



STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

AMENDMENT TO DECLARATION  
OF CONDOMINIUM OF THE  
HOLIDAY BEECH VILLAS  
CONDOMINIUM

This Amendment to the Declaration of Condominium of the Holiday Beech Villas Condominium is made effective as of the 15<sup>th</sup> day of September, 2018 by the Holiday Beech Villas Condominium Owners Association, Inc., herein "HBVCOA".

**BACKGROUND STATEMENT**

WHEREAS, a Declaration of Condominium establishing the Holiday Beech Villas dated December 30, 1972 was recorded at Deed Book 137 at Page 178 of the Watauga County Register of Deeds Office pursuant to the provisions of Chapter 47A of the General Statutes of North Carolina; and

WHEREAS, amendments to the Declaration of Condominium and By-Laws have been recorded in the Register of Deeds Office of Watauga County as follows:

Deed Book 140 at Page 529;  
Deed Book 143 at Page 205;  
Deed Book 153 at Page 326;  
Deed Book 185 at Page 622;  
Deed Book 198 at Page 228;  
Deed Book 211 at Page 633;  
Deed Book 237 at Page 434;  
Record Book 1022 at Page 808;

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Prepared by: di Santi Watson Capua Wilson & Garrett, PLLC  
P O Box 193, 642 West King Street  
Boone, North Carolina 28607

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Record Book 1750 at Page 865; and

WHEREAS, at a special meeting of HBVCOA on September 15, 2018, the By-Laws attached hereto as Exhibit A were submitted to the Unit Owners of HBVCOA and received the requisite vote of the Unit Owners for adoption as provided by the Declaration of Condominium and By-Laws of Holiday Beech Villas Condominium.

IN WITNESS WHEREOF, this Amendment to the Declaration of Condominium of the Holiday Beech Villas Condominium is hereby executed by its President effective the day and year stated herein.

Holiday Beech Villas Condominium  
Owners Association, Inc.

By: *Mark Deasaro*  
Mark Deasaro, President

STATE OF NORTH CAROLINA

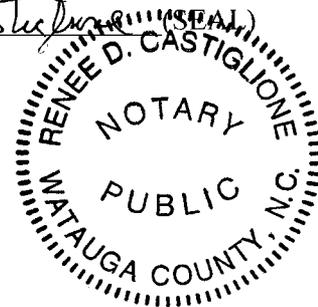
COUNTY OF Watauga

I, Renee D. Castiglione, notary public, certify that Mark Deasaro, personally came before me this day and acknowledged that he is the President of Holiday Beech Villas Condominium Owners Association, a corporation, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 27 day of September, 2018.

My commission expires: February 1, 2022

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Prepared by: di Santi Watson Capua Wilson & Garrett, PLLC  
P O Box 193, 642 West King Street  
Boone, North Carolina 28607

DECLARATION OF INTENTION TO SUBMIT PROPERTY  
TO THE PROVISIONS OF CHAPTER 47A  
OF THE NORTH CAROLINA GENERAL STATUTES  
HOLIDAY BEECH VILLAS CONDOMINIUM

THIS DECLARATION, made this 30<sup>th</sup> day of December, 1972, by HOLIDAY BEECH VILLAS CO., a North Carolina corporation, hereinafter called the "Declarant", pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, entitled the "Unit Ownership Act",

W I T N E S S E T H:

WHEREAS, the Declarant is the owner in fee simple of certain real property in Watauga County, State of North Carolina, and more particularly described in Exhibit A attached hereto; and

WHEREAS, the Declarant is the owner of certain condominium-type multi-unit buildings and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid property and it is the desire and the intention of the Declarant to divide the project into "condominium units" or "units" as those terms are defined under the provisions of the North Carolina Unit Ownership Act, and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends, by the filing of the Declaration, to submit the above described property and the multi-unit buildings now or hereafter located thereon and all other improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the provisions of the North Carolina Unit Ownership Act (Chapter 47A, North Carolina General Statutes);

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described above and as described in Paragraph 1 below is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominium units and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns,

and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Description of Property. All of Lots 1, 6 and 7 of the Village Condominium Section of Beech Mountain Subdivision of Carolina Caribbean Corporation, as shown on Map recorded in the office of the Register of Deeds of Watauga County, North Carolina, in Map Book 6, Page 66.
2. Description of Buildings. The Declarant has constructed or will construct, upon the above described property, nine multi-unit buildings to be used for residential purposes only. One of said buildings will be two stories in height (without basement), and will contain four condominium units, one of said buildings will partially two stories in height (without basement), and will contain eight condominium units; the remaining six of said buildings will be three stories in height (without basement), and will contain respectively twelve, thirteen, nine, eighteen, twelve, six and six condominium units. Such plans bear the verified statement of a registered architect or licensed professional engineer, certifying that said plans are an accurate copy of the plans for said multi-unit buildings. Said buildings are constructed or to be constructed principally of concrete block (stucco finish) and cedar shake. The principal materials of which the buildings are constructed or to be constructed, are further described in said Exhibit "B".
3. Unit Designations. The unit designation of each condominium unit, its location, dimensions, approximate area, number of rooms and immediate common areas and facilities to which it has access, and other data concerning its proper identification are set forth in Exhibit "B" and in Exhibit "C" attached hereto and made a part hereof. Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings, and floor which are shown on said plans, subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by construction, settlement or movement of the building, or by permissible repairs, construction or alteration.
4. Common Area and Facilities. The common areas and facilities consist of all parts of each multi-unit building situated on the property described hereinabove, other than the individual dwelling units therein and described in Paragraph 3 above, including, without limitation, the following (except such portions of the following as may be included within an individual unit):
  - (a) The land on which the buildings are erected and all lands surrounding the building as is more fully described in Paragraph 1 above.
  - (b) All foundations, columns, girders, beams, supports, and other structural members.
  - (c) All exterior walls and interior walls except those partition walls wholly within a unit.
  - (d) Roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, elevator shafts, and entrances to and exits from the buildings.
  - (e) All central and appurtenant installations for services such as power, light, telephone, gas, hot and cold water, heat, refrigeration, air conditioning, incinerating (including all pipes, ducts, wires, cables, tanks, pumps, motors, fans, conduits, and compressors in connection therewith, whether located in common areas or in units) and all other mechanical equipment spaces.

- (f) All sewer pipes.
- (g) All other parts of the property and all apparatus and installations existing in the building or upon the property for common use or necessary or convenient to the existence, maintenance or safety of the property.

The undivided interest of each unit owner in such common areas and facilities is set forth in Exhibit "C" attached hereto and made a part hereof, the ratio of which undivided interest to the undivided interest of each other unit owner is in the approximate relation that the fair market value of the unit owner's unit, as of the date of this Declaration, bears to the aggregate fair market value of all units.

5. Use. The buildings and each of the units shall be used for residential purposes only. The property, the subject of this Declaration, including the condominium units located or to be located thereon, is also subject to Declaration of Restrictions recorded in Book 135 , page 454, of the Watauga County, North Carolina, Public Registry.
6. Person to Receive Service of Process. Eugene G. Bradshaw, Banner Elk, North Carolina is hereby designated to receive Service of Process in any action which may be brought against or in relation to this condominium. Said person's place of business is Holiday Beech Villas Co., Banner Elk, North Carolina, which is within the city nearest which and the county in which the buildings are located.
7. Easements. Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities 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 facilities serving such other units and located in such unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities contained therein or elsewhere in the building.

The Board of Administrators (more particularly described in the By-Laws attached hereto) may hereafter grant easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas; and each unit owner hereby grants the Board of Administrators an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary to effectuate the foregoing.

8. Partitioning. The common areas and facilities shall not be divided nor shall any right to partition any thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a condominium unit by the entirety, jointly, or in common or in any other form by law permitted.
9. Liens. While the property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities except with the unanimous consent in writing of all of the condominium unit owners and the holders of first liens thereon except such liens as may arise or be created against the several units and their respective common interests under the provisions of the North Carolina Unit Ownership Act. Every agreement for the performance of labor, or the furnishing of materials to the common areas and facilities, whether oral or in writing, must provide that it is subject to the

provisions of this Declaration and the right to file a mechanics' lien or other similar lien by reason of labor performed or materials furnished is waived.

10. Nature of Interest in Units. Every condominium unit, together with its undivided common interest in the common area and facilities, shall for all purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of his condominium unit subject only to the Declaration of Restrictions referred to in paragraph 5 above and the covenants, restrictions, easements, by-laws, rules, regulations, resolutions and decisions adopted pursuant hereto as may be contained herein and in the accompanying by-laws and in the minutes of the Board of Administrators.

11. Insurance. Insurance coverage on the property shall be governed by the following provisions:

- (a) Ownership of Policies. All insurance policies upon the condominium property shall be purchased by the Board of Administrators for the benefit of the Board and the unit owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of unit owners. Unit owners may, at their option, obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense and such other coverage as they may desire.
- (b) Coverage. All buildings and improvements upon the land and all personal property included in the common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board of Administrators with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against:
  - (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and
  - (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land.
- (c) Premiums. Premiums upon insurance policies purchased by the Board of Administrators shall be paid for the Board of Administrators as a common expense.
- (d) Proceeds. All insurance policies purchased by the Board of Administrators shall be for the benefit of the Board of Administrators and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Administrators as insurance trustees under this Declaration. The sole duty of the Board of Administrators as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein or stated in the by-laws and for the benefit of the unit owners and their mortgagees in the following shares:
  - (1) Proceeds on account of damage to common areas and facilities—an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities (as set forth in Exhibit "C" attached hereto).

(2) Proceeds on account of damage to units shall be held in the following undivided shares:

(A) When the building is to be restored—for this owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Administrators.

(B) When the building is not to be restored—an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities (as set forth in Exhibit "C" attached hereto).

(3) In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear.

12. Distribution of Insurance Proceeds. Proceeds of insurance received by the Board of Administrators as insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Expense of Trust. All expenses of the insurance trustee shall be first paid or provision made therefor.

(b) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as provided in Paragraph 13 hereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners.

(c) Failure to Reconstruct or Repair. If it is determined, as provided in Paragraph 13 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners thereof.

13. Damage and Destruction. Except as hereinafter provided, damage to or destruction of the buildings shall be promptly repaired and restored by the Board of Administrators using the proceeds of insurance on the buildings for that purpose and unit owners shall be liable for assessment of any deficiency; provided, however, if the building or buildings constituting the entire improvements on the subject property be more than two-thirds destroyed by fire or other disaster, and the owners of three-fourths of the units on the subject property resolve not to proceed with reconstruction or restoration, then in that event the property shall either be (a) sold or otherwise transferred as hereinafter provided, or (b) deemed to be owned as tenants in common by the unit owners and subject to the provisions of North Carolina General Statutes 47A-25, as the same exists at the date hereof or as amended hereafter; provided, however, in the event it is determined not to reconstruct and restore said buildings, then the purchaser of the property, or the unit owners, as applicable, shall demolish and remove any building from the property within 90 days from the date of damage or destruction and shall leave the real property clean and free of trash, debris and rubble. The determination of whether to sell the property or to make the property subject of the provisions of North Carolina General Statutes 47A-25 shall be by affirmative vote of three-fourths of all unit owners.

Any reconstruction or repair shall be in accordance with the plans and specifications of the original buildings, portions of which are attached hereto as exhibits; and if not, then according to plans and specifications approved by the Board of Administrators.

14. No unit owner may mortgage his unit or any interest therein without the prior written approval of the Board of Administrators, except as to a first mortgage lien made to a bank, life insurance company or state or federal savings and loan association. The Board may, and it is hereby authorized to impose reasonable conditions upon which approval as to any other mortgage shall be given. No unit owner may mortgage or otherwise encumber his unit or any interest therein unless such mortgage or encumbrance shall provide for written notice to the Board of Administrators and to the Declarant in the event of a default under such mortgage or other encumbrance. Each unit owner who shall mortgage or otherwise encumber his unit or any interest therein shall furnish to the Board of Administrators and to the Declarant a copy of all such mortgages, deeds of trust or other instruments creating such encumbrance.

Any sale, voluntary transfer, conveyance, lease or mortgage which is not authorized by the terms of this Declaration or for which authorization has not been obtained pursuant to the terms hereof is voidable and may be voided by certificates of the Board of Administrators or the Declarant duly recorded in the recording office where this Declaration is recorded.

An owner may give, devise or bequeath his interest in any unit to his spouse, his parents or to any lineal descendants, including adopted children, or to a corporation, all classes of stock of which are more than 80% owned by such owner, his spouse and his lineal descendants, without the prior written consent of the Board of Administrators or this Declarant.

15. Units Subject to Declarations, By-Laws, Rules and Regulations.

All present and future owners, tenants and occupants of units shall be subject to, and shall comply with the provisions of this Declaration, the By-Laws and any rules and regulations may be adopted in accordance with the By-Laws, as said Declaration, By-Laws, Rules and Regulations may be amended from time to time as well as the Declaration of Restrictions referred to in paragraph 5 above. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be 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 made a part of each and every deed or conveyance or lease.

16. Amendment of Declaration.

(a) This Declaration may be amended by the vote of at least 66-2/3% in common interest of all unit owners, cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws (Article II, Section 5). No such amendment shall be effective until recorded in the Office of the Register of Deeds for the county wherein the property, the subject of this Declaration, is located.

(b) It is contemplated that the Declarant will in the future construct additional units on nearby land as hereinafter provided. Phase II will consist of a maximum of 45 one-bedroom units, and a maximum of 13 two-bedroom units, to be constructed on Lot 6, Village Condominium Section, Beech Mountain Subdivision, according to the map thereof as recorded in Map Book 6, Page 66, Watauga County, North Carolina Public Registry; and Phase III will consist of a maximum of 16 two-bedroom units and 54 one-bedroom units to be constructed on Lot 1 of said subdivision; provided, however, that all said future buildings and units will be compatible architecturally and otherwise with the units involved herein, and all such future construction will be completed within five (5) years from the date hereof. Anything contained in this article or in this Declaration to the contrary notwithstanding, and for the purpose of complying with the provisions of Section 47A-6(b) of the North Carolina General Statutes, Declarant shall have the absolute right in its discretion to amend this Declaration and the By-Laws to include such additional units, to redetermine the percentage of the undivided interest of each unit owner in the common areas and facilities and such other amendment as may be deemed necessary, convenient, or proper in order to effectuate such inclusion of additional units under this Declaration and redetermination of the percentage interest in the common areas and facilities of each unit owner; provided, however, that the ratio of the undivided interest of each unit owner in the total common areas and facilities then included in the Declaration shall be in the approximate relation that the fair market value of the unit then bears to the then aggregate fair market value of all units then included in the Declaration; and provided further that units in all three phases which are comparable upon completion shall be considered to have the same fair market value notwithstanding differences in prices which might exist during different periods of time, or decrease in market value of a particular unit or units as a result of damage by fire, other casualty or other cause; and to this end each owner of a condominium unit under this Declaration, and any amendment hereto (and the mortgagee of each such unit) shall be deemed to have consented to such amendment or amendments to this Declaration and the By-Laws and shall be deemed to have granted to the Declarant an irrevocable power of attorney, coupled with an interest, to make such amendment or amendments to this Declaration and the By-Laws; and further agrees to execute such documents and instruments, if any, as may be necessary from time to time to accomplish such amendment or amendments to this Declaration and the By-Laws.

17. Invalidity. The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.
18. Waiver. No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

19. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration of the intent of any provisions hereof.
20. Law Controlling. This Declaration and the By-Laws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.
21. Recreational Facilities. The Developer-Declarant is in the process of constructing recreational facilities located on lot 1 (along with a portion of Phase III) of Village Condominiums Section, Map Book 6 at Page 66, for the use and enjoyment of all unit owners in all three Phases of Holiday Beech Villas Condominiums. These facilities shall be a part of the common areas and owned as such by each unit owner, and governed by the unit owners association. By acceptance hereof, the unit owners association agrees with Developer-Declarant that all unit owners, past or present or future, shall share in the use of these facilities and shall share in the expenses of operation and maintenance of these facilities including all utilities which shall be on one meter according to their proportionate interests; that they will maintain reasonable hours of operation of these facilities for the benefit of all unit owners and all renters or tenants or legitimate guests in the units; and that it is understood that office and linen storage space as set aside in the recreational building shall be and remain available to the developer-declarant, its successors or assigns, for so long as it deems necessary, without charge of any kind, in addition to the use of the recreational facilities, for the purpose of conducting its normal rental or sales or management or other business operations without restrictions. Otherwise, such facilities shall be under the exclusive control of the unit owners or their duly elected representatives.

IN WITENESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, this 30<sup>th</sup> day of December, 1972.

(NOTARY SEAL)

HOLIDAY BEECH VILLAS CO

By \_\_\_\_\_  
President

DECLARANT.

\_\_\_\_\_  
Secretary

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

This 30<sup>th</sup> day of December, A.D., 1972, personally came before me E. G. Bradshaw, who being by me duly sworn, says that he is the President of Holiday Beech Villas Co., and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him, in behalf of said Corporation, by is authority duly given. And the said E.G. Bradshaw acknowledge the said writing to be the act and deed of said Corporation.

WITNESS my hand and official seal as of the day and year aforesaid.

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Notary Public

My commission expires:

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EXHIBIT "C"

(Being a part of the Declaration of Holiday Beech Villas Condominium)

<b>UNDIVIDED INTEREST IN COMMON AREAS AND FACILITIES</b>		<b>UNDIVIDED INTEREST IN COMMON AREAS AND FACILITIES</b>	
<b>UNIT</b>		<b>UNIT</b>	
A101	.9532	F121	.9532
A102	.9532	F122	.9532
A201	.9532	F123	.9532
A202	.9532	F124	.9532
B103	.9532	F125	.9532
B104	.9532	F126	.9532
B105	.9532	F221	1.1102
B106	1.4235	F222	.9532
B203	.9532	F223	.9532
B204	.9532	F224	1.1102
B205	.9532	F225	1.1102
B206	1.4235	F226	1.1102
B303	1.1102	F321	1.1102
B304	1.1102	F322	1.1102
B305	1.1102	F323	1.1102
B306	1.4734	F324	1.1102
C107	.9532	F325	1.1102
C108	.9532	F326	1.1102
C207	1.4734	G127	.9532
C208	.9532	G128	.9532
C209	1.4734	G129	.9532
C307	1.4734	G130	.9532
C308	1.1102	G227	1.1102
C309	1.4734	G228	.9532
D111	.9532	G229	.9532
D112	1.4235	G230	1.1102
D115	1.4235	G327	1.1102
D116	.9532	G328	1.1102
D211	1.1102	G329	1.1102
D212	.9532	G330	1.1102
D214	.9532	H132	.9532
D215	.9532	H133	1.4235
D216	1.1102	H232	1.1102
D311	1.1102	H233	1.4734
D312	1.4734	H332	1.1102
D315	1.4734	H333	1.4734
D316	1.1102	K144	.9532
E117	1.4235	K145	1.4235
E118	.9532	K244	1.1102
E119	1.4235	K245	1.4734
E217	1.4734	K344	1.1102
E218	.9532	K345	1.4734
E219	1.4734		
E317	1.4734		
E318	1.1102		
E319	1.4734		