

AFTER RECORDING RETURN TO:

Altitude Community Law P.C.
555 Zang St., Suite 100
Lakewood, CO 80228

**LIMITED AMENDMENT
TO THE AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BROOKS TOWER RESIDENCES, A CONDOMINIUM**

THIS LIMITED AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE BROOKS TOWER RESIDENCES, A CONDOMINIUM, is made this ___ day of _____, 20__ (the "**Limited Amendment**").

RECITALS

A. The Brooks Tower Residences Condominium Association, Inc. (the "**Association**") is governed by that certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Brooks Tower Residences, A Condominium, recorded in the real property records of Denver County, State of Colorado, on May 23, 1995, at Reception No. 0500059593, as amended (the "**Original Declaration**").

B. The Original Declaration provides for and allows for this Limited Amendment in Section 31, which provides as follows:

Except as otherwise expressly allowed by this Declaration or Section 217 of the Act, any provision contained in this Declaration may be amended, or additional provisions may be added to this Declaration, only by a vote or written agreement of the Owners, as shown by the Records, representing an aggregate ownership interest of seventy-five percent (75%), or more, of the Common Elements...Notwithstanding the foregoing, except as expressly allowed by this Declaration (including any amendment effected pursuant to paragraph 4) or the Act, no amendment may create or increase special Declarant rights, increase the number of Units , or change the boundaries of any Unit or the allocated interest of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Owners.

C. Section 32(a) of the Declaration further provides:

No material amendment shall be made to the declaration, Articles or Bylaws of the Association (collectively, the "Condominium Instruments") without prior written notice of such amendment to all Eligible Mortgagees, and without the

approval of Eligible Mortgagees representing at least fifty-one (51%) of the votes of the Units that are subject to Mortgages held by Eligible Mortgagees.

D. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(4.5) the Declaration may specify a larger percentage than 67% to amend the Declaration that changes the uses to which any unit is restricted. As a result, this Limited Amendment requires the unanimous consent of all Owners pursuant to Section 31 of the Declaration.

Or Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(l)(a), the required written approval of Owners of Units representing an aggregate ownership interest of seventy-five percent (75%), or unanimous consent, is now void, and the new Owner requirement is Owners representing an aggregate ownership interest of sixty-seven percent (67%), or more.

E. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means.

F. This Limited Amendment has been prepared and determined by the Association and by the Owners that have approved this Amendment to be reasonable and not burdensome.

G. The purpose of this Limited Amendment is to restrict marijuana growing and prohibit distribution and use and impose a smoking ban in the Project.

H. The undersigned signatures of the Owners have unanimously voted and have consented to this Limited Amendment in the manner provided for in the Original Declaration and any Eligible Mortgagees have been notified and at least 51% of Eligible Mortgagees have approved this Limited Amendment. Alternatively, the Association has obtained approval of this Limited Amendment pursuant to the terms and conditions of the Colorado Common Interest Ownership Act.

I. As amended by this Limited Amendment, the Original Declaration is referred to as the “**Declaration**”.

NOW, THEREFORE,

I. Amendments. The Original Declaration is hereby amended as follows:

(a) **Addition**. The following Subsection (m) is hereby added to Section 28:

(m) Smoking Prohibition.

(1) Definitions. For the purposes of this Section, the following terms shall be defined as follows:

(i) “Smoking” shall mean and include the inhaling, exhaling, burning or carrying of any lighted cigarette,

cigar or other tobacco product, marijuana or any other legal or illegal substance.

(ii) “Business Invitee” shall mean and include, but not be limited to, any contractor, agent, household worker or other person hired by the Owner, tenant or resident to provide a service or product to the Owner, tenant or resident.

(2) Smoking Prohibition. No Owner, guest, family member, tenant, resident, Business Invitee or visitor shall smoke cigarettes, cigars, marijuana or other tobacco products and/or any other legal or illegal substance within boundaries of the Project, unless such Smoking is within a designated area determined by the Board of Directors in its sole and absolute discretion. This prohibition shall include all Unit interiors, Common Elements, General Common Elements and Limited Common Elements in the Project.

(3) Disclosure Requirement. Any Owner who rents his or her Unit or otherwise allows someone other than the Owner to reside within or occupy the Unit shall disclose to all persons residing within the Unit that Smoking is prohibited everywhere within the Project, including within all Units, Common Elements General Common Elements and Limited Common Elements, prior to their residency or occupancy.

(4) Enforcement. Each Owner is responsible for the actions of all other persons residing within or visiting his or her Unit and shall be subject to disciplinary action or a court action for an injunction, or any remedies available under this Declaration or State law, for violation of this Section. This Section may be enforced in a court of law by any Owner, resident or the Association. Any and all fees and costs incurred by the Association as a result of enforcing this Section shall be recoverable by the Association and may be collected as an Assessment under the terms of this Declaration.

(5) Rules. The Board of Directors shall have the authority and power to enact rules and regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and opportunity for hearing. In addition, the Board of Directors may, in its sole and absolute discretion, designate certain areas of the Project where Smoking is be allowed.

(b) Addition. The following Subsection (n) is hereby added to Section 28:

(n) Marijuana. No Unit within the Community may be used for the commercial cultivation, harvesting, and/or distribution of marijuana, or marijuana derivatives. No Owner or occupant of a Unit may utilize such Unit for the purpose of growing or distributing marijuana whether recreational or medical marijuana. Nor shall any Owner or occupant of a Unit utilize such Unit for the purpose of manufacturing, synthesizing, producing or distributing any illicit or controlled substances as such substances defined by applicable state and federal laws regulating same. This prohibition may further be clarified by the Board of Directors through Rules and Regulations. Owners will be responsible for any damage resulting from a violation of this restriction, including but not limited to increased water and utility charges.

II. No Other Amendments. Except as amended by the terms of this Limited Amendment and previous amendments, if any, the Original Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Limited Amendment is executed by the undersigned.

Brooks Tower Residences Condominium Association, Inc., a Colorado nonprofit corporation

By: _____
President

By: _____
Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 20____, by _____, as President of Brooks Tower Residences Condominium Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.
My commission expires: _____

Notary Public

