

AMENDED DECLARATION

of the

COTTAGES AT SPRUCE WOODS CONDOMINIUM ASSOCIATION

Durham, NH

The Association having been duly created by a Declaration and Bylaws filed with the Strafford County Registry of Deeds on June 9, 2005 beginning at Book 3201, Page 0995, the Unit Owners voted at a duly called Association meeting to amend the original Declaration and Bylaws, and all amendments thereto, with the Declaration and Bylaws immediately following and further replacing all subsequent amendments to the listed Declaration and Bylaws related thereto as follows:

ARTICLE I
DEFINITIONS

Certain of the terms as used in this Declaration and in the Bylaws, which are annexed hereto as Appendix C and are made a part hereof, are defined and shall have meaning as follows, unless the context clearly indicates a different meaning thereof:

1. "Act" means the New Hampshire Condominium Act (Chapter 356-B of the New Hampshire Revised Statutes Annotated) as revised periodically.
2. "Association" or "Association of Owners" or "Cottages at Spruce Woods Condominium Association" means the association of the Owners acting as a group in accordance with the Declaration and the Bylaws.
3. "Cottages at Spruce Woods Condominium Association" (hereinafter referred to as "the Condominium"), in addition to the definition noted above, may also mean the premises described in Appendix A, including land, all buildings and other improvements and structures now or hereafter thereon, all easements, rights and appurtenances belonging thereto, and all personal property now or hereafter used in connection therewith, which have been or are intended to be submitted to the provisions of the Act.
4. "Board or "Board of Directors" means the governing body of the Association elected pursuant to the Bylaws of the Association.
5. "Bylaws" means the instrument annexed hereto as Appendix C and hereby made a part hereof which provide for the self-government of the Association.

6. "Common Area" means all that portion of the Condominium other than the Units and specifically includes the Limited Common Area.
7. "Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments; "future common expenses" shall mean common expenses for which assessments are not yet due and payable.
8. "Condominium" means the Cottages at Spruce Woods Condominium Association.
9. "Declaration" means this instrument and all of its Appendices, as amended from time to time, except where the context indicates otherwise.
10. "Limited Common Area" means that portion of the Common Area, if any, which is designated herein as reserved for the use of one or more Units but less than all Units as referenced herein or on the site and/or floor plans of the Condominium.
11. "Occupant" whenever used herein shall mean a person or persons, other than the Owner, in possession of one or more Units.
12. "Owner" or "Unit Owner" means any person or persons or other entity owning a Unit in a fee simple absolute together with an undivided interest in fee simple in the Common Area.
13. "Percentage of Interest" or "Percentage of Undivided Interest" means the percentage of undivided interest of each Unit in the Common Area as set forth in Appendix B hereto.
14. "Property" means the land and the buildings and all other improvements heretofore or hereafter constructed thereon and all easements, rights and appurtenances thereto and all articles of personal property intended for common use in connection therewith which have been or are intended to be submitted to the provisions of the Act and which are more particularly described in Appendix A attached hereto.
15. "Rules" means such rules and regulations as the Board from time to time may adopt relative to the use of the Condominium or of any part thereof, as the same may be amended pursuant to the terms hereof and of the Bylaws.
16. "Unit" means a part of the Condominium intended for independent ownership, all as more particularly described in Article II, Paragraph 4 hereof.

ARTICLE II
STATUTORILY REQUIRED INFORMATION

1. Name. The name of the condominium is and shall be the Cottages at Spruce Woods Condominium Association.
2. Location. The Condominium is located off of Worthen Road in the Town of Durham, County of Strafford and State of New Hampshire and is comprised of twenty-five (25) units in eight (8) duplex buildings, nine (9) single-family detached dwellings, with surrounding land.
3. Legal Description by Metes and Bounds. A legal description of the land submitted to the Act is filed in the Strafford County Registry of Deeds at Book 3201, Pages 1015-16 and is further described in Appendix A and made a part hereof.
4. Unit Boundaries and Maintenance Responsibilities. A description of the boundaries of the Units is in accordance with the provisions of RSA 356-B: 12 which boundaries are further detailed as follows:
 - A. Horizontal Boundaries:
 - i. Lower Boundary: The upper surface of the sub-flooring;
 - ii. Upper Boundary: The unfinished interior surface of the ceiling joists.
 - B. Vertical Boundaries:
 - i. Exterior Walls: The interior surface of the studs, such that the sheetrock or other wall surface is part of the Unit;
 - ii. Interior Walls: In the event a unit wall touches another unit, the sheetrock on the studs common to both units shall be the boundary between the units. The sheetrock of each unit shall be the responsibility of the Unit Owner whose Unit includes the sheetrock. The studs themselves, the insulation, the air spaces between, and any utilities contained therein, whether they serve one or more units, shall be Common Area.
 - C. Doors and Windows: The unfinished exterior surface of doors, door frames, windows and window frames. Notwithstanding anything herein to the contrary, the color, type and quality of all doors, windows, frames and glass are left to the discretion of the Board of Directors.

D. Additional Unit Owner Maintenance and Replacement Responsibilities. In addition to the Unit Owner's responsibility for maintaining and replacing that portion of the Unit within the above-described boundaries, the Unit Owner is responsible for the following Unit-related items regardless of the location of these items:

- i. All finished surfaces inside the Unit, except as otherwise noted above, including, but not limited to, paneling, tiles, ceiling tiles, wallpaper, paint, sub-flooring, finished flooring, cabinets, interior walls, interior partitions and any other improvements that may need to be repaired or replaced;
- ii. Any and all appliances, plumbing fixtures, electrical systems, heating (including flues, chutes and chimneys), air conditioning, cooling, and ventilation systems and all associated wiring and piping servicing the Unit regardless of where located;
- iii. All pipes, ducts, conduits, wires and other utility installations servicing the Unit regardless of where located;
- iv. HVAC Units, air conditioners and generators may be placed on the Common Area in the discretion of the Board of Directors, but are still the responsibility of the Unit Owner, including any pad(s) which the Board approves for an air conditioner condenser or generator, and accessories to such air conditioners or generators such as pipes, wires, conduits, or other apparatus or equipment associated therewith, the determination of which is left to the discretion of the Board of Directors; and
- v. Some Units have fireplaces. No wood or pellet stove may be inserted into the fireplace, nor may any wood or pellet stove be connected to the fireplace. Further the Association shall have all flues, chutes and chimneys related thereto inspected every other year as a common expense and any cleaning costs related thereto shall be assessed to the Unit Owner(s) who have such chimneys. Finally, any flues, chutes and chimneys are the responsibility of the Unit Owner, regardless of where located, though the Board of Directors, may undertake maintenance, renovation and repair as it sees fit of these items and assess the Owner of any such Unit all costs related to such maintenance, renovations and repairs;

E. Right of Ingress and Egress. Each Unit owner has an unrestricted right of ingress and egress to his or her Unit. This right is perpetual and shall pass with the Unit as transfers of ownership of the Unit occur.

5. Description of Limited Common Area. Each deck, entryway, patio and any stairs to them are Limited Common Area for the Unit to which these items are attached or serve and which are further identified on the site/floor plans on file with the Registry of Deeds. The Owners shall keep their decks, patios and entryways neat and clean and uncluttered. Further, the Owners shall be responsible for the routine maintenance of the decks and patios and entryways. Routine maintenance shall include snow and ice removal except for front entryways the responsibility for which is the Association's. All determinations hereunder shall be left to the discretion of the Board.

Notwithstanding anything herein to the contrary, although these items and areas are Limited Common Area, the maintenance responsibility for which is the Unit Owner's, all repairs, renovations and replacements are the responsibility of the Association. If the Board finds, in its sole judgment, that any such repairs were caused by the neglect or purposeful act of the Owner, the Board may, in its discretion, assess any such expense to the Owner.

Additional Limited Common Area is as defined in RSA 356-B: 12, V as amended from time to time.

6. Description of Common Areas. The Common Area shall consist of all land and improvements not specifically designated as part of a Unit in Paragraph 4 above. The Common Area specifically includes the Limited Common Area as designated in Paragraph 5 above. The Common Area includes, but not by way of limitation:

A. The land and the walks, shrubbery and other plantings, parking areas not designated as Limited Common Area and other land and interests in land included and described in Appendix A hereto, except that which is otherwise herein and/or on the site plan designated solely as Limited Common Area. Owners are allowed to plant flowers and plants as they see fit on the area or beds near their entryway, subject to approval of the Board of Directors;

B. Pipes, ducts, flues, chutes, conduits, plumbing, wires, meters, meter housings and other facilities located within a Unit, which serve parts of the Condominium other than the Unit within which they are located;

C. Roofs, foundations, and supports of the building (including any interior wall studs necessary to maintain the integrity of the structure of the buildings), the perimeter walls, ceiling and floors bounding each Unit to the unfinished interior surfaces thereof and other walls which are not within a Unit;

D. Parking Spaces. Each Unit has assigned to it two parking spaces which are further identified on the site plans on file with the Registry of Deeds and which may be reassigned by the Board of Directors. Additional spaces are limited

and left for assignment to the discretion of the Board of Directors. Unless otherwise notified by the Board of Directors, extra spaces are utilized on a first-come, first-served basis.

E. Any other amenities constructed or to be constructed on the Land;

F. All other parts of the Condominium, including personal property acquired by the Association, necessary or convenient to its existence, maintenance and safety or normally in common use;

7. Allocation of Undivided Interest in Common Area. Each Unit is accorded an equal, undivided Percentage of Undivided Interest in the Common Area.

8. Statement of Purposes and Use. The Condominium is intended for residential use as further defined herein and in the Bylaws, and the following provisions, together with the provisions of the Bylaws and Rules and Regulations, are in furtherance of this purpose.

- A. An Owner shall not occupy or use his Unit or permit the same, or any part thereof for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's lessee or guests.
- B. The Common Area and Limited Common Area of the condominium shall not be used in a manner that is inconsistent with the residential character of the Property. No one shall obstruct, commit any waste in, or otherwise cause any damage beyond reasonable wear and tear to the Common Area. Nothing shall be stored on the Common Area or Limited Common Area without the prior written consent of the Board. Nothing shall be altered, constructed in or removed from the Common Area or Limited Common Area without the prior written consent of the Board.
- C. No noxious or offensive use shall be made of any part of the Condominium and nothing shall be done therein which is or will become an annoyance or nuisance to another Owner. No use shall be made of any part of the Condominium which will constitute a fire hazard or which will result in the cancellation of insurance on any part of the Condominium or which is in violation of any law, ordinance or governmental regulation applicable thereto. No use shall be made of any part of the Condominium that will increase the rate of insurance on the Common Area, without prior written consent of the Board.

- D. The use of the Common Area shall be limited to the Owners in residence and to their tenants in residence and to their guests, invitees, occupants and licensees. The use of each Limited Common Area shall be further restricted to the Owner(s) of the Unit(s) to which it is appurtenant, to his tenants in residence and to his guests, invitees and licensees. The use, including responsibilities for maintenance and repair, of the Common Area and Limited Common Area, shall be governed by this Declaration, the Bylaws and the Rules as adopted and amended from time to time by the Board of Directors.
- E. An Owner may use his Unit for a home-based occupation or other business activities, including telecommuting, unless otherwise notified by the Board of Directors that the use has become a nuisance, annoyance or does not fit within the residential character of the Association, the determination of which is left to the sole discretion of the Board of Directors. The Board may require an Owner who intends to use his Unit for, in part, a home-based occupation to notify the Board of the nature of the business, which required information may include such items as the expected frequency with which visitors and/or deliveries shall arrive on the property, and the duration of time for which said visitors/deliveries are expected to stay on the property. Any such decision of the Board may be appealed to the Association and the Board shall then schedule such a meeting with all due haste.

Further still, any language to the contrary notwithstanding, the Owner of such a home-based occupation shall not do anything related to the business which will cause the insurance on the Cottages at Spruce Woods Condominium Association to rise (without the express, written permission of the Board of Directors, and for which the increased cost shall become an obligation of the Unit Owner who has incurred the increased cost), nor shall the Owner in any way, shape or form alter the physical structure of the Unit or Common Area as a result of any such home-based occupation.

No employee or persons other than a resident of such Unit shall engage therein in any such business activities and no such office shall be advertised, held out or used as a place for service to clients, customers or patients. Under no circumstances shall the Association Property be listed as the address of any business. Additionally, no sign advertising or indicating any home-based occupation shall be permitted anywhere on the property.

Finally, the Board of Directors shall possess the sole discretion to revoke any permission given to any Owner to operate a home-based occupation granted pursuant to this paragraph.

- F. As a general rule, pets are allowed with discretion of Board of Directors. If the Board of Directors determines, in its sole discretion, any animal kept on the Condominium has become a nuisance, the Board may notify the Unit Owner that the animal has to be removed. Owners shall immediately pick up and dispose of the waste of each of their pets that relieves itself outside the Unit. Any such decision of the Board may be appealed to the Association, but shall remain in effect unless and until overturned by the Association, which meeting has to be scheduled with all due haste by the Board.
- G. An Owner shall not paint or otherwise decorate, add to, alter or change the appearance of the exterior portion of a Unit or any portion of the Property without the prior written permission of the Board of Directors.
- H. None of the rights and obligations of the Owners created herein shall be altered in any way by encroachments as a result of construction of any structures or due to settling or shifting of structures. There shall be valid easements for the maintenance of such encroachments so long as they shall exist; provided, however, that in no event shall a valid easement or encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners. If any portion of the Common Area encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Areas, or if any such encroachment shall occur hereafter as a result of (a) settling of a unit, or (b) alteration or repair to any portion of the Common Area made by or with the consent of the Board of Directors, or (c) as a result of repair or restoration of a building or any Unit after damage by fire or other casualty, or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the affected building stands.
- I. Occupancy. Occupancy of any Unit shall be in accordance with the rules, regulations and ordinances of the Town of Durham and further subject to the laws of the State of New Hampshire. The Board of Directors may make any occupancy rules that are not in violation of the rules, regulations and ordinances of the Town of Durham.
- J. Elderly Housing Occupancy. Occupancy of any Unit shall be in accordance with the rules, regulations and ordinances of the Town of Durham and further subject to the laws of the State of New Hampshire.

The Board of Directors may make any occupancy rules that are not in violation of the rules, regulations and ordinances of the Town of Durham.

Further, The condominium having been established in compliance with 42 U.S.C. § 3601, *et. seq.* and 24 C.F.R. part 100, §§ 100.31 and 100.304, must be maintained in accordance with these provisions and in accordance with the rules, regulations and ordinances of the Town of Durham and further subject to the laws of the State of New Hampshire.

As such, Units shall only be sold to Buyers (and their spouses) who execute an Affidavit that indicates (1) the Unit is to be such Buyer(s) immediate, permanent residence; (2) such Buyer(s) are not acquiring the Unit for purposes of, or with the intention to, resell or lease such Unit to any person(s) under the age of 55; and (3) the Buyer (or at least one Buyer if more than one person is purchasing the Unit) will be, at the time of purchase, 55 years of age or older.

This covenant shall be enforceable by the Town of Durham, a municipal corporation situated in the State of New Hampshire as well as the Cottages at Spruce Woods Condominium Association, by and through its Board of Directors.

Each Unit must be occupied by at least one resident who is at least fifty-five (55) years of age, and no one under the age of eighteen (18) shall reside in the Unit for more than more than thirty (30) days in one twelve month period.

However, upon written proof of same to the Board of Directors, the following conditional exceptions shall apply:

- i. In the event of the death of an occupant who was at least 55 years of age leaving an occupant who is under the age of 55, such occupancy shall be allowed to continue until the next conveyance of title, in any way, shape or form, at which time the use and occupancy by at least one person of at least 55 years of age must be re-established.
- ii. In the event of (a) divorce, (b) legal separation, or (c) abandonment by a person in a relationship with another occupant which results in the use and occupancy by the abandoned occupant who is less than 55 years of age, such occupancy shall be allowed to continue until the next conveyance of title, in any way, shape or form, at which time the use and occupancy by at least one person of at least 55 years of age must be re-established.

“Abandonment” shall mean an uninterrupted and permanent cessation of occupancy and residency, as determined by the Board of Directors in its sole discretion.

“Person in a relationship with another occupant” shall mean either a person who has a direct familial relationship with any other occupant, or who has cohabited with another person in common residency as a couple, as determined in the sole discretion of the Board of Directors, and which definitions specifically exclude a relationship the Board of Directors determines is that of mere roommates.

Notwithstanding any provisions to the contrary, the number of occupants of any Unit shall be in accord with the Town of Durham occupancy rules.

Verification Procedure. Pursuant to 24 C.F.R. Pat 100, §100.307, as amended from time-to-time, the following procedures are hereby adopted.

i. **Initial Verification.** Each Buyer shall execute at closing, an Affidavit attesting to his/her age and submit proof of same via any of the documents listed in section (iii) below.

ii. **Continuing Verification.** Each unit owner shall forward a copy of the afore-mentioned Affidavit for his/her unit within thirty (30) days of purchasing their Unit(s).

It shall be the unit owner’s responsibility to provide proof, via an updated Affidavit, each year to the Board of Directors within thirty (30) days of the date of prior Affidavit. (The Board of Directors may, in its discretion, defer this requirement until the next Annual Meeting for any Owner.)

Failure to provide the requested information may result in the levying of a fine of up to \$500.00 by the Board of Directors

All costs to enforce this provision, including but not limited to, attorney’s fees and court costs, shall be assessed to and borne by the unit.

iii. The following documents shall be considered sufficient identification to satisfy the requirements of this Paragraph (I).

- a. Driver’s license;
- b. Birth certificate;
- c. Passport;
- d. Immigration card;
- e. Military identification card;

f. Any other state, local, national or international document that contains a birthdate of comparable reliability.

The Board of Directors shall, in its sole discretion, determine whether the proof submitted above is satisfactory.

Elderly Services. In keeping with the provisions of RSA 354-A: 15, the Association shall provide or make available to all over-55 occupants the following or similar services designed to meet the physical and/or social needs of older persons.

Active Retirement Association. www.unh.edu/ara/ This non-profit program located in Durham, is designed to provide persons of retirement age with educational and cultural programming. Each over-55 occupant shall be added to the ARA mailing list if they become a member of the ARA who shall then be informed of events and programs with the ARA. In addition, the University of New Hampshire sponsors a range of collateral events that are open to the public.

Continuing Education. UNH's Continuing Education program is for adults of all ages who are not regular students and who wish to continue a lifetime of learning. Courses are available on line and can be viewed at <http://www.learn2.unh.edu>

Counseling, Homemaker Services, Referral and Replacement Services. The Squamscott Visiting Nurses Association can visit each Cottages at Spruce Woods unit after purchase. A scheduled home safety evaluation visit can be made for recommendations as to adjustments to the physical aspects of the unit. They can also provide trained personnel for home making assistance and provide referral services. Call 1-800 959-0412

Recreational Programs. Wentworth Douglas Hospital is affiliated with The Works Health and Fitness Center. Arrangements can be made to secure memberships in this facility. <https://www.wdhospital.com/wdh/staying-well/the-works-fitness-center>
www.theworkshealthclub.com

Assistance with Ground Maintenance and Building Upkeep. All maintenance of building exterior and grounds shall be through the Board of Directors. This includes, lawns, landscaping, rubbish pickup, and driveway plowing. Worthen Road, Britton Lane and a portion of

Sprucewood Lane are public ways maintained and cared for by the Town of Durham.

Accessible Physical Environment. Each Cottages at Spruce Woods Unit shall be designed and maintained to include first floor bedroom.

Also, Wentworth-Douglass Hospital in Dover offers a full wellness Program and other Services. <https://www.wdhospital.com/wdh/services-and-specialties>

In the event that any of the above listed services no longer exist the Board of Directors or its Agent shall use all reasonable effort to identify a replacement service.

- K. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines and Other Common Area Located Inside of Units; Support. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Area located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Area serving such other Units and located in such Unit. The Board of Directors shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Area contained therein or elsewhere in the buildings. Every portion of a Unit that contributes to the structural support of a building shall be burdened with an easement of structural support for the benefit of all other Units and the Common Area. Any costs associated with the entry into a Unit to repair what is determined to be a Unit Owner's property and/or maintenance responsibility shall be assessed to the Unit, including, but not limited to time, labor, materials and attorney's fees, if any.
- L. Leases. Units may be rented, leased or otherwise granted to someone other than the Unit Owner(s) only in its entirety and occupied only by the lessee/renter or other occupant, his family, servants and guests. Under no circumstances may individual rooms or portions of a Unit be rented or sub-rented separately. No temporary housing or home sharing, as determined by the Board of Directors, shall be allowed. Any such rentals referenced herein may be for no less than one (1) year without the written permission of the Board of Directors, which permission shall not be unreasonably withheld, the determination of which rests solely with the

Board of Directors. Within thirty (30) days of any such occupancy the name of the tenants and the length of the Lease must be provided to the Association. Any costs incurred by the Association to enforce this provision, including but not limited to Attorneys' fees, shall be assessed to the Unit Owner.

- M. Owners Subject to Declaration, Bylaws and Rules and Regulations. All present and future Owners, tenants and occupants of Units, and any other person who might use the facilities of the Property in any manner, are subject to the provisions of this Declaration, the Bylaws and the Rules to be adopted by the Board of Directors, and decisions and resolutions of the Board of Directors or its representatives, as lawfully amended from time to time. The use of the Property and/or acceptance or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and the Rules, as they may be lawfully amended from time to time, are accepted and ratified by such Owner, tenant or occupant and all of such provisions shall be deemed and taken to be enforceable servitudes and covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof.

The Declaration and Bylaws, the Rules and Regulations to be adopted by the Board of Directors, and the decisions and resolutions of the Board of Directors, or its representatives, as lawfully amended from time to time, all contain, or will contain certain restrictions as to use of the Units or other parts of the Condominium. Each owner shall comply therewith, and failure to comply with any such provision, decision or resolution shall be grounds for an action to recover sums due, for damages, for injunctive relief, for specific performance or for any other relief to be awarded by a court of law. In the event that the Board of Directors does not vote to take action as described herein, each Unit Owner shall be entitled to bring a private action to recover sums due, for damages, for injunctive relief or for any other relief to be awarded by a court of law. All such actions in law or at equity by the Association shall be authorized by resolution of the Board of Directors and the prevailing party shall be entitled to recover all reasonable costs and expenses of such actions, including reasonable attorneys' fees, all as more particularly set forth in the Bylaws. Nothing herein, however, shall exempt a Unit Owner from paying all collection costs, including attorney's fees, should the Association prevail in any such collection case, and the determination of whether the collection costs are reasonable is left to the sole discretion of the Board of Directors.

- N. Condominium Subject to Easements for Ingress and Egress and Use. Subject to the provisions of this Declaration, the Bylaws and the Condominium Act, each Unit Owner shall have an easement in common with the other Unit Owner for ingress and egress through and use and enjoyment of all Common Areas. Each Unit shall be subject to an easement for ingress and egress through and use and enjoyment of all Common Areas by persons lawfully using or entitled to the same.
- O. Property Subject to Covenants, Easements and Restrictions of Record. The submission of the Property is subject to all covenants, conditions, easements and restrictions of record, including, without limitation, those that are set forth and/or referred to in Appendix A.
- P. Reservation of Utility and other Easements. The Association shall have perpetual easements for the installation, construction, reconstruction, maintenance, repair, operation and inspection of all utility services necessary or desirable in connection with operation of the Condominium, including but not limited to, cable, water, sewage disposal, snow removal, telephone, gas, internet and electrical systems, all for the benefit of the respective Owners of the Condominium, as the case may be, which reservation includes the right to convey such easements directly to suppliers and/or distributors of such utility services. The intent of this Paragraph is to grant the Association the perpetual right to allow utility and other providers to enter onto the Common Area to inspect, maintain and otherwise access the utility services, which permission shall not be unreasonably withheld to utility providers. It is particularly noted that no use shall be permitted which could directly or indirectly degrade the quality of the Common Area or the groundwater beneath it. Uses that are prohibited include, but are not limited to, the following:
- i. Storage, handling, transport, treatment or disposal of domestic or industrial wastewater, hazardous or regulated substances such as pesticides, gas, oil and other chemical, or hazardous or solid wastes;
 - ii. Any other use the New Hampshire Department of Environmental Services determines now or in the future would be detrimental to water quality; and
 - iii. Any other use the Board of Directors, in its sole discretion, would be inappropriate.

- Q. The Board of Directors is empowered to adopt and amend, from time to time, Rules concerning the use of the Condominium and various parts thereof, which Rules shall be furnished in writing to all Owners and which shall not be violated. The Rules may not conflict with the provisions of the Declaration or Bylaws.
- R. Notwithstanding anything herein to the contrary, all such determinations listed in this Paragraph 8 are left to the sole discretion of the Board of Directors. Further, the Board may withdraw the consents of the Board referred to in this Paragraph 8 whenever it deems such withdrawal to be in the best interest of the Condominium. Any such decision may be appealed to the owners at the next scheduled Association meeting which shall be scheduled with all due haste.

9. Determination of Action Following Casualty Damage. In the event of damage to any portion of the Condominium by fire, or other casualty, the proceeds of the master casualty policy shall, pursuant to the Condominium Act, as amended from time to time, be used to repair, replace or restore the structure or Common Area damaged, unless the Unit Owners vote to terminate the Condominium pursuant to RSA 356-B; 34 as amended from time to time. The Board of Directors is hereby irrevocably appointed the agent for each Owner of a Unit and for each mortgagee of a Unit and for each owner of any other interest in the Condominium to adjust all claims arising under such policy or otherwise resulting from such damage and to execute and deliver releases upon the payment of claims. The provisions of Article VII of the Bylaws shall determine the extent to which any part of the Condominium shall be reconstructed or repaired.

10. Specific Performance. Both the Association and any aggrieved Unit Owner shall have the right, as against other Unit Owners who fail to comply with the provisions of the condominium documents, to specifically enforce the terms of the condominium instruments. Similarly, each Unit Owner shall have the right to bring an action for specific performance against the Association, in the event the Association shall fail to comply with the provisions of the condominium documents. The prevailing party shall be entitled to Attorneys fees and costs associated with such action in the discretion of the Court.

11. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between Units and/or subdivision of Units will be permitted subject to compliance with the provisions thereof in the Condominium Act, the provisions of this Declaration and the Bylaws and the provisions of any applicable governmental law, ordinance or regulation. The requesting Owner(s) shall be responsible for all costs, including any updates to the condominium instruments as that term is defined in the Condominium Act and any Rules

and Regulations of the Association as adopted from time-to-time, additionally including, but not limited to, any attorney's fees incurred by or on behalf of the Association.

ARTICLE III

AMENDMENTS

This Declaration of Condominium and Bylaws of the Cottages at Spruce Woods Condominium Association may be amended by a vote in accordance with Article II of the Bylaws and by an instrument in writing signed, acknowledged and recorded as provided by the Act, and such amendment shall be effective upon recording in the office of the Registry of Deeds of Strafford County, State of New Hampshire subject to the following:

1. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.
2. No Amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units unless the Unit Owners effected shall consent. Further, no amendment shall change any Unit or the share of the Common Areas appurtenant to it, or increase an Owner's share in the Common Areas, unless all the record Owners of the Units concerned and all the record owners of mortgages thereon, shall join in the execution of the Amendment.
3. The percentage of Units necessary to pass an Amendment shall be dictated by RSA 356-B: 34, as amended from time-to-time.

ARTICLE IV

INSURANCE

The Board of Directors shall obtain and maintain at all times FULL REPLACEMENT COST, including for building and safety code upgrades, fire, quake (in the discretion of the Board or as may become required by law), flood (in the discretion of the Board or as may become required by law), and extended coverage insurance of the type and kind and in at least the amounts provided in the Bylaws, a master liability policy covering the Unit Owners' Association, the Board of Directors, the managing agent, if any, all persons acting or who may come to act as agents or employees of the condominium, and all Unit Owners or other persons entitled to occupy any Unit or any portion of the condominium. This insurance, however, shall not insure against the individual liability of an Owner for negligence occurring within his own Unit or within the limited common area over which he has exclusive use and such other policies as the Board of Directors shall designate, including insurance for such other risks, of a similar

or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium complexes of similar construction, design and use; such insurance shall at all times be sufficient to finance the reconstruction of all improvements to the Common Area, provided that:

1. All policies shall be written with a company licensed to do business in the State of New Hampshire.
2. Premiums upon insurance policies purchased by the Board of Directors of the Association shall be paid by the Association as a Common Expense and proceeds of such policies shall be payable to the Board of Directors of the Association, to be held in accordance with Article II, Paragraph 9 herein as a common fund.
3. Exclusive authority to adjust losses under policies hereafter enforced shall be vested in the Board of Directors or its authorized representative.
4. In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners for their mortgages.

Further,

5. Each Unit Owner shall obtain fire, quake (in the discretion of the Owner or as may become required by law), flood (in the discretion of the Owner or as may become required by law) and extended coverage for their Unit, covering the portions of the Unit not covered by the Master policy and any other insurance for liability including any deductible contained in the master insurance policy or personal property as the Unit Owner deems appropriate, such policy currently being known as an HO-6 policy. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Association, and each owner hereby assigns to the Association the proceeds of any such policy to the extent that any such policy does, in fact, result in a decrease in such coverage. Certificates of proof of all such policies (except policies covering only personal property owned or supplied by individual owners) shall be filed with the Association. Any costs incurred by the Board of Directors to enforce this provision, including any attorney's fees incurred by the Board to acquire a copy of the policy and/or certificate of insurance shall be assessed to the Unit Owner.
6. Each owner must obtain insurance for his benefit and at his own expense, insuring his individual unit to its full insurable value and should obtain insurance for his benefit and at his own expense, insuring all personal property presently or hereafter located in his Unit or Limited Common Area.

7. The Board of Directors shall be required to make every effort to secure insurance policies that will provide for the following:

A. A waiver of subrogation by the insurer as to any claims against the Board of Directors, the Manager, and Owners and their respective servants, agents and guests;

B. The master policy cannot be canceled, invalidated, or suspended on account of the conduct of any one or more individual Owners;

C. The master policy cannot be canceled, invalidated, or suspended on account of the conduct of any officer or employee of the Board of Directors or Manager without prior demand in writing that the Board of Directors or Manager cure the defect; and

D. That any "no other insurance" clause in the master policy exclude individual Owner's policies from consideration.

8. The annual insurance review the Board of Directors is required to conduct as provided in Article VI, Paragraph 2(A) of the Bylaws shall include a review of all coverages included in the Master Policy.

9. The Master Policy shall cover all parts of the Common Area, including structures thereof, under fire and multi-peril policies issued in this State.

ARTICLE V **ASSOCIATION**

The operation of the Condominium shall be by an unincorporated Association. The Association shall have all of the powers and duties as set forth in the Condominium Act except as limited by this Declaration and the Bylaws, and all of the powers and duties reasonably necessary to operate the Condominium as set forth in this Declaration and the Bylaws and as they may be amended from time to time.

1. Membership in the Association.

A. Qualifications. The members of the Association shall consist of all the record Owners of the Units.

B. Change of Membership and Mortgages. Change of membership in the Association shall be established by recording in the Registry of Deeds for Strafford County, State of New Hampshire a deed establishing record title to a

Unit in the Condominium. The Buyer shall immediately deliver to the Board of Directors of the Association a photostatic copy of the deed showing the Volume and Page of same. Should the new owner fail to do so within thirty (30) days of the date of the filing of said Deed (or within thirty days of the passage of this provision), the Board may acquire one, and the unit owner shall pay all costs, including Registry and attorney's fees, and such fees shall act as a lien against the unit until paid in full. The Board of Directors shall keep such photostatic copy on file as evidence of the Grantee's membership in the Association for all purposes, rights, and obligations as set forth in this Declaration and Bylaws. The Unit Owner designated by such instrument shall thereby become a member of the Association. At such time, the membership of the prior Unit Owner shall be thereby terminated.

The same requirements shall apply to mortgages. A copy of that portion of the mortgage that identifies the name and address of the mortgagor and mortgagee must be forwarded to the Board of Directors within thirty (30) days of the signed date of each such mortgage (or within thirty days of the passage of this provision). Should the new owner fail to do so within thirty (30) days of the date of signing of said mortgage(s) (or within thirty days of the passage of this provision), the Board may acquire a copy of each mortgage, and the unit owner shall pay all costs, including Registry and attorney's fees, and such fees shall act as a lien against the Unit until paid in full. The Board of Directors shall keep such photostatic copy on file as evidence of the Grantee's membership in the Association for all purposes, rights, and obligations as set forth in this Declaration and Bylaws.

Further, no one shall enter into a reverse mortgage without ensuring that all condominium fees, assessments, fines, interest and other costs, if any shall be, from the time of the signing of the reverse mortgage, paid by the mortgagee directly to the Association.

All costs, including Registry and attorney's fees, incurred to enforce this Paragraph, shall be assessed to the Unit and shall act as a lien against the Unit until paid in full.

C. Voting Rights. A member of the Association shall be entitled to cast one (1) vote for each Unit owned. All votes shall be weighted equally. When there is more than one record Owner, any of such persons may attend any meeting of the Association and cast the vote of such Unit, but if more than one (1) such Record Owner shall attend, it shall be necessary for those present to act unanimously in order to cast any vote(s) to which they are entitled.

D. Restraint Upon Assignment of Shares in the Association. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

E. Members may vote at all Association meetings by written proxy as provided by the Act and as properly delivered to the Board of Directors. Board members may neither vote, nor participate in Board meetings by proxy.

2. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors the members of which shall be designated in the manner provided in the Bylaws.

3. Indemnification. Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved, by reason of his being or having been a Director or Officer of the Association, or any settlement thereof, whether or not he is a Director or Officer at such time the expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

4. Limitations upon Liability of the Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association.

5. Bylaws. The Bylaws of the Association shall be in the form attached hereto as Appendix C.

6. Property in Trust. All funds and title to all properties acquired by the Association and the proceeds thereof shall be held in trust for the membership in accordance with the provisions of this Declaration and the Bylaws.

ARTICLE VI

RIGHTS OF FIRST MORTGAGEE

1. The Holder, insurer or guarantor of the mortgage on any Unit in the Condominium is entitled, upon written request or upon decision of the Board of Directors, to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage;

(b) Any sixty (60) days delinquency in the payment of assessments or other charges owned by the Owner of any Unit on which it holds the mortgage;

(c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association; and

(d) Any proposed action that requires by law the consent of a specified percentage of institutional first mortgage holders.

2. Any holder, insurer or guarantor of a first mortgage has the right to inspect the Condominium's legal documents during reasonable business hours and as further restricted in the Bylaws attached hereto as Appendix C. Any such mortgage holder shall be permitted to have an audited statement prepared at its own expense.

3. Notwithstanding any other provision of this Declaration or its Bylaws, the Association shall, upon the request of any institutional first mortgagee of a Unit, or their assigns, render the following written warranties which shall be binding upon the Association:

A. That as far as is known to the Association, the Condominium has been created and exists in full compliance with the applicable laws of the State of New Hampshire and the Town of Durham.

B. That any such mortgagee or its assigns may take title to a Condominium Unit pursuant to the power of sale contained in its mortgage, or accept a deed or assignment of title in lieu of foreclosure, or sell or lease a Unit so acquired by said mortgagee.

C. That any said mortgagee's obligation upon acquiring or succeeding to title in any said Unit for unpaid assessments or fees accruing prior to said mortgagee's taking or succeeding to a Unit Owner's title is subject to New Hampshire law.

D. That except as provided by the Act, in the case of condemnation or substantial loss of the Units and/or Common Areas, the Association shall not by act or omission seek to abandon or terminate the Condominium other than pursuant to the provisions of RSA 356-B: 34 as amended from time-to-time; nor change the proration of interest or obligations of any Unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or determining the pro-rata share of ownership of each Unit in the Common Area; nor partition or subdivide, encumber, sell or transfer the

Common Area except for easements for public utilities and public services consistent with the intended use of the Common Area; nor use hazard insurance proceeds for losses to the Condominium for other than repair, replacement or reconstruction of the Condominium.

E. That all taxes, assessments and charges that are due and payable have been paid and are assessed on individual Units and not on the Common Areas separate from Units.

F. That no provision of the condominium instruments gives a Unit Owner or other party priority over a first mortgagee in case of a distribution of insurance proceeds or condemnation awards with regard to any Unit or the Common Area.

G. That all improvements to the Condominium are included within the Common Area and/or the Units, and the first mortgagee of any Unit has an equivalent undivided interest in such Common Area to the Unit so mortgaged and that all improvements have been installed, completed and in operation, if such be true.

H. That Condominium assessments include adequate reserves for repair of Common Areas and are payable monthly.

I. That any management contract or other agreement with the Declarant has a term not exceeding three (3) years and may be terminated by either party without cause or penalty upon ninety (90) days written notice to the other party.

J. That no default of the Unit Owner's obligations to the Association exists with regard to a Unit, or has arisen within the sixty (60) day period prior to the request for such information, which remains uncured as of the date of certification of such fact by the Association; or if any such default exists, the nature and status thereof.

ARTICLE VII

PARTITION

There shall be no judicial partition of the Condominium or any part thereof, nor shall the Declarant or any other person acquiring any interest in the Condominium or any part thereof seek any judicial partition, unless the property has been removed from the provisions of the Condominium Act as provided in the Act; provided, however, that if any Unit shall be owned by two or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants. Such partition shall not affect any other Unit, nor shall it subdivide any Unit.

ARTICLE VIII
INTERPRETATION

The provisions of the Declaration shall be liberally construed in accordance with the common law and statutory law of the State of New Hampshire in order to effect its purpose of creating a uniform plan for the development and operation of a Condominium. Failure to enforce any provision of this Declaration, the Bylaws and/or the Rules shall not constitute a waiver of the right to enforce said provision.

The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and vice versa, and the use of the singular shall be deemed to refer to the plural and vice versa, whenever the context so requires.

Further, the order of priority between the Declaration, the Bylaws and the Rules, as each are amended and/or changed from time-to-time, shall be that the Declaration presides over conflicting language in either the Bylaws or the Rules and the Bylaws preside over conflicting language in the Rules.

ARTICLE IX
SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

ARTICLE X
EFFECTIVE DATE

This Amended Declaration shall take effect upon recording at the Strafford County Registry of Deeds.

APPENDIX A

See Book 3201, Pages 1015-16 of the Strafford County Registry of Deeds for a legal description by metes and bounds of the Property, which description is incorporated herein by reference.

APPENDIX B

Each Unit is accorded an equal, Percentage of Undivided Interest in the Common Area.