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FOR REGISTRATION REGISTER OF DEEDS  
REBECCA P. SMITH  
NEW HANOVER COUNTY, NC  
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INSTRUMENT # 2005075818

*Prepared by and return to:*  
**Ellis & Winters LLP, Box 96 (DKB)**

NORTH CAROLINA  
NEW HANOVER COUNTY

**DECLARATION OF CONDOMINIUM  
FOR MAYFAIRE TOWNVIEW CONDOMINIUM**

MAYFAIRE CONDOS, LLC, a North Carolina limited liability corporation, hereinafter referred to as "Declarant," does hereby make, declare and establish this Declaration of Condominium as and for the plan of unit ownership of Mayfaire Townview Condominium, a Condominium, being the property and improvements hereinafter described.

RECITALS:

That certain Declaration of Condominium for Mayfaire BG Condominium has heretofore been recorded in Book 4608, Page 702, in the Office of the Register of Deeds, New Hanover County, North Carolina (said Declaration, as the same may be from time to time amended or supplemented in accordance with its terms, herein referred to as the "First Tier Condominium Declaration") thereby subjecting the property shown on the Plan of Condominium entitled "Plan of Condominium for Mayfaire BG Condominium" recorded in Condominium Map Book 14, Pages 56-65, in the New Hanover County Register of Deeds (the "First Tier Plan of Condominium") to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina. Declarant continues to own all of "Unit B-2" (the "Unit B-2 Property") of the Mayfaire BG Condominium as shown on the First Tier Plan of Condominium, said unit is also shown on the Plan of Condominium, as herein after defined. Declarant hereby desires to further subdivide the Unit B-2 Property pursuant to the provisions of Article IV of the First Tier Condominium Declaration, by imposing on the Unit B-2 Property the second tier condominium regime hereinafter described, thereby submitting the Unit B-2 Property and the improvements constructed thereon to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina and this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Unit B-2 Property shall be held, sold, conveyed, encumbered, used, occupied, developed and improved subject to the following

**RETURN TO**

*Smith Moore*

easements, restrictions, covenants, conditions, uses, limitations, and obligations, all of which are declared to be in furtherance of a plan for the development of the Unit B-2 Property into a condominium, and which shall run with the land and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall all inure to the benefit of each owner of any interest therein.

## ARTICLE I.

### DEFINITIONS

As used herein, the following terms and phrases shall have the meanings set forth below, or, if a term used in this Declaration is not defined below, it shall have the meaning set forth in the Act.

Section 1. Act. The “Act” shall mean and refer to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.

Section 2. Allocated Interests. “Allocated Interests” shall mean and refer to the undivided interests in the Common Elements allocated to the Units in accordance with Article III, Section 2 of this Declaration.

Section 3. Association. The “Association” shall mean and refer to Mayfaire Townview Condominium Owners Association, Inc., its successors and assigns.

Section 4. Bylaws. The “Bylaws” shall mean and refer to the Bylaws of the Association.

Section 5. Common Elements. The “Common Elements” shall mean and refer to all portions of the Condominium other than the Units, including without limitation all lobby areas, stairwells, corridors and elevators.

Section 6. Common Expenses. “Common Expenses” shall mean and refer to all costs and expenses paid or incurred by the Association, or for which the Association is obligated, in connection with the administration and operation of the Condominium and in connection with operating, managing, insuring, equipping, protecting, cleaning, lighting, repairing, and maintaining the Common Elements. Common Expenses shall also include any charges for which the Association is obligated to pay to the Master Association for operating, managing, equipping, protecting, cleaning, lighting, repairing, insuring and maintaining roads, sidewalks, trails, ponds, recreational areas, conservation areas and other portions of Mayfaire pursuant to the terms of the Master Declaration and the Condominium Instruments.

Section 7. Condominium. The “Condominium” shall mean and refer to the Property, the improvements located thereon, and all easement rights appurtenant thereto, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the Owners of those portions.

Section 8. Condominium Instruments. The “Condominium Instruments” shall mean and refer to this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations of the Association adopted pursuant to the terms of this Declaration, as the same may be from time to time amended or supplemented in accordance with their respective terms.

Section 9. Declarant. The “Declarant” shall mean and refer to Mayfaire Condos, LLC, a North Carolina limited liability corporation, as well as any successors or assigns of Declarant to whom or which Declarant expressly has transferred any or all of its rights as Declarant hereunder, all of which rights are assignable or may be apportioned on any reasonable basis, including, without limitation, on a Unit-by-Unit basis.

Section 10. Declaration. The “Declaration” shall mean and refer to this Declaration of Condominium.

Section 11. Development Period. The “Development Period” shall mean and refer to that period of time extending from the date this Declaration is filed for record in the Office of Register of Deeds, New Hanover County, North Carolina, to and until the later of: (i) such time as Declarant ceases to own any Unit of the Condominium for the purpose of marketing and sale to the public, or (ii) the expiration of Declarant’s right to add additional real estate to the Condominium pursuant to the provisions of Article V hereof.

Section 12. Executive Board. The “Executive Board” shall mean and refer to the governing body of the Association designated or selected in accordance with the terms of this Declaration and the Articles and Bylaws of the Association to act on behalf of the Association in all matters not expressly reserved to the Members of the Association by the Condominium Instruments or the Act.

Section 13. First Tier Condominium Association. “First Tier Condominium Association” shall mean and refer Mayfaire BG Condominium Owners Association, Inc., its successors or assigns.

Section 14. First Tier Condominium Common Elements. “First Tier Condominium Common Elements” shall mean and refer to any Common Elements identified as such by any First Tier Condominium Instruments.

Section 15. First Tier Condominium Declaration. “First Tier Condominium Declaration” shall mean and refer to the Declaration for Mayfaire BG Condominium recorded in Book 4608, Page 702, in the Office of the Register of Deeds, New Hanover County, North Carolina, as the same may be from time to time amended or supplemented in accordance with its terms.

Section 16. First Tier Condominium Instruments. “First Tier Condominium Instruments” shall mean and refer to the First Tier Condominium Declaration, the Articles of Incorporation and Bylaws of the First Tier Condominium Association, and the Rules and Regulations of the First Tier Condominium Association adopted pursuant to the terms of the First Tier Condominium Declaration, as the same may be from time to time amended or supplemented in accordance with their respective terms.

Section 17. First Tier Condominium Units. "First Tier Condominium Units" shall mean and refer to all of the Units now or hereafter created pursuant to the First Tier Condominium Instruments.

Section 18. Limited Common Element. "Limited Common Element" shall mean and refer to a portion of the Common Elements allocated for the exclusive use of one or more, but fewer than all of the Units, and shall include, without limitation, any assigned storage spaces, decks and balconies.

Section 19. Master Association. The "Master Association" shall mean and refer to Mayfaire Community Association, Inc., the owners association formed for the purposes expressed in the Master Declaration.

Section 20. Master Association Common Area. The "Master Association Common Area" shall mean and refer to all real and personal property now or hereafter held or designated as "Common Area" pursuant to the Master Declaration.

Section 21. Master Declaration. The "Master Declaration" shall mean and refer to that certain Declaration of Covenants, Conditions, Easements and Restrictions for Mayfaire recorded in Book 3772, Page 1, in the office of the Register of Deeds, New Hanover County, North Carolina, as the same may now or hereafter be amended and supplemented in accordance with its terms, including, without limitation, that certain Supplemental Declaration and Amendment of Covenants, Conditions and Restrictions for Mayfaire recorded in Book 4956, Page 1307, in the office of the Register of Deeds, New Hanover County, North Carolina, that establishes Mayfaire Town Center as a "Neighborhood," subject to "Neighborhood Assessments," as such terms are defined in the foregoing instruments.

Section 22. Mayfaire. "Mayfaire" shall mean the planned community known as "Mayfaire" established pursuant to the Master Declaration.

Section 23. Member. "Member" shall mean and refer to every person or entity that holds membership in the Association.

Section 24. Officer. "Officer" means any person holding an office in the Association pursuant to the Bylaws, but shall not mean an Executive Board member, unless such officer is also a member of the Executive Board of the Association.

Section 25. Owner or Unit Owner. "Owner" or "Unit Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 26. Plan of Condominium. The "Plan of Condominium" shall mean and refer to the Plan of the Condominium for Mayfaire Townview Condominium recorded in Condominium Map Book 15, Page 193, Sheets 1 - 4 in the New Hanover County Register of Deeds, as the same may be supplemented and amended from time to time pursuant to the terms of this Declaration or the Act.

Section 27. Property. The "Property" shall mean and refer to all of the real property described on Exhibit A, attached hereto and incorporated herein by this reference, and any additional real property added to the Condominium pursuant to the terms of this Declaration, specifically including, without limitation, any real property added to the Condominium by Declarant pursuant to Declarant's Development Rights herein reserved, and shall include all improvements now or hereafter constructed on such real property.

Section 28. Rules and Regulations. "Rules and Regulations" shall mean and refer to the initial rules and regulations of the Association governing the use, enjoyment and maintenance of the Common Elements, a copy of which is attached hereto as Exhibit B and incorporated herein by reference, together with any additional reasonable rules and regulations promulgated for such purpose in accordance with the provisions of Article VIII, Section 1 of this Declaration, as the same from time-to-time may be modified or amended pursuant to said provisions.

Section 29. Unit. "Unit" shall mean and refer to each physical portion of the Condominium designated for separate ownership or occupancy pursuant to this Declaration and the Plan of Condominium or any amendments or supplements thereto recorded in accordance with the terms hereof, together with its percentage of undivided interest in the Common Elements as set forth in Exhibit C attached hereto and incorporated herein by reference, and "Units" shall mean and refer to all such designated portions. The boundaries of each Unit are further defined to exclude all spaces and improvements lying:

1. Beneath the flooring material of all demising or load-bearing floors;
2. Beneath or behind the interior surfacing material of all perimeter walls, interior bearing walls and/or bearing partitions;
3. Above the interior surfacing material of the demising or load-bearing ceilings;

and further excluding all Utility Facilities for the furnishing of utilities and other services to the Common Elements and/or the Units; provided, however, any such Utility Facilities, servicing only one Unit and located within the Unit served shall be a part of the Unit to which such Utility Facilities furnish utility service. All heating, ventilation and air conditioning equipment ("HVAC Equipment") and related facilities serving a single Unit, wherever located, shall be a part of the Unit served by such equipment. As used herein, "demising floors" and "demising ceilings" shall mean and refer to those floors and ceilings of the Condominium that serve as a Unit boundary line as shown on the Plan of Condominium.

Section 30. Utility Facilities. "Utility Facilities" shall mean and refer to any sanitary sewer, water, power, gas, data, telephone, communication, drainage or other utility service line, cable, pipe, main, meter, conduit, connection or system.

## ARTICLE II.

### ESTABLISHMENT OF CONDOMINIUM

Section 1. Establishment of Condominium; Subdivision of the Property pursuant to First Tier Condominium Declaration. Declarant does hereby submit the Property and any improvements now or hereafter constructed thereon to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act), and hereby declares the same to be a condominium to be known and identified as "Mayfaire Townview Condominium," sometimes hereinafter referred to as the "Condominium." Each Unit has been assigned an Identifying Number on the Plan of Condominium and no Unit bears the same Identifying Number as any other Unit. The Plan of Condominium is incorporated herein by reference and expressly made a part hereof. The submission of the Property, itself a condominium unit, to condominium ownership, constitutes a subdivision of the Property pursuant to the terms of Article IV of the First Tier Condominium Declaration. Accordingly, this Declaration is intended to be "Second Tier Condominium Documentation," the Association is intended to be a "Second Tier Condominium Association," and the Common Elements are intended to be "Second Tier Condominium Common Elements," as each of these terms is defined and referenced in the First Tier Condominium Declaration.

Section 2. Condominium Instruments Subject and Subordinate to First Tier Condominium Instruments. The provisions of this Declaration, and all of the other Condominium Instruments, are intended to supplement the provisions of the First Tier Condominium Instruments and to impose additional covenants, conditions, restrictions and easements that do not contravene the provisions of the First Tier Condominium Instruments. The Condominium Instruments are expressly subject and subordinate to the provisions of the First Tier Condominium Instruments and in the event of a conflict between the provisions of the Condominium Instruments and the First Tier Condominium Instruments, the First Tier Condominium Instruments shall control; provided, however, nothing herein shall be construed to prevent the enforcement of additional covenants, conditions, restrictions and easements herein contained that do not contravene the provisions of the First Tier Condominium Instruments.

Section 3. Association to Assume Certain Membership Rights. Contemporaneously with the recording of this Declaration, Declarant, on behalf of itself and all future owner(s) of all or any portion of the Property, shall be deemed to have irrevocably assigned to the Association, and the Association shall be deemed to have irrevocably assumed, for so long as the Condominium Instruments remain in effect, the following rights of membership in the First Tier Association:

- (a) The right to attend member meetings of the First Tier Association;
- (b) The right to vote and the right to give or withhold any consent, both as a member of the First Tier Condominium Association and as an owner of a First Tier Condominium Unit, provided for in the First Tier Condominium Instruments.

One or more of the members of the Executive Board of the Association shall attend any member meeting held by the First Tier Condominium Association. The Executive Board shall cast any

vote, exercise any right and give or withhold any consent to be cast, exercised, given or withheld by the owner(s) of the Property pursuant to the First Tier Condominium Instruments as the Owners shall direct by unanimous vote or consent. If the Owners are unable to agree by unanimous vote or consent as to the vote, right or consent to be cast, exercised, given or withheld, to the greatest extent possible the vote, right or consent shall be apportioned among the Owners in accordance with their Allocated Interest in the Common Elements and cast, exercised, given or withheld accordingly. By way of illustration, if the Owners are not able to unanimously agree on how the votes attributable to the Property will be cast in an election to fill a vacant director position in the Board of Directors for the First Tier Condominium Association, the vote that the Association is entitled to cast shall be apportioned in accordance with the relative Allocated Interest appurtenant to each Unit.

Section 4. Associations to Collect and Remit Assessments Imposed by First Tier Condominium Association. The Association will collect and remit to the First Tier Condominium Association all assessments levied by the First Tier Condominium Association pursuant to the First Tier Condominium Instruments against the Property, said assessments to be apportioned among the Units in accordance with the Allocated Interest appurtenant to each Unit.

Section 5. Lien Rights Preserved. Nothing herein contained and nothing contained in any other Condominium instrument is intended or shall be construed to in any way limit, abridge, allocate or otherwise affect the assessment and lien rights of the First Tier Condominium Association with respect to Property as provided for in First Tier Condominium Instruments.

### ARTICLE III.

#### OWNERSHIP OF UNITS; ALLOCATED INTEREST IN COMMON ELEMENTS

Section 1. Ownership of Units. Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Unit Owners of each Unit shall also own, as an appurtenance to the ownership of each said Unit, an Allocated Interest in the Common Elements.

Section 2. Allocated Interest in the Common Elements. The Allocated Interest appurtenant to each Unit as of the date of this Declaration is as set forth in Exhibit C, attached hereto and made a part hereof. The Allocated Interest in the Common Elements appurtenant to each Unit has been determined by dividing the Common Elements equally among all Units.

Section 3. Allocation of Common Expense Liability. Except as otherwise expressly provided herein, all Common Expense Liability shall be apportioned equally among all Units.

Section 4. Allocation of Votes in the Association. On all matters that the membership of the Association shall be entitled to vote, the Unit Owner(s) of each Unit shall have one (1) vote appurtenant to such Unit, to be cast or exercised by the Unit Owner(s) of each Unit in such manner as may be provided in the Bylaws of the Association. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by

virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership except as may otherwise be expressly set forth herein.

Section 5. Separate Conveyance of Common Element Interest Prohibited. Except as otherwise provided in this Declaration, the Allocated Interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit, and the Allocated Interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such Allocated Interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit.

#### ARTICLE IV.

#### RESTRICTION AGAINST FURTHER SUBDIVIDING OF UNITS; REALLOCATION OF LIMITED COMMON ELEMENTS; SEPARATE CONVEYANCE OF COMMON ELEMENT INTEREST PROHIBITED

No Unit may be divided or subdivided, except with the consent of the Unit Owners entitled to cast at least two-thirds (2/3rds) of the votes of the Associations, and the consent of all holders of mortgage or deed of trust liens on the Unit(s) to be subdivided. If any Unit is subdivided in accordance with the foregoing provisions, the Association, at the expense of the Owner(s) of the Unit or Units to be subdivided shall cause to be filed an amendment to this Declaration reallocating the Allocated Interest appurtenant to the original Unit between or among the new Units created by the subdivision of the Unit in proportion to the number of square feet of heated floor area contained in each new Unit.

With the consent and approval of the Association acting through its Executive Board, Limited Common Elements may be reallocated between or among two or more Units by an amendment to the Declaration executed by all Unit Owners between or among whose Units the reallocation is made. The Association, at the expense of such Unit Owners, shall prepare and record the executed amendment in the names of the Unit Owners executing same, in the same manner as a deed, in the New Hanover County Registry.

Except as otherwise provided in this Declaration, the Allocated Interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit, and the Allocated Interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such Allocated Interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the Identifying Number assigned thereto in the Plan of Condominium without limitation or exception, shall be deemed and construed to affect the entire Unit and its Allocated Interest in the Common Elements.

## ARTICLE V.

### DEVELOPMENT RIGHTS

Section 1. Addition of Real Estate to Condominium; Creation of Additional Units, Common Elements and Limited Common Elements. Declarant hereby reserves the right for forty (40) years from the date of recording of this Declaration to add additional real estate to the Condominium, and to create upon such additional real estate additional Units, Common Elements and Limited Common Elements, all without the consent of any Unit Owner or mortgagee. In addition, Declarant hereby reserves the right for forty (40) years from the date of recording of this Declaration to create additional Units, Common Elements and Limited Common Elements by completing any contemplated improvements shown on any plat or plan of the Condominium now or hereafter recorded and labeled either "MUST BE BUILT" or "NEED NOT BE BUILT." In the event Declarant elects to create additional Units either by adding additional real estate to the Condominium or by completing such contemplated improvements, such expansion could result in the addition of up to one hundred sixty-four (164) additional Units. The total number of Units in the Condominium shall not exceed two hundred (200). Additional real estate, if added to the Condominium, will be located within the property described in Exhibit D attached hereto and incorporated herein by reference. Declarant shall have no obligation of any kind to add any or all of the additional real estate described herein to the Condominium. Any and all of the Development Rights reserved under this Article V may be exercised as to any, all or none of the real estate described in the Plan of Condominium and Exhibit D of this Declaration, at different times and from time to time, and in any sequence, all in the sole discretion of the Declarant.

Section 2. Amendment to Declaration. In the event Declarant exercises any of its development rights under Section 1 of this Article, Declarant shall prepare, execute with the same formalities as a deed, and record an amendment to this Declaration in the New Hanover County Registry, such amendment to refer specifically to the recording data identifying this Declaration. The amendment shall assign an identifying number to any new Unit created thereby, describe any new Unit, Common Elements and/or Limited Common Elements created thereby and, in the case of the latter, designate the Unit(s) to which such Limited Common Elements are reserved. If appropriate, the amendment shall reallocate the Allocated Interest in the Common Elements among all Units then located in the Condominium in accordance with Section 4 below.

Section 3. Amendment to Plan of Condominium. In addition to the execution and recordation of the amendment to the Declaration described above, Declarant shall record in the New Hanover County Registry, either new plats and plans of the Condominium evidencing the changes affected by Declarant's exercise of its development rights, or new certifications of the plats and plans previously recorded if the Condominium continues to conform to those plats and plans. Upon recordation in the New Hanover County Registry Unit Ownership File for the Condominium, any such plats and plans shall become a part of the Plan of Condominium as herein defined.

Section 4. Reallocation of Allocated Interest, Common Expense Liability and Votes in the Association. In the event Declarant elects to add additional real estate to the

Condominium or completes any contemplated improvements shown on any plat or plan of the Condominium now or hereafter recorded and labeled either "MUST BE BUILT" or "NEED NOT BE BUILT," and thereby creates additional Units, then the Allocated Interest in the Common Elements appurtenant to each Unit may change. The Allocated Interest in the Common Elements appurtenant to each Unit will be determined by dividing the Common Elements equally among all Units of the Condominium, including all additional Units created pursuant to this Article.

Section 5. Right to Establish and Convey Parking Deck Easement(s) as Additional Common Elements. Declarant hereby reserves the right for forty (40) years from the date of recording of this Declaration to establish and convey to the Association, or cause to be established and conveyed to the Association, as additional Common Elements, one or more parking deck easements (the "Parking Deck Easements") allowing for the use by the Condominium Unit Owners of certain parking spaces within one or more parking decks that may hereafter be located on portions of Mayfaire Towncenter Lot 2R (Revision) as shown on that certain map entitled "Mayfaire Towncenter Division Map" recorded in Map Book 46, Pages 201-202. Any Parking Deck Easement also shall provide that the Condominium Unit Owners, through the Association, shall reimburse the parking deck owner for all costs associated with the on-going use and maintenance of the parking spaces reserved for the use of the Condominium Unit Owners, including insurance and reasonable reserves for capital repairs.

Section 6. No Representations Regarding any Additional Property, Units or Common Elements added to the Condominium. The types of buildings and the architectural style, size and construction quality of any Units added to the Condominium pursuant to this Article V, Section 1 may differ from the existing Condominium Buildings and Units.

## ARTICLE VI.

### THE CONDOMINIUM SUBJECT TO MATTERS OF RECORD

The Units, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use thereof and setting forth the obligations and responsibilities incident to ownership of each Unit and its Allocated Interest in the Common Elements, and said Units, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium. Listed on Exhibit E, attached hereto and incorporated herein by this reference, is the recording data for all restrictions, easements and licenses which have been recorded prior to this Declaration and which now affect the Condominium.

## ARTICLE VII.

### PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON ELEMENTS; CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS; RESTRAINT ON SEPARATION AND PARTITION OF COMMON ELEMENTS

The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Unit Owners for their use and the use of their tenants and other residents of the Condominium, their invitees and guests, for all proper and normal purposes, and for the furnishing of services and facilities for which the Common Elements are reasonably intended. Notwithstanding anything above provided in this Article, the Association shall have the exclusive right to establish the Rules and Regulations pursuant to which Unit Owners, their tenants and other residents of the Condominium, their invitees and guests, may be entitled to use the Common Elements.

Portions of the Common Elements may be conveyed or subjected to a security interest, only in accordance with the provisions of the Act; provided, however, no such conveyance or encumbrance shall interfere with or obstruct ingress, egress and regress to, or from, the Units, drainage or erosion control facilities serving the Condominium or utility service to the Units. Notwithstanding the foregoing, however, the Association shall have the authority and power to grant such non-exclusive easements, leases, licenses, and concessions through or over the Common Elements as the Executive Board of the Association may deem in the best interest of the Unit Owners and the Association without a vote or the consent of the Unit Owners or the holders of first mortgage or deed of trust liens (including the right to grant and establish upon, over and across the Common Elements such easements as are necessary or desirable for providing service or utilities to the Units and the Common Elements); provided, however, no such conveyance shall interfere with or obstruct ingress, egress and regress to, or from, the Units, drainage or erosion control facilities serving the Condominium or utility service to the Units.

Recognizing that the proper use of a Unit by its Unit Owner(s) is dependent upon the use and enjoyment of the Common Elements in common with the Unit Owners of all other Units, and that it is in the interest of all Unit Owners that the ownership of the Common Elements be retained in common by the Unit Owners, it is hereby declared that the Allocated Interest in the Common Elements appurtenant to each Unit shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division.

## ARTICLE VIII.

### RULES AND REGULATIONS; LIMITED COMMON ELEMENTS; MASTER ASSOCIATION COMMON ELEMENTS

Section 1. Rules and Regulations. The Association shall have the right to establish rules and regulations concerning the use and enjoyment of the Common Elements and improvements thereon and the governance of the Condominium, which regulations may further restrict the use of the Common Elements, and specifically including the right to establish rules and regulations concerning pet ownership and may restrict the number, type and size of domestic

pets. Copies of any amendments or additions to the Rules and Regulations shall be furnished by the Association to all Owners prior to the effective date thereof. All such Rules and Regulations shall be binding upon the Owners, their tenants, guests, invitees and agents. No Rule or Regulation may amend, modify or contravene any provision of the Condominium Instruments and no Rule or Regulation shall unreasonably burden or favor one Unit over the other Units.

Section 2. Limited Common Elements. Any awnings, balconies, decks, assigned storage spaces, signage, doorsteps, stoops and all doors, window frames, panes and screens that are a part of the Condominium and intended to serve a single Unit, but located outside the Unit's boundaries are Limited Common Elements allocated exclusively for the use of that Unit. Any Common Expense associated with the maintenance, repair or replacement of any such Limited Common Element shall be assessed against the Unit to which that Limited Common Element is assigned.

Section 3. Master Association Common Area; Neighborhood Designation. All of the Property which constitutes the Condominium has been subjected to the Master Declaration and accordingly, each Unit Owner is a member of the Master Association. In addition, as more particularly set forth in the Master Declaration, the Condominium has been designated as part of a "Neighborhood," as that term is defined in the Master Declaration. Subject to the terms and conditions of the Master Declaration, the members of the Master Association shall have certain rights to use and enjoy the Master Association Common Area and certain identified portions of the Neighborhood, such as the private streets and sidewalks located within the Neighborhood. Pursuant to the Master Declaration, the Owner(s) of each Unit shall be required to pay to the Master Association "Base Assessments," "Special Assessments," and "Neighborhood Assessments," as such terms are defined in the Master Declaration, together with all other assessments and charges specified in the Master Declaration for the purposes expressed therein.

## ARTICLE IX.

### ADMINISTRATION OF THE CONDOMINIUM

To efficiently and effectively provide for the administration of the Condominium by the Unit Owners, a nonprofit North Carolina corporation known and designated as Mayfaire Townview Condominium Owners Association, Inc. (the "Association") has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and Bylaws. The Unit Owner(s) of each Unit shall automatically become members of said corporation upon acquisition of an ownership interest in title to any Unit and its Allocated Interest in the Common Elements, and the membership of such Unit Owner(s) shall terminate automatically upon such Unit Owner(s) being divested of such ownership interest in the title to such Unit, regardless of the means by which such ownership may be divested. In the administration of the operation and management of the Condominium, the Association shall have and is hereby granted all of the powers and authorities granted to non-profit corporations under the law pursuant to which the Association is chartered, and all of the powers and privileges which may be granted the Association under any other applicable laws of the State of North Carolina, including the North Carolina Condominium Act, which powers include, without limitation, the power and authority to enforce the provisions of this Declaration,

to levy and to collect assessments in the manner hereinafter provided, to adopt, promulgate and enforce such Rules and Regulations governing the use of the Units and Common Elements as the Executive Board of said Association may deem appropriate, and to grant such nonexclusive easements, leases, licenses, and concessions through or over the Common Elements as the Executive Board of the Association may deem appropriate without a vote or the consent of the Unit Owners or the holders of first mortgage or deed of trust liens; provided, however, no such grant shall unreasonably interfere with or obstruct utility service to any Unit or the Common Elements, or ingress or egress to and from the Units or the Common Elements.

## ARTICLE X.

### USE RESTRICTIONS APPLICABLE TO UNITS; THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES; RESTRICTION AGAINST NUISANCES

Section 1. Restrictions. Except as otherwise expressly provided herein, no portion of any Unit shall be used for any purpose other than residential purposes and purposes ancillary to such use; provided, however, any Unit may be used for home office purposes by the resident(s) of such Unit, provided that the primary use of such is residential, no business customers of the resident(s) visit the Unit and the resident(s) do not advertise the address of the Unit as a business address.

Section 2. Nuisances. No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, or any part thereof, and all laws, ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Unit Owner shall permit or suffer anything to be done or kept in his Unit or on the Common Elements, including any Limited Common Elements, which will obstruct or interfere with the rights of other occupants of the Condominium nor shall any Unit Owner undertake any use or practice which shall create and constitute a nuisance to any other Unit Owners by reason of the emission or creation of odors, gases, dust, smoke, noise, fumes, cinders, soot, glare, reflected sunlight, vibrations, radiation or waste or otherwise, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements; provided, however, nothing herein shall prohibit or restrict the use of any Retail Unit or any portions thereof for restaurant or food service purposes. The use of the Common Elements and the Units by the Unit Owners and all other parties authorized to use the same also shall be at all times subject to such reasonable Rules and Regulations as may now or hereafter be prescribed as provided by this Declaration.

Section 3. Compliance with Laws; Hazardous Uses. No Unit Owner shall use or permit such Unit Owner's Unit or the Common Elements or any part thereof to be used in violation of any law or ordinance or any regulation of any governmental authority, for any hazardous purpose or in any manner which will constitute a nuisance or that will violate, suspend, void or make inoperative any policy or policies of insurance of any kind whatsoever at any time carried on the Unit, any neighboring Unit or the common elements or any part thereof.

Section 4. Hazardous Substances. No Unit Owner shall handle, store, process, dispose of or generate on the Condominium or transport to or from the Condominium, and no

Unit Owner shall permit any officer, principal, servant, employee, lessee, agent or contractor of such Unit Owner or any other person under the direction or control of such Unit Owner to handle, store, process, dispose of or generate on the Condominium or transport to or from the Condominium, any hazardous or toxic materials, waste and/or substances (which includes but is not limited to polychlorinated biphenels, petroleum, flammable explosives, radioactive materials and asbestos), as defined in any environmental law of any municipality, state or federal agency or body applicable to the property ("Hazardous Substances"); provided, however, a Unit Owner may, ancillary to and in the normal course of an otherwise permitted use of the Unit, use or permit to be used Hazardous Substances that are commonly used in connection with residential, business office or retail uses if such use of Hazardous Substances does not under applicable law require a permit from, or that a report, notice, registration or business plan be filed with, any governmental authority or that a notice be given to persons entering or occupying the Unit or neighboring properties. Any use, storage or disposal of any such Hazardous Substances must be conducted in a reasonably prudent manner and in a manner which is: (i) consistent with standards recognize by the health care industry; (ii) in compliance with all applicable laws, ordinances and regulations of any governmental authority; and (iii) not harmful to any mechanical or structural component of the Condominium, including, without limitation the plumbing, water and sewer, electrical and heating and ventilation systems. Each Unit Owner agrees to indemnify, defend and hold harmless all other Unit Owners and the Association from and against any loss incurred as a result of the use, handling, storage, generation, transportation or disposal of Hazardous Substances by such Unit Owner or any officer, principal, servant, employee, agent or contractor of such Unit Owner or any other person under the direction or control of such Unit Owner. The cost of any testing or remediation performed by the Association, including without limitation all engineering and attorneys' fees, made necessary as a result of a Unit Owner's breach of the foregoing restrictions shall be assessed exclusively against the responsible Unit Owner and the assessment, together with attorneys' fees and all other costs of collection, shall be the personal obligation of such Unit Owner and a lien against such Unit Owner's Unit to the same extent provided under Article XXIII of this Declaration.

Section 5. Leases. Any lease or rental agreement for a Unit shall be in writing. All lease and rental agreements shall provide that the terms of the lease are subject to the provisions of the Condominium Instruments, and that any failure by the lessee or any occupant to comply with the terms of such documents shall be a default under the terms of the lease. No lease of any Unit or any portion thereof shall have a term of less than three (3) months; provided, however, a Unit may be leased for any duration to a bona fide contract purchaser thereof. The Owner(s) of any leased Unit shall provide to the Association the name(s) and telephone number(s) of all tenants and shall provide to all tenants a copy of this Declaration and the Rules and Regulations of the Association, which shall be binding on all tenants.

Section 6. No Timeshares. No interest in any Unit may be subjected to a timeshare program, as that term is defined in N.C.G.S. Section 93A-41(10).

Section 7. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained in any Unit except that a maximum of two (2) small common household pets (not to exceed thirty-five pounds (35 lbs.) in weight or eighteen (18) inches in height) may be kept or maintained in each dwelling, provided they are not kept or maintained for commercial purposes. No pet shall be permitted upon the Common Elements unless carried or leashed by a person that

can control the pet, and in no event may any savage or dangerous pet be kept within any dwelling or the Condominium. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) whether inside or outside the Condominium. Pets shall not at any time be left unattended nor tied or chained in the Common Elements or on any deck or balcony. Pet owners are responsible for the immediate removal and proper disposal of any deposits from pets. All pets shall be licensed and inoculated as required by law, and shall be registered with the Association. Each Owner shall hold the Association harmless from any claim resulting from any action of such Owner's pet or the pet of any occupant of such Owner's Unit or portion thereof, and shall repair at his expense any damage to the Common Elements caused by such pet. The Association shall have the right to promulgate additional rules and regulations governing pet ownership that may further limit the number, size, type, and conduct of the pets. In the event of any violation of these covenants or any additional rules and regulations regarding pet ownership promulgated by the Association, in addition to any fines or other enforcement measures provided for herein or by law, the Association shall have the right to require the immediate removal of the pet permanently from the Condominium.

Section 8. Signs. No signs or other advertising devices, including without limitation "For Sale" and "For Rent" signs, shall be displayed on or about the exterior of any Unit, including windows or balconies, or in the Common Elements, except that Declarant, during the Development Period, shall have the right to erect and maintain signs within the Common Elements or on any Unit owned or leased by Declarant for the purpose of advertising and promoting the sale of Units within the Condominium. Neon signs of any kind are prohibited.

Section 9. Utilities. Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Association. All clothes dryers will have lint filters, and all range hoods will have grease screens, and such screens and filters shall be used at all times and kept clean, and in good order and repair, by the Owner of the Unit in which they are located.

Section 10. Floor Loads. There shall be no floor load in excess of the floor load capacity from time-to-time established by the Association for various areas of the Condominium, such as the Unit, any deck or balcony, the corridors and the stairwell.

## ARTICLE XI.

### SPECIAL DECLARANT RIGHTS

Section 1. Sales and Management Offices; Model Units; Advertising on Common Elements. Declarant shall have the right to maintain sales offices, management offices, and models in any Units or portions thereof owned or leased by Declarant. Any such offices or model Units may be located within such Units as Declarant shall select. In addition, Declarant shall have the right to maintain sales offices and management offices within any portion of the Common Elements and to display advertising signs upon the Common Elements at such locations as Declarant shall select. Declarant shall have the right at any time and from time to time to relocate any offices, model Units or signs from their previous location to another location.