

Document Number

**CONDOMINIUM DECLARATION OF  
FORESTBROOK CONDOMINIUMS**

CONDOMINIUM DECLARATION  
OF  
CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR  
FORESTBROOK CONDOMINIUMS

Recording Area

Name and Return Address

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**CONDOMINIUM DECLARATION**

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FOR  
FORESTBROOK CONDOMINIUMS

This Declaration for FORESTBROOK CONDOMINIUMS is made pursuant to the Condominium Ownership Act of the State of Wisconsin, Chapter 703 of the Wisconsin Statutes (hereinafter sometimes referred to as the "Act") this day of June, 2016, by Cypress Homes, Inc., a Wisconsin corporation (hereinafter referred to as "Declarant").

1. STATEMENT OF DECLARATION

The purpose of this Declaration is to submit the lands hereinafter described and the improvements constructed or to be constructed thereon to the condominium form of ownership in the manner provided by the Act and by this Declaration.

Declarant hereby declares that it is the sole owner of the real property described in Section 2.1 hereof, together with all buildings and improvements thereon (hereinafter referred to as "the Property") which is hereby submitted to the condominium form of use and ownership as provided in the Act and this Declaration, and which property shall be held, conveyed, devised, leased, encumbered, used, improved, and in all respects otherwise affected subject to the provisions, conditions, covenants, restrictions and easements of this Declaration and the Act. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter having any interest in the property.

2. LEGAL DESCRIPTION AND NAME

2.1 Legal Description. The following described real estate is subjected to the provisions of this Declaration:

Lot One (1), Certified Survey Map No. \_\_\_\_\_, Town of  
Grand Chute, Outagamie County, Wisconsin.

2.2 Name. The aforesaid real estate and all buildings and improvements thereon shall be known as "Forestbrook Condominiums".

3. DESCRIPTION AND LOCATION OF UNITS

A unit is defined as a cubicle of air whose perimetrical boundaries shall be as set forth for such unit on the condominium plat, whose lower boundary is an imaginary horizontal plane located parallel to and 50 feet below the surface of the ground, extended to the perimetrical boundaries; and whose upper boundary is an imaginary horizontal plane located parallel to and 50 feet above the surface of the ground, extended to the perimetrical boundaries. The perimetrical boundaries of the individual units are set forth on the Condominium Plat, a copy of

which is attached hereto as Exhibit "A", and constitute the "Building Envelope" for future construction of buildings.

At such time as a building is constructed within the Building Envelope, then the perimetrical boundaries of the Unit shall automatically conform to the exterior surface of the building's walls, soffits, eaves, windows and doors. The lower and upper boundaries of the unit shall remain unchanged.

No building may be constructed within any Building Envelope without the written approval of the Association's Board of Directors. The Board shall be given a complete set of plans, along with a list of color/type of stone, brick, siding, roofing, windows, or any other exterior finishes. The Board shall approve or deny the design and exterior finishes within ten (10) business days of receipt of the plans and specifications. The external design and finishes shall be harmonious with other approved buildings in the condominium and the surrounding neighborhood. The Board shall have unfettered discretion to approve or deny any design or exterior finishes submitted, if deemed not in conformance with the above criteria.

#### 4. NUMBER AND IDENTIFICATION OF UNITS

4.1 Number. There shall be a total of twelve (12) condominium units in Forestbrook Condominiums development as identified and shown on Exhibit A. The street addresses of the units are shown on Exhibit B, attached hereto.

#### 5. COMMON ELEMENTS AND FACILITIES

The common elements and facilities shall consist of all of Forestbrook Condominiums improvements and appurtenances, except the individual units as defined hereunder, including without limitation: the land on which the unit is located, public utility lines, private water and sewer laterals, storm water management features, the walks, private road and drives, parking, landscaping, and mail box areas.

Easements are hereby granted and declared for the benefit of the unit owners and the Association of Unit Owners (hereinafter described) for the installation, maintenance and repair of common utility services in and on any part of the common elements or units.

#### 6. LIMITED COMMON ELEMENTS

6.1 Description. A portion of the common elements and facilities are designated as "limited common elements," as shown on Exhibit "A". Such limited common elements specifically include all patios, decks and driveways shown on Exhibit "A", or approved under Section 3 above as part of the building plans. Such limited common elements shall be reserved for the exclusive use of the owner or occupant of the unit to which they are appurtenant.

6.2 Landscape Areas. The area located within five (5) feet of the final perimetrical boundary of a Unit shall be reserved for landscaping appurtenant to that Unit. No unit owner

shall install or modify any landscaping without first receiving written approval, from the Board of Directors of the Association, of the landscape plan.

6.3 Use. The manner of use of the limited common elements shall be governed by the By-laws of, and such rules and regulations as may be established by, the Association of Unit Owners. No unit owner shall decorate, landscape or adorn any limited common elements, or permit such, in any manner contrary to such By-laws and rules and regulations.

## 7. PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS AND FACILITIES

Each unit owner shall own an undivided interest in the common elements and facilities and limited common elements as a tenant in common with all other unit owners as set forth below, and except as otherwise limited in this Declaration, shall have the right to use and occupy the common elements and facilities and limited common elements for all purposes incident to the use and occupancy of his unit as a place of residence, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the unit. A unit owner's percentage interest shall be determined by the fraction where "1" is the numerator and the total number of units in the plat is the denominator.

The common expenses of the property shall be charged to the unit owners according to the Bylaws of the Association.

## 8. RESIDENTIAL PURPOSE

All buildings constructed within the unit boundaries are intended for and restricted exclusively to residential use as governed by the terms and conditions contained herein and the By-laws of the Association.

## 9. ASSOCIATION OF UNIT OWNERS

9.1 Duties and Obligations. All unit owners shall be entitled and required to be a member of an association of unit owners to be known as the Forestbrook Condominium Association (hereinafter "Association") which shall be responsible for carrying out the purpose of this Declaration, including the exclusive management and control of the common elements and facilities and limited common elements. The Association may be incorporated as a non-profit corporation under the laws of the State of Wisconsin. Each unit owner and the occupants of the units shall abide by and be subject to all of the rules, regulations, duties and obligations of this Declaration and the By-laws and rules and regulations of the Association.

9.2 Voting Rights. The Association shall initially have two classes of voting membership as follows:

1) Class A – Class A members shall be all unit owners, with the initial exception of the Declarant, and there shall be one vote per unit;

2) Class B – Class B member(s) shall be the Declarant and shall be entitled to three votes for each unit owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equal or exceed the total votes outstanding in Class B membership or three (3) years from the date the first unit is conveyed by Declarant to any person other than Declarant, whichever occurs first. The number of units owned by Declarant under this paragraph shall be determined by assuming that all units to be completed are included in the condominium.

The respective rights and qualifications of the two classes of members shall be as set forth in the By-laws of the Association.

9.3 Association Personnel. The Association may obtain and pay for the services of any person or entity to manage its affairs to the extent it deems advisable, and may hire such other personnel as it shall determine to be necessary or advisable for the proper operation of the condominium. The Association may contract for lighting, heating, water, trash collection, sewer service and such other common services as may be required for each unit.

9.4 Delegation of Authority. The Association may delegate to a master association, as that term is defined in Section 703.155 of the Wisconsin Statutes, any one or more of the powers described in Section 703.15(3) of the Wisconsin Statutes. All members of the executive board of said master association shall be elected, after the period of Declarant control, by all unit owners of all condominiums subject to said master association.

## 10. REPAIRS AND MAINTENANCE

10.1 Common Elements and Facilities. The Association shall be responsible for the management and control of the common elements and facilities and shall cause the same to be kept in good, clean, attractive and sanitary condition, order and repair. Without in any way limiting the foregoing, this shall include all maintenance and repair of walks, drives, parking areas and maintenance of all grounds and landscaping.

10.2 Individual Units and Limited Common Elements. Each unit owner shall be responsible for keeping the interior and exterior of the unit and all of its equipment, fixtures and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall be responsible for decorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his unit provided that said decorating, painting and varnishing shall be performed so as to maintain a uniform appearance, both aesthetically and architecturally, of all units. Without in any way limiting the foregoing, in addition to decorating and keeping the interior and exterior of the unit in good repair, each unit owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, lighting fixtures, refrigerators, dishwashers, disposals, laundry equipment such as washers and dryers, ranges, or other equipment which may be in, or connect with, the unit. Each unit owner shall keep those limited common elements appurtenant to his unit, as defined in Section 6 hereof and as described in Exhibit "A", which are not subject to paragraph 10.1 above, in a good, clean, sanitary and attractive condition. Further details on maintenance are included in the By-Laws.

10.3 Prohibition Against Changes by Owner. A unit owner shall not, without first obtaining the written consent of the Association, make or permit to be made any alterations, changes or improvements to the exterior of any Unit or any common or limited common elements and facilities. A unit owner shall not perform, or allow to be performed, any act or work which would: (1) impair the structural soundness or integrity of any building; or (2) fail to maintain a uniform aesthetic and architectural appearance; or (3) impair the safety of the property; or (4) impair any easement or hereditament; without the prior written consent of the Association.

10.4 Entry for Repairs. The Association may enter any unit at reasonable times and under reasonable conditions when necessary in connection with any maintenance, construction or repair of public utilities and for any other matters for which the Association is responsible. Such entry shall be made with prior notice to the owners and with as little inconvenience to the owners as practical, and any damage caused thereby shall be repaired by the Association and treated as a common expense.

## 11. RIGHT OF DECLARANT TO DISPOSE OF UNITS

Declarant shall have the right to sell or otherwise dispose of units by deed, land contract, or other form of installment sale, or by such other means of conveyances as it may choose, and in the event that Declarant shall be forced to foreclose or otherwise recover possession of any unit as the result of the default of a purchaser under a land contract, installment sale, or mortgage, Declarant shall be free to dispose of any such unit by any means whatsoever. Nothing herein contained shall in any way restrict Declarant's right to lease units not sold or otherwise disposed of.

## 12. DESTRUCTION AND RECONSTRUCTION

In the event of a partial or total destruction of a unit or units, they shall be repaired and rebuilt as soon as practicable and substantially to the same design, plan and specifications as originally built. However, if a condominium is damaged to an extent more than the available insurance proceeds, and upon obtaining the written consent of unit owners holding seventy-five percent (75%), or more, of the votes, then the provisions of Section 703.18(2)(b) of the Wisconsin Statutes shall be applicable.

On reconstruction, the design, plan and specifications of any unit may vary from that of the original upon approval of the Association, provided, however, that the number of square feet of any unit may not vary by more than five percent (5%) from the number of square feet for such unit as originally constructed, and the location of the buildings shall be substantially the same as prior to damage or destruction.

## 13. INSURANCE

Unit owners shall provide and maintain fire and broad form extended coverage insurance on their Unit in the amount of the full insurable value (replacement value) of the Unit. Unit owner shall provide a certificate of insurance, evidencing the above coverage, to the Association,

on an annual basis. To the extent possible, the insurance shall provide that the insurer waives its rights of subrogation as to any claim against unit owners, the Association, and their respective servants, agents and guests, and that the insurance cannot be canceled, invalidated nor suspended on account of conduct of any one or more unit owners, or the Association, or their servants, agents and guests, without thirty (30) days prior written notice providing an opportunity to cure the defect within that time. The amount of protection and the types of hazards to be covered shall be reviewed by the Board of Directors at least annually and the amount of coverage may be increased or decreased at any time it is deemed necessary as determined by the Board of Directors to conform to the requirements of full insurable value.

In the event of partial or total destruction of a building or buildings, and it is determined to repair or reconstruct such building or buildings in accordance with Section 12 hereof, the proceeds of such insurance shall be applied to the cost thereof. If it is determined not to reconstruct or repair, then the proceeds shall be distributed to the unit owners and their mortgagees, if any, as their respective interests may appear.

The Board of Directors shall provide public liability insurance covering the common elements and facilities and the limited common elements in such amounts as may be determined at the discretion of the Board of Directors from time to time. The Board of Directors may also provide workmen's compensation insurance and fidelity bonds on such officers and employees and in such amounts as is determined by the Board of Directors to be necessary from time to time.

#### 14. LIABILITY FOR COMMON EXPENSES

The costs of administration of the Association, insurance, repair, maintenance and other expenses of the common elements and facilities and certain limited common elements, and common services provided to the unit owners, shall be paid for by the Association. The Association shall make assessments against the unit owners, as well as the units themselves, for such common expenses, in the manner provided in the By-laws of the Association. No unit owner may exempt himself or his unit ownership from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common or limited common elements and facilities or services or by the abandonment of his unit; and no conveyance shall relieve the unit owner-grantor or his unit of such liability, and he shall be jointly, severally and personally liable along with his grantee in any such conveyance for the common expenses incurred up to the date of sale, until all expenses charged to his unit have been paid.

All common expenses and assessments, when due, shall immediately become a personal debt of the unit owner and also a lien, until paid, against the unit to which charged, as provided in the Act, without the necessity of filing such lien, and this provision shall constitute sufficient notice to all successors of title to units.

#### 15. PARTITION OF COMMON ELEMENTS PROHIBITED

There shall be no partition of the common elements and facilities and limited common elements through judicial proceedings or otherwise until this agreement is terminated and the

property is withdrawn from its terms or from the terms of the applicable statutes regarding unit ownership or condominium ownership; provided, however, that if any unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing contained herein shall be deemed to prohibit a voluntary or judicial partition of said single unit as between such co-owners. No unit may be subdivided.

#### 16. CONVEYANCE TO INCLUDE INTEREST IN COMMON ELEMENTS AND FACILITIES AND LIMITED COMMON ELEMENTS

The percentage of the undivided interest in the common and limited common elements and facilities shall not be separated from the unit to which it appertains. No unit owner shall execute any deed, mortgage, lease or other instrument affecting title to such unit ownership without including therein both his interest in the unit and his corresponding percentage of ownership in the common and limited common elements and facilities, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

#### 17. EASEMENTS, RESERVATIONS AND ENCROACHMENTS

17.1 Utilities. Easements are hereby declared and granted for the benefit of the unit owners and the Association and reserved for the benefit of the Declarant for utility purposes, including the right to install, lay, maintain, repair and replace private water mains and pipes, sewer lines, gas mains, if any, telephone wires and equipment, master television antenna system wires and equipment, and electrical conduits and wires and equipment, including power transformers, over, under, along and on any part of the common elements and facilities.

17.2 Encroachments. In the event that by reason of the construction, reconstruction, settlement, or shifting of any building, or the design or construction of any unit, any part of the common elements and facilities, or limited common elements, encroaches or shall hereafter encroach upon any part of any unit, or any part of any unit encroaches or shall hereafter encroach upon any part of the common elements and facilities, or limited common elements, or any portion of any unit encroaches upon any part of any other unit, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit so long as all or any part of the building containing such unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the owner of any unit or in favor of the owner or owners of the common elements of facilities, or limited common elements, if such encroachment occurred due to the willful conduct of said owner or owners.

17.3 Binding Effect. All easements and rights described herein are easements appurtenant, running with the land, and are subject to the reasonable control of the Association. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on, the undersigned, its successors and assigns, and on all unit owners, purchasers and mortgagees and their heirs, executors, administrators, successors and assigns. The

Association shall have the authority to execute all documents necessary to carry out the intent of this Section 17.

#### 18. FAILURE OF ASSOCIATION TO INSIST ON STRICT PERFORMANCE NOT WAIVER

The failure of the Association to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of payment of any assessment from a unit owner, with knowledge of the breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Association.

#### 19. AMENDMENTS TO DECLARATION

Except as otherwise provided by the Act with respect to the percentage interest in the common elements and termination of the condominium form of ownership, this Declaration may be amended by written consent of the owners of not less than three-fourths (3/4) of all votes entitled to be cast by members of the Association and the approval of their mortgagees. No amendment shall alter or abrogate the rights of Declarant as contained in this Declaration. Copies of amendments shall be certified by the President and Secretary of the Association in a form suitable for recording. A copy of the amendment shall be recorded with the Register of Deeds for Outagamie County, and a copy of the amendment shall also be mailed or personally delivered to each unit owner at his address on file with the Association.

#### 20. NOTICES

All notices and other documents required to be given by this Declaration or the By-laws of the Association shall be sufficient if given to one (1) registered owner of a unit regardless of the number of owners who have an interest therein. Notices and other documents to be served upon Declarant shall be given to the Agent specified for receipt of process therein. All owners shall provide the Secretary of the Association with an address for the mailing or service of any notice or other documents and the Secretary shall be deemed to have discharged his duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him.

#### 21. SERVICE OF PROCESS

The person to receive service of process shall be Michael Blank, 1230 West College Avenue, Suite D, Appleton, WI 54914, or such other person as may be designated from time to time by the Board of Directors of the Association, which designation shall be filed with the Register of Deeds of Outagamie County, Wisconsin.



This instrument was drafted by:

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**EXHIBIT B**

STREET ADDRESSES OF UNITS

UNIT 1 --

UNIT 2 --

UNIT 3 --

UNIT 4 --

UNIT 5 --

UNIT 6 --

UNIT 7 --

UNIT 8 --

UNIT 9 --

UNIT 10 --

UNIT 11 --

UNIT 12 --

UNIT 13 --

UNIT 14 --

UNIT 15 --

UNIT 16 --