

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS



*Dyana Limon-Mercado*

Dyana Limon-Mercado, County Clerk  
Travis County, Texas

Apr 18, 2023 04:44 PM Fee: \$306.00

**2023041233**

\*Electronically Recorded\*

**DECLARATION**

**OF**

**MILDRED GARDEN CONDOMINIUMS**

**located in**

**Austin, Travis County, Texas**

## TABLE OF CONTENTS

<b>PREAMBLE</b>	.....	<b>1</b>
<b>RECITALS</b>	.....	<b>1</b>
<b>ARTICLE 1</b>	<b>DEFINITIONS .....</b>	<b>2</b>
1.01	“Association” .....	2
1.02	“Board” .....	2
1.03	“Bylaws” .....	2
1.04	“Certificate” .....	2
1.05	“Common Elements” .....	3
1.06	“Common Expenses” .....	3
1.07	“Condominium” .....	3
1.08	“Declarant” .....	4
1.09	“Declarant Control Period” .....	4
1.10	“Declaration” .....	4
1.11	“Dwelling” .....	4
1.12	“General Common Elements” .....	4
1.13	“Governing Instruments” .....	4
1.14	“Limited Common Elements” .....	4
1.15	“Majority” .....	4
1.16	“Manager” .....	4
1.17	“Member(s)” .....	5
1.18	“Owner(s)” .....	5
1.19	“Person” .....	5
1.20	“Project” .....	5
1.21	“Rules” .....	5
1.22	“Site Condominium” .....	5
1.23	“Unit” .....	5
1.24	“Unit Boundaries” .....	6
<b>ARTICLE 2</b>	<b>THE PROPERTY.....</b>	<b>6</b>
2.01	Property Subject to Declaration .....	6
2.02	Exclusive Ownership and Possession.....	6
2.03	Allocation of Remaining Impervious Cover, Building Coverage, and Building Size..	7
2.04	Changes to a Unit or Common Elements .....	7

2.05	Common Elements .....	9
2.06	Exclusive Use of Limited Common Elements .....	10
2.07	Partition of Common Elements .....	10
2.08	Allocation of Reserved General Common Elements .....	10
2.09	Designated Parking / Driveway .....	10
2.10	Easements .....	10
2.11	Easements for Maintenance of Encroachments .....	11
2.12	Nonexclusive Easements .....	11
2.13	Condemnation .....	11
2.14	Existing Restrictive Covenants, Easements, and Encumbrances .....	11
<b>ARTICLE 3</b>	<b>UNIT OWNERS' ASSOCIATION.....</b>	<b>11</b>
3.01	Association .....	11
3.02	Membership .....	12
3.03	Voting Rights .....	12
3.04	Membership Meetings .....	12
3.05	General Powers and Authority .....	12
3.06	Members and Officers of the Association .....	13
3.07	Consent of Board of Members .....	13
3.08	Duties of the Association .....	13
3.09	Powers and Duties of the Members .....	15
3.10	Limitations on Powers of the Members .....	15
3.11	Declarant Rights in General .....	16
3.12	Declarant's Control Period .....	16
<b>ARTICLE 4</b>	<b>ASSESMENTS .....</b>	<b>16</b>
4.01	Covenant to Pay .....	16
4.02	Regular Assessments .....	17
4.03	Special Assessments .....	17
4.04	Limitations on Assessments .....	17
4.05	Commencement of Assessments .....	17
4.06	Liability for Assessments .....	17
4.07	Payment of Assessments on Conveyance of Unit .....	18
4.08	Lien and Foreclosure for Delinquent Assessments .....	18
4.09	Mortgages to Survive Assessment Lien Foreclosure .....	18
<b>ARTICLE 5</b>	<b>RESTRICTIONS AND COVENANTS .....</b>	<b>18</b>

5.01	General Restrictions on Use .....	18
5.02	Maintenance of Unit and Common Elements .....	20
5.03	Maintenance of General Common Elements.....	22
5.04	Unit Owner's Failure to Maintain .....	22
5.05	Damage Liability .....	22
5.06	Exemption .....	22
5.07	Party Fence .....	22
5.08	Unit Owner Insurance .....	24
<b>ARTICLE 6</b>	<b>DAMAGE OR DESTRUCTION .....</b>	<b>24</b>
6.01	Application of Insurance Proceeds.....	24
6.02	Insufficient Insurance Proceeds.....	24
6.03	Obtaining Bids for Reconstruction; Owner's Duty to Repair .....	24
<b>ARTICLE 7</b>	<b>RIGHTS OF BENEFICIARIES UNDER DEEDS OF TRUST .....</b>	<b>25</b>
<b>ARTICLE 8</b>	<b>GENERAL PROVISIONS .....</b>	<b>26</b>
8.01	Property Taxes.....	26
8.02	Amendment .....	27
8.03	Nonwaiver of Remedies .....	27
8.04	Severability.....	27
8.05	Binding .....	27
8.06	Interpretation .....	27
8.07	Limitation of Liability .....	27
8.08	Fair Housing .....	28
8.09	Notices.....	28
8.10	Number, Gender, and Headings .....	28

## **EXHIBITS**

- A Legal Description of the Property Subject to the Declaration
- B Plats and Plans of the Property Subject to the Declaration
- C Tax Percentage Allocation for First Year and Tax Certificates of the Property Subject to the Declaration
- D Schedule of Allocated Interests and Share of Common Expenses and Votes and Floor Area Ratio
- E Budget of Mildred Garden Condominiums Owners' Association, Inc.
- F Certificate of Filing of Mildred Garden Condominiums Owners' Association, Inc.
- G Restrictive Covenants, Easements, and Encumbrances

## **APPENDIX**

- A Bylaws of the Mildred Garden Condominiums Owners' Association, Inc.
- B Rules and Regulations Manual for Mildred Garden Condominiums

PREPARED IN THE OFFICE OF:  
**Law Office of Ben Williams, PLLC**  
**10119 Lake Creek Parkway, Suite 201**  
**Austin, Texas 78729**  
**[www.lawbkw.com](http://www.lawbkw.com)**

**DECLARATION OF CONDOMINIUM REGIME for  
MILDRED GARDEN CONDOMINIUMS**

STATE OF TEXAS                   §  
   §  
COUNTY OF TRAVIS           §

**PREAMBLE**

This Declaration is made on April 1, 2023 at Austin, Texas, by FRANK J. HULL, a married man, owning occupying, and claiming other property as his homestead ("Declarant"), whose mailing address is 72 Mildred Street, Austin, Texas 78702.

**RECITALS**

1. Declarant is the owner of all of the real property, including the land; all improvements and structures on the property; and all easements, rights, and appurtenances belonging to the property that is located in the City of Austin, County of Travis, State of Texas (the "Property"), more particularly described as:

Lot 5, Block B, BENSONS SUBDIVISION OF OUTLOT NO. FIFTY ONE (51), DIVISION O, according to the map or plat thereof, recorded in Volume 3, Page 29, Plat Records of Travis County, Texas.

2. Declarant submits the Property to a condominium regime established by the Texas Uniform Condominium Act (TUCA), which is codified in Chapter 82 of the TEXAS PROPERTY CODE.

3. The Property constitutes a condominium project (the "Project") within the meaning of TUCA. The formal name of the Project is MILDRED GARDEN CONDOMINIUMS.

4. Declarant intends and desires to establish by this Declaration a plan of ownership for the condominium project ("Project"). The plan consists of individual ownership of residential units (the "Unit(s)") and other areas. The Project shall be divided into no more than four Units.

5. The Declarant intends to impose on the Project mutually beneficial restrictions for the benefit of all Units and the persons who own those Units (the "Owners"). The Declarant further intends, in accordance with the terms set forth herein, that the Owners will govern the Project by means of an organization of Owners (herein the "Association"), as more particularly set forth herein. The formal name of the Association is MILDRED GARDEN CONDOMINIUM OWNERS' ASSOCIATION, INC.

6. The Units and other areas of the Project are more particularly described in EXHIBIT B, which is attached and incorporated by reference. The Owners each have an undivided interest in the remaining property of the Project (referred to as the "Common Elements"), which is also more particularly described in EXHIBIT B. Each Unit has an undivided fifty (50.00%) percent interest in the Common Elements of the condominium. Each Unit has a fifty (50.00%) percent liability for the common expenses of the Association and will have equal voting rights related to the Association.

7. Therefore, the Declarant declares that the Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division of the Property into Units, and all of which are established and agreed on for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project and every part of the Project. All of the covenants, conditions, and restrictions shall run with the Property and shall be binding on all parties having or acquiring any right, title, or interest in or any part of the Property and shall be for the benefit of each Owner of the Project or any interest in the Project and shall inure to the benefit of and be binding on each successor in interest of the Owners.

## ARTICLE 1 DEFINITIONS

### **Association**

1.01. *Association* means the MILDRED GARDEN CONDOMINIUM OWNERS' ASSOCIATION, INC., a non-profit corporation organized under the Texas Non-Profit Corporation Act for the management of the Project, the membership of which consists of all of the Owners in the Project.

### **Board**

1.02. *Board* means the Board of Members or the Board of Directors, whichever is applicable, if at all, of the Association.

### **Bylaws**

1.03. *Bylaws* mean the Bylaws of the Association and amendments to the Bylaws that are or shall be adopted by the Board, shown as APPENDIX A attached hereto.

### **Certificate**

1.04. *Certificate* means the Certificate of Formation of the Association filed in the Office of the Secretary of State of the State of Texas, shown as EXHIBIT E attached hereto.

### **Common Elements**

1.05. *Common Elements* mean all elements of the Project except the separately owned Units, and includes both General and Limited Common Elements.

### **Common Expenses**

1.06. *Common Expenses* means and includes:

- (a) all reasonable expenses incurred by the Association for promoting the health, safety, welfare and recreation of the Owners of the Units and in particular for the administration and management, ownership, maintenance, operation, repair, replacement, or improvement of and addition to agreed upon Common Elements (including unpaid Special Assessments and amounts assessed to maintain a reserve for replacement fund and to cover costs incurred by the Association to participate in any condemnation suit), if any;
- (b) if the Units are attached, all reasonable expenses associated with the repair, maintenance and upkeep, or replacement of the roof, foundation, structural walls, exterior walls, bearing walls and columns, common wall and structural components of the Condominiums; all reasonable expenses arising from or association with the repair, maintenance, and upkeep of any plumbing, structural or electrical components located in the common wall between the Units; provided that such work affects those specific Units, and is determined necessary by a third-party expert, unless otherwise agreed by the affected Unit Owners;
- (c) all the reasonable expenses arising from or associated with any utility service installations that are located on the Property and serve both Units;
- (d) any fencing (except for fencing on the dividing line between the Units), perimeter walls, retaining walls, rock walls, or other walls on the perimeter of a Unit's Boundary, shall be considered a part of a unit and as such, the sole responsibility of the Unit Owner, and not the Association;
- (e) all reasonable expenses arising from any master or shared insurance policy as described in *Section 3.08* below, shall be paid by the Owners as set forth in *Section 3.10* below, shall be an expense of the Unit Owners to be shared equally by the Units (each Unit shall pay fifty percent (50.00%)); and
- (f) all other reasonable expenses declared to be Common Elements by provisions of this Declaration or by the other Governing Instruments.

### **Condominium**

1.07. *Condominium* means the separate ownership of single units in a multiple-unit structure or structures with common elements.



**Declarant**

1.08. *Declarant* means FRANK J. HULL, a married man, owning occupying, and claiming other property as his homestead, and their successors and assigns.

**Declarant Control Period**

1.09. *Declarant Control Period* means the period lasting until the Declarant initially sells both Units.

**Declaration**

1.10. *Declaration* means this Declaration of Condominium Regime for Mildred Garden Condominiums and all that it contains.

**Dwelling**

1.11. *Dwelling* means a structure situated on the Unit intended for habitation and includes the structure's exterior surfaces of the perimeter walls, bearing walls, and columns, exterior doors and windows, roof, the underlying foundation and footing, exterior halls, stairways, entrances and exits, shutters, awnings, doorsteps, porches, balconies, exterior doors, exterior windows, interior floors, and interior walls, ceilings, all lath, furring, sheetrock, wallboard, plasterboard, plater, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting part of the finished surfaces.

**General Common Elements**

1.12. *General Common Elements* mean all the Common Elements except the Limited Common Elements, if any.

**Governing Instruments**

1.13. *Governing Instruments* mean the Declaration, the Certificate of Formation, Bylaws of the Association, and the Rules and Regulations of the Association.

**Limited Common Elements**

1.14. *Limited Common Elements* mean the Common Elements allocated for the exclusive use of one of the Units.

**Majority**

1.15. *Majority* means fifty-one percent (51%).

**Manager**

1.16. *Manager* means the person or corporation, if any, appointed by the Board or Members to manage the Project.

**Member(s)**

1.17. *Member(s)* means any person that is an Owner of a Unit within the Project and therefore is also a member of the Association.

**Owner(s)**

1.18. *Owner(s)* means any person that owns a Unit within the Project. Ownership shall be determined by the grantee(s) as set forth on the recorded warranty deed conveying any Unit.

**Person**

1.19. *Person* means an individual, firm, corporation, partnership, association, trust, other legal entity, or any combination of persons or entities.

**Project**

1.20. *Project* means the entire parcel or the Property described in Item 1 of the Recitals, including the land, all improvements and structures on the Property, and all easements, rights, and appurtenances belonging to the Property that are divided or are to be divided into Units to be owned and operated as a Condominium. The Project shall be divided into no more than two (2) Units.

**Rules**

1.21. *Rules* mean and refer to the Rules and Regulations for the Project adopted by the Board pursuant to this Declaration, shown as APPENDIX B attached hereto.

**Site Condominium**

1.22. *Site Condominium* means a designated area of land, and the improvements located thereon.

**Unit**

1.23. *Unit* means an individual condominium unit, more particularly described in *Section 2.02*. Each Unit shall include all improvements within the allocated areas, which includes the spaces and improvements now or hereafter constructed within the boundaries designated by EXHIBIT B for separate ownership and occupancy. The Unit shall include without limitation, the roofs and foundations of any such improvements, landscaping, driveways, parking areas, sidewalks, fences, yards, utility lines and meters (to the extent such lines and meters exclusively serve such Unit) and all other improvements located within the Unit. The actual physical boundaries of a Unit shall be conclusively presumed to be its proper boundaries, regardless of settling rising or lateral movement of the Building in which such Unit is located and regardless of variances between boundaries shown on the Condominiums Plat and the actual boundaries of such Building.

### **Unit Boundaries**

1.24. *Unit Boundaries* means the boundaries and identifying number of each Unit are shown on the Condominium Plat designated by EXHIBIT B. The boundaries of each Unit are further described as follows:

- (i) *Lower Boundary of Unit:* The horizontal plane corresponding to the existing surface of the land within the Unit, as described and defined on EXHIBIT B, except expressly provided in Section 1.23 above.
- (ii) *Upper Boundary of Unit:* The horizontal plane parallel to and five hundred feet (500') above the lower boundary of the Unit.
- (iii) *Lateral Boundaries of Unit:* A plane located on each side of a Unit perpendicular to the lower and upper horizontal planes, from the lower boundary of the Unit to the upper boundary of the Unit, as described and defined on EXHIBIT B

**In the Documents, the Units shall be described as follows:** Unit 1 shall be 2300 Garden Street, Austin, Texas 78702, and such Unit may be referred to in the Governing Instruments and other sources as Unit 1, Unit A, Building 1, or the property address; Unit 2 shall be 73 Mildred Street, Austin, Texas 78702, and such Unit may be referred to in the Governing Instruments or other sources as Unit 2, Unit B, Building 2, or the property address.

## **ARTICLE 2**

### **THE PROPERTY**

#### **Property Subject to Declaration**

2.01. The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including rights reserved by the Declarant under this Declaration, which run with the Property, bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

#### **Exclusive Ownership and Possession**

2.02. Each Owner shall be entitled to the exclusive ownership and possession of the Owner's Unit. Any Unit may be jointly or commonly owned by more than one Person. No Unit may be subdivided. The boundaries of each Unit shall be as described in *Section 1.23* and *1.24* above. An Owner shall not be deemed to own the utilities running through the Owner's Unit that are utilized for or serve more than one Unit, except as a tenant in common with the other Owners. An Owner shall be deemed to own and shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the walls, floors,

ceilings, windows, and doors of any building, structure, or dwelling on the Owner's Unit, and any other changes allowed in this Declaration or the Rules and Regulations. **Declarant does not warrant or guaranty that the Units are soundproof or that sounds and/or vibrations may not be transmitted between the Units.** While the Owner owns the exterior of its Unit, the right to materially alter the exterior of the Unit, including the right to paint or repaint the exterior, is subject to unanimous approval by the Members. The Association may require the Owner to restore the Unit, at the Owner's expense, to the condition before the unauthorized modifications were made.

#### **Allocation of Remaining Impervious Cover, Building Coverage, and Building Size**

2.03. The Unit Owners understand that the total amount of impervious cover, building coverage, floor area ratio ("FAR"), and building size on the Property is limited by the ordinances and regulations of the City of Austin in place at the time of permitting, and that the total percentage of allowable impervious cover, building coverage, and/or building size may increase or decrease over time. Therefore, the total amount of impervious cover, building coverage, and/or building size allowed on the Property under City of Austin Codes and ordinances at any time in excess of the amount of impervious cover, building coverage, and/or building size reflected on the Plat attached as EXHIBIT B and the allocated remaining coverage attached in EXHIBIT D (the "Allocated Remaining Coverage and Size"), if any, is hereby allocated between the Units as follows:

Unit/Building 1/A: 65.49 %

Unit/Building 2/B: 34.51 %

**Declarant makes no representations, warranties, promises or guaranties about the amount of impervious cover, building coverage, FAR and/or building size used or remaining, if any, on the Property.** Each Unit shall be allowed to utilize up to the above percentages of Allocated Remaining Coverage and Size of the total allowed remaining impervious cover, building coverage, and/or building size at the time of any permitting relating to alterations, additions, improvements and/or construction upon a Unit, or within a Unit's Boundaries by a Unit Owner, provided that any such alteration, addition, improvement and/or construction shall be subject to the terms, conditions and approvals as provided in *Section 2.04* below.

#### **Changes to a Unit or Common Elements**

2.04. During the Declarant Control Period, Declarant shall have the right to make any changes to the General Common Elements, if any, the interior or exterior of a structure, dwelling or improvement on the Unit owned by Declarant, including but not limited to changes to the style, design, size, color, and/or the Limited Common Elements, if any, of a Unit owned by the Declarant. After the expiration of the Declarant Control Period, changes to a Unit or Unit's Limited Common Elements not specifically allowed in this Declaration may be made by a Unit Owner with written consent of the other Unit Owners. Each Unit Owner shall have the exclusive

right and shall be entitled to make the following changes to his or her Unit, subject to this Section, *Section 5.01*, and as otherwise set forth in this Declaration:

- (a) **Changes to Interior of Unit and Limited Common Elements.** Each Unit Owner shall have the exclusive right to change the interior of his or her dwelling or structure and shall be entitled to make changes to his or her Unit's Limited Common Elements as allowed in this Section, *Section 5.01*, and as otherwise set forth in this Declaration.
- (b) **Changes to Exterior of Dwellings.** Subject to restrictions of *Sections 2.03*, *Sections 5.01* and *5.02* below, no Unit Owner shall be entitled to change the exterior style, size, shape, color or design of his or her Dwelling, including but not limited to changes to the exterior Limited Common Elements of a Unit, decks, porches, walkways, driveways. A Unit Owner may make changes to the landscaping located within the Limited Common Elements of their respective backyards.
- (c) **Shared Fencing.** Subject to *Section 5.07*, if one does not exist, any Unit Owner may erect a fence on the dividing line between the Unit Boundaries, or within their Unit Boundaries, as set forth in EXHIBIT B. Each Unit Owner must agree on the style and/or type of fence to be erected, and such agreement shall not be unreasonably withheld. Unless otherwise agreed by the Unit Owners, any style or type of fence currently existing on the Property or in the neighborhood shall be considered reasonable. If the Unit Owners agree to erect a fence on a dividing line Unit Boundaries, the costs and expenses of the construction of such a fence shall be shared equally by each Unit. If the Unit Owners do not agree to erect a fence, or the fence is not located on a dividing line between the Unit Boundaries, the Unit Owner desiring to erect the fence shall bear the costs and expenses of the construction of such a fence, shall have the exclusive right to construct and control the fence, and shall receive the benefit of the construction, including choosing the most preferable side of the fence so long as it is within the Unit Owner's Boundary. The dividing line between the Unit Boundaries shall remain in the same location as shown on EXHIBIT B.
- (d) **Compliance with City of Austin Ordinances and Prohibition Against Interference with Water Flow and Drainage.** Any change to a Unit or Common Element shall be in compliance with all applicable city, county, state or other laws, ordinances and/or codes, and the Unit Owner or Association is required to obtain a City of Austin permit for any change to a Unit or Common Element that requires a permit. Furthermore, any alteration or improvement to a Unit shall not interfere with the drainage systems and drainage design of the Project, and they shall not impeded or alter the natural flow of drainage and/or surface run-off water on the Project. Declarant shall not be responsible for damages, including but not limited to flooding, pooling of water, and/or erosion resulting from any Owner's alterations, changes and/or improvements to a Unit or a Common Element.

**Disclosure Regarding Future Permitting.** Each Unit Owner understands that the permitting of remodels, improvements, reconstruction, repairs, and other similar activities on the Units as allowed or required in the Documents, will likely require the cooperation of the Owners of both Units, and as such the Owners of both Units specifically agree to use their best efforts of cooperation related to the obtaining of such permits. The City of Austin will likely consider the Property one lot for future permitting purposes, as a condominium regime is not a re-subdivision of the Property into two or more lots. The City of Austin may have permitted the structures and improvements differently from their use and/or Unit designations in this Declaration. If a Unit Owner desires or needs to obtain a permit from the City of Austin or other governing agency for remodels, improvements, reconstruction, repairs and/or other similar activities on his or her Unit, the Unit Owner shall use their best efforts to cooperate in the preparation (to the extent information about a Unit and/or approval by an Owner is needed by the other Unit Owner for the permit) and execution of any documentation required to obtain such permits, and each Unit Owner specifically agrees to consent and execute any documents evidencing such consent if consent of a Unit Owner is required for any work to a Unit allowed under these Documents. The cost and expense of the permits and any related documentation shall be the sole responsibility of the Unit Owner seeking the permit. Any Unit Owner obtaining a permit from the City of Dallas shall provide a copy of such permit to the other Owners.

- (e) **Access.** A Unit Owner shall be allowed reasonable access to the other Unit's Limited Common Elements, if any, for any purpose reasonably related to a remodel, alteration, or addition to a Unit, including but not limited to access for permitting, surveying, inspections, access to utilities, and/or the drafting of plans.
- (f) **Pool.** If not present at the time of the initial purchase of a Unit from the Declarant, neither Unit Owner shall build, erect, or install a pool without the express written unanimous consent of all the other Unit Owners.

### **Common Elements**

2.05. The Common Elements mean all portions of the Property save and except the Units. Each Unit Owner shall be entitled to an undivided interest in the Common Elements, and obligated for the Common Expenses of the Association, in the amount equal to the percentage of the square footage of the Unit divided by the total square footage of the entire Project. The percentage of undivided interest of each Unit Owner in the Common Elements shall have a permanent character and shall not be altered without the consent of all Unit Owners, expressed in an amended, duly recorded Declaration. The percentage of the undivided interest in the Common Elements shall not be separated from the Unit to which it pertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though the interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may

use the Common Elements in accordance with the purpose for which they are intended as long as the lawful rights of the other Owners are not hindered or encroached upon. All Common Elements are “General Common Elements” except if such Common Elements that have been allocated as “Limited Common Elements” by this Declaration for the exclusive use of one or more, but less than all of the Units.

#### **Exclusive Use of Limited Common Elements**

2.06. The Common Elements designated as Limited Common Elements in EXHIBIT B are reserved for the exclusive use of the Owners of the Units to which they are appurtenant.

#### **Partition of Common Elements**

2.07. The Common Elements, both General and Limited, shall remain undivided and shall not be the object of an action for partition or division of ownership so long as the Property remains a Condominium Project. In any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained.

#### **Allocation of Reserved General Common Elements**

2.08. As indicated on the EXHIBIT B, all of the Common Elements have been allocated as either General Common Elements or Limited Common Elements, if any, to a Unit. Therefore, there are currently no reserved General Common Elements, and no portion of the Condominium is reserved or may be further allocated as Limited Common Elements.

#### **Designated Parking / Driveway**

2.09. Unit 1 shall have the exclusive right to park on any part of the covered concrete and uncovered concrete drive designated as Unit 1, as shown in EXHIBIT B. Unit 2 shall have the exclusive right to park on any part of the proposed covered concrete and uncovered concrete drive designated as Unit 2, as shown in EXHIBIT B. No vehicle may be parked, even temporarily, within another Unit Owner’s Limited Common Elements. No Unit Owner may park in any area designated as a General Common Element; parking for guests shall be allowed in areas that are clearly designated as guest parking located within the General Common Elements

#### **Easements**

2.10. The Association may grant to third-parties easements in, on, and over the Common Elements (including the Limited Common Elements) for the purpose of checking, constructing, installing, or maintaining necessary utilities and services. Each Unit Owner, in accepting the deed to the Unit, expressly consents to such easements. No such easement may be granted, however, if it would interfere with any exclusive easement or with any Unit Owner's use, occupancy, or enjoyment of the Owner's Unit. The cost of any such construction, installation, or maintenance shall be borne by the owner of the Unit serviced or benefited by such work.

### **Easements for Maintenance of Encroachments**

2.11. None of the rights and obligations of the Unit Owners created in this Declaration or by the deeds granting the Units shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments so long as they shall exist provided, however, that in no event shall a valid easement for an encroachment be created in favor of any Unit Owner if the encroachment occurred because of the willful conduct of the Owner.

### **Nonexclusive Easements**

2.12. Each Unit Owner shall have a nonexclusive easement for the use and enjoyment of the General Common Elements and for ingress, egress, and support over and through the General Common Elements. These easements shall be appurtenant to and shall pass with the title to each Unit and shall be subordinate to the exclusive easements granted elsewhere in this Declaration, as well as to any rights reserved to the Association to regulate time and manner of use, to charge reasonable admission fees, and to perform its obligations under this Declaration.

### **Condemnation**

2.13. If any Unit or part of a Unit, or any portion of a Common Element is acquired by condemnation, *Section 82.007* of the TEXAS PROPERTY CODE shall control.

### **Existing Restrictive Covenants, Easements, and Encumbrances**

2.14. The following documents predate the creation of the Declaration, and the Condominium Regime is formed subject to them:

- a. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights privileges, and immunities relating thereto, appearing in the Public Records.
- b. Any visible and apparent easement, either public or private, located on or across the land, the existence of which is not disclosed by the Public Records.
- c. Any encroachment, encumbrance, violation, variation, or adverse circumstances affecting the title that would be disclosed by an accurate and complete land survey of the land.

## **ARTICLE 3**

### **UNIT OWNERS' ASSOCIATION**

#### **Association**

3.01. The Association, organized as a nonprofit corporation under the Texas Non-Profit Corporation Act, operating under the name MILDRED GARDEN CONDOMINIUM OWNERS'



ASSOCIATION, INC., is charged with the duties and invested with the powers prescribed by law and set forth in this Declaration and in the Association's Certificate of Formation and Bylaws.

### **Membership**

3.02. Membership in the Association is automatically granted to the Owner or Owners of each Unit in the Project. On the transfer of title to any Unit, the membership of the transferor automatically ceases and each new Unit Owner becomes a member.

### **Voting Rights**

3.03. Voting shall be on a percentage basis. The Owner of each Unit is entitled to fifty (50.00%) percent of the total vote. If a Unit has more than one Owner, the aggregate vote of the Owners of the Unit may not exceed the percentage of the total vote assigned to the Unit. The votes cast by a Majority of the Owners shall control.

### **Membership Meetings**

3.04. Meetings of the Owners shall be called, held, and conducted in accordance with the requirements and procedures set forth in the Bylaws.

### **General Powers and Authority**

3.05. The Association shall have all of the powers allowed by TUCA, as well as all the powers of a nonprofit corporation established under Texas law, subject only to the limitations contained in this Declaration and in the other Governing Instruments. The Association may perform all acts that may be necessary for, or incidental to, the performance of the obligations and duties imposed on it by this Declaration and the other Governing Instruments. The powers of the Association shall include, but are not limited to, the following:

- (a) The power to establish, fix, and levy assessments against Owners in accordance with the procedures and subject to the limitations set forth in *Article 4* of this Declaration.
- (b) The power to adopt reasonable operating rules governing the use of the Common Elements and any facilities located on the Common Elements, as well as the use of any other Association property.
- (c) The right to institute and maintain actions for damages or to restrain any actual or threatened breach of any of the provisions of the Governing Instruments or Association Rules in its own name, either on its own behalf or on behalf of any consenting Owner.
- (d) The right to discipline Owners for violation of any of the provisions of the Governing Instruments or Association Rules by suspension of the violator's voting rights or privileges for use of the Common Elements or by imposition of monetary penalties, subject to the following limitations:

- (i) The accused Owner must be given written notice of the violation or property damage, stating the amount of any proposed fine or damage charge and that the Owner may request a written hearing before the Members within thirty (30) days of the notice.
- (ii) The accused Owner must be given a reasonable time, by a date specified in the notice, to cure the violation and avoid the fine, unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months.
- (iii) The accused Owner must be given written notice of a levied fine or damage charge within thirty (30) days after the date of levy.
- (iv) Any suspension of privileges or imposition of monetary penalties shall be reasonably related to the Owner's violation.
- (e) The power to delegate its authority, duties, and responsibilities, through the Members, to such committees, officers, or employees as are permitted to be retained under the Governing Instruments.
- (f) The right, through its agents or employees, to enter any Unit when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable and any damage caused by the entrance shall be repaired by the Association at its own expense.

### **Members and Officers of the Association**

3.06. The affairs of the Association shall be managed, and its duties and obligations performed, by the Board of Members. There shall be no Board of Directors. Provisions regulating the Members shall be set forth in the Bylaws of the Association. The Members shall elect officers, which shall include a President, Secretary/Treasurer, and such other officers as the Members may deem proper. Provisions regulating the numbers, term, qualifications, manner of election, powers and duties of the officers shall be set forth in the Bylaws of the Association.

### **Consent of Board of Members**

3.07. Any provisions herein requiring the consent of the Board requires the Majority consent of the Board, unless set forth specifically otherwise in the Declaration or Governing Instruments.

### **Duties of the Association**

3.08. In addition to the duties delegated to the Association or its agents and employees elsewhere in these Governing Instruments, the Association shall be responsible for the following:

- (a) Acquisition of and payment from the maintenance fund for the following:

- (i) Water, sewer, garbage, gas, and other necessary utility service for the Common Elements and, to the extent not separately metered and charged, for the Units.
  - (ii) A policy or policies of fire insurance with extended coverage endorsement for the full insurable replacement value of the Units and Limited Common Elements payable as provided in *Article 6* of this Declaration, or such other fire and casualty insurance as the Members shall determine gives substantially equal or greater protection to the Owners and their mortgagees, as their respective interests may appear, if the members unanimously agree same is necessary.
  - (iii) A policy or policies insuring the Owners and/or the Association against any liability to the public or to the Owners and their tenants and invitees, incident to the ownership and/or use of the Project, including the personal liability exposure of the Owners. Limits of liability under such insurance shall not be less than \$1,000,000.00 for any one person injured, \$1,000,000.00 for any one accident, and \$50,000.00 for property damage. The limits and coverage shall be reviewed at least annually by the Members and varied in its discretion, provided, however, that the said limits and coverage shall never be of fewer kinds or lesser amounts than those set forth in this Paragraph. The policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement in which the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her, or their action against another named insured. The Members must unanimously agree this requirement is necessary.
  - (iv) Workers' compensation insurance to the extent necessary to comply with any applicable laws.
  - (v) The services of personnel that the Members shall determine to be necessary or proper for the operation of the Common Elements.
  - (vi) Legal and accounting services necessary or proper for the operation of the Common Elements or the enforcement of this Declaration.
- (b) Preparation and distribution, on a regular basis, of financial statements to the Owners in accordance with the following:
- (i) A pro forma operating statement for each fiscal year shall be distributed not less than sixty (60) days before the beginning of the fiscal year.
  - (ii) A balance sheet, as of an accounting date that is the last day of the month closest in time to six months from the date of closing of the first sale of a Unit in the Project, and an operating statement for the period from the date of the first closing to the accounting date shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of

assessments received and receivable identified by the numbers of the Project Units and the names of the persons assessed.

- (iii) A balance sheet as of the last day of the Association's fiscal year and an operating statement for the fiscal year shall be distributed within 90 days after the close of the fiscal year.
- (c) Maintenance of the following books and records, such books and records to be kept in accordance with generally accepted accounting procedures:
  - (i) Financial records with a detailed account of the receipts and expenditures affecting the Project and its administration and specifying the maintenance and regular expenses of the Limited Common Elements and any other expenses incurred by or on behalf of the Project.
  - (ii) Minutes of proceedings of Owners and Committees to which any authority of the Members has been delegated.
  - (iii) Record of the names and addresses of all Owners with voting rights.
  - (iv) Plans and specifications used to construct the Project.
  - (v) The condominium information statement given to all Owners by the Declarant before sale.
  - (vi) Voting records, proxies, and correspondence relating to declaration amendments.
- (d) Arrangement for an annual independent audit of all books and records of the Association, if the Owners unanimously agree same is necessary.

#### **Powers and Duties of the Members**

3.09. The Members shall act in all instances on behalf of the Association, unless otherwise provided by the Declaration. The Members shall have all of the powers, authority and duties permitted pursuant to the TEXAS PROPERTY CODE necessary and proper to manage the business and affairs of the Condominium, including specifically, but not limited to enforcement of the applicable provisions of this Declaration, the Bylaws, and any Rules of the Association.

#### **Limitations on Powers of the Members**

3.10. Notwithstanding the powers set forth in *Section 3.09* of this Declaration, the Members shall be prohibited from taking any of the following actions except with the approval of a Majority of the voting power of the Association residing in the Owners:

- (a) Entering into (i) a contract with a third person under which the third person will furnish goods or services for a term longer than one (1) year, except for a management contract approved by the Federal Housing Administration or Veteran's Administration; (ii) a contract with a public utility if the rates charged are regulated

by the Public Utilities Commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate; or (iii) prepaid casualty and/or liability insurance of not more than three (3) years duration, provided that the policy provides for short-rate cancellation by the insured.

- (b) Paying compensation to managers or officers of the Association for services rendered in the conduct of the Association's business, provided, however, that the Members may cause a manager or officer to be reimbursed for expenses incurred in carrying out the business of the Association.

### **Declarant Rights in General**

3.11. Each Owner, by taking title to its Unit, agrees and acknowledges that the Declarant shall have certain rights, any of which may be exercised by Declarant at any time during the Development Period or during the Declarant Control Period, including, without limitation, those rights set forth in this *Article 4* of the Declaration, or any other part of the Condominium Documents conferring rights or privileges on the Declarant (such rights being referred to herein as the "Declarant Rights"). Notwithstanding other provisions of the Condominium Documents to the contrary, nothing contained therein may be construed to allow interference with, nor may any other Owner, or the Association, prevent or interfere with the Declarant Rights. All of the Property is subject to the Declarant Rights. The terms and provisions of this *Article 3* must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

### **Declarant's Control Period**

3.12. Declarant shall have the power to appoint and remove officers of the Association until one hundred twenty (120) days after Declarant has conveyed both of the Units in the Project to Owners other than Declarant.

## **ARTICLE 4**

### **ASSESSMENTS**

#### **Covenant to Pay**

4.01. The Declarant covenants and agrees for each Unit owned by it in the Project, and each Owner by acceptance of the deed to such Owner's Unit is deemed to covenant and agree, to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. An owner is obligated to pay Assessments levied by the Board against the Owner or the Owner's Unit. All moneys collected shall be put into a maintenance fund to be used to defray expenses attributable to the ownership, operation, and maintenance of common interests by the Association. Subject to the provisions of *Section 4.10*, payments are made to the Association at its principal office or at any other place the Board directs. Payments must be

made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other Person regarding any matter to which this Declaration pertains. No Owner may exempt himself from his Assessment liability by waiver or otherwise escape liability for these assessments by nonuse or non-enjoyment of the Common Elements or by abandonment of the Owner's Unit.

### **Regular Assessments**

4.02. Regular assessments shall be made in accordance with the following: Within sixty (60) days prior to the beginning of each calendar year, the Board shall estimate the net charges to be paid during that year, if any, including a reasonable provision for contingencies and replacements with adjustments made for any expected income and surplus from the prior year's fund. This estimated cash requirement shall be assessed to each Owner according to the ratio of the number of Units owned by said Owner to the total number of Units in the Project subject to assessment. Each Owner is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month.

### **Special Assessments**

4.03. Special assessments shall be made in accordance with the following. If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year because of the cost of any construction, unexpected repairs, or for any other reason, it shall make a special assessment for the additional amount needed. Such special assessments shall be levied and collected in the same manner as regular assessments.

### **Limitations on Assessments**

4.04. The Board may not, without the unanimous approval of the Owners other than Declarant, impose a regular annual assessment per Unit that is more than twenty (20) percent greater than the regular annual assessment for the preceding year, or levy special assessments that in the aggregate exceed one (1) percent of the fair market value of the Units as valued by the Dallas County Appraisal District for that year. These limitations shall not apply to a special assessment levied against a Owner to reimburse the Association for funds expended in order to bring the Owner into compliance with the provisions of the Association's Governing Instruments.

### **Commencement of Assessments**

4.05. Regular assessments shall commence on the first day of the month following the date of the closing of the first sale of a Unit in the Project, with the month of purchase being pro-rated.

### **Liability for Assessments**

4.06. Each monthly portion of a regular assessment and each special assessment shall be a separate, distinct, and personal debt and obligation of the Owner against whom the assessments are assessed. The amount of any assessment not paid when due shall be deemed to be delinquent.

### **Payment of Assessments on Conveyance of Unit**

4.07. On the sale or conveyance of a Unit, all unpaid utility service bills or unpaid assessments against an Owner for the Owner's share in the expenses to which *Sections 4.03 and 4.04* of this Declaration refer shall first be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature, except the following:

- (a) Assessments, liens, and charges in favor of the State of Texas and any political subdivision of the State of Texas for taxes past due and unpaid on the Unit.
- (b) Amounts due under mortgage instruments duly recorded.

### **Lien and Foreclosure for Delinquent Assessments**

4.08. The Association shall have a lien on each Unit for any delinquent assessments attributable to that Unit. The Association is authorized to enforce the lien through any available remedy, including nonjudicial foreclosure pursuant to TEXAS PROPERTY CODE *Section 51.002*. The Owners expressly grant to the Association a power of sale, through a trustee designated in writing by the Association, in connection with any such liens. The lien for the assessments provided for herein shall be subordinate to the lien of any prior recorded mortgage or mortgages granted or created by the Owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Unit.

### **Mortgages to Survive Assessment Lien Foreclosure**

4.09. Valid purchase money, construction, or home equity mortgages are expressly superior to assessment liens. In the event the Association enforces a lien through judicial or nonjudicial foreclosure, any valid mortgages shall survive such foreclosure sale.

## **ARTICLE 5**

### **RESTRICTIONS AND COVENANTS**

#### **General Restrictions on Use**

5.01. The right of an Owner and the Owner's guests to occupy or use the Owner's Unit or to use the Common Elements or to use the Limited Common Elements assigned to that Unit is subject to the following restrictions, in addition to those in the Rules and Regulations, APPENDIX B:

- (a) No Owner shall occupy or use the Owner's Unit, or permit the Unit or any part of it to be occupied or used, for any purpose other than as a private residence. Nothing in this Declaration shall prevent the Owner from leasing or renting out the Owner's Unit as a short- or long-term rental, provided that the lease is subject to the Association's Governing Instruments and Rules.

- (b) Nothing shall be done or kept in any Unit or in the Common Elements that will increase the rate of insurance without the prior written consent of the Board. No Owner shall permit anything to be done or kept in the Owner's Unit or in the Limited Common Elements that will result in the cancellation of insurance on any Unit or on any part of the Limited Common Elements or that would be in violation of any law. No gasoline, kerosene, cleaning solvents, or other flammable liquids shall be stored in the Limited Common Elements or in any Unit, provided, however, that reasonable amounts in suitable containers may be stored in the storage spaces.
- (c) No sign of any kind shall be displayed to the public view on or from any Unit or the Common Elements without the prior written consent of the Board, except a sign advertising the property for sale.
- (d) No animals, livestock, or poultry of any kind shall be raised, bred, or kept in the Unit or in the Limited Common Elements, except that dogs, cats, or other household pets may be kept in Units, subject to the Rules and Regulations adopted by the Board.
- (e) No noxious or offensive activity shall be carried on in any Unit or in the Limited Common Elements, nor shall anything be done in any Unit or in the Limited Common Elements that may be or become an annoyance or nuisance to the other Owners.
- (f) There shall be no obstruction of and nothing shall be stored in the General Common Elements, if any. Nothing shall be stored in the Limited Common Elements without the prior consent of the Board, except as expressly provided for in the Declaration or as follows: (1) items may be stored in designated storage areas, or (2) items may be stored in the Limited Common Elements if they are substantially behind fencing or an enclosure, so such stored items are substantially blocked from view from the street or the Limited Common Elements of the other Unit.
- (g) No structure of a temporary character, trailer, shack, recreational vehicle, or other outbuilding shall be permitted on the Property at any time, temporarily or permanently, except with prior written consent of the Board; provided, however, any Unit Owner may install a storage shed in his or her Limited Common Elements in an area behind fencing and temporary structures may be erected for use in connection with the repair or rebuilding of the buildings or structures or any portion thereof.
- (h) Nothing shall be substantially altered or constructed in or removed from the General Common Elements, if any, except by the written consent of the Board, except as otherwise specifically allowed in this Declaration.
- (i) Nothing shall be constructed in the Limited Common Elements, except by the written consent of the Board, except as otherwise specifically allowed in this Declaration, or as expressly allowed as follows: storage sheds, additions of landscaping such as flowerbeds, planters, gardens, and planting of trees and bushes shall be expressly



allowed to the extent that such landscaping does not substantially alter or substantially block any view from a window of the other Unit.

- (j) Any alterations to the Units or Limited Common Elements reasonably visible from the street or other Units, including but not limited to alterations necessary for repairs or updating, shall be completed in a reasonable manner so that such alterations are substantially similar to the existing Unit or Limited Common Elements, except by the written consent of the Board and except as otherwise specifically allowed in this Declaration, with all Unit Owners understanding that reasonable alterations from the existing Unit and Limited Common Elements will likely be necessary when replacing or repairing trees, fencing, and other portions of the Unit or Limited Common Elements.
- (k) There shall be no violation of the Rules adopted by the Board and furnished in writing to the Owners pertaining to the use of the Common Elements. The Board is authorized to adopt such Rules.

#### **Maintenance of Unit and Common Elements**

5.02. Each Unit Owner shall, at the Owner's sole cost and expense, reasonably maintain and repair his or her Unit so as to keep it in good condition and repair. Each Owner shall also maintain and repair their respective Limited Common Elements. This shall include, but is not limited to, all fixtures, appliances, equipment, pipes, lines, wires, computer cables, cable wires, and conduits used in the production, heating, cooling and/or transmission of air, gas, water, electricity, communications, waste, water, sewage, and audio and video signals that serve only or are a part of the Unit Owner's Unit, and all interior and exterior walls, and structural components of the Unit in a clean, safe and good condition. Without limitation on the generality of the foregoing, a Unit Owner shall reasonably maintain and keep in good repair any fire or smoke alarms or security system, the electrical and plumbing lines, the air conditioning compressor, fans, ductwork, heating unit and cooling coils, utilized in and for the Unit, as well as other fixtures appurtenant to such Unit which are situated within or installed into or on the Unit or Limited Common Element such as an air conditioning compressor, together with all pipes, wiring, ducts and other equipment appurtenant thereto.

- (a) **Repair of Windows and Doors.** A Unit Owner shall be obligated to reasonably repair and replace promptly any broken or cracked exterior windows, doors, or glass forming a boundary of such Unit, subject to the other Unit Owner's right to control the exterior finish and color.
- (b) **Repair of Plumbing Leaks.** Pipe leaks which are due to breaks, faulty connections, freeze damage, overflows, nails, or protrusions into pipes or appliances which exclusively serve the Unit Owner's Unit and which are the maintenance responsibility of the Unit Owner shall be repaired by the Unit Owner, unless such damage was caused by another Unit Owner or an agent of such Unit Owner and then the

maintenance responsibility shall be the responsible Unit Owner. Such Unit Owner shall be responsible for any reasonable damages and reasonable cost of repairs to other Units or Common Elements due to such leaks.

- (c) **Pest Control.** Each Owner shall be reasonably responsible for eliminating any insects, termites, vermin, rodents, squirrels, birds or other animals (excluding pets) from his or her Unit, and for repairing any damage caused by such insects or animals.
- (d) **Maintenance of Exterior Appearance and Limited Common Elements.** Notwithstanding anything to the contrary contained in herein, a Unit Owner when exercising his right and responsibility of repair, maintenance, replacement, or remodeling shall use reasonable efforts to substantially maintain the exterior appearance of the Condominium, Unit, or a Limited Common Element without the consent of the Board or other Unit Owner as required herein. Each Owner shall also reasonably maintain, repair and replace the Limited Common Elements associated with his or her Unit, and those portions of the Common Elements subject to an exclusive easement appurtenant to his or her Unit.
- (e) **Access for Shared Utilities and Maintenance.** In such cases where utilities, equipment, sewer lines, water lines, or other utility infrastructure passes through a Unit, or a Unit's Limited Common Elements, but serves another Unit, each Owner shall allow access, not to be unreasonably withheld, in order to allow the other Owner access to utilities, equipment, sewer lines, water lines, or other utility infrastructure, in order that such utility infrastructure can be repaired and/or serviced. When such access is granted, the other Unit Owner shall use reasonable efforts to not substantially alter the Unit or Unit's Limited Common Elements to which access is granted, and shall at his or her sole cost and expense, promptly upon completion of such work return the accessed Unit or Unit's Limited Common Elements to substantially the same condition as when any such work commenced.
- (f) **Tree Maintenance.** Each Owner shall be responsible for the maintenance, trimming, and/or removal, and all associated costs and expenses, of any trees located in the Limited Common Elements associated with his or her Unit. Unit Owners shall be allowed reasonable access to the Limited Common Elements of the other Unit for the purpose of tree trimming and tree maintenance or removal, as further set forth herein.
- (g) **Irrigation.** Each Unit Owner shall be responsible for the maintenance, repair, and replacement of sprinkler heads piping, and other components of the irrigation system that serves his or her Unit, if any. Any Unit which supplies electricity to an irrigation system control shall be solely responsible for the cost of such electricity.

### **Maintenance of General Common Elements**

5.03. The Association shall reasonably maintain, repair and replace all portions of any General Common Elements, and items or improvements defined herein as Common Expenses, unless otherwise determined by the Board.

### **Unit Owner's Failure to Maintain**

5.04. In the event a Unit Owner fails to reasonably maintain such Unit Owner's Unit or the Limited Common Elements allocated to his or her Unit in accordance with *Section 5.02* above or fails to reasonably repair any damage for which the Unit Owner is responsible under *Section 5.05* below, and such maintenance and/or repair is reasonably necessary to preserve another Unit, the other Unit Owners may enter any Unit or Limited Common Element as may be reasonably necessary after giving at least three (3) days prior written notice to the Unit Owner and occupant of the Unit, to perform such maintenance, repair or replacement, and the expense incurred by that Unit Owner in connection with such maintenance and repair work conducted thereon shall be a personal obligation of the Unit Owner of the affected Unit, shall constitute a lien upon such Unit, and shall be enforced in the same manner and to the same extent as provided under TEXAS PROPERTY CODE *Section 82.113*.

### **Damage Liability**

5.05. Each Owner shall be liable to the Association for all damage to Association property that is sustained by reason of the negligence or willful misconduct of that Owner or the Owner's family, guests, or tenants.

### **Exemption**

5.06. Declarant shall be exempt from the restrictions of *Section 5.01* of this Declaration to the extent reasonably necessary for completion of construction, sales, or additions to the Project. Such exemption includes, but is not limited to, maintaining Units as model homes, placing advertising signs on Project property, and generally making use of the Project lots and Common Elements as is reasonably necessary to carry on construction activity.

### **Party Fence**

5.07. A "Party Fence" shall mean and in reference to the exterior fence along the Limited Common Elements separating two Units. Any matters concerning Party Fences which are not covered by the terms of this Agreement shall be governed by the general rules of law concerning party fences.

- (a) The cost of maintaining each Party Fence shall be borne equally by the owners of the units on either side of said Party Fence.
- (b) In the event of damage or destruction to any Party Fence from any cause, other than the negligence of either party hereto, the owners of the units on either side of said Party Fence shall repair or rebuild said Party Fence. The cost of such repair or

rebuilding shall be borne equally by the owners whose units adjoin said Party Fence. Each such owner shall have the right to the full use of said Party Fence so repaired or rebuilt. If either owner's negligence shall cause damage to or destruction of said Party Fence, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share, or all of such costs in case of negligence, the other party may have such Party Fence repaired or restored and shall be entitled to have a mechanic's lien on the unit and dwelling unit of the party so failing to pay, for the amount of such defaulting party's share of the repair or replacement costs together with interest at the maximum rate allowable. The party having such Party Fence repaired shall, in addition to the mechanic's lien, be entitled to recover attorney's fees and shall be entitled to all other remedies provided herein or by law. The mechanic's lien granted herein is effective only if filed in the Real Property Records of the County where the Property is located, by affidavit declaring under oath the claim of the mechanic's lien.

- (c) Neither owner shall alter or change a Party Fence in any manner, non-structural interior decoration excepted, and such Party Fences shall remain in the same location as when originally erected. Each adjoining owner to said Party Fence shall have a perpetual easement in that part of the unit of the other on which said Party Fence is located, for the purposes of such Party Fence and any other additional area necessary to repair, replace, and maintain same.
- (d) Each owner shall share equally in the costs to repair or maintain their respective Party Fence(s) due to normal wear or physical damage.
- (e) Each owner shall share equally the cost of normal and timely weatherproofing and maintenance of the respective Party Fence(s).
- (f) In the event it shall be necessary for any owner to place this Agreement in the hands of an attorney for the enforcement of any of such owner's rights hereunder or for the recovery of any monies due to such owner hereunder, and if it is necessary to bring suit for the enforcement of such rights or such recovery, the prevailing party in such suit shall recover from the losing party all costs of court and reasonable attorney's fees, as determined by the court, in addition to any other relief or recovery awarded by the Court.
- (g) These Party Fence covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded.
- (h) Enforcement of these covenants shall be by proceeding at law or in equity against any person or persons violating or attempting to violate the same seeking either to restrain violation or to recover damages or both.

### **Unit Owner Insurance**

5.08. Each Owner shall, at the Owner's sole cost and expense, purchase a policy or policies of fire insurance with extended coverage endorsement for the full insurable replacement value of the Owner's Unit and Limited Common Elements. Additionally, each Owner shall, at the Owner's sole cost and expense, purchase a policy or policies insuring the Owner against any liability to the public or to their tenants and invitees, incident to the ownership and/or use of the Project, including the personal liability exposure of the Owner. Limits of liability under such insurance shall not be less than \$300,000.00 for any occurrence. The limits and coverage shall be reviewed at least annually by the Members and varied in its discretion. Each Owner is not required to name the other as an additional insured.

## **ARTICLE 6**

### **DAMAGE OR DESTRUCTION**

#### **Application of Insurance Proceeds**

6.01. (a) If the Project is damaged by fire or any other disaster, the insurance proceeds, except as provided in *Section 6.01(b)* of this Declaration, shall be applied to reconstruct the Project.

(b) Reconstruction shall not be compulsory if all of the Owners vote not to rebuild. If the entire Project is not repaired or replaced and unless otherwise unanimously agreed to by the Owners, the proceeds shall be delivered pro rata to the Owners or their mortgagees, as their interest may appear, in equal proportions.

#### **Insufficient Insurance Proceeds**

6.02. When reconstruction is required by the terms of *Section 6.01* of this Declaration, but the insurance proceeds are insufficient to cover the cost of reconstruction, the costs in excess of the insurance proceeds shall be the responsibility of the Owner whose unit has been damaged.

#### **Obtaining Bids for Reconstruction; Owner's Duty to Repair**

6.03. (a) If all of the Project is damaged by fire or any other disaster, the Members shall obtain firm bids from two or more responsible contractors to rebuild the Project in accordance with its original plans and specifications. The Board shall also, as soon as possible after obtaining the bids, call a special meeting of the Owners to consider the bids. If the Board fails to do so within sixty (60) days after the casualty occurs, any Owner may obtain bids and call and conduct a meeting as provided by this *Section 6.03*. At such meeting, the Owners may by a unanimous vote elect to reject all of the bids. If all bids are rejected, the Members shall obtain additional bids for presentation to the Owners. Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable.

(b) Except as provided in *Section 6.01(b)*, if just one Unit is materially damaged by fire or any other disaster, within sixty (60) days after the date of damage, the Owner will begin repair or reconstruction of his Unit, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof. Unless otherwise unanimously agreed to by the Members, a Unit must be repaired and restored substantially in accordance with original construction plans and specifications. If an Owner fails to repair or restore damage as required by this Article, the Association may affect the necessary repairs and levy an Individual Assessment against the Owner and the Unit for the cost thereof.

## ARTICLE 7

### RIGHTS OF BENEFICIARIES UNDER DEEDS OF TRUST

Declarant warrants that beneficiaries under deeds of trust to Units in the Project shall be entitled to the following rights and guaranties:

- (a) Should any of the Association's Governing Instruments provide for a "right of first refusal," such right shall not impair the rights of a beneficiary under a first lien deed of trust to the following:
  - (i) To exercise the power of sale, foreclose, or take title to a Unit pursuant to the remedies provided in the deed of trust.
  - (ii) To accept a deed or assignment in lieu of sale or foreclosure in the event of default by a grantor.
  - (iii) To interfere with a subsequent sale or lease of a Unit so acquired by the beneficiary.
- (b) A beneficiary under a first lien deed of trust is entitled, on request, to written notification from the Association of any default in the performance by the grantor of any obligation under the Association's Governing Instruments that is not cured within sixty (60) days.
- (c) Any beneficiary under a first deed of trust who obtains title to a Unit pursuant to the remedies provided in the deed of trust will not be liable for such Unit's unpaid assessments that accrue prior to the acquisition of title to the Unit by the beneficiary.
- (d) Unless all of the beneficiaries under first deeds of trust (based on one vote for each first deed of trust owned) and Owners other than Declarant give their prior written approval, the Association shall not be entitled to the following:
  - (i) By act or omission, to seek to abandon or terminate the Project.
  - (ii) To change the pro rata interest or obligations of any individual Unit for the purpose of:

- (A) Levying assessments or charges.
- (B) Allocating distributions of hazard insurance proceeds or condemnation awards.
- (iii) To partition or subdivide any Unit.
- (iv) By act or omission, to seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements. The granting of easements for utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause.
- (v) In case of loss to a Unit and/or Common Elements of the Project, to use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Elements) for other than the repair, replacement, or reconstruction of such property, except as provided by statute.
- (e) All taxes, assessments, and charges that may become liens prior to the first mortgage under local law shall relate only to the individual Units and not to the Project as a whole.
- (f) No provision of the Governing Instruments of the Association gives any Owner, or any other party, priority over any rights of a beneficiary under a first deed of trust to a Unit pursuant to its deed of trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or the Common Elements or portions of the Common Elements.

## ARTICLE 8

### GENERAL PROVISIONS

#### **Property Taxes**

8.01. Each Unit Owner recognizes that the taxing authorities may have already made appraisals and/or sent property tax bills for the year in which this Declaration was recorded, and as such, there may be a delay in time prior to each Unit receiving a separate appraisal and/or property tax bill.

(a) Each Unit Owner shall be responsible for the payment of any and all property taxes that accrue for his or her Unit that are billed to the Project, the Association, the Declarant or another Unit Owner.

(b) If it is unclear from the taxing authority the amount of each Unit's obligation, each Unit's obligation shall be the percentages as set forth in EXHIBIT C.

(c) If any Unit Owner fails to make timely payment of any property taxes for which he or she is obligated, that Unit Owner shall have the additional responsibility and obligation to reimburse

any third party, the Association, or any other Owner who pays property taxes assessed to a Unit for a time period in which such Unit Owner owned the Unit, including but not limited to any penalties, late fees and/or interest assessed by a taxing authority.

(d) If the mortgage holder of any Unit mistakenly pays property taxes on an entire lot, and the other Unit Owner has not yet paid his or her property taxes for that year, then the Unit Owner who has not yet paid taxes shall pay his or her share of taxes directly to the Unit Owner who has overpaid.

#### **Amendment**

8.02. (a) This Declaration may be amended only at a meeting of the Unit Owners at which the amendment is approved by the holders of all of the ownership interests in the Project.

(b) An amendment of the Declaration may not alter or destroy a Unit or a Limited Common Element without the consent of the affected Owners and the Owners' first lien mortgagees.

(c) Any amendment shall be evidenced by a writing that is prepared, signed, and acknowledged by the President or other officer designated by the Members to certify amendments. The amendment shall be effective on filing in the office of the County Clerk of Travis County, Texas.

#### **Nonwaiver of Remedies**

8.03. Each remedy provided for in this Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

#### **Severability**

8.04. The provisions of this Declaration shall be deemed independent and severable. The invalidity, partial invalidity, or unenforceability of any one provision shall not affect the validity or enforceability of any other provision.

#### **Binding**

8.05. This Declaration, as well as any amendment to this Declaration, and any valid action or directive made pursuant to it shall be binding on the Declarant and the Owners and their heirs, grantees, tenants, successors, and assigns.

#### **Interpretation**

8.06. The provisions of this Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce the provision or any other provision of this Declaration.

#### **Limitation of Liability**

8.07. The liability of any Owner for performance of any of the provisions of this Declaration shall terminate on sale, transfer, assignment, or other divestment of the Owner's



entire interest in the Owner's Unit with respect to obligations arising from and after the date of such divestment.

### **Fair Housing**

8.08. Neither Declarant nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Unit to any person on the basis of race, color, sex, religion, ancestry, or national origin.

### **Notices**

8.09. (a) Notices provided for in this Declaration shall be in writing and may be delivered either by **electronic mail**, personally, or by mail. Such notice shall be deemed sufficiently given when delivered personally at the appropriate address set forth in *Section 8.09(b)* of this Declaration, **electronic delivery**, and if delivery is made by mail, it shall be deemed delivered after seventy-two (72) hours after deposit in any United States post office box, postage prepaid, addressed as set forth in *Section 8.09(b)* of this Declaration.

(b) Any notice to an Owner required under this Declaration shall be addressed to the Owner at the last address for the Owner appearing in the records of the Association or, if there is none, at the address of the Unit in the Project. Notice to the Association shall be addressed to the address designated by the Association by written notice all Owners. Notices to the Manager shall be addressed to the address designated by the Manager. Notices to Declarant shall be addressed to c/o Frank J. Hull, 72 Mildred Street, Austin, Texas 78702.

### **Number, Gender, and Headings**

8.10. As used in this Declaration, the singular shall include the plural and the masculine shall include the feminine and the neuter, unless the context requires the contrary. All headings are not a part of this Declaration and shall not affect the interpretation of any provision.

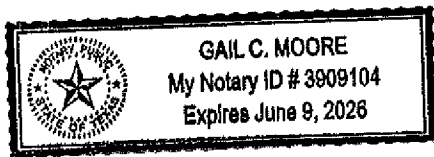
IN WITNESS WHEREOF, the undersigned have executed this Declaration effective as of the date set forth above.

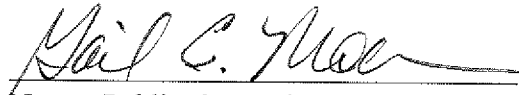
  
Frank J. Hull

STATE OF TEXAS §

COUNTY OF Williamson §

This instrument was acknowledged before me on the 17<sup>th</sup> day of April, 2023, by FRANK J. HULL.



  
Notary Public, State of Texas

**CONSENT OF FIRST MORTGAGE HOLDER:**

CAPSTONE FUND, LLC, (the "Lender"), which holds a deed of trust lien on the Property (defined above), recorded under Document No. 2022132844 of the Official Public Records of Travis County, Texas, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby consents to and subordinates its deed of trust lien to this Declaration of Condominium Regime for MILDRED GARDEN CONDOMINIUMS, to be effective as of the date first set forth above; provided however, this Consent: (i) shall not be construed to operate as a release of the lien and security interests of the Deed of Trust, (ii) shall not release, subordinate or impair or otherwise affect any and all rights the Lender has under the Deed of Trust to succeed to the rights, powers and authority of Declarant under the Declaration in the event of a foreclosure of the lien and security interests of the Deed of Trust; and (iii) shall not modify or amend the terms and provisions of the Deed of Trust.

**HOLDER:**

CAPSTONE FUND, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

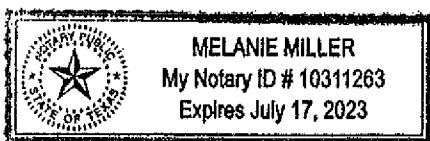
Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the 4th day of April, 2023, by Dorothy Horton, as Authorized Agent of CAPSTONE FUND, LLC, a Delaware limited liability company, on behalf of said entity for the purposes therein stated.



\_\_\_\_\_  
Notary Public, State of Texas

## **EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY SUBJECT TO THE DECLARATION**

**LEGAL DESCRIPTION OF THE PROPERTY SUBJECT TO THE DECLARATION**

Lot 5, Block B, BENSONS SUBDIVISION OF OUTLOT NO. FIFTY ONE (51),  
DIVISION O, according to the map or plat thereof, recorded in Volume 3, Page 29,  
Plat Records of Travis County, Texas.

**EXHIBIT B**

**PLAT AND PLANS OF THE PROPERTY SUBJECT TO THE DECLARATION**

## **PLAT AND PLANS OF THE PROPERTY SUBJECT TO THE DECLARATION**

The Plat and Plans attached hereto are subject to change by the Declarant. The Unit sizes, designation of Limited Common Elements and other matters shown herein are subject to the rights of the Declarant, Board and Association as provided in this Declaration. Each purchaser of a Unit is advised to review the Condominium Documents carefully to understand the ways in which the Units and Common Elements may be altered as provided therein.

### **Limited Common Elements of Unit 1**

The Limited Common Elements for Unit 1 consist of:

1. The land on which Unit 1 is located, as set forth in EXHIBIT B;
2. The mail receptacles, yards, gardens, fences, driveways, and walks assigned to Unit 1, as set forth in EXHIBIT B;
3. The installations consisting of the equipment and materials making up the central services such as water, gas, electricity, central air conditioning and central heat, water tanks, heaters, pumps and the like, to the extent that such equipment and materials exclusively serve Unit 1.
4. The portion of the right-of-way owned by the City of Austin, Travis County, or the State of Texas, which directly allows access to Unit 1, as set forth in EXHIBIT B, shall be considered a Limited Common Element, for the purposes of maintenance and repair for the benefit of Unit 1.

### **Limited Common Elements of Unit 2**

The Limited Common Elements for Unit 2 consist of:

1. The land on which Unit 2 is located, as set forth in this EXHIBIT B;
2. The mail receptacles, yards, gardens, fences, driveways, and walks assigned to Unit 2, as set forth in this EXHIBIT B;
3. The installations consisting of the equipment and materials making up the central services such as water, gas, electricity, central air conditioning and central heat, water tanks, heaters, pumps and the like, to the extent that such equipment and materials exclusively serve Unit 2.
4. The portion of the right-of-way owned by the City of Austin, Travis County, or the State of Texas, which directly allows access to Unit 2, as set forth in EXHIBIT B, shall be considered a Limited Common Element, for the purposes of maintenance and repair for the benefit of Unit 2.

### **General Common Elements**

The General Common Elements, if any, are as set forth in this EXHIBIT B and this Declaration. The shared drive and shared fences dividing the yards of the two units are General Common Elements.

## EXHIBIT " "

THIS SURVEY IS INTENDED TO SERVE AS A CONDOMINIUM PLAT OF THE MILDRED GARDEN CONDOMINIUMS A CONDOMINIUM LOCATED ON LOT 5, BLOCK B, BENSON'S SUBDIVISION OF OUTLOT 51, DIVISION O, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 3, PAGE 29, PLAT RECORDS, TRAVIS COUNTY, TEXAS, CONVEYED TO FRANK J. HULL BY WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN DOCUMENT NO. 2020133116 OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS, AND CONTAINS ALL THE INFORMATION REQUIRED FOR THE PURPOSE OF COMPLIANCE WITH CHAPTER 82.059 OF THE UNIFORM CONDOMINIUM ACT OF THE TEXAS PROPERTY CODE.

SCALE  
1"=20'

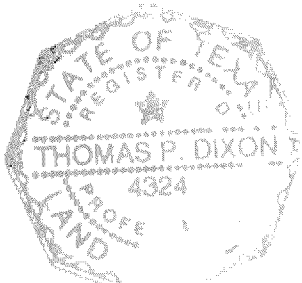
## LEGEND

FOUND 1/2" IRON ROD FIR  
SET 1/2" IRON ROD W/CAP SIRC  
LABELED "WATERLOO RPLS 4324"  
WOOD FENCE —//—//—  
CHAIN LINK FENCE —s—s—  
UTILITY POLE & ELECTRIC LINE e—e—  
CABLE TV/TELE OVERHEAD LINE t—t—  
WATER METER (W)  
STORM SEWER MANHOLE (D)  
SAN SEWER MANHOLE (S)  
WATER VALVE (V)  
ELECTRIC VAULT (E)  
(RECORD)

UNIT 1



UNIT 2

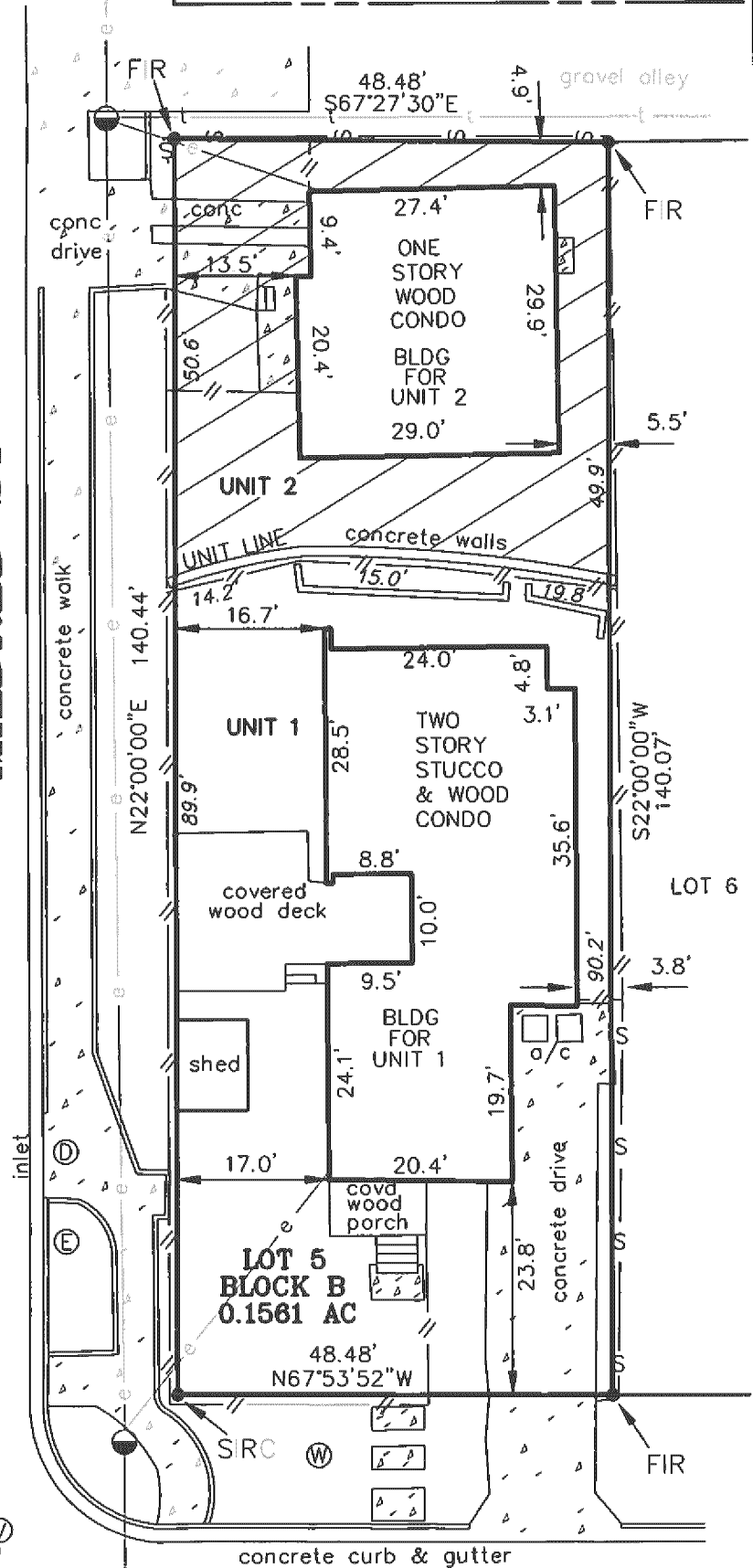


The Undersigned Surveyor certifies  
that this Plat conforms to Section  
82.059 of the Texas Property Code

Thomas P. Dixon R.P.L.S. 4324

Waterloo Surveyors, LLC  
P.O. Box 160176  
Austin, Texas 78716-0176  
Ph. (512) 481-9602  
TBPLS FIRM# 10124400  
A1082C1

MILDRED ST



concrete curb &amp; gutter

GARDEN ST



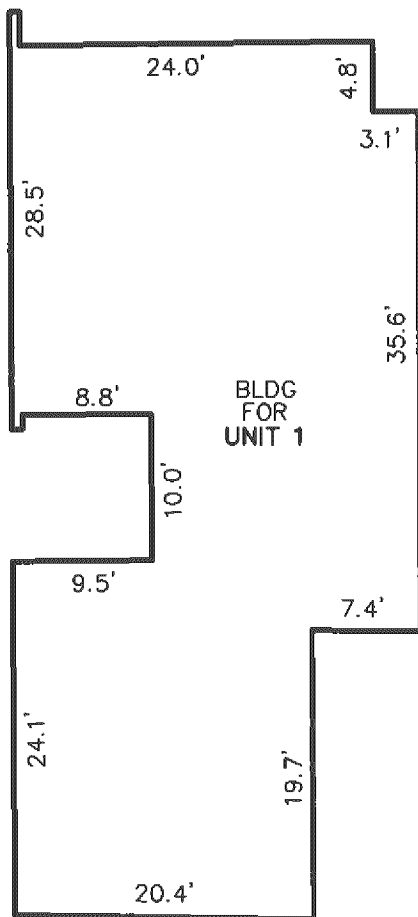
## EXHIBIT " "

## UNIT 1

UNIT 1--4545 SQ FT

CONDO BLDG--1408 SQ FT  
 COVD WOOD DECK--380 SQ FT  
 CONC DRIVE--497 SQ FT  
 WOOD PORCH--67 SQ FT  
 PORCH STEPS--38 SQ FT  
 SHED--81 SQ FT  
 YARD--2074 SQ FT

not to scale

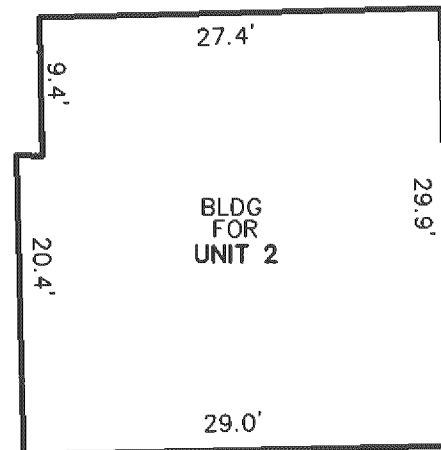


## UNIT 2

UNIT 2--2254 SQ FT

CONDO BLDG--851 SQ FT  
 COVD CONC PORCH--58 SQ FT  
 CONC DRIVE--123 SQ FT  
 CONC PATIO-- 8 SQ FT  
 YARD--1214 SQ FT

not to scale



## **EXHIBIT C**

**TAX PERCENTAGE ALLOCATION FOR FIRST YEAR**

**AND**

**TAX CERTIFICATES OF THE PROPERTY SUBJECT TO THE DECLARATION**

**TAX PERCENTAGE ALLOCATION FOR FIRST YEAR  
AND  
TAX CERTIFICATES OF THE PROPERTY SUBJECT TO THE DECLARATION**

The Property Tax Receipt attached hereto are subject to change by the Declarant.

Until the taxing authorities (Travis County Appraisal District) have issued separate appraisals and tax bills for the Units, each Unit Owner's percentage of responsibility for any property taxes assessed against the Property in its entirety, including but not limited to assessments made in the year in which this Declaration is recorded, shall be paid as follows:

Unit 1: 65.49 %

Unit 2: 34.51 %

**Bruce Elfant**  
**Assessor And Collector**  
**of Taxes**  
**Travis County Tax Office**  
**2433 Ridgepoint Dr.**  
**Austin, TX 78754-5231**



**P. O. Box 149328**  
**Austin, TX 78714-9328**  
**(512) 854-9473 voice**  
**(512) 854-9235 fax**

## TRAVIS COUNTY TAX BILL

1	TAX YEAR	2	BASE TAX DUE	3	PENALTY AND INTEREST DUE	4	ATTORNEY FEES DUE	5	TOTAL DUE
TOTAL BASE TAXES, PENALTY, INTEREST & ATTORNEY FEES DUE:								6	0.00
TOTAL OTHER FEES DUE:								7	0.00
TOTAL AMOUNT DUE FOR ALL YEARS:								8	0.00
PRINT DATE: 03/27/2023						PRINT TIME: 12:18:51			

HULL FRANK J

72 MILDRED ST

AUSTIN, TX 78702-5637

9 PROPERTY LOCATION ADDRESS		
2300 GARDEN ST AUSTIN		
10 LEGAL DESCRIPTION		
LOT 5 BLK B OLT 51 DIV O BENSONS S UBD		
11 BILLING NO.	12 PROPERTY TYPE	
70394	REAL	PERSONAL
	X	
13 PARCEL NUMBER		
02010908060000		

## **EXHIBIT D**

**SCHEDULES OF ALLOCATED INTERESTS**

**SHARE OF COMMON EXPENSES AND VOTES**

**FLOOR AREA RATIO**

**SCHEDULES OF ALLOCATED INTERESTS  
AND SHARE OF COMMON EXPENSES AND VOTES  
AND FLOOR AREA RATIO**

**The Percentages shown on this EXHIBIT D shall always be based on the estimated acreage of each Unit as a pro-rata share of the total estimated acreage of all the Units included in the Project.**

The following table is presented for purposes of determining each Owner's share of Common Elements ownership and Common Expenses and each Owner's Vote. Although the percentages in this table are based on an estimate of the approximate square footage of each Unit, **nothing herein shall be construed as a warranty or representation of the amount of actual acreage or square footage of any Unit. Each Unit Owner shall independently verify the actual acreage of its Unit prior to Closing.** Each Owner releases Declarant, its successors and assigns, and the Association from any claims or liabilities resulting from the difference in the actual acreage of a Unit and the acreage in deriving the percentages stated herein. The percentages stated herein are subject to change as the Declarant or Board exercises its rights as stated in this Declaration.

Unit	Percentage of Common Element Ownership	Share of Common Expenses	Votes
Unit 1	50.00%	50.00%	1
Unit 2	50.00%	50.00%	1
<b>TOTALS: 2 UNITS</b>	<b>100%</b>	<b>100%</b>	<b>2</b>

Any obligations or rights, including Assessment charges or credits, calculated or determined based on a Share of Common Expenses which are not allocable to a particular Unit due to a rounding error will be equally apportioned among all Units within the Regime.

**THE INTERESTS, SHARES AND VOTES ASSIGNED TO A PARTICULAR UNIT IN THESE TABLES WILL CHANGE IF ADDITIONAL UNITS ARE ADDED TO THE CONDOMINIUM.**

**Any and all remaining Floor-to-Area Ratio (FAR) and/or Impervious Cover, as those terms are defined by the City codes and ordinances, shall be split as follows:**

Unit 1:	<u>65.49</u> %
Unit 2:	<u>34.51</u> %

**EXHIBIT E**

**ASSOCIATION BUDGET**

## **MILDRED GARDEN CONDOMINIUMS OWNERS' ASSOCIATION, INC.**

Association Budget  
Fiscal Year: 01/01/2023 to 12/31/2023

1. This budget was prepared by FRANK J. HULL on behalf of Mildred Garden Condominiums Owners' Association, Inc., a Texas nonprofit corporation, as the condominium owners' association for Mildred Garden Condominiums.
2. This budget assumes occupancy of two (2) units.
3. This budget does not assume an inflation factor.
4. The monthly assessments for each Unit are as stated in the budget.
5. This budget provides for the collection of reserves for future capital expenditures and repairs for the Condominium Regime as shown by the Contingency line item shown therein.
6. This budget was prepared in accordance with generally accepted accounting principles and consideration of the physical condition of the project.
7. This budget includes assumptions that, to the best of the Declarant's knowledge and belief, are reasonable.

Pro Forma Budget:      **No Monthly Dues**



## **EXHIBIT F**

### **CERTIFICATE OF FORMATION OF MILDRED GARDEN CONDOMINIUM OWNERS' ASSOCIATION, INC.**

Consisting of:

**Certificate of Filing**

**Certificate of Formation**

**Acknowledgment**

**Certificate of Correction**

Corporations Section  
P.O.Box 13697  
Austin, Texas 78711-3697



Jane Nelson  
Secretary of State

## Office of the Secretary of State

### CERTIFICATE OF FILING OF

Mildred Garden Condominium Owners' Association, Inc.  
File Number: 804926637

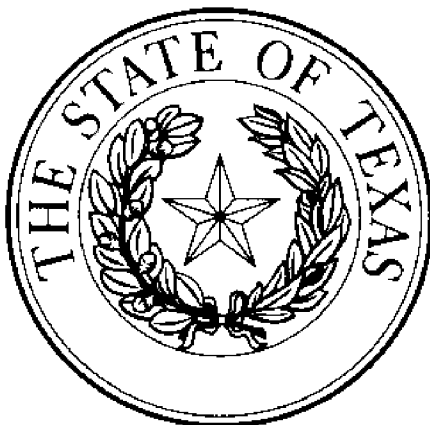
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/14/2023

Effective: 02/14/2023



A handwritten signature in cursive script that reads "Jane Nelson".

Jane Nelson  
Secretary of State

*Come visit us on the internet at <https://www.sos.texas.gov/>*

Phone: (512) 463-5555  
Prepared by: Bryan Martin

Fax: (512) 463-5709  
TID: 10306

Dial: 7-1-1 for Relay Services  
Document: 1222297580002

**Form 202**

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709

Filing Fee: \$25



**Certificate of Formation  
Nonprofit Corporation**

**Filed in the Office of the  
Secretary of State of Texas  
Filing #: 804926637 02/14/2023  
Document #: 122297580002  
Image Generated Electronically  
for Web Filing**

**Article 1 - Corporate Name**

The filing entity formed is a nonprofit corporation. The name of the entity is :

**Mildred Garden Condominium Owners' Association, Inc.**

**Article 2 – Registered Agent and Registered Office**

☒ A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

**Registered Agent Solutions, Inc.**

**OR**

☐ B. The initial registered agent is an individual resident of the state whose name is set forth below:

C. The business address of the registered agent and the registered office address is:

**Street Address:**

**Corporate Center One  
5301 Southwest Parkway, Suite 400 Austin TX 78735**

**Consent of Registered Agent**

☐ A. A copy of the consent of registered agent is attached.

**OR**

☒ B. The consent of the registered agent is maintained by the entity.

**Article 3 - Management**

☒ A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

**OR**

☐ B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.



**Article 4 - Organization Structure**

☒ A. The corporation will have members.

or

☐ B. The corporation will not have members.

**Article 5 - Purpose**

The corporation is organized for the following purpose or purposes:

**To serve as the Owner's Association for "Mildred Garden Condominiums", a condominium project to be filed in Travis County, Texas, in compliance with Texas Property Code Chapter 82, and for any and all lawful purposes for which nonprofit corporations may be formed.**

**Supplemental Provisions / Information**

[The attached addendum, if any, is incorporated herein by reference.]

**Effectiveness of Filing**

☒ A. This document becomes effective when the document is filed by the secretary of state.

**OR**

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

**Initial Mailing Address**

Address to be used by the Comptroller of Public Accounts for purposes of sending tax information.

The initial mailing address of the filing entity is:

**Corporate Center One  
5301 Southwest Parkway, Suite 400  
Austin, TX 78735  
USA**

**Organizer**

The name and address of the organizer are set forth below.

**Benjamin H. Ha, Authorized Representative**      **10119 Lake Creek Parkway, Suite 201,**  
**Austin, Texas 78729**

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

**Benjamin H. Ha, Authorized Representative**

Signature of organizer.

**FILING OFFICE COPY**

Corporations Section  
P.O.Box 13697  
Austin, Texas 78711-3697



Jane Nelson  
Secretary of State

## Office of the Secretary of State

February 18, 2023

Attn: Law Office of Ben Williams, PLLC

Law Office of Ben Williams, PLLC  
10119 Lake Creek Parkway, Ste 201  
Austin, TX 78729 USA

RE: Mildred Garden Condominium Owners' Association, Inc.  
File Number: 804926637

-----  
It has been our pleasure to file the certificate of formation and issue the enclosed certificate of filing evidencing the existence of the newly created nonprofit corporation.

Nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Information about franchise tax, and contact information for the Comptroller's office, is available on their web site at <https://window.state.tx.us/taxinfo/franchise/index.html>. For information on state tax exemption, including applications and publications, visit the Comptroller's Exempt Organizations web site at <https://window.state.tx.us/taxinfo/exempt/index.html>. Information on exemption from federal taxes is available from the Internal Revenue Service web site at <https://www.irs.gov>.

Nonprofit corporations do not file annual reports with the Secretary of State, but do file a report not more often than once every four years as requested by the Secretary. It is important for the corporation to continuously maintain a registered agent and office in Texas as this is the address to which the Secretary of State will send a request to file a periodic report. Failure to maintain a registered agent or office in Texas, failure to file a change to the agent or office information, or failure to file a report when requested may result in the involuntary termination of the corporation. Additionally, a nonprofit corporation will file documents with the Secretary of State if the corporation needs to amend one of the provisions in its certificate of formation. If we can be of further service at any time, please let us know.

Sincerely,

Corporations Section  
Business & Public Filings Division  
(512) 463-5555  
Enclosure

*Come visit us on the internet at <https://www.sos.texas.gov/>*

Phone: (512) 463-5555  
Prepared by: Bryan Martin

Fax: (512) 463-5709  
TID: 10286

Dial: 7-1-1 for Relay Services  
Document: 1222297580002

**Form 403**  
**(Revised 05/11)**

Submit in duplicate to:  
 Secretary of State  
 P.O. Box 13697  
 Austin, TX 78711-3697  
 512 463-5555  
 FAX: 512/463-5709  
**Filing Fee: \$15**



This space reserved for office use.

**Certificate of Correction****Entity Information**

1. The name of the filing entity is:

Mildred Garden Condominium Owners' Association, Inc.

State the name of the entity as currently shown in the records of the secretary of state. If the certificate of correction corrects the name of the entity, state the present name and not the name as it will be corrected.

The file number issued to the filing entity by the secretary of state is: 804926637**Filing Instrument to be Corrected**2. The filing instrument to be corrected is : Certificate of FormationThe date the filing instrument was filed with the secretary of state: 02/14/2023*mm/dd/yyyy***Identification of Errors and Corrections**

(Indicate the errors that have been made by checking the appropriate box or boxes; then provide the corrected text.)

☐ The entity name is inaccurate or erroneously stated. The corrected entity name is:☐ The registered agent name is inaccurate or erroneously stated. The corrected registered agent name is:

Corrected Registered Agent  
 (Complete either A or B, but not both.)

A. The registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The registered agent is an individual resident of the state whose name is:

*First**Middle**Last Name**Suffix*

The person executing this certificate of correction affirms that the registered agent, whose name is being corrected by this certificate, consented to serve as registered agent at the time the filing instrument being corrected took effect.

☐ The registered office address is inaccurate or erroneously stated. The corrected registered office address is:

Corrected Registered Office Address

Street Address (No P.O. Box)	City	State	Zip Code
		TX	

☐ The purpose of the entity is inaccurate or erroneously stated. The purpose is corrected to read as follows:

☐ The period of duration of the entity is inaccurate or erroneously stated.  
The period of duration is corrected to read as follows:

### Identification of Other Errors and Corrections

(Indicate the other errors and corrections that have been made by checking and completing the appropriate box or boxes.)

☒ **Other errors and corrections.** The following inaccuracies and errors in the filing instrument are corrected as follows:

☐ **Add** Each of the following provisions was omitted and should be added to the filing instrument. The identification or reference of each added provision and the full text of the provision is set forth below.

☒ **Alter** The following identified provisions of the filing instrument contain inaccuracies or errors to be corrected. The full text of each corrected provision is set forth below:

The Initial Mailing Address:  
2300 Garden Street  
Austin, Texas 78702

☐ **Delete** Each of the provisions identified below was included in error and should be deleted.

☐ **Defective Execution** The filing instrument was defectively or erroneously signed, sealed, acknowledged or verified. Attached is a correctly signed, sealed, acknowledged or verified instrument.

### Statement Regarding Correction

The filing instrument identified in this certificate was an inaccurate record of the event or transaction evidenced in the instrument, contained an inaccurate or erroneous statement, or was defectively or erroneously signed, sealed, acknowledged or verified. This certificate of correction is submitted for the purpose of correcting the filing instrument.

### Correction to Merger, Conversion or Exchange

The filing instrument identified in this certificate of correction is a merger, conversion or other instrument involving multiple entities. The name and file number of each entity that was a party to the transaction is set forth below. (If the space provided is not sufficient, include information as an attachment to this form.)

---

*Entity name*

---

*SOS file number*

---

*Entity name*

---

*SOS file number*

### Effectiveness of Filing

After the secretary of state files the certificate of correction, the filing instrument is considered to have been corrected on the date the filing instrument was originally filed except as to persons adversely affected. As to persons adversely affected by the correction, the filing instrument is considered to have been corrected on the date the certificate of correction is filed by the secretary of state.

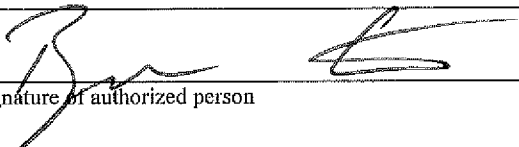
### Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date:

3/8/2027

By:

  
 Signature of authorized person

Benjamin H. Ha, authorized representative

Printed or typed name of authorized person (see instructions)



## **EXHIBIT G**

**RESTRICTIVE COVENANTS, EASEMENTS, AND ENCUMBERANCES**

**RESTRICTIVE COVENANTS, EASEMENTS, AND ENCUMBERANCES**

*(Existing Prior to Development of the Property and Still Applicable to the Property)*

1. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights privileges, and immunities relating thereto, appearing in the Public Records.
2. Any visible and apparent easement, either public or private, located on or across the land, the existence of which is not disclosed by the Public Records as herein defined.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the land.

**APPENDIX A**

**BYLAWS**

**OF THE**

**MILDRED GARDEN**

**CONDOMINIUM OWNERS' ASSOCIATION, INC.**

(a Texas Nonprofit Corporation)

**BYLAWS  
OF THE  
MILDRED GARDEN  
CONDOMINIUM OWNERS' ASSOCIATION, INC.**

<b>ARTICLE 1</b>	<b>DEFINITIONS.....</b>	<b>1</b>
1.01	Project Defined .....	1
1.02	Declaration Defined.....	1
1.03	Other Terms Defined .....	1
<b>ARTICLE 2</b>	<b>APPLICABILITY OF BYLAWS .....</b>	<b>1</b>
2.01	Corporation .....	1
2.02	Project Applicability .....	1
2.03	Personal Application.....	1
<b>ARTICLE 3</b>	<b>OFFICES .....</b>	<b>2</b>
3.01	Principal Office.....	2
3.02	Registered Office and Registered Agent.....	2
<b>ARTICLE 4</b>	<b>QUALIFICATIONS FOR MEMBERSHIP .....</b>	<b>2</b>
4.01	Membership .....	2
4.02	Proof of Membership .....	2
4.03	No Additional Qualifications.....	2
4.04	Certificates of Membership.....	2
<b>ARTICLE 5</b>	<b>VOTING RIGHTS .....</b>	<b>3</b>
5.01	Voting .....	3
5.02	Proxies .....	3
5.03	Required Vote .....	3
<b>ARTICLE 6</b>	<b>MEETINGS OF MEMBERS .....</b>	<b>3</b>
6.01	Annual Meetings.....	3
6.02	Special Meetings.....	3
6.03	Place.....	3
6.04	Notice of Meetings.....	3
6.05	Order of Business.....	3
<b>ARTICLE 7</b>	<b>MEMBERS .....</b>	<b>4</b>
7.01	Number .....	4
7.02	Term.....	4
7.03	Compensation .....	4
7.04	Powers and Duties .....	4
<b>ARTICLE 8</b>	<b>OFFICERS.....</b>	<b>4</b>
8.01	Enumeration of Officers .....	4
8.02	Compensation .....	4

<b>ARTICLE 9</b>	<b>PRESIDENT.....</b>	<b>5</b>
9.01	Election.....	5
9.02	Duties.....	5
<b>ARTICLE 10</b>	<b>SECRETARY / TREASURER .....</b>	<b>5</b>
10.01	Election.....	5
10.02	Duties.....	5
<b>ARTICLE 11</b>	<b>BOOKS AND RECORDS .....</b>	<b>6</b>
11.01	Maintenance.....	6
11.02	Inspection.....	6
<b>ARTICLE 12</b>	<b>MEDIATION AND ARBITRATION.....</b>	<b>6</b>
<b>ARTICLE 13</b>	<b>GENERAL PROVISIONS .....</b>	<b>6</b>
13.01	Amendment of Bylaws .....	6
13.02	Attestation.....	6

**PREPARED IN THE OFFICE OF:**

Law Office of Ben Williams, PLLC  
10119 Lake Creek Parkway, Suite 201  
Austin, Texas 78729  
[www.lawbkw.com](http://www.lawbkw.com)

**BYLAWS  
OF THE  
MILDRED GARDEN  
CONDOMINIUM OWNERS' ASSOCIATION, INC.**  
(A Texas Nonprofit Corporation)

**ARTICLE 1**  
**DEFINITIONS**

**Project Defined**

1.01. *Project* shall mean all of the real property located in the City of Austin, County of Travis, State of Texas, including the land; all improvements and structures on the land; and all easements, rights, and appurtenances to the land, more fully described in the Declaration.

**Declaration Defined**

1.02. *Declaration* shall mean the Declaration applicable to the Project and filed in the Office of the County Clerk of Travis County, State of Texas, in the Official Public Records of Travis County, Texas, including any amendments to the Declaration as may be made from time to time in accordance with the terms of the governing statute.

**Other Terms Defined**

1.03. Other terms used in these Bylaws shall have the meaning given them in the Declaration, incorporated by reference and made a part of these Bylaws.

**ARTICLE 2**  
**APPLICABILITY OF BYLAWS**

**Corporation**

2.01. The provisions of these Bylaws constitute the Bylaws of the nonprofit corporation known as Mildred Garden Condominium Owners' Association, Inc., referred to as the "Association".

**Project Applicability**

2.02. The provisions of these Bylaws are applicable to the Project as defined in *Paragraph 1.01* of these Bylaws.

**Personal Application**

2.03. All present or future owners, present or future tenants, their employees, or other persons that use the facilities of the Project in any manner are subject to the regulations set forth in these Bylaws. The acquisition or rental of any of the Units of the Project, or the act of occupancy of any of the Units, will signify that these Bylaws are accepted and ratified and will be complied with by the purchaser, tenant, or occupant.

## ARTICLE 3

### OFFICES

#### **Principal Office**

3.01. The principal office of the Association shall initially be located at: c/o CHARLEVOIX PARTNERS, LLC, whose mailing address is 72 Mildred Street, Austin, Texas 78702.

#### **Registered Office and Registered Agent**

3.02. The Association shall have and shall continuously maintain in the State of Texas a registered office and a registered agent, whose office shall be identical with the registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal office of the corporation, and the address of the registered office may be changed from time to time by the Members.

## ARTICLE 4

### QUALIFICATIONS FOR MEMBERSHIP

#### **Membership**

4.01. The membership of the Association shall consist of all of the Owners of the Units within the Project. Each Unit shall have one vote.

#### **Proof of Membership**

4.02. The rights of membership shall not be exercised by any person until satisfactory proof has been furnished to the Secretary of the Association that the person is qualified as a Member. Such proof may consist of a copy of a duly executed and acknowledged deed or title insurance policy evidencing ownership of a Unit in the Project. Such deed or policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

#### **No Additional Qualifications**

4.03. The sole qualification for membership shall be the ownership of a Unit in the Project. No initiation fees, costs, or dues shall be assessed against any person as a condition of membership except such assessments, levies, and charges as are specifically authorized under the Certificate of Formation or the Declaration.

#### **Certificates of Membership**

4.04. The Members may provide for the issuance of certificates evidencing membership in the Association that shall be in such form as may be determined by the Members. All certificates evidencing membership shall be consecutively numbered. The name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Association and maintained by the Secretary at the registered office of the Association.

## **ARTICLE 5**

### **VOTING RIGHTS**

#### **Voting**

5.01. Each Unit shall have one vote.

#### **Proxies**

5.02. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease on conveyance by the Member of the Member's Unit or on receipt of notice by the Secretary of the death or judicially declared incompetence of such Member. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise specifically provided in the proxy.

#### **Required Vote**

5.03. A majority vote is required at all meetings.

## **ARTICLE 6**

### **MEETINGS OF MEMBERS**

#### **Annual Meetings**

6.01. The first meeting of the Members of the Association shall be held within forty-five (45) days after the closing of the sale of the last unit or within six (6) months after the closing of the sale of the first Unit within the Project, whichever is earlier. After the first meeting, the annual meeting of the Members of the Association shall be held at a time as may be fixed from time to time by agreement.

#### **Special Meetings**

6.02. Special meetings of the Members may be called by majority vote.

#### **Place**

6.03. Meetings of the Members shall be held within the Project or at a meeting place as close to the Project as possible, as the Board may specify in writing.

#### **Notice of Meetings**

6.04. Written notice of all Members' meetings shall be given by or at the direction of the Secretary of the Association or such other persons as may be authorized to call the meeting, by mailing or personally delivering a copy of such notice at least ten (10) but not more than fifty (50) days before the meeting to each Member entitled to vote at the meeting. The notice must be addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. The notice shall specify the place, day, and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

#### **Order of Business**

6.05. The order of business at all meetings of the Members shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meetings or waiver of notice.



- (c) Reading of Minutes of preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Unfinished business.
- (g) New business.

## **ARTICLE 7**

### **MEMBERS**

#### **Number**

7.01. The affairs of this Association shall be managed by the Members consisting of each unit owner.

#### **Term**

7.02. Each Member shall serve until his death, resignation, or sale of the unit.

#### **Compensation**

7.03. With unanimous approval, a Member may receive compensation in a reasonable amount for services rendered to the Association. A Member may be reimbursed by the Members for actual expenses incurred by the Member in the performance of the Member's duties.

#### **Powers and Duties**

7.04. The Members shall have the powers and duties, and shall be subject to limitations on such powers and duties, as enumerated in the Governing Instruments of the Project.

## **ARTICLE 8**

### **OFFICERS**

#### **Enumeration of Officers**

8.01. The Officers of this Association shall be a President and a Secretary / Treasurer who shall at all times be Owners, except for Officers appointed by the Declarant during Declarant's Control Period, which need not be Owners. Unless the Owners cast their votes otherwise at a meeting called for the election of officers, the Owners shall alternate serving as President and Secretary/Treasurer of the association for one-year terms.

#### **Compensation**

8.02. Officers shall receive no compensation for services rendered to the Association.

**ARTICLE 9****PRESIDENT****Election**

9.01. At the first meeting of the Members, the Members shall elect one Unit Owner to act as President.

**Duties**

9.02. The President shall perform the following duties:

- (a) Preside over all meetings of the Members.
- (b) Sign as President all deeds, contracts, and other instruments in writing that have been first approved by the Members.
- (c) Call meetings of the Members whenever he or she deems it necessary in accordance with rules and on notice agreed to by the Members.
- (d) Have, subject to the advice of the Members, general supervision, direction, and control of the affairs of the Association and discharge such other duties as may be required of him or her by the Members.
- (e) Prepare, execute, certify, and have recorded all amendments to the Declaration required by statute to be recorded by the Association.

**ARTICLE 10****SECRETARY/ TREASURER****Election**

10.01. At the first meeting of the Members, the Members shall elect one Unit Owner to act as Secretary / Treasurer.

**Duties**

10.02. The Secretary / Treasurer shall perform the following duties:

- (a) Keep a record of all meetings and proceedings of the Members.
- (b) Keep the seal of the Association, if any, and affix it on all papers requiring the seal.
- (c) Keep appropriate current records showing the Members of the Association together with their addresses.
- (d) Sign as Secretary all deeds, contracts, and other instruments in writing that have been first approved by the Members if the instruments require a second Association signature.
- (e) Prepare, execute, certify, and have recorded all amendments to the Declaration required by statute to be recorded by the Association.
- (f) Receive and deposit in a bank or banks, as the Board may from time to time direct, all of the funds of the Association.
- (g) Be responsible for and supervise the maintenance of books and records to account for the Association's funds and other Association assets.

(h) Disburse and withdraw funds as the Members may from time to time direct, in accordance with prescribed procedures.

(i) Prepare and distribute the financial statements for the Association required by the Declaration.

## ARTICLE 11

### BOOKS AND RECORDS

#### **Maintenance**

11.01. Complete and correct records of account and minutes of proceedings of meetings of Member and committees shall be kept at the principal office of the Association. A record containing the names and addresses of all Members entitled to vote shall be kept at the registered office or principal place of business of the Association.

#### **Inspection**

11.02. The Governing Instruments of the Project, the membership register, the books of account, and the minutes of proceedings shall be available for inspection and copying by any Member of the Association for any proper purpose at any reasonable time.

## ARTICLE 12

### MEDIATION and ARBITRATION

12.01. Any disputes shall first be submitted to mediation in an attempt to promote harmony. In the event mediation is not successful in resolving any disagreement, said disagreement shall be submitted to binding arbitration. The Unit Owners shall first attempt to agree on an arbitrator. Failing said agreement, either Unit Owner may petition a District Judge in Travis County, Texas to appoint an arbitrator. The Unit Owners shall split all costs of arbitration: however, the arbitrator shall have the discretion to divide any costs, arbitrator fees or attorney fees as said arbitrator deems equitable.

## ARTICLE 13

### GENERAL PROVISIONS

#### **Amendment of Bylaws**

13.01. These Bylaws may be amended, altered, or repealed at a regular or special meeting of the Members of the Association by the unanimous affirmative vote in person or by proxy of Members.

#### **Attestation**

13.02. Adopted by the Members on April 14, 2023.

Attest:

  
 Frank J. Hull, President

## **APPENDIX B**

### **MILDRED GARDEN CONDOMINIUM OWNERS' ASSOCIATION, INC.**

#### **Rules and Regulations**

**POLICIES IN GENERAL.** Our Association has adopted the following rules to help maximize enjoyment, maintain values and assure the continued aesthetic beauty of our community. The rules apply to all owners and their families, tenants and guests. You are encouraged to ask your neighbors to follow the rules.

**CITY ORDINANCES.** Owners and their families, tenants, guests, invitees, contractors and agents shall comply with all applicable governmental ordinances, as well as these policies.

**ENFORCEMENT.** The rules will be strictly enforced. If the rules are violated by any occupant or guest of the owner's unit, the owner will be responsible for corrective action, damages and fines.

#### **Policies Applicable to All Owners, Occupants and Guests**

1. *Security, safety and lighting.* Neither the Association nor the Association's management company provides or warrants security. Each occupant is responsible for his own security and that of his family and guests. Owners are expected to remedy lighting problems or hazardous conditions on their Unit or Limited Common Elements.

2. *Storage of property in limited common areas.* Common backyard type property may be kept in the rear limited common areas provided that such items are not visible to the neighboring Unit Owner.

3. *Outside Areas.* Each Owner or resident shall control the visual attractiveness of the property; this shall include keeping his or her Unit and outside areas (including the Limited Common Elements, if any, assigned to that Unit) in a good state of cleanliness. A Patio may not be used for storage purposes, without the prior written consent of the other Owner(s).

4. *Trash.* Trash, rubbish or debris shall not be left or deposited, even temporarily, on any limited common elements.

5. *Garbage and Recycling Containers.* Garbage and recycling containers must be kept screened from view from the public. Garbage and recycling containers may be brought out to the designated location for pickup the evening before "pickup day". The containers must be returned to their proper place by the evening of "pickup day."

6. *Animals.* No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No animal may be boarded for hire or remuneration on the property, and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large. Animals which are permitted shall be kept on a leash or within the Owner's Unit or limited common area assigned thereto, if fenced in. Leashes must be held by a person who can control the animal at all times. The Owner of an animal has the responsibility to immediately clean up after such animals have defecated in limited common areas.

7. *Liability for animals.* The Unit Owner and the pet owner are both jointly liable to all other Owners and their respective families, guests, tenants, and invitees for injury and all damage caused by any animals brought or kept on the Property by an Owner or members of his family, his tenants or his guests— with or without permission of the Members. Owners agree, for themselves and their respective families, guests, tenants and invitees, that neither the Members nor the Association shall have any liability for any injury or damage caused by any animal brought or kept upon the Property, with or without the permission of the Members.

Unit owners shall be liable for damage caused by animals of the owner or the owner's tenants or guests. The Unit owner and the owner's tenants and guests shall be responsible for immediate removal of pet defecation if "accidents" occur while walking their pet.

8. *Window coverings.* No foil shall be placed in or next to any window or glass door. Burglar bars may not be installed.

9. *Noise.* Unit owners and occupants shall refrain from playing radios, televisions, stereos and other electrical or mechanical devices so loudly that they may be heard outside their dwelling.

10. *Nuisances.* No unsafe, noxious, offensive or illegal activity or odor is permitted on the Property. No activity shall be conducted on the Property which a reasonable person would consider as annoying to neighbors of ordinary sensibilities, or might be reasonably calculated to reduce the desirability of the Property. No person may do anything that will increase insurance rates for the Property, or which may cause such improvements to be uninsurable or which may cause any policy to be canceled, suspended or materially modified by the issuing company without the prior written consent of the Members.

11. *Children.* Each owner is responsible for the conduct of children who are occupants or guests in their dwelling. Residents of a unit are encouraged to exercise care to inspect windows, screens, locks and latches to make sure they are in good working order and are being used properly to protect children visiting or living in the unit.

12. *Vehicle repair.* Vehicles must be serviced or repaired off the Property. Vehicles which have expired license plates, expired inspection stickers, flat tires or which are obviously inoperable due to missing parts are prohibited and must be removed from the Property at the owner's expense. Such vehicles must be removed from the property immediately upon notice from any Member or management representative.

13. *Parking.*

a. Parking of vehicles, motorcycles and bicycles in grass areas, dirt areas, flower beds or sidewalks is prohibited. Owners and occupants shall park vehicles in their respective assigned places.

b. No vehicles may be parked or unattended in such a manner as to block the passage of other vehicles on the streets or in driveways to the Property. No vehicle shall be left parked and unattended, in the street, along the curb or in driveway areas in such a manner as to prevent the ingress and/or egress of emergency vehicles (i.e., fire, EMS) or service vehicles (i.e., refuse trucks). No inoperable vehicle may be stored on the Property.

- c. No boats may be parked on the Property overnight.
- d. No RVs or campers may be parked on the Property overnight.
- e. Motorcycles and bicycles may not be parked on balcony walkways, underneath stairwells or on patios. Bicycles must be stored inside the Unit or behind a privacy fence.

14. *Anti-theft alarms.* Owners and occupants who have vehicles with anti-theft systems shall not allow the alarms or horns to go off and disturb other persons in the Property for more than three minutes. Any vehicle violating the three-minute rule shall be deemed to be illegally parked and subject to immediate towing by the Association under the Texas towing statutes, without prior notice to the vehicle owner or operator. The Association may, without liability to the owner or operator of the vehicle, cut or disconnect any power source to such alarm or horn to avoid having to tow the vehicle.

15. *Towing illegally parked vehicles.* Vehicles parked in violation of these rules may be removed and stored without permission of the vehicle's owner or operator. Notice and removal shall be in accordance with Chapter 684 of the Texas Transportation Code (formerly article 6701g-2). A Unit owner is liable for all costs of towing illegally parked vehicles of the Unit owner, his family, guests or tenants.

16. *Criminal activity.* While on the Property, no person may violate any criminal laws, health codes or other applicable laws. No tampering with water, lighting, timers, sprinklers, pool equipment or other facilities located within the limited common area is allowed.

17. *Limited Common Element repairs.* If for any reason limited common elements exist, the limited common element repairs are the responsibility of the Owner benefiting from said limited common elements, except for underground utility repairs that benefit two or more Units, which repairs shall be shared by those affected Units.

18. *Change of address.* Owners shall keep the Association timely informed of their current addresses.

19. *Names and addresses of tenants.* Owners shall notify the Association of current names, addresses and telephone numbers of tenants of their respective Units.

20. *Name and address of new Owners.* An Owner may not sell or convey his Unit unless all amounts due and owing to the Association are paid in full. If an Owner sells, conveys or transfers his Unit without paying all amounts due and owing to the Association, the Seller of such Unit shall remain liable for all such sums. If an Owner sells or transfers ownership of his Unit and fails to notify the Association of the sale, the seller of such Unit shall continue to be liable for the assessments accruing after the sale or transfer until such time as the selling or transferring Owner notifies the Association in writing of the name and address of the new Owner.

21. *Yard Maintenance.*

*Limited Common Elements / Areas Assigned to a Unit.* Mowing, edging, and any other yard maintenance for each Unit's Limited Common Elements or areas designated specifically for the benefit of a Unit are the obligation of the Unit Owner. Unit Owners shall maintain the front yards in a neat and attractive fashion. Unit owners must maintain their respective back yards in a neat and attractive fashion. If the existing plants or shrubs located in the front yard die, then the Unit Owner must replace them. If the existing plants or shrubs located in the back yard die, the Unit Owner must replace them or curate the area to maintain a neat and attractive appearance. Unit owners reserve the right to plant any additional shrubs or flowers in their respective areas in their reasonable discretion.

*General Common Elements.* The General Common Elements, if any, are to be maintained by all residents.