

**SECOND AMENDMENT  
TO  
AMENDED AND RESTATED DECLARATION FOR  
TIMBERLINE CONDOMINIUMS**

This Second Amendment to Amended and Restated Declaration for Timberline Condominiums (this “**Second Amendment**”) is made as of the 7<sup>th</sup> day of December 2019.

**RECITALS:**

A. Timberline Condominiums is encumbered by and subject to that certain Amended and Restated Declaration for Timberline Condominiums, recorded October 3, 1980 in book 396 at page 452 as reception no. 227548 in the real property records of Pitkin County, Colorado (the “**Declaration**”), as amended by the First Amendment thereto recorded on May 30, 2017 as reception no. 638690 in the real property records of Pitkin County, Colorado (the “**First Amendment**”) and governed by the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101, *et seq.* (the “**Act**”). All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Declaration.

B. Pursuant to Section 12.1 of the Declaration as modified by the First Amendment, the Declaration may be amended by the affirmative vote of the Owners holding at least sixty-seven (67%) of the votes of the Homeowners Association.

C. As hereinafter provided, the Owners wish to amend Article 9 of the Declaration, to insert a new Section 9.6 in order to set out a reasonable maximum number of days per calendar year any Unit can be occupied by any Owner or their partners or members, or guests, invitees, licensees or lessees.

D. This Second Amendment has been duly approved by Owners holding at least sixty-seven percent (67%) of the votes of the Homeowners Association.

E. All other preconditions to the effectiveness of this Second Amendment required by the Declaration have occurred.

**AMENDMENT:**

**NOW, THEREFORE**, it is hereby declared that this Second Amendment is valid, in full force and effect, and incorporated into the Declaration in the same manner and with the same effect as if this Second Amendment were part of the original Declaration:

1. Incorporation of Recitals. The recitals set forth above are incorporated in the operative provisions of this Second Amendment.

  
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Pg 1 of 3, 01/09/2020 at 09:31:21 AM  
Janice K. Vos Caudill, Pitkin County, CO

2. Insertion of new Section 9.6 of the Declaration. Article 9 of the Declaration is hereby amended by *inserting* the following text as the new Section 9.6:

9.6 Use/Occupancy. All Condominium Units within the Project shall be used only for those uses and/or purposes as allowed by the local zoning controls and regulations, and as permitted by this Declaration, subject to any Rules and Regulations adopted by the Association.

9.6.1 Residential Use. Use and occupancy of Units shall be limited and restricted to non-permanent residential purposes only. With the exception of paying guests booked through the Association Managing Agent (or approved rental management company, if any), no Unit shall be:

(i) occupied as a permanent residential dwelling unit, as determined in the sole discretion of the Board of Directors; nor

(ii) be occupied by any person for greater than ninety (90) days in any calendar year. Any extension beyond these periods shall only be allowed at a fee as set by the Board of Directors and pursuant to the procedures set forth in Section 9.6.2.

9.6.2 The strict application of the limitations and restrictions in this Section 9.6 in any specific case may be modified or waived, in whole or in part, by the Board of Directors, upon application by the Owner of the Unit, if such strict application would be unreasonable or unduly harsh under the circumstances or is inconsistent with any applicable law. Any such modification or waiver must be in writing.

9.6.3 The restrictions set forth in this Section 9.6 shall apply prospectively and only to Owners who "First Acquire Title" to a Unit, as defined below, after the date of the recording of this Second Amendment in the Pitkin County, Colorado real property records. For purposes of this Section 9.6.3, an Owner shall be deemed to First Acquire Title to a Unit through any sale, exchange, or transfer of greater than a fifty percent (50%) ownership interest in the Unit or any entity owning the Unit, provided however an Owner shall not be deemed to First Acquire Title through any sale, exchange, transfer, gift, bequest, or other transaction between immediate family members.

3. Effect of this Second Amendment. This Second Amendment has been approved by the affirmative vote of the Owners holding at least sixty-seven percent (67%) of the votes of the Homeowners Association. This Second Amendment shall be effective upon the date of recording in the Office of the Clerk and Recorder of Pitkin County, Colorado. Except as specifically amended herein, all terms, conditions, covenants, restrictions, and limitations contained in the Declaration shall remain in full force and effect.

