use and enjoyment of all residents and their guests. Friendliness, courtesy and respect will enhance the experience for everyone. Please welcome the guests and visitors of unit owners. Guidelines for use of the Clubhouse (including Pool and Workout Room) are found on the website. [See Clubhouse-Pool Rules]

## **Pool Season**

The pool will generally be open from sometime in May to approximately October 1<sup>st</sup>. Specific opening/closing dates and times of pool operation will be communicated to the community. All users must observe signs posted in the area and the pool guidelines approved by the Board and/or posted on the website. [See Clubhouse-Pool Rules]

## **Vista Projects**

One or more owners in a building (or in two or more adjacent buildings) may request that the Board, through its Vista Committee, investigate the feasibility of improving the view from said building(s) by having foliage on neighboring property removed or topped. If the Vista Committee determines that there is sufficient interest among the owners in the affected building(s), the Committee will, to the extent possible, identify the owner(s) of the property involved, assess their willingness to have such landscaping activities performed, and develop an estimate of the cost prior to making a recommendation to the Board. If the Board approves proceeding, the Fleetwood owners in the affected building(s) will be asked to make voluntary contributions to cover 50% of the estimated cost of the project, and the Board will commit to match the amount pledged by the owners. If the amount of money pledged (and matched) is sufficient to cover the projected cost, the Board will authorize that the work be done.

## **Notice of Desire to Lease or Sell**

Owners intending to lease or sell their unit must give written advance notice to the Board, as expediently as possible. [See Declaration, Article 13.2] Leasing provisions, including the required lease document, are detailed in the Red Book. For renters, a Board interview and approval is needed prior to occupancy. [See Declaration, Article 13.1]