

Outline of the  
**DECLARATION**

**Article 1**

- 1.1 Intent of Declaration. Submits land to Unit Property Act.

**Article 2**

- 2.1 Description of the Property. 15.46 acres. 217 units.

**Article 3**

- 3.1 Name: Village of Fountainview Condominium

**Article 4** Composition of the Property.

To be composed of units. Limited Common Elements, and  
Common Elements as shown on the Plan

**Article 5**

5. Definitions.

- 5.1 Age Qualified Community. Age 55 or older.

- 5.1 Buildings. See filed Plan.

- 5.2 Code of Regulations. Regulations governing condominium  
operations and management as adopted by the Council.

- 5.3 Common Elements. Everything except units.

- 5.4 Common Expenses.

- (1) Administration, operations, maintenance, current repairs and replacement, and long range Repair and Replacement Reserves.
- (2) All expenses agreed upon by 75% of the Unit Owners voting at a special meeting.
- (3) Expenses declared to be Common Expenses under the Unit Property Act, the Declaration, or Code of Regulations
- (4) All valid charges against the Property as a whole.

5.5 Common Surplus. All receipts minus Common Expenses.

5.6 Condominium Documents.

The Declaration, schedules attached, Initial Declaration Plan, Code of Regulations, Rules and Regulations, agreements of sale for each unit, Unit deeds and any other document prepared for or executed by Declarant.

5.7 Council. The managing board.

5.8 Declaration Plan. The recorded Plan.

5.9 General Common Elements. Everything other than units.

5.10 Limited Common Elements.

5.11 Majority of Unit Owners. More than 50%.

5.12 Property. Land, buildings, and rights on land.

5.13 Proportionate Interest. See, attached Schedule 2.2. Undivided elements owned by unit owners as tenants in common.

5.14 Rules and Regulations. As adopted by Council as determined to be necessary for the enjoyment of the Property by the Unit Owners.

- 5.15 Unit. Designed for residential use with exits to public street directly or indirectly, plus proportionate interest.
- 5.16 Unit Owner. Defined.
- 5.17 Unit Property Act. Chapter 22 of Title 25 of 1953 Del. Code.
- 5.18 Special Declarant Rights. As provided in the. Unit Property Act and the Condominium documents.

## **Article 6**

- 6. Components of the Property
- 6.1 Division of the Property
- 6.2 Unit Defined.

## **Article 7**

- 7.1 Unit Description. See Initial Declaration Plan.
- 7.2 Unit Specifically Defined. Vertical and horizontal interior surface.
- 7.3 Unit Statistics. Square footage of each unit and its Proportionate Interest shown on Schedule 2.2.

## **Article 8**

- 8. Unit Description
- 8.1 Each Unit consists of:
  - (1) Unfinished inside volume of space
  - (2) Door to patio or deck

- (3) Plaster walls
- (4) Sinks, cabinets, A/C units, carpets, etc.
- (5) Pipes, wire and systems
- (6) the assigned Proportionate Interest
- (7) Certain limited Common Elements

8.2 Excluded from each unit:

- (1) Pipes and ducts serving more than one unit
- (2) Apparatus and installations serving more than one unit.
- (3) Structural parts.

8.3 Limitation of a Unit. Nothing in Art. 8 causes a unit to extend beyond title lines.

## **Article 9**

9. Description of Common Elements, Limited Common Elements, General Common Elements, and Interest

9.1 Common Elements

- (1) General Common Elements
  - (a) land
  - (b) foundations and supports
  - (c) yards, driveways
  - (d) land for management or operations
  - (e) personal property belonging to Council

(f) all systems like water, gas, electric, etc.

(g) all other elements

(h) elevators, mailboxes, etc.

(i) easements

(j) anything owned by Council

(k) recreation rooms, meters rooms, etc.

(l) air space above the land

(2) Limited Common Elements. Storage facilities, patios, parking spaces

9.2 Proportionate Interest. See, Schedule 2

9.3 Proportionate Interest Inseparable

9.4 Restrictions on Maintenance and Repair

## **Article 10**

10.1 Reallocation of Proportionate Interest. 100% vote required.

## **Article 11**

11. Age Qualified Community

Fair Housing Act. Over age 55.

No more than 2 occupants per unit

Caretaker permitted *with prior consent of Council*

Council adopts guidelines

## **Article 12**

### 12. Easements, Licenses and Rights of Way

#### 12.1 Grant of easements to Unit Owners

- (1) ingress & egress right of way
- (2) utility connections
- (3) Declarant has right to create additional easements
- (4) easements are subject to the Declaration
- (5) foregoing easements are *for unit owners only , not public*
- (6) easements are perpetual and run with the property

#### 12.2 Easement rights are held in common with all unit owners

#### 12.3 Council's has right of reasonable access to each unit to inspect and repair Common Elements

#### 12.4 Burdens On Each Unit

- (1) ingress & egress through Common Elements
- (2) structural support for units and Common Elements
- (3) utility easements

- (4) Unit Property Act easements
- (5) necessary additional utility easements

12.5 Grant of exclusive easement to Units by Declarant

12.6 Declarant reserves the rights of ingress & egress over Common Elements in connection with construction and sales

12.7 Building shifts or settling causing an encroachment are hereby granted an easement, and any structure being rebuilt for stated reasons which encroaches is given an easement for duration of the building.

### **Article 13**

13.1 Restrictions on Use. Units to be used for residential only. All leases to be in writing and expressly subject to the Declaration, Code of Regulations and Rules. Declarant and unit owners covenant to faithfully observe all the terms of all the condominium documents.

#### Additional covenants:

- (1) Every Unit to be used per condominium documents and no owner will change Unit without advance approval of Council.
- (2) No Unit Owner can bring in material which is illegal, unsafe, nuisance or offensive or which may be a reason for increasing insurance rates.
- (3) One Unit may be designated as office. Permitted uses.
- (4) No partitioning or subdividing of any unit.
- (5) No use of a Limited Common Element which is appurtenant to a Unit without consent of Unit Owner.

- (6) Parking in a Limited Common Element area can be restricted by Council.
- (7) No using Unit for an offensive or unlawful purpose or as a nuisance or annoyance or as interference with the peaceful enjoyment of other Unit Owners.
- (8) Limited Common Element cannot be decorated or obstructed.
- (9) Adjacent units owned by same person may be combined subject to restrictions.

## **Article 14**

### 14. Common Elements and Common Interest

14.1 "Unit" includes Proportionate Interest. See, Sec. 8.1.

14.2 No division of Common Elements except Unit Property Act Sec. 2239.

14.3 Use of Common Elements must be without hindering rights of others.

14.4 Council to have access to unit for pest extermination, inspection, repairs, etc.

14.5 Council alone decides purpose of Common Elements and can limit use thereof

14.6 Council's duties re: Common Elements can be delegated.

14.7 Expenses of the Common Elements are called Common Expenses and are collectible from the Unit Owners.

14.8 A project requiring an expenditure of more than \$25,000 over a one year period that has been approved by a majority of Unit Owners can be assessed to all Unit Owners as a Common Expense.



Ed. Note: means the expense can be billed out as part of regular dues.

If the project cost is less the \$15,000 over one year, the costs can be added to dues as a Common Expense even though no approved by the Unit Owners.

Ed. Note: The \$15,000 appears to be a typo that instead should have been “less than \$25,000. As is, there is a no-man’s land area of \$15,001 to \$24,999 that is theoretically off limits.

- (1) If it is Council’s opinion that an improvement is general in character, then it shall be assessed as a Common Expense.
- (2) Special improvements benefitting only a few Unit Owners can be assessed to those benefitted with costs apportioned various ways.

14.9 Prior council approval needed for any work by a Unit Owner affecting any Common Element.

14.10 Unanimous consent of Unit Owners needed to sell, encumber, abandon etc. any of the Common Elements. ***Every contract for labor or materials to be furnished to the Common Elements must provide that the work is subject to the Declaration and the Unit Property Act.***

14.11 Common Expense funds received by Council are ***trust funds*** to pay the costs first before use for any other purpose.

14.12 Each unit owner has an easement for conduits, etc. over all Common Elements and easements run with the property.

## Article 15

15. Unit Maintenance and Repair

15.1 No Unit Owner work can jeopardize any other unit. If stopped by Council, no restart without Council approval. No Unit Owner can move any Common Elements within the Unit *without the prior written consent of council*. see, Patios, balconies, walls. Balcony cleaning is the duty of Unit Owner.

15.2 Council's responsibility to maintain and repair the following:

- (1) bearing walls, but not decoration of them
- (2) portions of a unit which are part of the building exterior like balconies
- (3) Common Elements
- (4) damage resulting from work ordered by council
- (5) if council orders work then no mechanic's lien to apply to unit, but mechanic's liens are proper if the unit owner has consented and ordered the work

15.3 Unit Owner's Responsibility re: the Unit:

- (1) to fix portions of unit that may cause injury or damage
- (2) to paint and decorate inside and keep the patio or balcony clean
- (3) to perform such duties at reasonable hours
- (4) to get Council's *advance written consent* before making repairs, painting or decorating
- (5) maintain, repair, replace bathroom, kitchen
- (7) pay increased insurance rates
- (8) keep unit at 50 deg. F
- (9) give notice to Council of proposed work

- 15.4 Members of Council not liable for repairs but Council is liable for ***damages for willful misconduct or bad faith.***
- 15.5 Any damage to improvements shall be repaired. Damage shall be remedied by the Council.
- 15.6 All repairs are to be substantially similar to original construction.

## **Article 16**

### 16. Council's First Members and Duties

- 16.1 Council to be board of natural persons. None need be Unit Owners. Number of people on council set by Code of Regulations. First council: Stortini, Corrozi, Robino.
- 16.2 Duties and responsibilities of Council set forth.
- 16.3 To limit liability of Council any contract must contain special language set forth in Sec. 16.3

Again ***Council only liable for willful misconduct or bad faith.***

- 16.4 Council shall take out insurance. Premiums cost is a Common Expense.

## **Article 17**

### 17. Charges, Surplus, Assessments and Their Enforcement

- 17.1 Unit owners cannot avoid liability for Common Expenses by waiving use and enjoyment of the benefits of any Common Elements or by abandoning the unit. ***Declarant is not liable***

***for costs of unoccupied units until control of the council transfers to elected Unit Owners pursuant to Article 33.***

- 17.2 Allocation of Common Surplus and Common Expenses is based on Proportionate Interests as set for in the Declaration.
- 17.3 ***Sums assessed against a Unit is the personal liability of owner, and constitutes a lien on the unit under Sec. 2233 of the Unit Property Act.***
- 17.4 Unpaid assessments against any unit can only be enforced by Council in accordance with law.
- 17.5 Real estate taxes against the Property are a Common Expense payable by Unit Owners as part of the budget.
- 17.6 All tax liens or special governmental assessments may be charged to each Unit as a special assessment or. included in Common Expenses.
- 17.7 All other assessments shall be made by Council in accordance with the Unit Property Act and the condominium documents.
- 17.8 If water, electric, gas or oil are measured through a common meter they may be billed as Common Expenses. If measured by separate meters, then to costs is the responsibility of the Unit Owner.

## **Article 18**

### **18.1 Recapture of Unpaid Assessments If Unit Sale is Voluntary**

If sale is voluntary the buyer is jointly and severally liable with the seller for unpaid assessments for. Common Expenses as of the date of the sale.

## Article 19

### 19. Special Declarant Rights

#### 19.1 Defined.

Rights reserved for Declarant under Unit Property Act and the Condominium documents, including (a) the right to complete the improvements shown on the Declaration Plan; (b) to maintain sales. Offices signs and models; (c) use of easements to make improvements.

19.1 (1) Transfer of special Declarant's Rights must be recorded in New Castle County.

(2) Upon transfer liability of transferor is as follows:

(a) obligations arising before the transfer stand

(b) if any special rights are retained, transferor is still liable

(c) if no rights retained, no liability.

(3) Purchase of Declarant's units out of bankruptcy or receivership automatically includes all special Declarant rights.

(4) obligations of those succeeding to special Declarant rights are:

(a) if successor is affiliate of original Declarant successor subject to all liabilities imposed on Declarant by Unit Property Act and Condominium Documents.

(b) conditions where not liable for warranties

(c) if succeeding to limited rights

(d) alternative situation

## **Article 20**

### 20.1 Unpaid Assessments; Execution Sale

If Council gives proof of unpaid assessment to selling official, he shall pay amount out of surplus. More....

## **Article 21**

### 21. Taxation

21.1 Each Unit and Proportionate Interest is to be assessed and taxes as a separate parcel of real estate.

21.2 Taxes on the property as a whole shall be allocated as follows:

- (1) Responsibility of the Unit Owners proportioned.
- (2) collectible as a Common Expense.
- (3) Any expenses to Council pursuant to this Article shall be Common Expense

## **Article 22**

### 22. All Units Are subject to Declaration, Code of Regulations, and Rules

22.1 All present and future Unit Owners and others subject to Unit Property Act, and all condominium documents.

22.2 All provision of the condominium documents are covenants running with the land.

## **Article 23**

23. Encroachments. See text for details.

## **Article 24**

24. Repair and Reconstruction After Fire

24.1 See text for details.

## **Article 25**

25. Consequences of Eminent Domain.

25.1 See text for details.

## **Article 26**

26.1 Lease of Units

Prior written consent of. Council required.

Tenant liable for all liabilities.

## **Article 27**

27. Priority of liens.

## **Article 28**

28.1 Mechanics liens

## **Article 29.**

29.1 Designation of nominee by Council.

## **Article 30**

30. Voting By Unit Owners

30.1 Proportionate interest.

30.2 Record title shows who can vote.

- (1) individual
- (2) corporation
- (3) partnership
- (4) Proxy
- (5) Husband & wife

### **Article 31**

#### 31. Code of Regulations and Rules

31.1 Each Unit Owner is to comply with the original Code of Regulations and all changes made by Council.

### **Article 32**

#### 32.1 Provisions Applicable to Declarant

- (1) right to combine combining units
- (2) (a) conditions for end of 3 person Council
  - (b) thereafter 5 person council
- (3) Declarant makes no warranties

### **Article 33**

33. Interpretation, severability, and enforcement.

### **Article 34**

34.1 Termination by 100%



## **Article 35**

### 35. Amendment of Condominium Documents

35.1 Restrictions. See, text

## **Article 39**

39.1 Legal fees. If Copiuncil initiates legal proceedings to enforce the Condominium Documents or collect Common Expenses, the prevailing party is entitled to reasonable attorney's fees.

**Schedule 2.1     Land Description**

**Schedule 2.2     Proportionate. Interests**

**Schedule 2.3     Rules and Regulations**

**Exhibit A         Irrevocable Power of attorney**

