

BRIAR HILL CONDOMINIUM ASSOCIATION

AMENDED AND RESTATED ARTICLES OF INCORPORATION

Pursuant to the provisions of the Michigan Nonprofit Corporation Act, Act 162, Public Acts of 1982, MCL 450.2101, et seq. (the “Nonprofit Corporation Act”), the undersigned executes the following Amended and Restated Articles of Incorporation:

1. The present name of the corporation is: Briar Hill Condominium Association.
2. The identification number assigned by the Bureau is #800818805.
3. All former names of the corporation are: None.
4. The filing date of the original Articles of Incorporation was March 22, 1989.

ARTICLE I Name of Corporation

The name of the Corporation is Briar Hill Condominium Association (the “Corporation”).

ARTICLE II Purposes of Corporation

Section 1. General Purposes and Powers. In accordance with the Condominium Act and the Condominium Documents, the Corporation is formed for the following purposes:

- (a) To manage and administer the affairs of, and to maintain Briar Hill, a condominium originally established by the Master Deed recorded at Liber 2357, Page 836, as amended by a First Amendment to Master Deed recorded at Liber 2437, Page 572, as amended by a Second Amendment to Master Deed recorded at Liber 2472, Page 563, as amended by a Third Amendment to Master Deed recorded at Liber 2620, Page 190, as amended by a Fourth Amendment to Master Deed recorded at Liber 2742, Page 572863 as amended by a Fifth Amendment to Master Deed recorded at Liber 3009, Page 717, as amended by a Sixth Amendment to Master Deed recorded at Liber 3865, Page 668, as amended by a Seventh Amendment to Master Deed recorded at Liber 3938, Page 756, as amended by a Consolidating Master Deed recorded at Liber 2437, Page 572, and as amended by a First Amendment to Consolidating Master Deed recorded at Liber 2437, Page 572, known as Washtenaw County Condominium Subdivision Plan No. 120 (the “Condominium”);
- (b) To levy and collect Assessments and to use the proceeds for the Corporation’s purposes;
- (c) To carry insurance and collect and allocate the proceeds of insurance;

- (d) To reconstruct or repair the Condominium after casualty;
- (e) To contract for and employ persons, firms, corporations, or other agents to assist in the Condominium's administration;
- (f) To acquire, own, maintain, improve, buy, operate, manage, sell, convey, assign, mortgage, or lease any real or personal property, including any Unit and any easements, rights-of-way, and licenses, either contiguous or not to the Condominium, on behalf of the Corporation;
- (g) To grant easements, rights-of-entry, rights-of-way, and licenses to, through, over, and with respect to the Condominium on behalf of the Corporation's members to further any Corporation purpose, and to dedicate to the public any portion of the Common Elements;
- (h) To borrow money and issue evidence of indebtedness to further any Corporation purpose and to secure the same by mortgage, pledge, or lien, provided, however, that any such action shall also be approved by the affirmative vote of sixty (60%) percent of all members of the Association;
- (i) To make and enforce Rules and Regulations concerning the Condominium;
- (j) To enforce the provisions of the Condominium Documents;
- (k) To sue in all courts, defend actions brought against the Corporation, and participate in all actions and proceedings, whether judicial, administrative, arbitative, or otherwise; and
- (l) To engage in any activity, make and perform any contract, and exercise all powers necessary or convenient for the Condominium's administration, management, maintenance, repair, replacement, and operation.

Section 2. Emergency Powers.

If a State of Emergency is declared by a municipal, county, state, or federal authority, then the Board of Directors (the "Board") will have the following emergency powers that it may exercise, in its sole discretion, to protect the health, safety, and welfare of the members throughout the pendency of the State of Emergency and up to thirty (30) days after the expiration of the State of Emergency:

- (a) To take any action necessary to implement any order or guidance of a governmental entity ("Emergency Order"). If the Condominium Documents conflict with any Emergency Order, then the terms of the Emergency Order will control.

- (b) To determine that any portion of the Condominium is unavailable for entry, occupancy, or use, or is limited in occupancy or use, based upon any information contained within an Emergency Order, a government official's directive, or a licensed professional's opinion.
- (c) To temporarily delay or suspend the enforcement of any provision of the Condominium Documents.
- (d) To adjourn any Corporation meeting to a later date to the extent permitted by law, even if such meeting is required to be held under the Condominium Documents.

ARTICLE III Organization of Corporation

The Corporation is organized on a non-stock, membership basis. The amount of assets the Corporation possesses as of the Date of Filing is:

Real Property: None
Personal Property: None

The Corporation is to be generally financed through the payment of Assessments.

ARTICLE IV Resident Agent and Address

The address of the registered office is:

2391 Pontiac Road, Auburn Hills, Michigan 48326

The mailing address of the registered office is:

2391 Pontiac Road
Auburn Hills, Michigan 48326

The name of the resident agent at the registered office is:

In Rhodes Management, Inc.

ARTICLE V Term of Corporate Existence

The term of the corporate existence is perpetual.

ARTICLE VI

Membership

The qualifications of members, the manner of their admission to the Corporation, the termination of membership, and voting by such members will be as follows:

- (a) Each Unit Co-owner shall be a member of the Corporation and no other person or entity is entitled to membership.
- (b) Membership in the Corporation will be established by the acquisition of fee simple title to a Unit and by recording with the Washtenaw County County Register of Deeds a deed or other instrument establishing a change of record title to that Unit and providing a copy to the Corporation, the new Co-owner becoming a member of the Corporation and the membership of the prior Co-owner being terminated. Land contract vendees of Units are members, unless the land contract specifically contains the right of the vendor to remain a member until satisfaction of the land contract's terms.
- (c) No share of a member in the Corporation's funds and assets shall be assigned, pledged, encumbered, or transferred in any manner except as an appurtenance to the member's Unit in the Condominium.
- (d) Voting by members must be in accordance with the Amended and Restated Condominium Bylaws. Notwithstanding the above, a member entitled to vote at an election for directors may vote in person, by proxy, by absentee ballot, or by electronic transmission as defined by MCL 450.2106(6) or any other applicable section of the Nonprofit Corporation Act.

ARTICLE VII

Director/Officer/Volunteer Liability

Section 1. Claims Against Volunteers. A volunteer director, as defined in MCL 450.2110(2), and a volunteer officer are not personally liable to the Corporation or its members for monetary damages for any action taken or any failure to take action as a volunteer director or volunteer officer. To the extent permitted by the Nonprofit Corporation Act, this Section 1 and Section 2 below do not eliminate or limit the liability of a volunteer director or volunteer officer for any of the following:

- (a) The amount of a financial benefit received by a volunteer director or volunteer officer to which they are not entitled.
- (b) Intentional infliction of harm on the Corporation or members.
- (c) A violation of MCL 450.2551.
- (d) An intentional criminal act.

- (e) Any liability imposed by MCL 450.2497(a) or any claim, suit, or proceeding asserted by the Corporation against the volunteer director or volunteer officer.
- (f) An act or omission occurring before the date these Amended and Restated Articles of Incorporation are filed.

Section 1 must not be construed either as an extension of the periods for the bringing of an action under any existing statutes of limitation or as a waiver of any defense which may be asserted on behalf of any volunteer. If any directors were appointed, employed by, or are agents of a Developer, as defined by MCL 559.106 or the Condominium Documents, or a Successor Developer, as defined by MCL 559.235 or the Condominium Documents, prior to the transitional control date, as defined by MCL 559.110, then this Section will not apply as such directors are not deemed to be volunteer directors.

Section 2. Assumption of Volunteer Liability. Unless expressly provided below, no person or entity may bring or maintain a claim for monetary damages against a volunteer director or volunteer officer and any such claim must be brought and maintained against the Corporation. If all the following are met, then the Corporation will assume the liability for all acts or omissions of a volunteer director, volunteer officer, or other volunteer who is acting with the authority of the Board, occurring on or after the date of filing of these Amended and Restated Articles of Incorporation:

- (a) The volunteer was acting or reasonably believed they were acting within the scope of their authority.
- (b) The volunteer was acting in good faith.
- (c) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
- (d) The volunteer's conduct was not an intentional tort.
- (e) The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in Section 3135 of the Insurance Code of 1956, Act 218 of the Public Acts of 1956, MCL 500.3135, et seq.
- (f) The volunteer's conduct has not resulted in a claim, suit, or proceeding asserted by the Corporation against the volunteer.

If any of the above requirements (a) through (f) is not met, then the Corporation will not assume liability for any of the volunteer's acts or omissions, regardless of whether the claim, suit, or proceeding is asserted by the Corporation or any other party. In addition to the above requirements, assumption of liability for other nondirector and nonofficer volunteers may only occur if the Board agrees to assume the liability for a nondirector or nonofficer volunteer.

Section 2 must not be construed either as an extension of the periods for the bringing of an action under any existing statutes of limitation or as a waiver of any defense which may be asserted on behalf of any volunteer. If any directors were appointed, employed by, or are agents of a Developer, as defined by MCL 559.106 or the Condominium Documents, or a Successor Developer, as defined by MCL 559.235 or the Condominium Documents, prior to the transitional control date, as defined by MCL 559.110, then this Section will not apply as such directors are not deemed to be volunteer directors.

Section 3. Amendments to Nonprofit Corporation Act. If, after the adoption of these Amended and Restated Articles of Incorporation, the Nonprofit Corporation Act is amended to further limit or eliminate the liability of a volunteer director, volunteer officer, or other volunteer, then a volunteer director, volunteer officer, or other volunteer will not be liable to the Corporation or its members as provided in the Nonprofit Corporation Act, as amended.

Section 4. Volunteer Liability in the Event of Amendment or Repeal of this Article. Any amendment, alteration, modification, or repeal of this Article VII will not have any effect on the liability of any volunteer director, volunteer officer, or other volunteer with respect to any act or omission of such volunteer director, volunteer officer, or other volunteer occurring prior to such amendment, alteration, modification, or repeal.

Section 5. Enforceability. The invalidity or unenforceability of any provision of this Article will not affect the validity or enforceability of the remaining provisions.

Section 6. Definition of Volunteer. The term “volunteer director” means a director who does not receive anything of more than a de minimis value, as determined by the Board in its sole discretion, from the Corporation for serving as a director other than reasonable per diem compensation and reimbursement for actual, reasonable, and necessary expenses incurred by the director in their capacity as a director. The term “other volunteer” or “volunteer officer” means an individual, other than a volunteer director, performing services for a nonprofit corporation at the request or appointment of the Board who does not receive compensation or any other type of consideration for the services other than reimbursement for expenses actually incurred. A “volunteer director,” “other volunteer,” or “volunteer officer” does not include any directors that were appointed, employed by, or are agents of a Developer, as defined by MCL 559.106 or the Condominium Documents, or a Successor Developer, as defined by MCL 559.235 or the Condominium Documents.

ARTICLE VIII Indemnification

In addition to the provisions of Article VII, the Corporation may indemnify its volunteer directors, volunteer officers, other volunteers, or agents in the following manner:

Section 1. Individuals. The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or

informal, including all appeals (including an action or proceeding by or in the right of the Corporation), by reason of the fact that they are or were a director, officer, other volunteer, employee, or agent of the Corporation, against expenses, including actual and reasonable attorneys' fees, judgments, decrees, fines, penalties, and amounts paid in settlement, actually and reasonably incurred by them in connection with such action or proceeding. No volunteer director, volunteer officer, other volunteer, employee, or agent of the Corporation shall be entitled to indemnification for any claims that were brought by the Corporation against a volunteer director, volunteer officer, other volunteer, employee, or agent of the Corporation unless authorized in accordance with MCL 450.2562 or MCL 450.2564c.

Section 2. Determination of Right to Indemnification. Any indemnification under Section 1 must be made by the Corporation upon the determination that indemnification of the volunteer director, volunteer officer, other volunteer, employee, or agent is proper under the circumstances. Such determination must be made in at least one (1) of the following manners:

- (a) by a majority vote of directors acting at a meeting at which a quorum consisting of directors who were not parties to such action or proceeding is present;
- (b) if such a quorum is not obtainable, or even if obtainable and a majority of disinterested directors so directs, by independent legal counsel compensated by the Corporation in a written opinion;
- (c) if such a quorum is not obtainable, then by a majority vote of a committee of directors who are not parties to the action (such committee will consist of not less than two (2) disinterested directors); or
- (d) by the shareholders or members.

Section 3. Expenses. Expenses of each person indemnified under this Article incurred in defending a civil, criminal, administrative, or investigative action or proceeding, including all appeals, or threat of action or proceeding may be paid by the Corporation in advance of the final disposition of such action or proceeding as authorized by the Board, notwithstanding whether a disinterested quorum exists, upon receipt of an undertaking by or on behalf of the director, officer, or other volunteer to repay such amount unless it is ultimately determined that they are entitled to be indemnified by the Corporation.

Section 4. Advance Payment of Expenses. The indemnification or advancement of expenses provided by this Article will not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may otherwise be entitled. However, the total amount of expenses for indemnification from all sources combined must not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement or expenses. A person who is no longer a director, officer, or other volunteer may continue to be indemnified.

Section 5. Directors and Officers Insurance. For potential liability arising out of their status as a volunteer, the Corporation may purchase and maintain insurance for the following persons:

- (a) Any current or former director, officer, or other volunteer of the Corporation; or
- (b) Any current or former volunteer serving at the request of the Corporation as a volunteer of another corporation, partnership, joint venture, trust, or other enterprise.

ARTICLE IX

Action without Meeting

Section 1. Action without Meeting - Association Meetings. Any action which may be taken at a meeting of the Corporation's members may be taken without a meeting, with or without prior notice, by written vote of the members or their proxies. With respect to notice, written votes must be solicited in the same manner as provided in the Amended and Restated Condominium Bylaws. Any such solicitation must specify:

- (a) The percentage of consents necessary to approve the action; and
- (b) The time by which consents must be received in order to be counted.

The form of written votes must provide the opportunity to vote in writing on each matter. Approval by written vote must occur by receipt, within the time period specified in the solicitation, of a number of written votes that equals or exceeds the minimum number of votes that would be required for approval if the action were taken at a meeting at which all members entitled to vote were present and voted. Votes may be cast in accordance with this Section by mail, hand delivery, electronic transmission, or facsimile, as directed by the Corporation.

Section 2. Action without Meeting - Meetings of the Board. Any action required or permitted to be taken under authorization voted at a meeting of the Board or a committee of the Board may be taken without meeting if, before or after the action, all members of the Board then in office or of the committee consent to the action in writing or by electronic transmission. The written consents must be filed with the minutes of the proceedings of the Board or committee. The consent has the same effect as a vote of the Board or committee for all purposes.

ARTICLE X

Compromise, Arrangement or Reorganization

When a compromise, arrangement, or a plan of reorganization of the Corporation is proposed between the Corporation and its creditors or any class of them or between the Corporation and its members or any class of them, a court of equity jurisdiction in Michigan, on application of the Corporation, creditor, member, or receiver appointed for the Corporation, may order a meeting of the creditors, class of creditors, or members to be affected by the proposed compromise, arrangement, or reorganization to be summoned in any manner as the court directs. If a majority in number represents three-fourths (3/4) in value of the creditors, class of creditors, the members, or class of members to be affected by the proposed compromise, arrangement, or reorganization agree to a compromise, arrangement, or reorganization, then the compromise, arrangement, or reorganization, if sanctioned by the court to which the application was made, will

be binding on all creditors, class of creditors, the members, or class of members and also on the Corporation.

ARTICLE XI

Amendments to Articles of Incorporation

These Amended and Restated Articles of Incorporation may be amended by a majority of affirmative votes cast by members at a meeting of the Corporation or as otherwise permitted by the Amended and Restated Condominium Bylaws.

These Amended and Restated Articles of Incorporation were adopted on _____, 2024 in accordance with the provisions of Section 641 of the Michigan Nonprofit Corporation Act, MCL 450.2641. These Amended and Restated Articles of Incorporation supersede and restate the provisions of the Articles of Incorporation and were adopted by the vote of the members. The necessary votes were cast in favor of the Amended and Restated Articles of Incorporation.

Briar Hill Condominium Association

By: _____
Jan Hewett
Its: President

Drafted by:

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