



## Application for Condominium Conversion/Creation

City of Rochester, New Hampshire

Date: 6/13/2023

### Property information

Tax map #: 117; Lot #(s): 19-2; Zoning district: Nmu

Property address/location: 48 Stillings Court

Name of project (if applicable): \_\_\_\_\_

### Applicant

Name (include name of individual): RS Realty, LLC - Rebecca Mathews

Mailing address: 40 Province Rd. Strafford, NH 03884

Telephone #: 603-235-4994 Email address: becky-mathews@outlook.com

### Property owner (if different from applicant)

Name (include name of individual): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Email address: \_\_\_\_\_

Number of condominium units 2; conversion? \_\_\_\_\_ or new construction? ☒

Any comments Declaration and by-laws submitted from

48 Stillings. Buildings are mirror image. Updated copy will

be provided prior to TRG with accurate metes + bounds desc.

Signature: R. Mathews

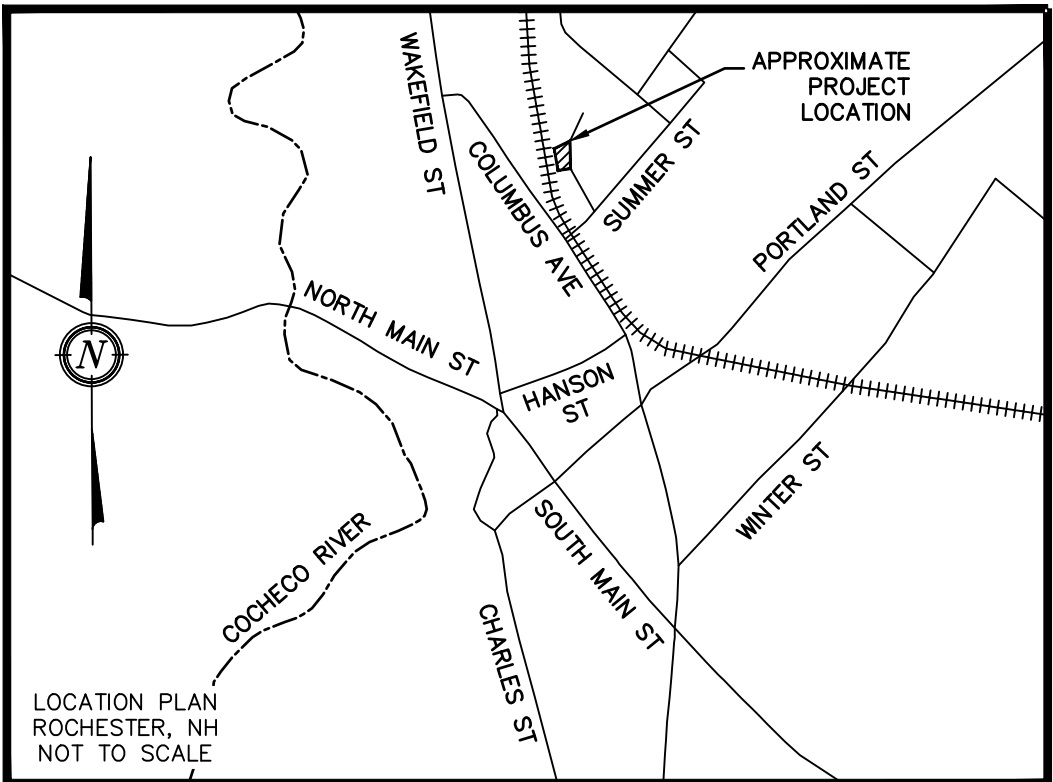
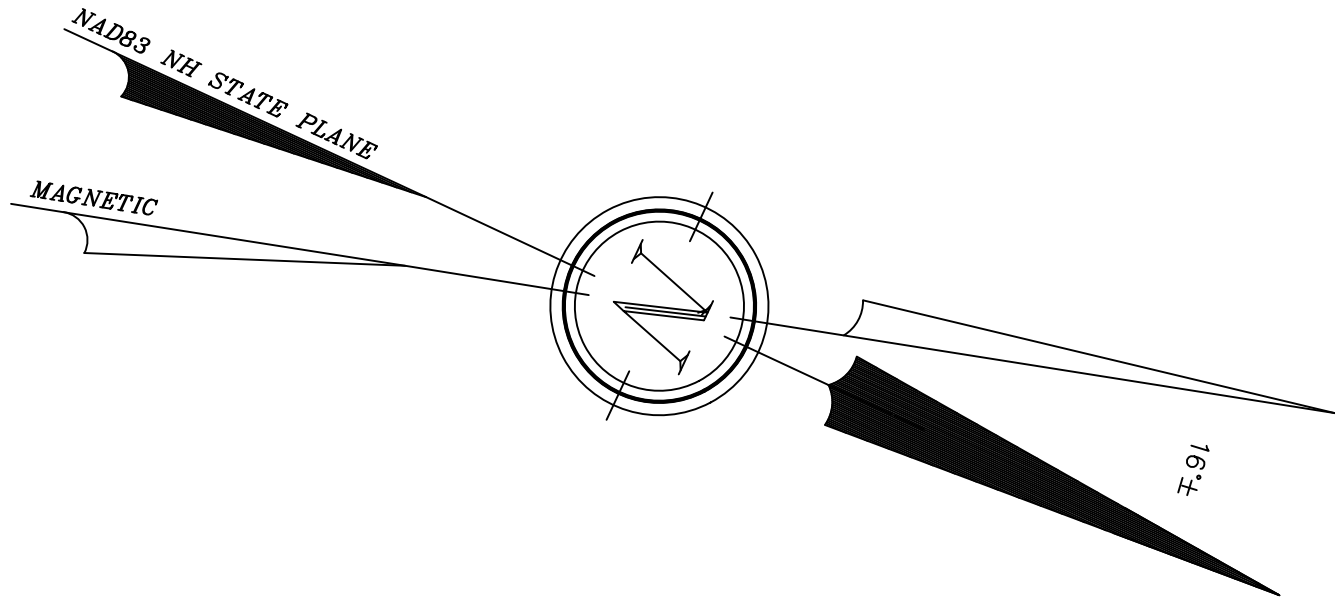
Date: 6/13/2023

**Please note:** One full set of documents must be submitted with this application, including condominium declaration, bylaws, floors plans, and site plan. Condominiums are approved administratively except in cases where the staff determines that review by the City Attorney is appropriate. In such cases, the owner/applicant shall pay the costs of that review. Thank you.

Office Use Only

Staff Final Determination: \_\_\_\_\_ Comments: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



NOTES:

- OWNER: RBV REALTY LLC  
40 PROVINCE ROAD  
STRAFFORD, NH 03884
- TAX MAP 117, LOT 19-2
- S.C.R.D. BOOK 5051, PAGE 891
- SEE CORRESPONDING FLOOR PLAN TO BE RECORDED HEREWITH.

PLAN REFERENCES:

- "SUBDIVISION OF LAND, SUMMER STREET & STILLINGS COURT, ROCHESTER, NH FOR GUAY VENTURES, LLC"  
BY: NORWAY PLAINS ASSOCIATES, INC.  
DATED: APRIL 2014  
S.C.R.D. PLAN #107-42
- "SUBDIVISION OF LAND, TAX MAP 112, LOT 3, SUMMER STREET & STILLINGS COURT, ROCHESTER, NH FOR NORTHCOST CORPORATION"  
BY: NORWAY PLAINS ASSOCIATES, INC.  
DATED: APRIL 2009  
S.C.R.D.: PLAN #97-5

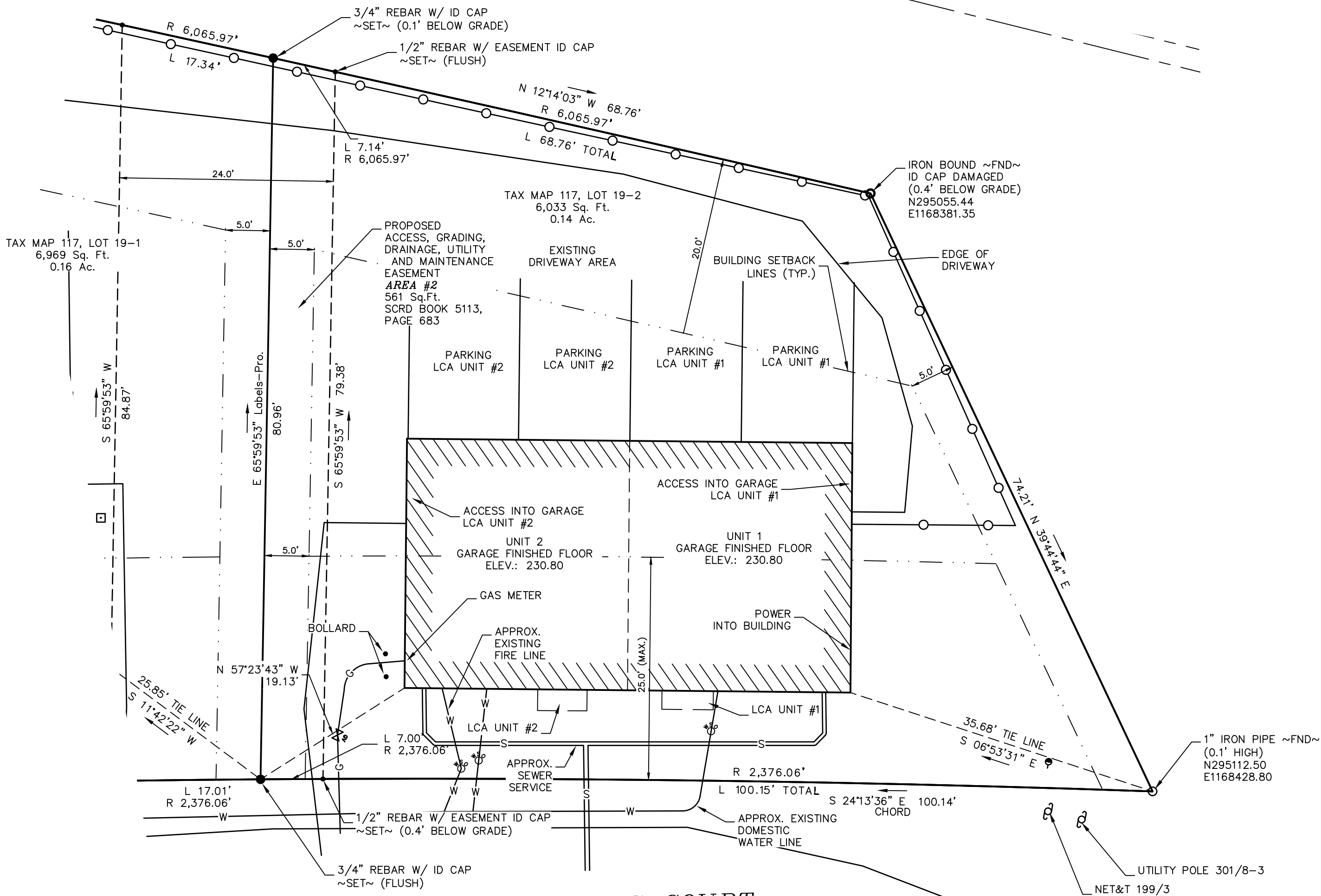
LEGEND:

- 3/4" IRON BOUND ~SET~ W/ ID CAP
- 1/2" IRON BOUND ~SET~ W/ ID CAP
- IRON BOUND ~FND~
- IRON PIPE ~FND~
- UTILITY POLE / GUY WIRE
- PROPOSED BOUNDARY LINE
- PERIMETER'S BOUNDARY LINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- S.C.R.D. STRAFFORD COUNTY REGISTRY OF DEEDS
- TYP. TYPICAL
- FND FOUND

48 STILLINGS COURT CONDOMINIUM

REVISION	DATE	DESCRIPTION
		CONDOMINIUM SITE PLAN FOR RBV REALTY LLC 48 STILLINGS COURT ROCHESTER, N.H. TAX MAP 117, LOT 19-2
		BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. (603)332-2863
		SCALE : 1 IN. EQUALS 10 FT.
		DATE : MARCH 2, 2023
		FILE NO. : DB 2022 - 050

SHEET 1 OF 3



STILLINGS COURT

I CERTIFY THAT THIS SITE PLAN ACCURATELY  
DEPICTS THE AS-BUILT DIMENSIONS OF THE UNIT  
AND THAT THE UNIT AS SHOWN ON THIS PLAN IS  
SUBSTANTIALLY COMPLETE. THIS PLAN COMPLIES  
WITH THE PROVISIONS OF RSA 356-B:20 II.

Kenneth A. Berry L.L.S. 805 6-19-23  
DATE

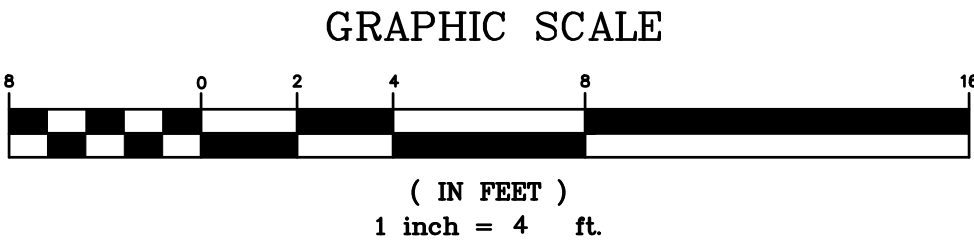
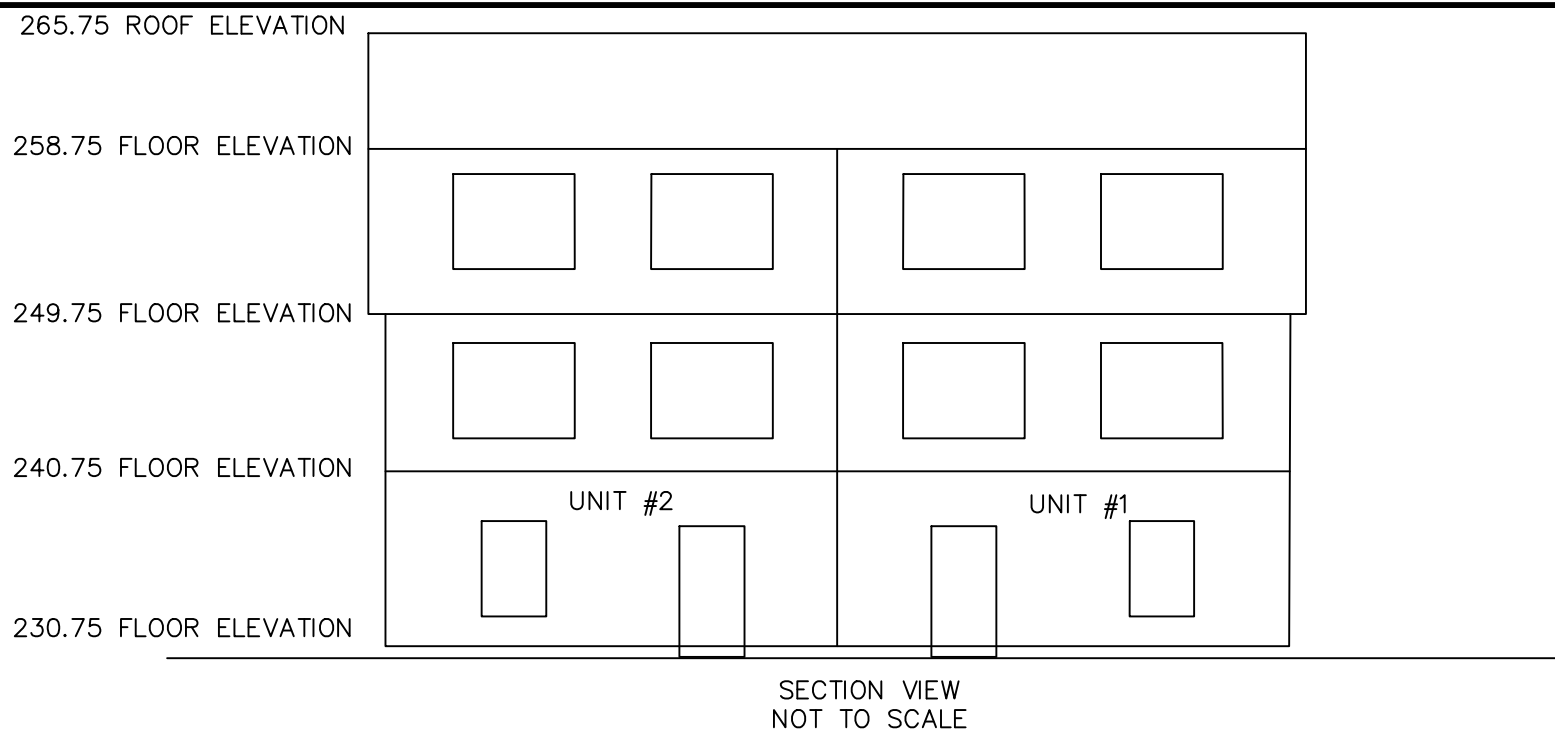
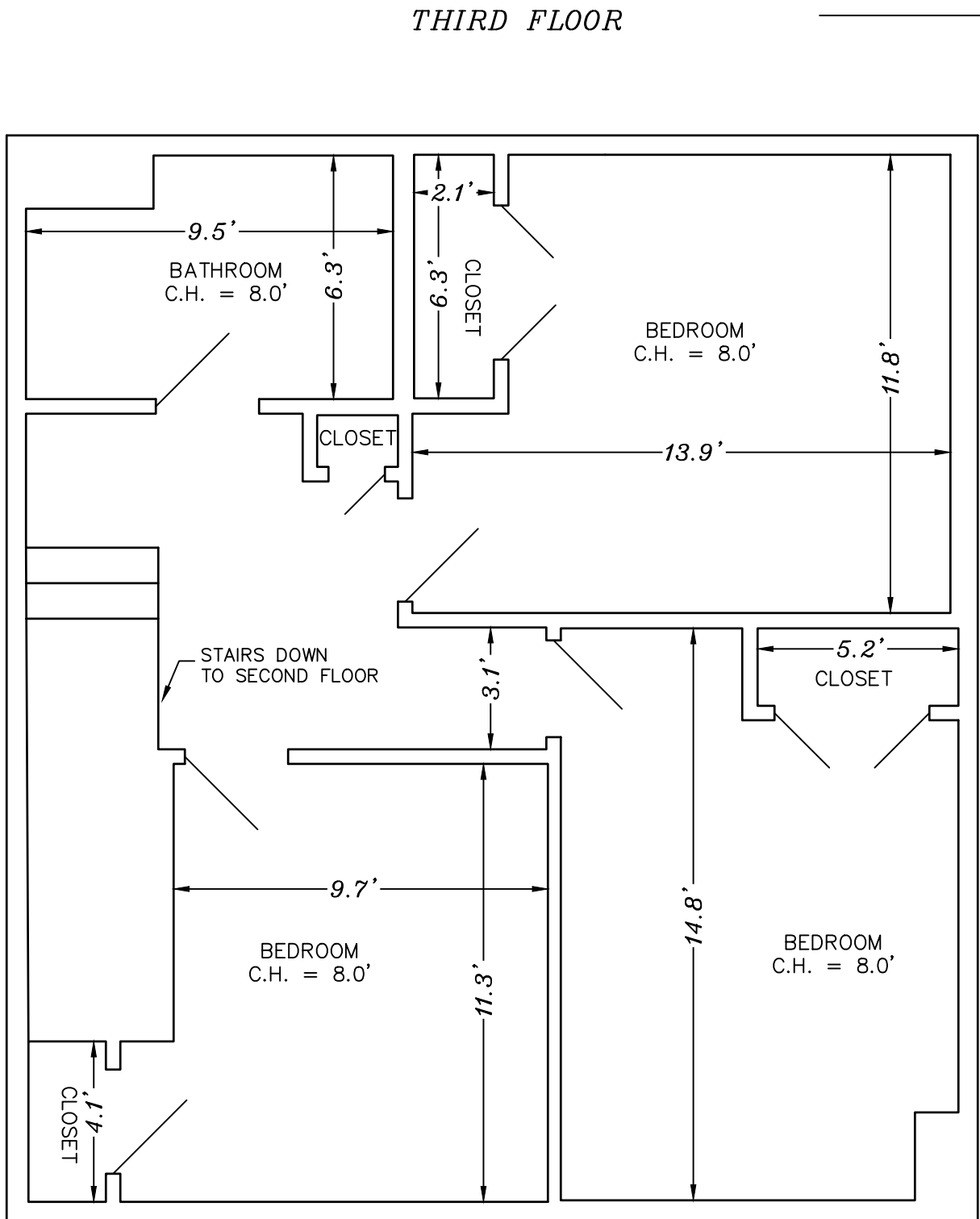
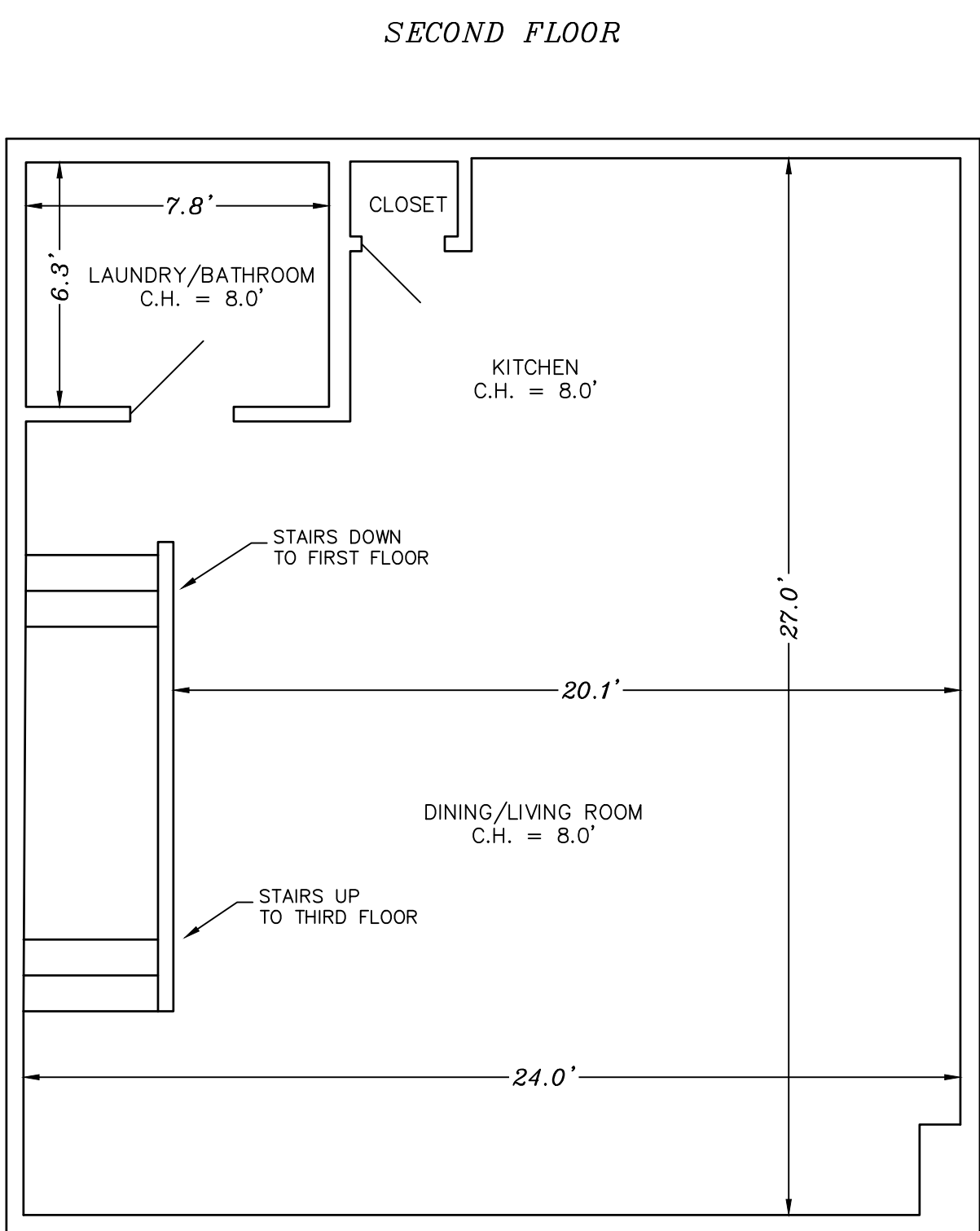
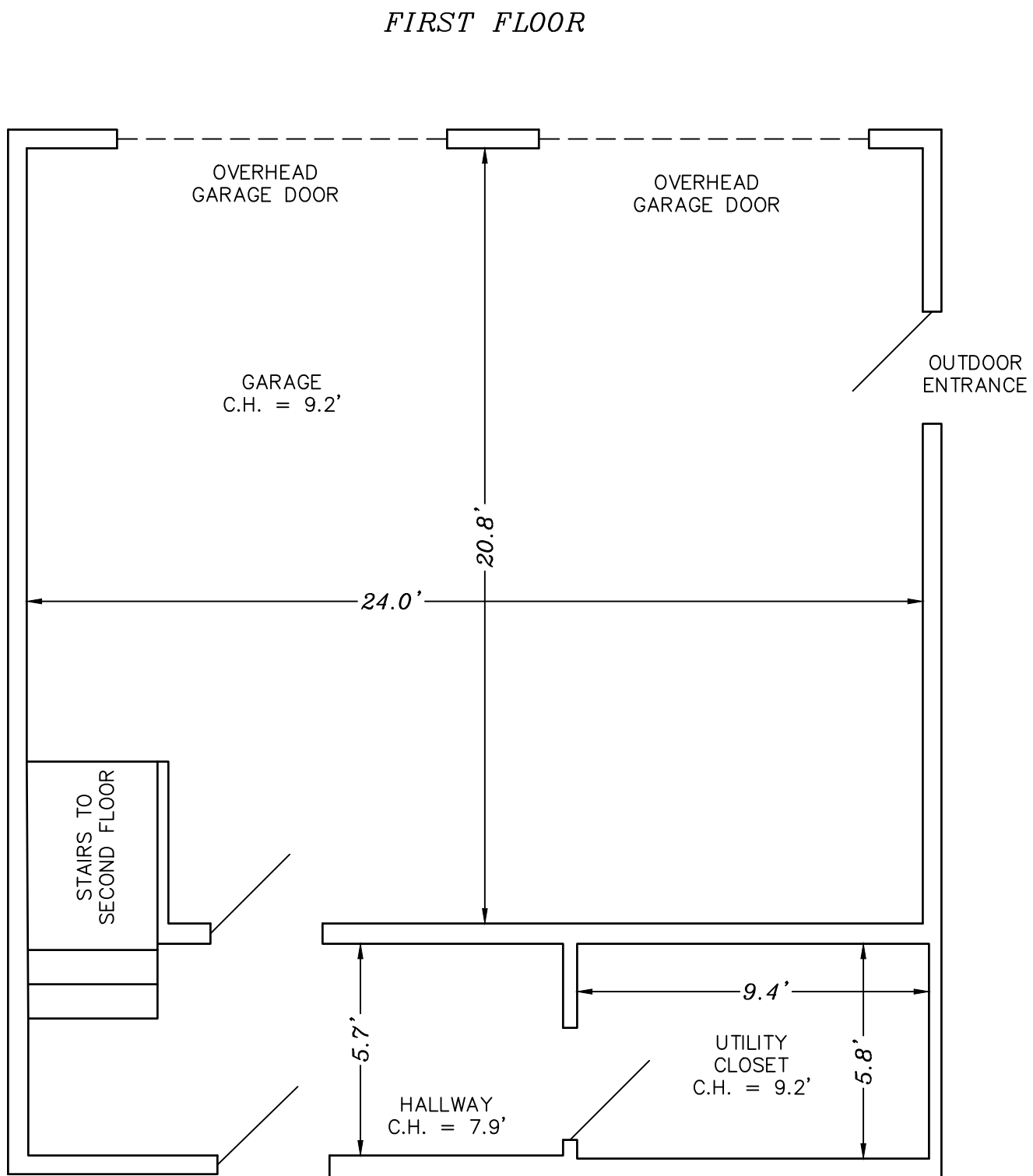
I CERTIFY THAT THIS SURVEY PLAT IS NOT A  
SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE  
LINES OF STREETS AND WAYS SHOWN ARE THOSE OF  
PUBLIC OR PRIVATE STREETS OR WAYS ALREADY  
ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

Kenneth A. Berry L.L.S. 805 6-19-23  
DATE

GRAPHIC SCALE



( IN FEET )  
1 inch = 10 ft.



48 STILLINGS COURT CONDOMINIUM

- NOTES:
- OWNER: RBV REALTY LLC  
40 PROVINCE ROAD  
STRAFFORD, NH 03884
  - TAX MAP 117, LOT 19-2 (UNIT 1)
  - S.C.R.D. BOOK 5051, PAGE 891
  - INTERIOR DIMENSIONS ARE TO GYPSUM WALLBOARD SURFACES AND ARE GIVEN IN FEET AND DECIMAL FEET.

I CERTIFY THAT THIS FLOOR PLAN ACCURATELY DEPICTS THE AS-BUILT DIMENSIONS OF THE UNIT AND THAT THE UNIT AS SHOWN ON THIS PLAN IS SUBSTANTIALLY COMPLETE. THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B:20 II.

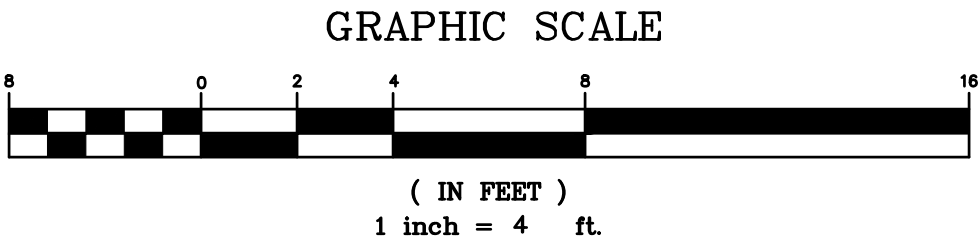
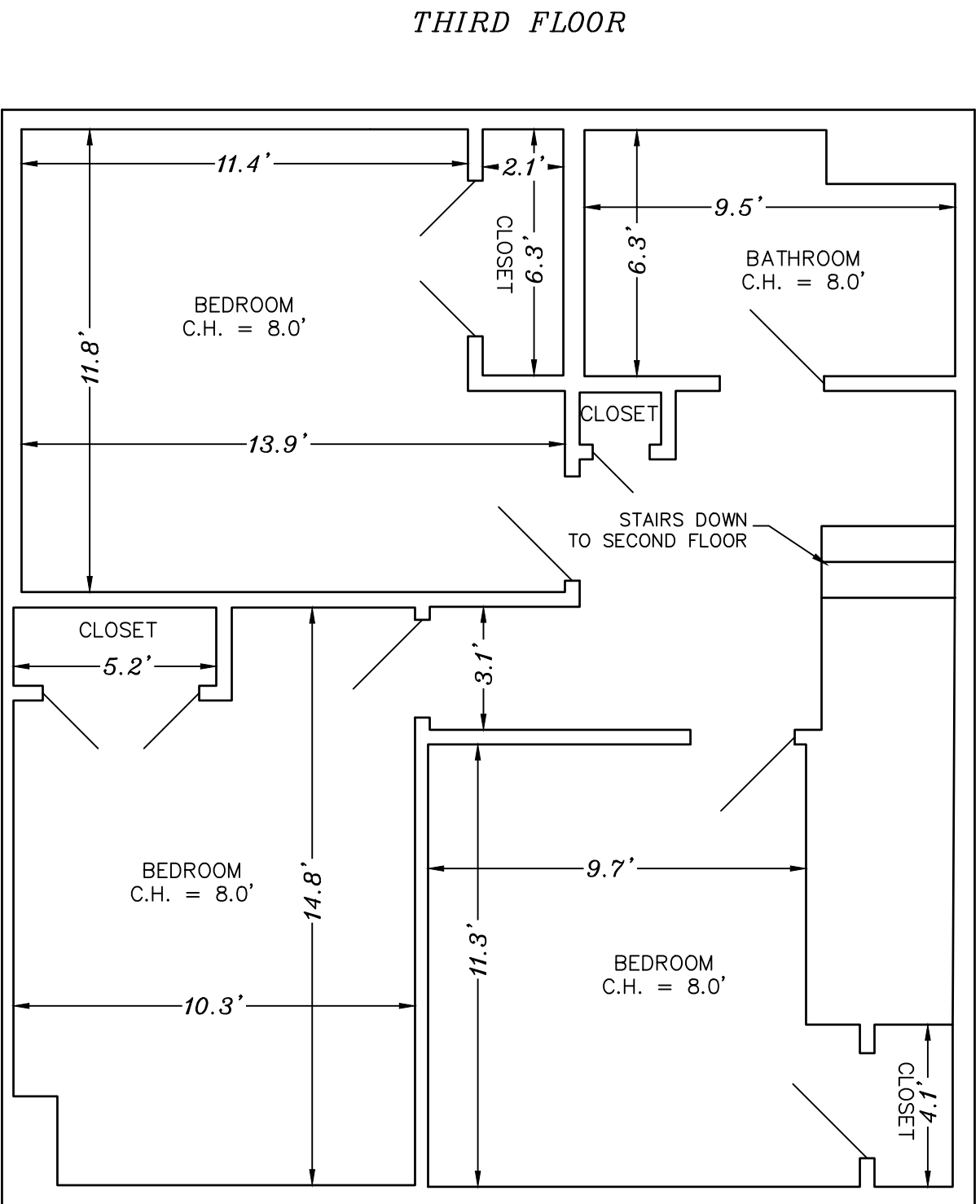
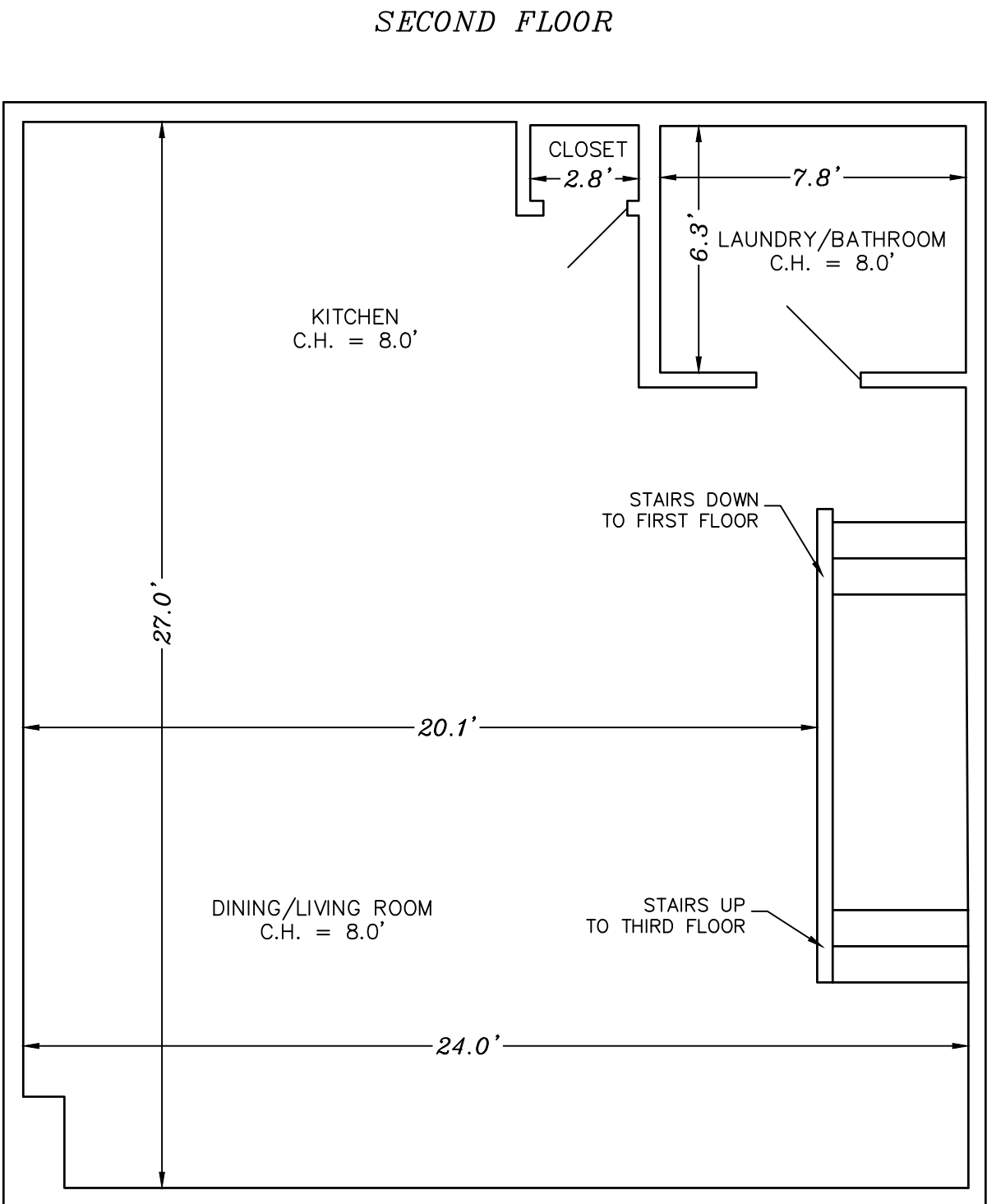
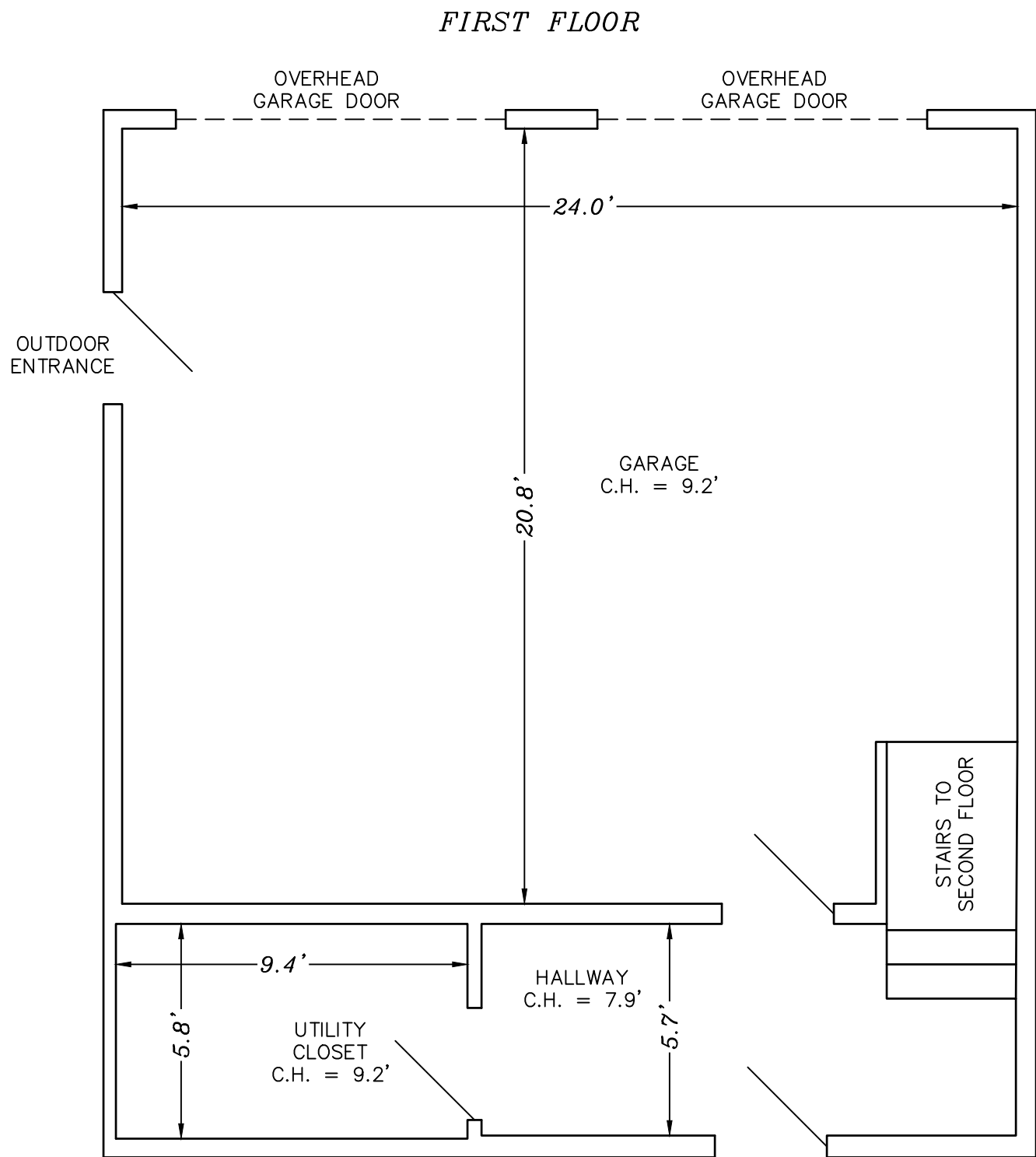
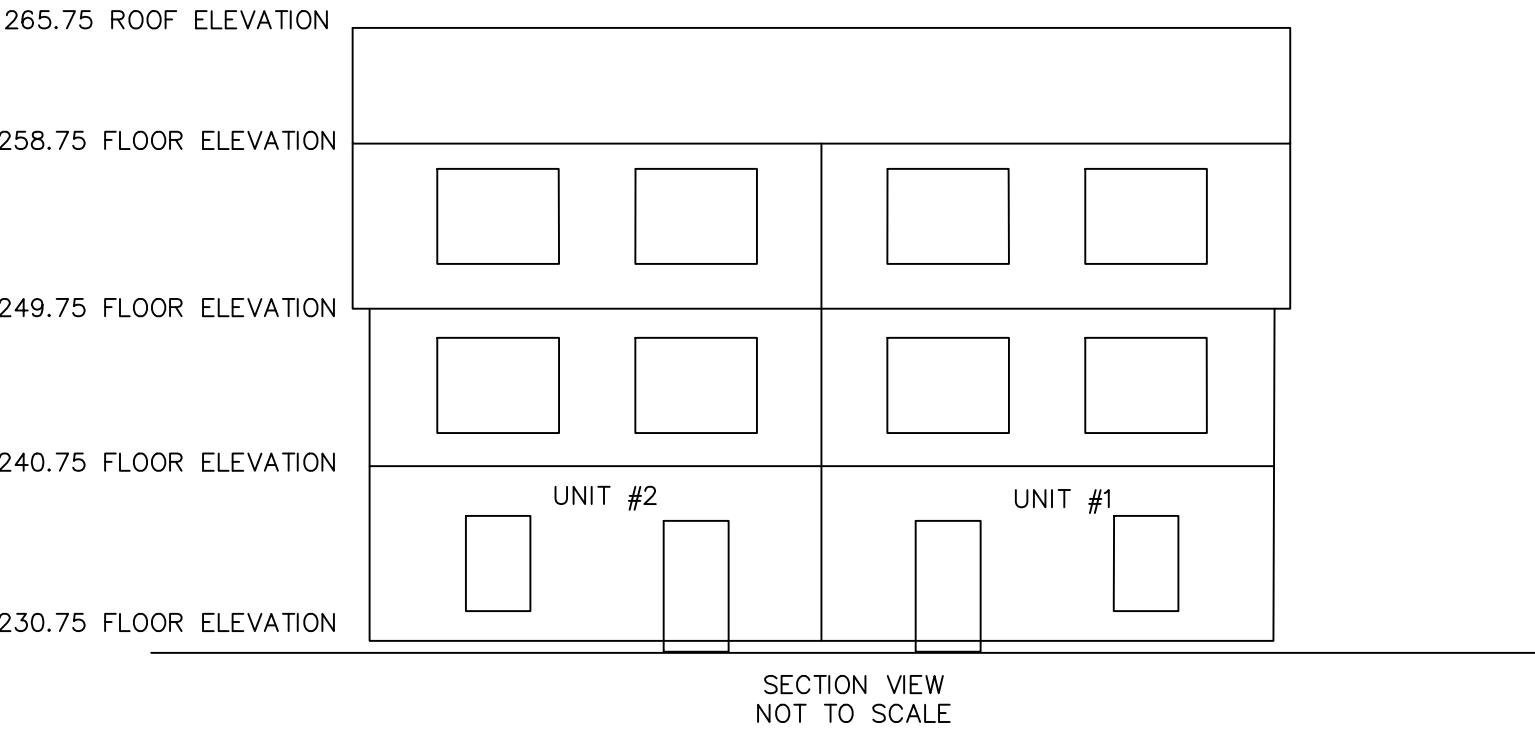
KENNETH A. BERRY L.L.S. 805 DATE 6-19-23

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

KENNETH A. BERRY L.L.S. 805 DATE 6-19-23

REVISION	DATE	DESCRIPTION
CONDOMINIUM FLOOR PLAN (UNIT 1) FOR RBV REALTY LLC 48 STILLINGS COURT ROCHESTER, N.H. TAX MAP 117, LOT 19-2		
BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. (603)332-2863		
SCALE : 1 IN. EQUALS 4 FT.		
DATE : JUNE 15, 2023		
FILE NO. : DB 2022 - 050		





48 STILLINGS COURT CONDOMINIUM

REVISION	DATE	DESCRIPTION
CONDOMINIUM FLOOR PLAN (UNIT 2) FOR RBV REALTY LLC 48 STILLINGS COURT ROCHESTER, N.H. TAX MAP 117, LOT 19-2		
BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. (603)332-2863		
SCALE : 1 IN. EQUALS 4 FT.		
DATE : JUNE 15, 2023		
FILE NO. : DB 2022 - 050		

- NOTES:
- 1.) OWNER: RBV REALTY LLC  
40 PROVINCE ROAD  
STRAFFORD, NH 03884
  - 2.) TAX MAP 117, LOT 19-2 (UNIT 2)
  - 3.) S.C.R.D. BOOK 5051, PAGE 891
  - 4.) INTERIOR DIMENSIONS ARE TO GYPSUM WALLBOARD SURFACES AND ARE GIVEN IN FEET AND DECIMAL FEET.

I CERTIFY THAT THIS FLOOR PLAN ACCURATELY DEPICTS THE AS-BUILT DIMENSIONS OF THE UNIT AND THAT THE UNIT AS SHOWN ON THIS PLAN IS SUBSTANTIALLY COMPLETE. THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B:20 II.

Kenneth A. Berry L.L.S. 805 6-19-23  
DATE

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

Kenneth A. Berry L.L.S. 805 6-19-23  
DATE

## DECLARATION OF 48 STILLINGS COURT CONDOMINIUM

This Declaration of Condominium for 48 Stillings Court CONDOMINIUM (hereinafter referred to as "Declaration") is made this       day of July, 2023 by RBV REALTY LLC a New Hampshire limited liability company, with a mailing address of 40 Province Road, Strafford, NH 03884 (hereinafter, collectively referred to "Declarant"), and in accordance with the provisions of the aforesaid Declaration and the provisions of the New Hampshire Condominium Act, New Hampshire RSA Chapter 356-B hereby declares:

**1. Submission of Property.** The Declarant hereby submits improved land situate at 48 Stillings Court, Rochester, New Hampshire 03867, being the improved real property described in deed to Declarant recorded on July 27, 2022 in Strafford County Registry of Deeds at Book 5051 Page 891 and more particularly described in **Appendix A**, together with the buildings, all improvements heretofore or hereafter constructed thereon and all easements, rights and appurtenances thereto including but not limited to those described in Appendix A (hereinafter referred to as the "Land") all of which are owned by the in fee simple.

**2. Definitions.** As provided in section 12, I. of the Condominium Act capitalized terms not otherwise defined herein or in the Bylaws shall have the meanings specified in Section 3 of the Condominium Act. The following terms are expressly defined herein.

**A. "Appendix A"** means the Description of Submitted Land, with any improvements thereon, annexed to this Declaration as Appendix A as amended from time to time.

**B. "Appendix B"** means the Bylaws of 48 Stillings Court CONDOMINIUM attached to this Declaration as Appendix B, as amended from time to time.

**C. "Appendix C"** means the List of Unit Numbers and Percentage Interest attached to this Declaration as Appendix C as amended from time to time.

**D. "Board of Directors" or "Board"** means the board of directors of the Association.

**E. "Bylaws"** means the bylaws of the Association providing for the self-government of the Condominium attached to this Declaration as Appendix B as amended from time to time.

**F. "Common Area"** means all parts of the Land other than the Units, as more fully set forth in Paragraph 3(e) of this Declaration and includes the Limited Common Area.

- G. "Condominium"** means the **48 Stillings Court CONDOMINIUM**, the condominium established by this Declaration.
- H. "Condominium Act"** means Chapter 356-B of the New Hampshire Revised Statutes Annotated (1984) as amended as of the date of this Declaration and as amended thereafter.
- I. "Convertible Land"** means a building site, which is a portion of the Common Area, within which additional units and/or Limited Common Area may be created in accordance with the Condominium Act. This condominium has no convertible land.
- J. "Declarant"** means RBV REALTY LLC, a New Hampshire limited liability company, with a mailing address of 40 Province Road, Strafford. NH 03884.
- K. "Declaration"** means the Condominium Declaration of the 48 Stillings Court CONDOMINIUM, as amended from time to time.
- L. "Land"** shall have the meaning as set forth in Paragraph 1 of this Declaration, being improved real property located at 48 Stillings Court, Rochester, Strafford County, New Hampshire and shown on City of Rochester Tax Map 117, Lot 19-2 as further described in Appendix A.
- M. "Limited Common Area"** means a portion of the Common Area reserved for the exclusive use of those entitled to the use of one or more, but not all, of the Units.
- N. "Majority of the Owners"** means the Owners of the Units to which more than sixty-seven (67%) percent of the votes in the Association appertain. Any specified percentage of the Owners means the Owners of Units to which the specified percentage of the votes in the Association appertains.
- O. "Manager"** means the professional manager or managing agent employed by the Board to manage the Condominium.
- P. "Mortgage"** means a real estate mortgage.
- Q. "Mortgagee"** shall mean the holder of a real estate mortgage.
- R. "Owner" or "Unit Owner"** means any natural person or persons or any entity holding a fee simple title to a Condominium Unit. No Mortgagee shall be deemed to be an owner until such Mortgagee has acquired such title pursuant to foreclosure or any procedure in lieu of foreclosure.

**S. "Percentage Interest" or "Undivided Interest"** means the interest of each Unit in the Common Area as set forth in Appendix C.

**T. "Plan(s)"** means the Condominium Site Plan drawn by Keach -Nordstrom Associates, Inc., entitled: "'Condominium Site Plan for RBV Realty LLC 48 Stillings Court Rochester, N.H. Tax Map 117, Lot 19-2'", as drawn by Berry Surveying & Engineering, Scale 1" = 10' dated March 2, 2023 and recorded on \_\_\_\_\_ 2023 in the Strafford County Registry of Deeds as Plan No. \_\_\_\_\_ ("SITE PLAN") and recorded in the Strafford County Registry of Deeds as Plan No. \_\_\_\_\_, as may be amended from time to time, "Condominium Floor Plan and for RBV Realty LLC 48 Stillings Court Rochester, N.H. Tax Map 117, Lot 19-2", as drawn by Berry Surveying & Engineering, Scale 1" = 10' dated March 2, 2023 and recorded on \_\_\_\_\_ 2023 in the Strafford County Registry of Deeds as Plan No. \_\_\_\_\_ ("FLOOR PLAN").

**U. "Resolution"** means any resolution adopted by the Board of Directors relative to the use of the Condominium provided they are not in conflict with the Condominium Act, the Declaration, the Bylaws or the Rules or the ordinances, regulations and rules of the City of Rochester.

**V. "Rules"** means those rules and regulations adopted from time to time by the Board of Directors relative to the use of the Condominium provided they are not in conflict with the Condominium Act, the Declaration, or the Bylaws.

**W. "Site Plan and Floor Plan" or "Plans"** means all site and floor plans which are or are to be recorded in the Strafford County Registry of Deeds pursuant to the Declaration, and the Condominium Act as amended from time to time.

**X. "City"** means the City of Rochester, County of Strafford, New Hampshire or any of its political subdivisions, commissions, boards or the like as the context may require.

**Y. "Unit"** means a unit as defined by the Condominium Act, which is bounded and described as shown on the Plans and as provided in Paragraph 3(d) hereof. This condominium has two Units: Unit 1 located on the north side of the building with street address of 48 B Stillings Court, and Unit 2 located on the south side of the building with street address of 48A Stillings Court.

**Z. "Unit Owners Association" or "Association"** means the **48 Stillings Court CONDOMINIUM ASSOCIATION**, which is comprised of all of the Owners acting as a group in accordance with the Declaration, and/or the Bylaws.

**3. Statutory Requirements.** The following information is provided pursuant to the provisions of Section 16.1 of the Condominium Act:

**(a) Name.** The name of the Condominium is the **48 Stillings Court CONDOMINIUM**.

**(b) Location.** The condominium is located at 48 Stillings Court, Rochester, Strafford County, New Hampshire 03867.

**(c) Description of Land.** A legal description by metes and bounds of the Land submitted to the condominium along with all easements and rights are contained in **Appendix A.**

**(d) Description of Units.**

**(i) Buildings/Units.** The condominium consists of a total of one (1) building on the land with basement and three stories, which building contains a total of two (2) "side-by-side" units located at 48 Stillings Court, New Hampshire: The location of the Units and the location, dimensions and room layout, common area ("CA"), limited common area ("LCA"), stair ways, and decks of the buildings are as shown on the Plans. Additional limited common area and common area is further described in this Declaration.

Each Unit shall include the portions of the building within its boundaries as described herein and the space enclosed by said boundaries, except any Common Area described in Paragraph 3(d) or 3(e) herein and below which may be located therein; to wit: the unit shall include finished interior surfaces of the perimeter walls, door frames, lowermost floor and uppermost ceiling of a Unit, consisting of, inter alia and as appropriate, all paint, paneling, wallpaper, finished flooring, carpeting, tiles and any other materials constituting any part of the finished surfaces thereof shall be deemed a part of such Unit.

The Owner of the Unit shall be deemed to own such finished interior surfaces and shall also be deemed to own the window glass and glass vents of his Unit, the entrance doors, window frames (to the unfinished interior surface thereof),

and doors connecting his Unit with the Limited Common Area reserved for his Unit, if any, and the sinks and other plumbing facilities, and any appliances that may be located in his Unit and serving solely his Unit.

The Owner of a Unit shall be deemed not to own the outside grounds or driveway, or porches or common bulkhead, any pipes, wires, cables, chutes, flues, conduits, public utility lines, ventilation, or other ducts, bearing walls, bearing columns or structural portions of the building running through said Unit which are utilized for or serve more than one Unit or serve any portion of the Common Area, which items are by these presents hereby made a part of the Common Area. (See also Paragraph 3(e) (i) hereof).



**(ii) Unit Boundaries.** Rooms and room dimensions for each Unit are as shown on the Site & Floor Plan. All structures located within the boundaries of the Unit are a part of the Unit, excepting for structural components of the building, which shall remain a part of the common area. The boundaries of each Unit are as follows:

**a. Horizontal Boundaries**

- i. Floor: The unfinished interior surface of the lowermost floor (e.g. beginning with the subflooring attached to the uppermost portion of the floor joists, but not the floor joists).
- ii. Ceiling. The unfinished interior surface of the uppermost ceiling (e.g., beginning with the sheetrock or similar substance attached the lowermost portion of the ceiling joists, but not the ceiling joists).

**b. Vertical Boundaries**

- i. Perimeter Walls: the unfinished interior surface of the structural outer wall of the unit thereof (e.g., beginning with the sheetrock or similar substance attached to the outermost portion of the wall studs, but not the wall studs). Each Unit has boundaries to the center line of their respective north and south party walls as shown on the Plans and these walls shall be considered as party walls, and subject to the rights of the owners of the adjoining premises as party walls.
- ii. Doors and Door Frames: As to entrance doors, the unfinished exterior surface thereof; and as to door frames the unfinished interior surface thereof.
- iii. Windows and Window Frames: As to windows the exterior surface of the window; and as to window frames, the unfinished interior surface thereof.

**(iii) Unit Services.** Each unit owner shall have an access easement to the other unit owner's basement area for the purpose of maintaining and replacing common area servicing both units and common service entries and lines of natural gas, water, sewer, furnace, cable and internet, and such like services, and for maintaining common area elements which serve the unit owner seeking, and for addressing emergency situations, which, if unattended, would cause further damage to either unit. Access shall be provided upon reasonable notice except in cases of emergency when access shall be immediate. Water and Sewer are provided by the City of Rochester. Fuel shall be by natural gas provided the carrier. Each Unit will have its own hot water heater and furnace located in the basement, for which the Unit owner shall be responsible to maintain, repair and replace. Each Unit shall have its own Dishwasher, refrigerator and stove are part of the unit for which the Unit owner shall be responsible to maintain, repair and replace. The piping and duct work, if any, leading from the hot water tanks

and the furnace located within a unit other areas in the unit, if located within the unit, shall be a part of the unit. Each unit has its own electric service panel and shall be a part of that unit and responsibility for maintenance, repair and replacement shall be by the unit owner. Each unit has designated limited common area as shown on the Floor Plan(s).

**(iv) Form of Ownership.** Unit is hereby declared to be held in fee simple and may be retained, occupied, conveyed, transferred, encumbered, inherited, or devised in the same manner as any other parcel of real property independent of the other individual Units. **Appendix C** contains a list of all Units and their respective identifying numbers or Unit designations.

**(e) Description of Common Area and Limited Common Area**

**(i) Common Area** consists of the entire Land and building other than the Units, as defined above, that may appear on the Plans, and includes, but not by way of limitation:

Parts of the building not designated as the unit or not serving only one unit, and non-unit areas not assigned as Limited Common and other land and interest in land included in the description in Appendix A;

the water and sewer lines, electrical, gas, cable, internet, wi-fi, and telephone systems serving the Condominium to the extent said systems are located within the Land and are not owned by the carrier of such services, but not including any portions thereof contained within and servicing a single Unit, which same so located are a part of that particular Unit;

the roofs, foundations, columns and supports of the building, the perimeter walls, ceilings and floors bordering each Unit to the unfinished interior surfaces thereof, subject to rights of others in the party walls shown on the Plan;

the pipes, ducts, flues, chutes, conduits, plumbing wires, meters, meter housing and other facilities, not owned by the supplier of the facility, for the furnishing of utility services or waste removal not located within a Unit and such facilities located within a Unit, which serve parts of the Condominium other than the Unit within which they are located;

all other parts of the Condominium including personal property acquired by the Association necessary or convenient to its existence, maintenance and safety, or normally in common use and including any other easements set forth in Appendix A.

**(ii) Limited Common Area** consists of the following:

Front stoops and landings, driveways, balconies, decks and yards designated on the Site Plan as aligned with a particular designated Unit as limited common areas or "LCA" thereto. Unless

otherwise defined in Section 3 (d), above, as being part of a particular Unit, any common area shown on the Plan which exclusively serves only one unit shall be limited common area appurtenant to that one particular unit. Each Limited common area is owned in common by the Owners but is restricted to the use and benefit of the Unit(s), which it serves.

**(iv) Parking and Driveway.** Each unit shall access to two (2) parking spaces in rear of the respective units and marked on the Plans as LCA of such particular units. That portion of the driveway located on the Land together with easement rights over the driveway located on abutting Tax Map 117, Lot 19-2 on the North, leading from Stillings Court to the parking spaces shall be common area.

**(v) Use.** The use of the Limited Common Area of each Unit shall be limited to the owners of that particular unit and to their tenants, guests, invitees and licensees. The use, including responsibilities for maintenance and repair, of the Common Area and the Limited Common Area shall be governed by this Declaration and by the Bylaws, the Rules and the Resolutions. Owners of the Unit shall be responsible, pursuant to the Bylaws, Rules and Resolutions, for any damage to the Unit or Common Area or Limited Common Area by their guests, invitees, and licensees.

**(f) Subsequent Assignment of Common Area as Limited Common Area.** No Common Area may be subsequently assigned as Limited Common Area unless otherwise stated herein and as provided in the New Hampshire Condominium Act.

**(g) Allocation of Percentage Interests.** Each unit shall have a 50% undivided percentage interest in the Common Area as designated in Appendix C.

**(h) Statement of Purposes and Use.** The condominium and each of the Units may be used for residential purposes only unless otherwise allowed by the City of Rochester and the following provisions, together with the provisions of the Bylaws, the Rules and the Resolutions are in furtherance of this purpose:

**(i) Rental.** Each Unit may be leased or rented to others provided (a) written leases are used, (b) lease contains bolded clause that it is expressly subject to the Declaration and bylaws of 48 Stillings Court Condominium, (c) lease term is for no less than one (1) year, (d) the lessees thereof occupy and use the leased premises in accordance with the provisions hereof. If a Tenant violates a term of the Declaration or Rules promulgated by the Association, such violation shall be construed as a violation by the Unit owner.

**(j) Easements for Structural Encroachments.** None of the rights and obligations of the Owners created herein or in any deed conveying a Unit from the Original Declarant or Declarant to a purchaser thereof shall be altered in any way by encroachments as a result of construction, reconstruction, repair, renovations, restoration or replacement of any structure or improvement, or due to settling or shifting of any land, structure or improvement. If any

portion of the Common Area now encroaches upon any Unit, any Unit now encroaches upon any other Unit or upon any portion of the Common Area, or if any such encroachment shall occur hereafter as a result of:

- (a) deviation from site plans and floor plans;
- (b) settling of a building;
- (c) alteration of or repair to the Common Area made by or with the consent of the Board of Directors;
- (d) repair or restoration of a building or any Unit after damage by fire or other casualty; or
- (e) condemnation or eminent domain proceedings;

a valid easement shall exist for such encroachment and for the maintenance of the same so long as the affected building stands. However, in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or owners.

**(k) Easements for Pipes, Ducts, Cables, Wires, Conduits, Utility Lines and Other Common Area Located Inside of Units and support.** Each Unit Owner shall have an easement in common with the Owners of all other units to use all pipes, wires, ducts, cables, conduits, utility lines and other Common Area located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the owners of all other Units to use the pipes, ducts, cable, wires, conduits, utility lines and other Common Area serving such other Units and located in such Unit. The Board of Directors shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Area contained therein or elsewhere in the buildings. Every portion of the Unit which contributes to the structural support of a building, shall be burdened with an easement of structural support for the benefit of all other Units and the Common Area. The Declarant reserves the right to convey easements to any utility companies including, without limitation, cable, communications, electric, water, and other utilities, which easements are necessary or desirable for the Condominium. All such easements do hereby take precedence over the Unit Owners right and title in and to their Units, their Limited Common Area, and the Common Area, and this right shall pass to the Association upon the completion and transfer of the last of the two units to a third party. All such easements shall take precedence over any mortgage or lien holder's interest in a particular unit.

**(l) Units Subject to Declaration. Bylaws, Rules and Resolutions.** The Declaration, the Bylaws, the Rules and the Resolutions, as amended from time to time, all contain or will contain certain restrictions as to use of the Units or other parts of the condominium.

The Declarant, all present or future Unit Owners, tenants and occupants of Units, or any other person who might use the facilities of the Land in any manner are subject to the provisions of the Declaration, the Bylaws, the Rules and the Resolutions, as amended from time to time. The acceptance or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the Declaration, the Bylaws, the Rules and the Resolutions, as they may be lawfully amended from time to time are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be enforceable servitudes and covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof.

Failure to comply with the Declaration, Bylaws, Rules or Resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief or for any other remedy available at law or in equity, maintainable by the Association, or by its Board of Directors or any Manager on behalf of the Association or in the proper case, by one or more aggrieved unit

owners on their own behalf or as a class action. All such actions, in law or at equity (except as appropriate for such action of Unit owners) shall be authorized by Resolution of the Board of Directors and whosoever maintains such action shall be entitled to recover all reasonable costs and expenses of such actions, including reasonable attorneys' fees.

The Declaration, the Bylaws, the Rules and the Resolutions, as amended from time to time, are also expressly declared to be for the benefit of the City of Rochester and any other commission, board and/or agency of the City of Rochester and may be enforced by an action at law or in equity by the City of Rochester or an appropriate commission, board, agency or officer of the City. The City of Rochester shall have reasonable access to the premises, or any part thereof, for such inspection as may be needed to enforce the Declaration, the Bylaws, the Rules and the Resolutions, as amended from time to time. If the City maintains such an action and prevails, it shall be entitled to recover all reasonable costs and expenses of such an action, including reasonable attorneys' fees.

**(m) ENTRY FOR REPAIRS AND GRANT OF EASEMENT (NH RSA 356-B:41)**

The Board of Directors or its agents shall have the irrevocable right upon reasonable notice to the Owner, to be reasonably exercised by the Board or its agents to enter any Unit or Limited Common Area after a thirty (30) day written notice to (a) inspect the Unit, remove or repair violations, or to perform repair, maintenance or construction for which

the Board is responsible , and (b) If it is known that the Unit is rented, and the tenant's name is known to the Board, the same 30-day-hour notice shall be given to the Tenant(s). Mailed notices shall be forwarded by first-class, postage prepaid mail to all Unit Owners and to known tenants. In addition to the mailed notices, other forms of notice may be used, such as, but not limited to, phone calls, emails, personal face-to-face communication, or leaving a notice on the Unit's front door. All notices shall state the time, date and purpose of the planned entry. The cost of the notice and the cost of repairs conducted by the Board shall be assessed to the Owner.

In addition, the Association shall have the irrevocable right, to be reasonably exercised by the Board or its agents, to enter any Unit or Limited Common Area, without prior notice, for the purpose of making emergency inspections and repairs necessary to remove health or safety threats or to prevent damage to other parts of the Condominium. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby or expenses in connection therewith shall be repaired or satisfied by the Board out of the Common Expenses unless such emergency repairs are necessitated by the negligence, misuse, or neglect of one or more Owners, in which case the said Owner or Owners shall bear the expense of such repairs. No later than the 24-hours after entry is

made without prior notice the Board shall forward by first-class U.S. Mail and Email if known the Owners, and as applicable to at least one of the Tenants if their emails are known, stating the date and time of entry, its purpose, and a brief description of the repair done. In addition to the mailed notices and emails, other forms of notice may be used, such as, but not limited to, phone calls, personal face-to-face communication, or leaving a notice on the Unit's front door.

The Association shall have the power and right to grant reasonable, nonexclusive permits, licenses, and easements over the Common Area for utilities, roads, and other purposes necessary for the proper operation of the Condominium.

**(n) Easements for Ingress and Egress and Use.** Each Unit Owner shall have an easement in common with the owners of all other Units for ingress and egress through, and use and enjoyment of, all Common Area and Limited Common Area by persons lawfully using or entitled to same. Each Unit and Common Area and Limited Common Area shall be subject to an easement for ingress and egress through, and use and enjoyment of, all Common Area and Limited Common Area by persons lawfully using or entitled to same, including without limitation employees and other agents of utility, cable and internet companies and the City of Rochester in performance of their duties.

The Board of Directors, if any, or if not, the Association, shall have the right to grant permits, licenses and easements over the Common Area for the installation, construction, maintenance,



repair and replacement of utilities and for other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium.

**(o) Property Subject to Covenants, Easements and Restrictions of Record.** The submission of the property is subject to any covenants, conditions, easements and restrictions of record.

The Board of Directors of the Unit Owners' Association, and its agents and representatives, the City of Rochester, its employees, agents or representatives shall have the right to enter onto all Units, Common Area and Limited Common Area for the purpose of providing emergency services, including but not limited to police, fire, ambulance service and emergency responders to the Unit Owners and for the purpose of inspection, installation, maintenance, repair and replacement of the water supply, sewerage and drainage systems and any other utilities servicing the Condominium, together with the inspection of all structures and other improvements on the Land, and for inspection and repair of emergency situations which, if left unattended, would cause or continue damages to the units.

**(p) Restriction of Rental Units.** No more than one hundred percent (100%) of the completed buildings in the Condominium shall be used by the Declarant or any person having a beneficial interest in the Declarant for rental purposes.

**(q) Lateral and Subjacent Support.** Each Unit and Common Area shall have and be subject to an easement for lateral and subjacent support from every other Unit and Common Area.

**(l) Determination of Action Following Casualty Damage.** In the event of damage to any portion of the condominium by fire or other casualty, the proceeds of the Master Casualty Policy shall, pursuant to Section 43, of the condominium Act, be used to repair, replace or restore the structure or Common Area damaged unless the Unit Owners vote to terminate the Condominium pursuant to Section 34 of the Condominium Act.

The Board of Directors is hereby irrevocably appointed the attorney-in-fact for each Owner of a Unit and for each Mortgagee of a Unit and for each Owner of any other interest in the Condominium to adjust all claims arising under such policy, or otherwise resulting from such damage, and to execute and deliver releases upon the payment of claims. Insurance proceeds shall be payable and paid, not to the Board of Directors, but to a banking institution as Trustee for the benefit of the Association, the Unit Owners, or any Mortgagee as their interests may appear. The procedure for making repairs after such damage is specified in the Bylaws.

**4. Conversion of Convertible Land.** The Condominium has no convertible land.

**5. Waiver of Certain Claims.** Intentionally omitted.

**6. No Partition Unless Revocation.** The Common Area shall remain undivided and no Unit Owner or any other Person shall bring any action for partition or division thereof, nor shall the Common Area be abandoned by act or omission, unless the condominium is terminated pursuant to Section 34 of the Condominium Act.

**7. Consent of First Mortgagees.** Notwithstanding any other provision of the Declaration, Bylaws, Rules or Resolutions, unless the Mortgagees holding institutional (to wit: mortgage held by a licensed or chartered bank or mortgage company) Mortgages recorded at the Strafford County Registry of Deeds constituting valid first liens on at least one hundred percent (100%) of the Units subject to a first mortgage lien have given their prior written approval (subject to section 7 f), below), the Association and Board of Directors shall not be entitled to:

- a) By act or omission seek to abandon or terminate the condominium regime;
- b) Change the prorated interest or obligations of any Unit (I) for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (ii) for determining the prorata share of each Unit in the Common Area;
- c) Partition or subdivide any Unit;
- d) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common area by the Condominium, the granting of easements as described in Paragraph 3 (h) (vi) herein and the dedication of Certain Common Areas provided in Paragraph 3 (e) (iv) shall not be deemed a transfer within the meaning of this clause. Further, the transfer of convertible land to the Declarant referenced in this Declaration shall not be deemed a transfer within the meaning of this clause); or
- e) Use hazard insurance proceeds for losses to the Condominium (whether to Units or to Common area) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the Units and/or Common Area.
- f) Approval required of a mortgagee may be assumed when a mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposed amendment, provided the notice was delivered by certified or registered mail, return receipt requested.

**8. Priority of First Mortgages.** No provision of the Declaration, the Bylaws, the Rules or the Resolutions shall be construed to grant to any Unit Owner, or to any other Person, any priority over any rights of first Mortgagees of the Condominium Units pursuant to their first Mortgages in the case of the distribution to Unit Owners of insurance proceeds amounts to be paid upon liquidation of the Condominium or condemnation awards for losses to, or a taking of, Units, and/or the Common area or any portions thereof.

**9. Contracts, Leases.** Notwithstanding any provision in the Declaration, the Bylaws, the Rules or the Regulations, to the contrary, neither Declarant nor the Board of Directors may bind the Association, prior to passage of control of the Condominium to that Association, to any contracts or leases (including management contracts) unless the Association is provided a right of termination of any such contract or lease, without cause, exercisable without penalty at anytime after transfer of control, upon not more than ninety (90) days notice to the other party thereto.

All leases or rental agreements for any Unit shall be in writing, shall be specifically subject to the constituent documents and shall be for a period of not less than one hundred (180) days.

**10. FHA, FHLMC and FNMA Provisions.** Notwithstanding anything to the contrary contained elsewhere in this Declaration or Bylaws, the following provisions shall govern and be applicable insofar and for so long as the same are required in order to qualify Mortgages of Units in the 2 Morningside Drive CONDOMINIUM for FHA mortgages and for sale any mortgage to the Federal Home Loan Mortgage Corporation (FHLMC) and to Federal National Mortgage (FNMA) under laws and regulations applicable thereto, to wit:

- a) A first Mortgagee of a Unit shall, at the request of such Mortgagee, be entitled to written notification of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under this Declaration, which is not cured within ninety (90) days.
- b) First Mortgagees of Units shall have the right to examine the books and records of the Directors upon sixty (60) day written request.
- c) No provision of any Deed or the Declaration shall be deemed or construed to give a Unit Owner or any other party priority over any rights of first Mortgagees of Units pursuant to their Mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for loss to or a taking of Units and/or common elements.
- d) Any agreement for professional management of the Condominium or any other contract providing for Declarant or Association must provide for termination on ninety (90) days written notice, and a maximum contract term of (2) years.
- e) Amendments to either the Declaration or Bylaws that are materially adverse to mortgagees must be agreed to by mortgagees that represent at least 100% of the votes of the units which are subject to mortgages.
- f) Any action to terminate the legal status of the condominium after substantial destruction or condemnation occurs or for other reasons, must be agreed to by mortgagees that represent at least 100% of the votes of the units which are subject to mortgages.

(g) Approval required of a mortgagee may be assumed when a mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposed amendment, provided the notice was delivered by certified or registered mail, return receipt requested.

(h) The Declaration and Bylaws may be amended at any time without consent of any mortgagee, pursuant to amendment procedures of the Bylaws and the Condominium Act in

order to modify these documents to make them compliant with FHA, FHLMC and FNMA provisions so that unit buyers/owners may qualify under such provisions, provided, however, no such amendment shall terminate the condominium, alter any unit's dimensions, the common area, or the limited common area, or dilute the rights of any mortgagee.

**11. Notice of Proceedings.** For the purpose of providing notice to certain individuals of proceedings before the City of Rochester Planning Board, Zoning Board of Adjustment and any other commission board, and/or agency of the City of Rochester or the like, as the context may require, the providing of notice to the Association, the Board of Directors or the presiding officer of the Association shall be deemed notice to each and every owner and/or resident of the Condominium.

**12. Amendment of Declaration and Bylaws.** Except as otherwise provided in the Condominium Act, the following shall apply to the amendment of the condominium documents. The consent of owners of Units to which at least one hundred percent (100%) of the votes in the Association are allocated and the approval of eligible holders of mortgages (as the term "eligible mortgage holder" is now or may at any time hereafter be defined in the FNMA Conventional Home Mortgage selling Contract Supplement) on Units which have at least one hundred percent (100%) of the votes of Units subject to eligible holder mortgages, shall be required to terminate the legal status of the Condominium, including termination after substantial destruction or condemnation.

The consent of owners of Units to which at least one hundred percent (100%) of the votes in the Association are allocated and the approval of eligible holders holding mortgages on Units which have at least one hundred percent (100%) of the votes of Units subject to eligible holder mortgages, shall be required to add or amend any material provisions of the condominium documents of the Condominium, which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Right of Association to impose assessments, assessment liens or subordination of such liens;
- (iii) Right of Association to impose and collect reserves for maintenance, repair, capital reserves, and replacement of the Common Areas (or Units if applicable);

- (iv) Insurance or Fidelity Bonds;
- (v) Rights to use Common Areas or Limited Common Area;
- (vi) Responsibility for maintenance and repair of the several portions of the Condominium;
- (vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the project;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Areas or Limited Common areas;
- (x) Convertibility of Units into Common Area or of Common Area into units;
- (xi) Leasing of Unit estates;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit;
- (xiii) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first Mortgages on Units;
- (xiv) A decision by the Association to establish self-management when an eligible mortgage holder had required professional management;
- (xv) Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;

Provided the notice was delivered by certified or registered mail, return receipt requested, any eligible mortgage holder that does not deliver or post to the Association a negative response within sixty (60) days of a written request by the Association for approval of any addition or amendment pursuant to this Paragraph shall be deemed to have consented to the addition or change set forth in such a request. An affidavit by an officer of the Association making reference to this Paragraph, when recorded at the Strafford County Registry of deeds, shall be conclusive as to the facts therein set forth as to all parties and may be relied upon pursuant to the applicable provisions hereof.

Furthermore, notwithstanding the foregoing, so long as the Declarant is the Owner of one or more Units, no amendment to this Declaration, Bylaws or Rules may be adopted which could interfere with the construction, display, sale, lease or other disposition of such Unit or Units.

A modification or amendment of the Declaration or Bylaws shall become effective only when it has been duly evidenced in accordance with the provisions of Section 34 IV of the condominium Act.

The Declarant reserves the right to itself and its successors in interest to amend the Condominium Instruments without the consent of any Unit Owners or First Mortgagees or other lien holder, but only to: (a) correct typographical errors; or (b) to bring the Condominium Instruments into compliance with NHRSA 356-B.

Pursuant to NH RSA 356-B:6-a II, the Association may amend or revise the Condominium Instruments without the need to obtain mortgagees' approval if the changes do not affect the mortgagees' equity or security interest in the property.

### **13. Owner's Obligation to Repair.**

**13.1 Owner's Obligation.** Each owner shall, at his own expense, keep his condominium unit and its alterations, appliances, fixtures, and improvements, including all partitions, windows, and doors, and other items that are not Common Area and are located within the boundaries of his unit in good order, condition, and repair. Each owner shall immediately notify the Board or its agents of any damage to or malfunction of any facilities for the furnishing of utility services or waste removal, which are Common Area within his unit.

**13.2 Board's Right to Maintain and to Make Repairs.** The Association shall have the irrevocable right, to be reasonably exercised by the Board or its agents, to enter any unit or Limited Common Area to inspect the same, to remove violations therefrom, or to perform any repair, maintenance, or construction for which the Board is responsible and shall have the irrevocable right, to be reasonably exercised by the Board or its agents, or by any two or more Unit Owners acting as a group, to enter any condominium unit or Limited Common Area for the purpose of making emergency repairs necessary to prevent damage to other parts of The Condominium. Such entry shall be made with as little inconvenience to the Unit Owner as practicable, and any damage caused thereby or expenses in connection therewith shall be repaired or satisfied by the Board out of the Common Expenses unless such emergency repairs are necessitated by the negligence of one or more unit Owners, in which case the negligent unit Owner or Unit Owners shall bear the expense of such repairs. In the event an owner fails to make repairs to, his unit after thirty (30) days written notice of the need for the same as given to him by the Board, the Board may enter the unit and make such repairs, the full expense of which shall be borne by said owner. Any fire alarm and sprinkler system shall be maintained and tested on a regular basis as a common expense of the Association. Each Unit owner shall allow entry to their unit to allow for such inspections and maintenance.

**13.3 Evidence of Insurance.** No owner shall permit any repair or other work in his unit by anyone unless such person or entity has furnished written evidence that it has obtained reasonably adequate public liability and workmen's compensation insurance in forms and



amounts which are satisfactory to the Board, and unless such repair or other work is performed in compliance with governmental laws, ordinances, rules, and regulations.

#### **14. Prohibition Against Structural and Exterior Changes**

**14.1** No owner shall, without first satisfying the requirements regarding repair, or other work set forth in Article 13 above, and; in addition, obtaining the written consent of the Board;

- (a) Make or permit to be made any structural alteration, improvement, or addition in or to his Condominium unit or in or to any other part of the Condominium;
- (b) Tamper with any bearing wall or take any action or permit any action to be taken that will impair the structural soundness or integrity or safety of the building or any other structure in the Condominium;
- (a) Impair any easement or right or personal property, which is a part of the Condominium;
- (b) Paint or decorate any portion of the exterior of the building or any other structure in the Condominium or any Common Area therein.

**14.2** No changes to the exterior of any building in the Condominium shall be made by either the Owner or the Board without first obtaining the approval of the Rochester Planning Board.

#### **15. Assessments.**

**15.1.1** Each unit Owner shall pay all Common Expenses assessed against him, all expenses for which he is liable, and all other assessments made against him by the Board or by the Association, if there is no Board, in accordance with the terms of the Declaration and By-Laws and all expenses so incurred and sums so assessed but unpaid shall be secured by a lien as provided in RSA 356-B:46. No owner shall convey, mortgage, sell, or lease his Condominium unit unless and until he shall have paid in full to the Board all such expenses theretofore incurred and sums theretofore assessed by the Board against his Condominium Unit, which are due and unpaid. Any unit Owner or purchaser of a Condominium Unit, having executed a contract for the disposition of said Condominium Unit, shall be entitled upon request to a recordable statement, signed by the Treasurer of the Association, setting forth the amount of the unpaid assessments currently levied against that Condominium unit. Such request shall be in writing and shall be directed to the Board of Directors. The statement shall be binding on the Association, the Board of Directors, and every unit owner. Payment of a fee not exceeding Twenty-Five Dollars (\$25.00) may, be required as a prerequisite to the issuance of such a statement.

**15.1.2** A purchaser of a Condominium Unit shall be liable for the payment of any such expenses or assessments against said Condominium Unit prior to its acquisition by him which are unpaid as of the time of said acquisition, whether or not such expenses or assessments are, then due,

*except* that an institutional mortgage holder or purchaser at the foreclosure sale of an institutional mortgage or the grantee in a deed in lieu of such foreclosure of such institutional mortgage shall not be liable for the payment of expenses or assessments unpaid and due as of the time of his acquisition *unless* the notice protocol described in NHRSA 356-B:46, I (c) has not been followed by the Association. In all circumstances, a purchaser shall be liable for unpaid expenses and assessments becoming due after purchase.

**15.2** The Association shall have the right to charge interest at Twelve (12%) per annum, or at the maximum lawful interest rate, applied against unpaid Common Expenses or other expenses or assessments from the due date. In addition, it shall have the right to charge Unit Owners no more than \$25.00 for each duplicate billing charges, plus other costs, including attorney's fees in the event the Association is required to proceed with collection to obtain payment of such expenses. A lien may be exercised for any unpaid Common Expense or other expenses or assessments or costs after thirty (30) days from the due date. Subject to NHRSA 48-B, I, (c) The lien for unpaid Common Expenses or other expenses or assessments once perfected, shall have the priority set forth in NHRSA 356-B:46, I. The lien, including interest, costs and reasonable attorney fees may be foreclosed in the manner provided by the laws of the state of New Hampshire for the foreclosure of power of sale mortgages, or by suit brought in the name of the Board of Directors, acting on behalf of the Association. The suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same, and foreclosure shall be available without bringing suit, to recover a money judgment.

**15.3** The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix and make assessments from time to time. Subject to the limitations in this Section, and the periods herein specified, the Association may change the maximum and basis of the assessments fixed herein prospectively for any such period provided that any such change shall have the assent of one hundred percent (100%) of the votes of the unit Owners at a meeting duly called for this purpose, written notice of which meeting shall be sent to all Unit Owners in accordance with NHRSA 356-B: 37.

**16. Invalidity.** It is the intention of the Declarant that the provisions of this Declaration are severable so that if any provision, condition, covenant, or restriction hereof shall be invalid or void under any applicable federal, state or local law or ordinance, the remainder shall be unaffected thereby. In the event that any provision, condition, covenant or restriction hereof is, at the time of recording the Declaration, void, voidable or unenforceable as being contrary to any applicable law or ordinance, the Declarant, its successors and assigns and all persons claiming by, through or under this Declaration, the Association, unit owners and Declarant, or their successors and assigns, covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability, or unenforceability, shall be deemed to apply retrospectively to this Declaration thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed

that any such amendment and supplements to the said laws shall have the effect herein declared as fully as if they had been in effect at the time of this instrument.

**17. Waiver.** No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches that may occur.

**18. Gender.** The use of the masculine gender in this Declaration shall be deemed to refer to the feminine, masculine and neuter gender and the use of the singular shall be deemed to refer to the singular and plural, whenever the context so requires.

**19. Limitation of Liability Relating to Unit Owners.** The Unit Owners shall not assume responsibilities, or any liability of the Declarant as defined in this Declaration or in New Hampshire NHRSA 356-B. This limitation includes though is not limited to any warranty associated with the construction and sale of condominium units to consumer purchasers.

## **20. ARBITRATION.**

**RESOLUTIONS OF DISPUTES.** In the event of a dispute (a) between the Owners of the Units or (b) as to any matter involving the condominium generally, any of the disputing parties at his option may refer the matter to binding arbitration by sending written notice requesting arbitration to the other party, which notice shall name one arbitrator who shall be an attorney licensed to practice law in the State of New Hampshire. Within fourteen (14) calendar days after receiving such notice, the other party shall by written notice to the requesting party name a second arbitrator who shall likewise be an attorney licensed to practice law in the State of New Hampshire, failing which, the first arbitrator appointed shall appoint such second arbitrator. If the two Arbitrators thus appointed are unable, within fourteen (14) calendar days after the date of the appointment of the second arbitrator to be appointed, to agree upon a settlement to the dispute, they shall the appoint an impartial third arbitrator within twenty (20) calendar days after the said date of appointment of the second arbitrator. The third arbitrator need not be an attorney, but he shall be someone who is qualified by his profession to deal with the matter in dispute. If the two arbitrators cannot agree on a third arbitrator and if they fail to act to appoint him within said twenty (20) day period, then either party may apply to the Superior Court of the county in which the condominium is situate, for the appointment of the arbitrators whether it may be by agreement of the first two arbitrators or, failing which, by the decision of the third arbitrator, shall be conclusive and binding upon all parties to the dispute, and any such decision shall be enforced by any court of competent jurisdiction. Each party shall pay for the fees and other costs of the arbitrator appointed by him or for him (should he fail to duly make the appointment), and the fees and costs of the impartial arbitrator shall be a common expense of the Condominium.

**17. Obligation to Complete.** The Declaration, its successor and assigns, are obligated to complete the condominium improvements.

**18. Waiver.** No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur. The failure of the Board to insist, in any instance, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration or of the By-Laws or to exercise any right herein or therein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment in the future of such term, covenant, condition, restriction, or right, but such term, covenant, condition, restriction, or right shall remain in full force and effect. The receipt by the Board of payment of any assessment from a unit Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

**19. Gender and Number.** The use of the masculine gender in this Declaration shall be deemed to refer to the feminine, masculine and neuter gender and the use of the singular shall be deemed to refer to the singular and plural, whenever the context so requires.

**20. Limitation of Liability Relating to Unit Owners.** The Unit Owners shall not assume responsibilities, or any liability of the Declarant as defined in this Declaration or in New Hampshire NHRSA 356-B. This limitation includes though is not limited to any warranty associated with the construction and sale of condominium units to consumer purchasers.

**21. Liability of the Board.** Members of the Board shall not be liable to the unit for any mistake of judgment, negligence, or other except for their own individual willfulness, misconduct or bad faith and except as provided for below. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board in behalf of The Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of the By-Laws. It is permissible for the members of the Board, who are Directors or Officers of the Declarant, to contract with the Declarant and affiliated corporations without fear of being charged with self-dealing. It is intended that the members of the Board shall have no personal liability, other than as Unit Owners, with respect to any contract made by them on behalf of The Condominium, except with respect to any such contract made in bad faith or contrary to the provisions of the Declaration or of the By-Laws. It is also intended that the personal liability of each Unit Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the Common Area bears to the interests of all the unit Owners in the Common Area (except that the personal liability of unit Owners who are members of the Board and who contract in bad faith or contrary to the provisions of the Declaration or of the By-Laws shall not be so limited). The provisions of this Article do not apply to and shall not preclude claims for property damage and personal injury by unit Owners against the Board or any other insured under the liability insurance required by this Declaration and the Bylaws.

22. **Enforcement.** Each owner shall comply strictly with the provisions of this Declaration, the By-Laws, and the Condominium Residency Regulations as the same may be lawfully amended from time to time and with decisions adopted pursuant to said Declaration, By-Laws, and Condominium Residency Regulations and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the unit Owners, or in a proper case, by an aggrieved Unit Owner.

23. **By-Laws.** The By-Laws shall be as set forth in Exhibit B attached hereto. The By-Laws may be amended as set forth therein or in the Act at any meeting of the Association provided a copy of the proposed amendment has been included in the written notice of the meeting as provided for in RSA 356-B:37. Any amendment shall be effective upon recording in the Strafford County Registry of Deeds. Where a conflict exists between the Bylaws and this Declaration, the Declaration shall be controlling.

25. **SPECIFIC DECLARANT RIGHTS.**

25.1 *Control by the Declarant.* The Declarant shall have the right to appoint the Board of Directors of the Unit Owner's Association and to exercise the powers and responsibilities assigned by the Condominium Instruments and by NHRSA 356-B, to the Unit Owner's Association, to the officers or to the Board of Directors, either directly or through its appointed manager. This right to control herein reserved to the Declarant shall, at the sole discretion of Declarant, continue for a period of no more than the earlier of (a) two (2) years from the date of recording this Declaration in the Strafford County Registry of Deeds or (b) date of sale to end user consumer of all of the units in the Condominium. The Declarant shall, during this period, have the right to appoint the manager and officers of the Unit Owner's Association, and otherwise exercise all functions of the Board of the Association as provided in RSA 356-B: 36. The Declarant shall have the right to relinquish its control earlier than two (2) years. In the event of foreclosure by the mortgagee holding a blanket mortgage on the Condominium during the period of control by the Declarant, all officers and directors appointed by the Declarant shall immediately resign. During this period of control, Declarant alone, or its assigns, without the consent of any Unit Owner, or the Association or the Board of Directors of the Association, or the Mortgagee(s) holding mortgages encumbering any unit or common area, unless such consent may be exercised by the Declarant or its assigns by virtue of the control reserved through this Article 25, *et seq.*, may grant any easement or right on, over, or within the Common Area. This right to control by the Declarant is assignable without the consent of any Unit Owner, Association or Board of Directors of the Association or said Mortgagee(s).

25.2 (a) *Maintenance and Assessments by the Declarant.* Declarant shall not be charged or obligated to pay any maintenance or assessment or reserves for Units that do not have a Certificate of Occupancy for any month for which an assessment shall be made. For any Units that have a Certificate of Occupancy, but have not yet sold, Declarant shall be charged only a portion of the monthly assessment equal to that Unit's share of the insurance premium. However, if Declarant shall allow any Units to be occupied prior to sale, then Declarant shall be charged the regular maintenance, assessment and reserves for that Unit. Declarant shall not be

responsible to pay monthly maintenance or assessments or reserves for unsold Units except as hereinbefore provided but shall be responsible for any deficit or shortfall in the common expense fund that may arise during the period of time when the Declarant shall control the Unit Owners' Association. Initially, assessments shall commence on the date of the sale of the first Unit, in each phase. Once Declarant no longer owns any particular Unit, the maintenance and common area charges for that unit shall be paid exclusively by the Unit Owners of completed Units in all of the Phases pursuant to the Percentage Interest allocations in Appendix C.

(b) The Association be responsible for lawn care, snow removal, sanding and salting of the driveway. Each Unit owner shall be responsible for snow removal on its own LCA parking spots, walkway, stoop, deck, steps and balconies, as on the Plans.

25.3 Voting Rights. The Declarant shall be deemed to be the Unit Owner of any Unit not sold by the Declarant for voting purposes or other purposes.

25.4 Use by Declarant. Notwithstanding any other provision contained in this Declaration, the Declarant expressly reserves for itself, its representatives and assigns, the right to use one or more of the Units and the Common Area for the purpose of maintaining a sales, rental and management facility on the premises, including, without limitation, the showing of property and the displaying of signs; however, all of the foregoing shall not substantially interfere with the comfortable and convenient use of the Units by the respective Unit Owners.



IN WITNESS WHEREOF, the Declarant has caused the Declaration to be executed this \_\_\_\_ day of July, 2023.

**DECLARANT: RBV REALTY, LLC**

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

Date: July 2023

Name:

Title:

duly authorized

**COUNTY OF: \_\_\_\_\_**

**STATE OF NEW HAMPSHIRE**

Then personally appeared before me the above-named \_\_\_\_\_,  
known to me and further identified to me by his/her NH driver's license, Declarant of the 48  
Stillings Court, A CONDOMINIUM, and acknowledged that he executed the within instrument,  
for the purposes therein contained, for and on behalf of said Declarant, on this \_\_\_\_ day of July,  
2023.

/seal/

\_\_\_\_\_  
Notary Public / Justice of the Peace

Name:

Commission expires:

## APPENDIX A

[ 48 Stillings Court, City of Rochester Tax Map 117, Lot 19-2, Strafford County, NH 03867 ]

A certain parcel or tract of land, with any improvements thereon and appurtenances thereto, located at 48 Stillings Court, City of Rochester, County of Strafford and State of New Hampshire, more particularly bounded and described as follows:

BEGINNING at a  $\frac{3}{4}$  inch rebar w/ id cap ~set~ (flush) on the westerly line of Stillings Court at the Southeast corner of the within-described Tax Map 117, Lot 19-2 as shown on plan entitled "Condominium Site Plan for RBV Realty LLC 48 Stillings Court Rochester, N.H. Tax Map 117, Lot 19-2", as drawn by Berry Surveying & Engineering, Scale 1" = 10' dated March 2, 2023 and recorded on \_\_\_\_\_ 2023 in the Strafford County Registry of Deeds as Plan No. \_\_\_\_\_ ("The Plan"),

THENCE, South 65 degrees, 59 minutes, 53 seconds West, a distance of 80.96 feet to a  $\frac{3}{4}$  inch rebar w/ id cap ~set~ (0.1' below grade) at the Southwest corner of the within-described Tax Map 117, Lot 19-2 as shown on the Plan;

THENCE, turning and running North 12 degrees, 14 minutes, 3 seconds West, a distance of 68.76 feet along the westerly line of the within described lot, to a iron bound found w/ id cap damaged (0.4' below grade) at the Northwest corner of the within-described lot;

THENCE, turning and running South 24 degrees, 13 minutes, 36 seconds East, a distance of 74.21 feet to an 1" iron pipe found (0.1' high) at the Northeast corner of the within-described lot;

THENCE, turning and running South 24 degrees, 13 minutes, 33 seconds East along the westerly line of Stillings Court, a distance of 100.15 feet to THE POINT OF BEGINNING.

Containing 6,033 Square Feet +/- according to said Plan.

### SUBJECT TO:

[1] Declaration of Shared Driveway Easement, Reciprocal Easement and Maintenance Agreement, regarding both Tax Map 117, Lot 19-2 and 19-2, being, respectively, lots with street addresses of 48 and 38, Stillings Court, Rochester, NH recorded in Strafford County Registry of Deeds at Book 5113, Page 683 on 5/20/2023.

[2] Restrictive Covenant that the property described herein shall not be used as an automotive repair or automotive inspection services facility; said covenant being *in rem* and shall run with the land.

[3] All matters, notes, terms and easements shown on Condominium Site Plan recorded in said Registry as Plan No. .

## APPENDIX B

### 48 Stillings Court CONDOMINIUM

#### BYLAWS

#### ARTICLE I

#### PLAN OF UNIT OWNERSHIP

- 1. Purpose.** The administration of the Condominium shall be governed by these Bylaws, which are annexed to the Declaration of the 48 Stillings Court CONDOMINIUM and are made a part thereof. All present and future holders of any interest in the Condominium shall be members of 48 STILLINGS COURT CONDOMINIUM ASSOCIATION and shall hold said interest subject to these Bylaws as well as to the Declaration and the Rules promulgated hereunder. Such Owners' Association is a "condominium management association" organized and operated to provide for the acquisition, construction, management, maintenance and care of "association property" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended. No part of the net earnings of the Association shall inure (other than by acquiring, constructing or providing management, maintenance and care of "association property" and other than by a rebate of excess assessments pursuant to Article V, Section 1(c) hereof) to the benefit of any Unit Owner.
- 2. Definitions.** Capitalized terms not otherwise defined herein or in the Declaration shall have the meanings specified in Section 3 of the Condominium Act.
- 3. Bylaws Applicability.** Subject, however, to Article 18 of the Declaration, the provisions of these Bylaws are applicable to the Condominium and the use, occupancy, sale, lease, or other transfer thereof. All present and future Owners, tenants, future tenants, their guests, licensees, servants, agents, employees, and any other Person who shall use the facilities of the Condominium, shall be subject to these Bylaws and to the Rules of the Condominium. The acceptance of a deed of conveyance or the entering into a lease or the act of occupancy of a Unit or any other portion of the Condominium shall constitute an acknowledgment that such Owner, tenant, or occupant has accepted and ratified these Bylaws, the provisions of the Declaration and the Rules and will comply with them.
- 4. Office.** The principal office of 48 Stillings Court CONDOMINIUM ASSOCIATION and of the Board of Directors shall be located at the Condominium or at such other place as may be designated from time to time by the Board of Directors.

#### ARTICLE II

### **UNIT OWNERS' ASSOCIATION**

**1. Unit Owner's Association.** All of the Unit Owners, acting as a group in accordance with the Condominium Act, the Declaration, and these Bylaws, shall constitute 48 STILLINGS COURT CONDOMINIUM ASSOCIATION, which shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the assessments for Common Expenses, arranging for the management of the Condominium and performing all of the acts that may be required to be performed by the Unit owners' Association by the Condominium Act. Except as to those matters that the Condominium Act the Declaration, or these Bylaws specifically require to be performed by the vote of the Unit Owners, the administration of the Condominium shall be performed by the Board of Directors (as more particularly set forth in Article III herein below).

**2. Voting.** Each Unit shall be entitled to one (1) vote. Since a Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast either in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting, or, in the case of no such agreement, each owner of a unit shall have a proportionately weighted vote for that unit, to wit: if two persons own one unit, each shall have a "1/2" vote. As applied to a person which is not a natural person, the word "person" shall be deemed for the purposes of this Section to include, without limitation, any one natural person having authority to execute deeds on behalf of such person which is not a natural person and which is, either alone or in conjunction with another person or persons, a Unit Owner. Except where a greater number is required by the Condominium Act, the Declaration, or these Bylaws, 67% vote of those Unit Owners present, in good standing and entitled to vote is required to adopt decisions at any meeting of the Unit Owners Association. If the Declarant owns or holds title to one or more Condominium Units, the Declarant shall have the right at any meeting of the Unit Owners' Association to cast the votes to which such Unit is entitled.

**3. Place of Meeting.** Meetings of the Unit Owners' Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Board of Directors and stated in the notice of the meeting.

**4. Annual Meeting.** The first annual meeting of the Unit Owners' Association shall be held on a date to be determined by the Declarant, which date shall be within one (1) year after the formation of the Association by the recordation of the Declaration. Notice of such meeting shall

be given in accordance with the provisions of Section 6 of this Article II. At such meeting, the persons designated by the Declarant shall resign as members of the Board of Directors, and all

of the Owners, including the Declarant if the Declarant owns any Unit or Units, shall elect a new Board of Directors. Thereafter, the annual meetings of the Association shall be held on the same date of each succeeding year, or on such other date within a thirty (30) day period prior to such date, as may be designated by the Board of Directors and reflected in the said notice. At such annual meetings, the Board of Directors shall be elected by ballot of the Owners in accordance with the requirements of Section 4 of Article III hereof. The foregoing notwithstanding, until three (3) years after the recordation of the Declaration or until Units representing three- fourths percent (3/4ths) of the Undivided Interest appertaining to submitted Units have been legally conveyed by the Declarant, whichever first occurs, the Declarant shall be entitled to elect a majority of the members of the Board of Directors. The Association may transact such other business as may properly come before them at such meetings.

**5. Special Meetings.** It shall be the duty of the President to call a special meeting of the Unit Owners' Association if so directed by Resolution of the Board of Directors or upon a petition signed and presented to the Secretary by an Owner. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**6. Notice of Meeting.** It shall be the duty of the Secretary to mail, by United States mail, return receipt requested, a notice of each annual meeting or special meeting of the Owners, at least twenty-one (21) days in advance of each annual meeting, and at least seven (7) days in advance of each special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each owner at the address of their respective Units or at such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**7. Voting Requirements.** An owner shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Unit Owners' Association if, and only if, he shall have fully paid all assessments made or levied and due against him and his Condominium Unit by the Board of Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Condominium Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

**8. Proxies.** The vote appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by

actual notice to the person presiding over the meeting, by the Unit owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid, or if the signature of any of those executing the same

has not been duly acknowledged. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy.

**9. Quorum.** A quorum shall be deemed to be present throughout any meeting of the Unit Owners' Association until adjourned if persons entitled to cast more than sixty-seven percent (67%) of the votes are present at the beginning of said meeting,

**10. Order of Business.** The order of business at all meetings of the Unit Owners, Association may be as follows: (a) roll call; (b) recitation of proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of Board of Directors; (f) reports of committees; (g) election of Directors, if applicable, (h) unfinished business; and (i) new business, any of which may be waived.

**11. Conduct of Meeting.** The President, or his designate, shall preside over all meetings of the Unit owners' Association and the Secretary shall keep the minutes of the meeting and record in a record book all resolutions adopted by the meeting as well as a record of all transactions occurring thereat. Roberts Rule of order shall govern the conduct of all meetings of the Unit Owners' Association when not in conflict with the Declaration, these Bylaws, or the Condominium Act.

**12. Condominium Statute.** Whenever NHRSA 356-B (the "Condominium Statute") allows for a notice protocol that is lesser

### **ARTICLE III**

#### **BOARD OF DIRECTORS**

**1. Powers and Duties.** Subject to Declarant Control pursuant to Section 18.1 of the Declaration, the affairs and business of the Condominium shall be managed by a Board of Directors (sometimes hereinafter referred to as the "Board") comprised of the Unit Owners after Declarant, pursuant to the Declaration, has relinquished control, and which Board shall have all of the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things as are not by the Condominium Act or by these Bylaws directed to be exercised and done by the Unit Owners' Association. The Board of Directors shall have the power from time to time to adopt any Rules deemed necessary for the enjoyment of the Condominium provided that such Rules shall not be in conflict with the

Condominium Act, the Declaration, or these Bylaws. The Board of Directors may elect one of its members to serve as Chairman of the Board. The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters that might arise



between meetings of the Board of Directors. In addition to the general duties imposed by these Bylaws, the Board of Directors shall have the power to, and be responsible for the following:

- (a) From time to time, fix and assess each unit owner assessments, according to their undivided percentage interest in the common area, in amounts adequate to cover the known and reasonably anticipated Common Expenses.
- (b) Establish the means and method of collecting such assessments from the Unit Owners, collecting said assessments, depositing the proceeds thereof in a bank depository that it shall approve, and using the proceeds to carry out the administration of the Condominium. Each assessment shall be due and payable no later than thirty (30) days after the date of notice of assessment delivered to the Unit Owner by either first-class postage prepaid mail, or by email to known email address of the Unit Owner.
- (c) Providing for the operation, care, upkeep, replacement, and maintenance of all of the Common Area and services of the Condominium.
- (d) Designating, hiring, controlling and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Common Area, and providing services for the Condominium and, where appropriate, providing for the compensation of such personnel and for the purchase or use of equipment, supplies, and material to be used by such personnel in the performance of their duties, which supplies and equipment, if purchased, shall be deemed the common property of the Owners.
- (e) Making and amending Rules respecting the use of the Condominium and enforcing by legal means the provisions of the Declaration, these Bylaws, and such Rules, and bringing any proceeding which may be instituted on behalf of the Owners.
- (f) Obtaining and carrying insurance against casualties and liabilities, as provided in Article VI of these Bylaws, and paying the premium cost thereof and making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Condominium and repairs to, and restoration of, the Condominium, in accordance with the other provisions of these Bylaws, after damage or destruction by fire or another casualty.
- (g) Keeping books with detailed accounts of the receipts and expenditures affecting the Condominium, and the administration of the Condominium. All books and records shall be kept in accordance with generally accepted accounting practices. The books, records, and financial statements of the Condominium as well as copies of the current Declaration, Bylaws and the

Rules and Regulations shall be available for examination by prospective purchasers, and the Owners, their duly authorized agents or attorneys, and any holder, insurer or guarantor of a first Mortgage on a Unit(s) during general business hours on working days at: the times and in

the manner that shall be set and announced by the Board of Directors for the general knowledge of such persons.

(h) To do such other things and acts not inconsistent with the Condominium Act, these Bylaws, and with the Declaration.

**2. Managing Agent.** The Board of Directors may employ, or contract with, a professional manager or management firm ("Manager") for a fee or compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed in Section 1 of this Article III. The Board of Directors may delegate to the Manager all of powers granted to the Board of Directors by these Bylaws; provided that any actions of the Manager with respect to the powers set forth in paragraphs (b) and (f), of Section 1 of this Article III shall require the consent of the Board of Directors. The term of any employment contract for a Manager may not exceed two years (2), and any such employment contract shall provide, inter alia, that such agreement may be terminated for cause upon no more than sixty (60) days written notice by the majority vote of the Board of Directors. The Declarant may enter into professional management contracts prior to transfer of control of the Unit Owners' Association to the Unit Owners. However, any such contract shall be terminable without cause or penalty upon 90 days notice.

**3. Number of Directors and Initial Selection of Board and Term of Office.** After Declarant no longer is a Unit Owner of record, the Board of Directors shall be composed of two (2) of the record Unit Owners (no more than one Director may be elected from each owner-pool owning a particular unit) elected by the majority vote of all record Unit Owners, who shall remain as Directors for so long as each is a Unit Owner of record. While Declarant is a Unit Owner, only the Declarant shall be a Director. If more than one person owns a unit, the one vote allocated for that unit (for purposes of electing Directors) shall be weighted proportionately among the owners, to wit: if two people own one unit, each shall have a weighted vote equal to  $\frac{1}{2}$  vote. The Board may, but is not required to do so, elect one of its members to serve as Chairman of the Board, which member shall serve as Chairman at the pleasure of the Board. Until the election of the Board of Directors takes place at the first annual meeting of the Unit Owners' Association as provided in Section 4 of Article II, the Board of Directors shall consist of such persons as shall have been designated by the Declarant. The Declarant may relinquish its rights hereunder at any prior time.

**4. Term of Office.** A Director shall hold office until he/she no longer is a Unit Owner of record or until they are voted out by majority of the Unit Owners of record and a replacement Director is voted in by a majority of the Unit Owners of record.

**5. Organization Meeting.** The first meeting of the members of the Board of Directors shall be at the same time and place as the first annual meeting of the Unit Owners at such place as shall be fixed by the Directors, and no notice shall be necessary to the Directors in order to

legally to constitute such meeting, providing a majority of the whole Board shall be present thereat.

**6. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time, by a majority of the Directors, but at least one (1) such meeting shall be held during each twelve month period after the annual meeting of the Unit Owners' Association. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, or telegraph, at least five (5) business days prior to the day named for such meeting, except that no notice shall be required for a regular meeting held immediately after, and at the same place as, the annual meeting of the Association. Notice may be waived orally or in writing.

**7. Special Meetings.** Any one Director on five (5) business days' notice to each Director may call special meetings of the Board of Directors. Such notice shall be given personally or by mail, telephone, or telegraph, and such notice shall state the time, place, and purpose of the meeting.

**8. Waiver of Notice.** Before or within ten (10) days after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director - at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

**9. Board of Directors' Quorum.** Subject to Declarant Control pursuant to Section 18.1 of the Declaration, at all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may not be transacted without further notice.

**10. Vacancies.** Vacancies shall be filled by vote of the majority of the record Unit Owners, at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy; and each person so elected shall be a Director for the remainder of the term of the Director so replaced; provided, however, that the vacancy of any Director

designated by the Declarant pursuant to a right of the Declarant to make such designation shall be filled by the Declarant.

**11. Removal of Directors.** A Director may be removed with or without cause, and his successor elected, at any duly called regular or special meetings of the Unit Owners' Association at which a quorum is present, by an affirmative vote of a majority of the votes represented and voting. Any Director whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting.

**12. Compensation.** No Director shall receive any compensation for acting as a Director.

**13. Conduct of Meetings.** The President, or, in his absence, a president per term elected by the Board, shall preside over all meetings of the Board of Directors and the Secretary shall keep the minutes of the meetings of the Board of Directors recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings, which minutes shall be filed in the Record Book of the condominium.

**14. Report of Board of Directors.** The Board of Directors shall present at each annual meeting, and when called for by vote of the Unit Owners' Association at any special meeting of the Association, a full and clear statement of the business and condition of the Condominium.

**15. Fidelity Bonds.** N/A

**16. Dispensing with Vote.** Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

**17. Liability of the Board of Directors.** The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Directors from and against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Owners unless any such contract shall have been made in bad faith, due to willful misconduct or contrary to the provisions of the Declaration or of these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability (except as Owners) with respect to any contract made by them on behalf of the Owners, unless made in bad faith, due to willful misconduct or contrary to such provisions. it is also intended that the liability of any owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors

shall be limited to such proportion of the total liability thereunder as his Undivided interest bears to the Undivided interests of all of the Owners. Every written agreement made by the Board of Directors or by the Manager on behalf of the Owners shall, if obtainable, provide that the members of the Board of Directors or the Manager, as the case may be, are acting only as

agents for the owners and shall have no personal liability thereunder (except as Owners), and that each owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his undivided interest bears to the undivided interests of all Owners. The Owners shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether or not based in contract, by reason of the fact that he is or was a Director, or officer, against expenses (including reasonable attorneys' fees), judgments, fines, and amounts paid in settlement incurred by him in connection with such action, suit, or proceeding unless he acted in bad faith, was guilty of willful misconduct, or acted contrary to the provisions of the Declaration or these Bylaws.

## ARTICLE IV

### OFFICERS

1. **Designation.** The principal officers of the Condominium shall be a President, a Secretary, and a Treasurer, and the Board shall appoint all by majority vote, and all of whom may be one person, excepting the President and Treasurer, which shall be two people. The Secretary and Treasurer may be one person. The Board may appoint such other officers as in its judgment may be necessary. All officers must be members of the Board of Directors.
2. **Election of officers.** The officers of the Condominium shall be elected annually by majority vote of the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board. The Board at a regular meeting or special meeting called for such purpose shall fill any vacancy in an office.
3. **Removal of Officers.** The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board, and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.
4. **President.** The President shall be the chief executive officer. He, or his designate, shall preside at meetings of the Unit Owners, Association and shall be an ex-officio member of all

committees; he shall have general and active management of the business of the Condominium and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties that are usually vested in or incident to the office of president of a stock corporation organized under the laws of the State of New Hampshire.

**5. Secretary.** The Secretary shall attend all meetings of the Board of Directors and all meetings of the Unit Owners' Association shall record the minutes of all proceedings in the record book of the Condominium and shall perform like duties for committees when required. He shall keep the record book current and in his custody. He shall give, or cause to be given, notice of all meetings of the Unit Owners' Association, the Board, and committees and shall perform such other duties as may be prescribed by the Board or President. The Secretary shall compile and keep current at the principal office of the Condominium a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all owners and other people lawfully entitled to inspect the same, at reasonable hours during regular business days.

**6. Treasurer.** The Treasurer shall have the custody of all funds and securities that are not under the control of the Directors or Manager, if any, and, with the assistance of the Directors or Manager, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all money and other valuable effects in such depositories as may be designated by the Board. He shall disburse funds as ordered by the Board, where possible taking proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the Association.

**7. Agreements, Contracts, Checks, etc.** All agreements, contracts, leases, checks, and other instruments of the Association for expenditures or obligations shall be executed by the President and Treasurer of the Association or by such other person or the Board of Directors may designate in writing.

**8. Compensation of Officers.** No officer shall receive any compensation for acting as an officer.

## ARTICLE V

### OPERATION OF THE PROPERTY

**1. Determination of Common Expenses and Assessments Against Owners.**

**(a) Fiscal Year.** The fiscal year of the Condominium shall consist of the twelve-month period commencing on January 1 of each year and terminating on December 31 of the same year, except that the first fiscal year shall begin at the date of organization and terminate on December 31. The fiscal year herein established shall be subject to change by the Board of Directors.

**(b) Preparation and Approval of Budget.** Each year the Board of Directors shall adopt a budget for the Condominium containing an estimate of the total amount which it considers necessary to pay the cost of maintenance, management, operation, repair, and replacement of the Common Area and any parts of the Units as to which it is the responsibility of the Board of Directors to maintain, repair, and replace, and the cost of wages, materials, insurance premiums, services, supplies, and other expenses that may be declared to be Common Expenses by the Condominium Act, the Declaration, these Bylaws, or a resolution of the Unit Owners' Association, and which will be required during the ensuing fiscal year for the administration, operation, maintenance, and repair of the Condominium and the rendering to the Owners of all related services. Such budget may also include such reasonable reserves, as the Board of Directors considers necessary to provide a general operating reserve, and reserves for anticipated contingencies and replacements. The Board of Directors shall make reasonable efforts to send to each Owner a copy of the budget, in a reasonably itemized form which sets forth the amount of the Common Expenses payable by the Owner, at least fifteen (15) days in advance of the fiscal year to which the budget applies. The said budget shall constitute the anticipated basis, excluding unanticipated emergencies, for determining each owner's contribution for the Common Expenses of the Condominium. The Board of Directors may, after consideration of the budget, current maintenance costs and future needs of the Association, fix and make assessments from time to time. Subject to the limitations in this Section, and the periods herein specified, the Association may change the maximum and basis of the assessments fixed herein prospectively for any such period provided that any such change shall have the assent of one hundred percent (100%) of the votes of the unit Owners at a meeting duly called for this purpose, written notice of which meeting shall be sent to all Unit Owners in accordance with NHRSA 356-B: 37.

**(c) Assessment and Payment of Common Expenses.** Each unit Owner shall pay all Common Expenses assessed against him, all expenses for which he is liable, and all other assessments made against him by the Board or by the Association, if there is no Board, in accordance with the terms of the Declaration and By-Laws and all expenses so incurred and sums so assessed but unpaid shall be secured by a lien as provided in RSA 356-B:46. Payments shall be due within thirty (30) days of a Unit Owner receiving a notice of assessment, either in writing or by email. No owner shall convey, mortgage, sell, or lease his Condominium unit unless and until he shall have

paid in full to the Board all such expenses theretofore incurred and sums theretofore assessed by the Board against his Condominium Unit, which are due and unpaid. Any unit Owner or purchaser of a Condominium Unit, having executed a contract for the disposition of said Condominium Unit, shall be entitled upon request to a recordable statement, signed by the Treasurer of the Association, setting forth the amount of the unpaid assessments currently levied against that Condominium unit. Such request shall be in writing and shall be directed to the Board of Directors. The statement shall be binding on the Association, the Board of Directors, and every unit owner. Payment of a fee not exceeding Twenty-Five Dollars (\$25.00) may, be required as a prerequisite to the issuance of such a statement.

**(d) Purchaser's Obligation.** A purchaser of a Condominium Unit shall be liable for the payment of any such expenses or assessments against said Condominium Unit prior to its acquisition by him which are unpaid as of the time of said acquisition, whether or not such expenses or assessments are, then due, *except* that an institutional mortgage holder or purchaser at the foreclosure sale of an institutional mortgage or the grantee in a deed in lieu of such foreclosure of such institutional mortgage shall not be liable for the payment of expenses or assessments unpaid and due as of the time of his acquisition *unless* the notice protocol described in NHRSA 356-B:46, I (c) has not been followed by the Association. In all circumstances, a purchaser shall be liable for unpaid expenses and assessments becoming due after purchase.

**(e)** The Association shall have the right to charge interest at Twelve (12%) per annum, or at the maximum lawful interest rate, applied against unpaid Common Expenses or other expenses or assessments from the due date. In addition, it shall have the right to charge Unit Owners no more than \$25.00 for each duplicate billing charges, plus other costs, including attorney's fees in the event the Association is required to proceed with collection to obtain payment of such expenses. A lien may be exercised for any unpaid Common Expense or other expenses or assessments or costs after thirty (30) days from the due date. Subject to NHRSA 48-B, I, (c) the lien for unpaid Common Expenses or other expenses or assessments once perfected, shall have the priority set forth in NHRSA 356-B:46, I. The lien, including interest, costs and reasonable attorney fees may be foreclosed in the manner provided by the laws of the state of New Hampshire for the foreclosure of power of sale mortgages, or by suit brought in the name of the Board of Directors, acting on behalf of the Association. The suit to recover a money

judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same, and foreclosure shall be available without bringing suit, to recover a money judgment.

**(f) Two Signature Checks Required.** All endorsed by the Association require two signatures: one from each Director (so that each unit owner will participate in writing checks).

**(g) Reserves.** The Declarant has opened a bank account for the Association and has funded it with five hundred dollars (\$500.00) as non-dedicated reserve account. The Association has



the right to impose and assess additional reserves from the Unit Owners upon unanimous consent of the Unit Owners.

**(h) Capital Reserve.** Although no capital reserves are required, the Association has the right to impose and assess capital reserves from the Unit Owners upon unanimous consent of the Unit Owners.

**(i) Effect of Failure to Prepare or Adopt Budget.** The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his allocable share of the Common Expenses as herein provided, whenever the same shall be determined.

**2. Payment of Common Expenses.** All owners shall be obligated to pay the Common Expenses assessed by the Board of Directors. No Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Unit. No Owner shall be liable for the payment of any part of the Common Expenses assessed against his Condominium Unit subsequent to transfer by him of such Condominium Unit. The purchaser of a Condominium Unit or other acquiring Owner by virtue of any transfer shall be jointly and severally liable with the transferring Owner for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the conveyance without prejudice to the acquiring owner's right to recover from the transferring Owner the amounts paid by the acquirer therefor; provided, however, that any such acquiring Owner of transferring owner shall be entitled to a recordable statement from the Chairman of the Board of Directors or the Manager setting forth the amount of the unpaid assessments against the transferring Owner and such, acquiring Owner shall not be able for, nor shall the Condominium Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth. Failure to furnish or make available such a statement within ten (10) days from receipt of such request in writing shall extinguish the lien for unpaid assessments. Payment of a fee of Ten Dollars (\$10.00) or the maximum allowable under the Condominium Act, whichever is greater, shall be required as a

prerequisite for issuance of such a statement. If a Mortgagee of a first Mortgage of record or other purchaser of a Condominium Unit obtains title to the Condominium unit as a result of foreclosure of a first Mortgage, or through the enforcement of any other remedies provided for in the Mortgage, or by virtue of a deed in lieu of foreclosure, such Mortgagee or purchaser, his successors and assigns, shall not be liable for the payment of any Common Expenses assessed prior to the acquisition of title to said Unit by said Mortgagee or purchaser pursuant to the aforesaid remedies, and the Condominium Unit shall not be subject to a lien for same. The unpaid share of Common Expenses assessed prior to the acquisition of title to such Unit by such Mortgagee or purchaser pursuant to the aforesaid remedies shall be collectible from all owners, including the purchaser or first Mortgagee, in proportion to their respective votes in the Unit Owners' Association.

**3. Collection of Assessments.** The Board of Directors shall take prompt action to collect any assessments for Common Expenses due from any Owner which remain unpaid for more than sixty (60) days from the due date for payment thereof.

**4. Maintenance and Repair.**

**(a) By the Board of Directors.** Except as otherwise provided in Section 4 (b) below, the Board of Directors shall be responsible for the maintenance, repair, and replacement (unless necessitated by the negligence, misuse, or neglect of an Owner or of a person gaining access with said owner's actual or implied consent, in which case expense shall be charged to such owner), of all of the Common Area whether located inside or outside of the Units, and whether now existing or hereafter constructed, the cost of which shall be assessed to all Owners as a Common Expense.

**(b) By the Owner.** Except for the portions of his Unit required to be maintained, repaired, and replaced by the Board of Directors, each owner shall be responsible for the maintenance, repair, and replacement, at his own expense, of his Unit, and any part thereof, including but not limited to any interior walls, finished interior surface of ceiling and floors, kitchen and bathroom fixtures and appliances and those parts of the heating, plumbing, and electrical systems which are wholly contained within his Unit and serve no other Unit. Each Owner shall be responsible for performing the normal maintenance for any other Limited Common Area, if any, which is appurtenant to his Unit, including keeping it in clean and sanitary condition and free and clear of snow, ice, and any accumulation of water, and shall make, at his own expense, all repairs thereto, beyond normal maintenance, caused or necessitated by his negligence, misuse, or neglect. Each Owner will maintain the lawn area adjacent to its unit. Each Owner shall keep the interior of his Unit and its equipment and appurtenances in good order, condition, and shall do all redecorating, painting, and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. In addition, each Owner

shall be responsible for all damage to any and all other Units or to the Common Area resulting from his failure to make any of the repairs required to be made by him by this Section. Each Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners. Each Owner shall promptly report to the Board of Directors, or the Manager, any defects or need for repairs for which the Board of Directors is responsible.

**(c) Replacement Manner and Repair.** All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first class quality. The method of approving payment vouchers for all repairs and the Board of Directors shall determine replacements.

**5. Additions, Alterations, or Improvements by the Board of Directors.** Whenever, in the judgment of the Board of Directors, the Common Area shall require additions, alterations, or improvements costing in excess of Two Thousand Dollars (\$2,000.00) during any period of twelve (12) consecutive months, and the making of such additions, alterations, or improvements shall have been approved by a majority of the votes of the Owners, the Board of Directors shall proceed with such additions, alterations, or improvements and shall assess all Owners for the cost thereof as a Common Expense. Any additions, alterations, or improvements costing Two Thousand Dollars (\$2,000.00) or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval of the Owners and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, if, in the opinion of not less than two-thirds (2/3rds) of the members of the Board of Directors such additions, alterations, or improvements are exclusively or substantially exclusively for the benefit of a limited number of Owner or Owners requesting the same, such requesting Owners shall be assessed therefor in such proportion as they jointly approve or as determined by the Board of Directors.

**6. Additions, Alterations, or Improvements by Owners.** No Owner shall make any structural addition, alteration, or improvement in or to his Unit or to his Limited Common Area, without the prior written consent thereto of the Board of Directors. No Owner shall paint, decorate, or otherwise change the external appearance of his Unit, including the doors and windows, or of any exterior surface of the Building, without the prior written consent thereto of the Board of Directors. The Board of Directors shall be obligated to answer any written request by an Owner for approval of such proposed structural addition, alteration, or improvement or such external change within thirty (30) days after such request, and its failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition, alteration, or improvement or change. The provisions of this Section 6 shall not apply to Condominium Units owned by the Declarant until such Units have been initially conveyed by the Declarant.

**7. Restrictions on Use of Units.** To assist the Condominium in providing for congenial occupancy and the protection of the value of the Units, it is necessary that the Board of Directors have the right and authority to exercise reasonable controls over the use of the Units. Violation of the following enumerated Prohibitions shall not be permitted, and the Board of Directors is hereby authorized to take all steps necessary to prevent or discontinue any violations thereof, all at the expense of the violator:

(a) No advertisements, signs, or posters of any kind shall be posted in or on the Units or the Condominium except as authorized in writing by the Board. This restriction shall not apply to advertisements, signs, or posters utilized by the Declarant, or its agents, in selling or leasing the units.

(b) No clothing, laundry, rugs or other objects shall be hung, shaken or thrown from any window or exterior portion of a Unit or otherwise left or placed in such a way as to be exposed to public view. All refuse and trash shall be placed in locations specifically designated by the Board, and no garbage or trash shall be permitted to remain in public view.

(c) No animal, other than common household pets shall be kept or maintained on the Property, nor more than one (1) cat and one (1) dog (provided, further, no Pit Bulls, German shepherds, Doberman Pinchers, or Rottweilers, or any dog that has a history of biting people). Unless allowed by Federal law, no pets may be kept, bred or maintained for commercial purposes on the Property. The Board of Directors may make further provisions in the Rules for the control and regulation of household pets in the Condominium. The owner of a Unit where a pet is kept or maintained shall be responsible and may be assessed by the Board of Directors for all damages to the Property resulting from the maintenance of said pet, and any costs incurred by the Association in enforcing the Rules prescribed or to be prescribed by the Board of Directors for the control and regulation of pets in the Condominium and each such owner shall be deemed to indemnify and hold the Board harmless against such loss or liability resulting from said pet.

(d) No nuisance shall be allowed, nor shall any use or practice be allowed which is a source of annoyance or which interferes with the peaceful possession or proper use of the Condominium by others.

(e) No owner, tenant, or guest shall allow the installation of wiring for electrical or telephone use, television antennas, which protrudes through the walls or the roof of the building or is otherwise visible on the exterior of the building except as presently installed, or as authorized by the Board.

(f) No Unit or Common Area of the Condominium may be used for any unlawful, immoral, or improper purpose.

(g) Nothing shall be done in any Unit or in, on, or to the Common Area which may impair the structural integrity of the Condominium, or which would structurally change a building or improvements thereon except as provided in the Declaration or these Bylaws. Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Board of Directors.

(h) No Owner, tenant, or guest shall engage any employee of the Condominium on any private business, nor shall he direct, supervise, or in any manner attempt to assert control over any such employee.

(i) There will be no outside storage of any kind, whether trash, recreational vehicles, boats, trailers of the like. Outside trash must be kept in containers which can be closed so trash

cannot blow around. Outside trash storage areas (in containers) must be kept clean and compliant with City of Rochester rules and regulations.

(j) No activity shall be done or maintained in any Unit or in any Common Area which will increase the rate of insurance on any Unit or the Common Area or result in the cancellation of insurance thereon unless such activity is first approved in writing by the Board of Directors. No waste shall be committed in the Common Area.

(k) In the use of Units and the Common Area of the Condominium, owners shall obey and abide by all valid laws, ordinances, and zoning and other governmental regulations affecting the same and all applicable Rules adopted by the Board. The Common Area shall be used only for the furnishing of the services and facilities for which they are reasonably suited, and which are incident to the use and occupancy of the Units.

(l) Not Owner or tenant shall violate or breach any other rule or regulation promulgated by the written majority vote of the Board of Directors, provided each Owner or tenant has first received a written copy of such rule or regulation at least thirty (30) days prior to date of any violation or breach.

**8. Right of Access.** An unit-owner, by virtue hereof, shall have granted a right of access to his/her Unit and any Limited Common Area pertaining thereto to the Board of Directors or the Manager, or to any other person authorized by the Board for the purpose of making inspections or for the purpose of correcting any condition originating in his Unit and threatening another Unit or Common Area, or for the purpose of performing installation, alterations, or repairs to the mechanical or electrical services or other Common Area in his Unit or elsewhere in the building, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Owners. In case of any emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

**9. Rules.** Rules concerning the operation and use of the Common Area may be promulgated and amended by the Board of Directors, provided that such Rules are not contrary to or inconsistent with the Condominium Act, the Declaration, or these Bylaws. Copies of the Rules and amendments thereto shall be furnished by the Board of Directors to each Owner prior to the time when the same shall become effective.

## **ARTICLE VI**

### **INSURANCE**

**1. Insurance Required.** Pursuant to Section 43 of the Condominium Act, the Board of Directors shall obtain (i) a master casualty policy affording fire and extended coverage in an

amount equal to the replacement value of the structures and improvements which are a part of the common area of the Condominium; (ii) a master liability policy covering the Association, the Board, the Manager and agents or employees of the foregoing with respect to the Condominium, and all Owners and other persona entitled to occupy any portion of the Condominium; and (iii) such other policies as specified herein below, which insurance shall be governed by the following provisions to the extent obtainable or possible;

(a) Fire insurance with standard extended coverage endorsement, vandalism and malicious mischief endorsements insuring all of the buildings and improvements which are a part of the common area of the Condominium including without limitation, all portions of the interior of such buildings as are for insurance purposes normally deemed to constitute part of the building and customarily covered by such insurance, such as heating and air conditioning and other service machinery, interior walls, all finished wall surfaces, ceiling and floor surfaces including any wall to wall floor coverings, bathroom and kitchen cabinets and fixtures, including appliances which are affixed to the buildings, and heating and lighting fixtures, except for improvements made by individual Owners which exceed a total value of One Thousand (\$1,000.00) Dollars and is not reported to the Insurer, such insurance to be in an amount at least equal to the replacement value of the buildings and improvements and to be payable to the Board as trustee for the Owners and their mortgagees as their respective interests may appear.

(b) Public liability insurance in such amounts as the Board may from time to time determine, but in no event shall the limits of liability be less than One Million (\$1,000,000.00) Dollars for bodily injury and property damage per occurrence insuring the Association and all individuals referred to in Section 1 (ii) above, against any liability to anyone, and with cross Liability coverage with respect to liability claims of anyone insured thereunder against any other Insured thereunder. This insurance, however, shall not insure against individual liability for negligence occurring within a Unit.

(c) Workmen's compensation insurance as required by law.

(d) Fidelity Insurance for the officer's directors of the Association in such amounts as the Board may from time to time determine.

## 2. **General Insurance Provisions**

(a) The Board shall deal with the insurer or insurance agent in connection with the adjusting of all claims under insurance policies provided for within Paragraph I above and shall review with the insurer or insurance agent, at least annually, the coverage under said policies, said review to include an appraisal of improvements within the Condominium, and shall make any necessary changes in the policy provided under Paragraph 1 (a) above (prior to the expiration date set forth in any agreed amount endorsement contained in said policy) in order to meet the coverage requirements of such Paragraph.

(b) The Board shall be required to make every effort to see that all policies of physical damage insurance provided for under Paragraph I above: (i) shall contain waivers of subrogation by the insurer as to claims against the Association, its employees and agents, members of the Board, the Manager, Owners and members of the family of any Owner who reside with said Owner, except in cases of arson and fraud; (ii) shall contain a waiver of defense of invalidity or prejudice on account of the conduct of any of the Owners over which the Association has "no control"; (iii) shall contain a waiver of defense of invalidity or prejudice by failure of the insured or Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or owners collectively, have no control; (iv) shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days written notice to all of the insureds thereunder and all mortgagees of Unit in the Condominium; (v) shall provide that in no event shall the insurance under said policies be brought into contribution with insurance purchased individually by Owners or their mortgagees; (vi) shall execute policies obtained by individual Owners for consideration under any "no other insurance clause" and (vii) shall provide that until the expiration of thirty (30) days after the insurer gives notice in writing to the mortgagee of any Unit, the mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such unit the other Owners, the Board of Directors, or any of their agents, employees or household members, nor cancelled for non-payment of premiums.

3. **Individual Policies.**

(a) Each **Unit Owner shall**, and any **mortgagee may** obtain at his/her/their own expense additional insurance (including a "condominium unit-owner's endorsement") for improvements and betterments which are a part of the Unit, or which were made or acquired at the expense of the Owner and made a part of the Unit. Such insurance should contain the

same waiver of subrogation provision as that set forth in Section 2 (b) of this Article VI. It is recommended that each Owner obtain, in addition to the insurance hereinabove provided to be obtained by the Board of Directors, a "Homeowners Policy," or equivalent, to insure against loss or damage to personal property used or incidental in the occupancy of the Unit, additional living expense, vandalism or malicious mischief; theft, personal liability and the like.

(b) Each Owner may obtain additional insurance for his own benefit and at his own expense. No such policy shall be written so as to decrease the coverage under any of the policies obtained by the Board pursuant to Paragraph I (a) above, and each Owner hereby assigns to the Board the proceeds of any such policy to the extent that any such policy does in fact result in a decrease in such coverage, said proceeds to be applied pursuant to the terms hereof as if produced by such coverage. Copies of all such policies (except policies covering only personal property, owned or supplied by individual Owners) shall be filed with the Association.

4. **Notice of Unit Owners.** When any policy of insurance has been obtained on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Unit Owner by the Secretary of the Association. Such notice shall be sent by U. S. Mail, return receipt requested, to all Unit Owners of record at the address of their respective Units and to such other addresses as many of them may have designated to the Secretary; or such notice may be hand delivered by the Secretary or Manager, provided the Secretary or Manager obtain a receipt of acceptance of such notice from the Unit Owner.

## ARTICLE VII

### REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

1. Subject to the provisions of Article VIII of the Declaration, in the event of damage to or destruction of all or part of the buildings in the Condominium as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the damaged or destroyed portion of the buildings.

2. **Procedure for Reconstruction and Repair.**

(a) Immediately after a fire or other casualty causing damage to a building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing the damage and restoring to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) If the proceeds of insurance are not sufficient to defray the said estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair,

the funds for the payment of the costs thereof are insufficient, assessments in sufficient amounts to provide payment of such costs shall be made against the Owners in proportion to their respective votes in the Unit Owners' Association.

(c) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications under which the damaged building was originally constructed.

(d) Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction is substantially in accordance with original plans and specifications under which the damaged building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the buildings (as reconstructed) shall stand.



3. **Disbursements of Construction Funds.**

(a) The construction fund shall be paid at the direction of the Board of Directors in appropriate progress payments, to such contractors, suppliers and personnel engaged in performing the work or supplying materials or services for the repair and reconstruction of the buildings as designated by the Board of Directors.

(b) It shall be presumed that the first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds; and if there is a balance in the construction fund after the payment of all of the cost of the reconstruction and repair for which the fund is established, such balance shall be distributed to the Owners in proportion to the percentage interest of such Owners Units set forth in Appendix C of the Declaration, and subject to reserve limits to be retained as capital reserve and as set for the Board of Directors in their sole discretion.

(c) When the damage is to both Common Area and Units, the insurance proceeds shall, to the extent practical, be applied first to the cost of repairing the Common Area and the balance to the cost of repairing the Units.

**ARTICLE VIII**

**SALES, LEASES, AND ALIENATION OF UNIT**

1. **No Severance of Ownership.** No Owner shall execute any deed, lease, mortgage, or instrument conveying or mortgaging the title to his Unit without including therein the undivided interest of such Unit in the Common Area (which; by definition includes the Limited

Common Areas pertaining to that Unit), it being the intention hereof to prevent any severance of such combined ownership. Any such deed, lease, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the first shall not be expressly mentioned or described therein. Except to the extent otherwise expressly provided by the Declaration, these By-Laws or the Condominium Act, the undivided interest in the Common Area allocated to any Unit shall not be altered, and any purported transfer, encumbrance, or other disposition of that interest without the Unit to which it appertains shall be void.

2. **Payment of Assessments.** Excepting for conveyance by foreclosure deed of a first-position mortgage encumbering a Unit, no Owner, excepting for conveyance by foreclosure deed of a first-position mortgage encumbering a Unit as allowed under NHTA 356-B:46, I, shall be permitted to convey, mortgage, sell, lease, give, or devise his Unit unless and until he (or his personal representative) shall have paid in full to the Board of Directors all unpaid Common Expenses, theretofore assessed by the Board of Directors, with respect to this Unit except as

provided in these Bylaws, and shall have satisfied all unpaid liens with respect to his Unit, except mortgages.

3. **Resale by Purchaser.** In the event of any resale of a Condominium unit or any interest therein the prospective Unit Owner shall have the right to obtain from the owner's Association, prior to the contract date of the disposition, within ten (10) days of written request thereto, the following information:

- (a) pursuant to RSA 356-B: 48 (VIII), a recordable statement setting forth the amount of unpaid assessments currently levied against this unit;
- (b) pursuant to RSA 356-B: 47a recordable statement certifying to any waiver of, or failure or refusal to the exercise of any rights of first refusal or restraints on free alienability of this condominium unit, in all cases where such waiver, failure or refusal does in fact exists;
- (c) a statement of any capital expenditures and major maintenance expenditures anticipated by the unit owners' association within the current or succeeding 2 fiscal years;
- (d) a statement of the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the board of directors;
- (e) a copy of the income statement and balance sheet of the unit owners' association for the last fiscal year for which such statement is available;
- (f) A statement of the status of any pending suits or judgments in which the unit owners' association is a party defendant;
- (g) A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association and what additional insurance coverage would normally be secured by each individual unit owner;
- (h) a statement that any improvements or alterations made to the unit, or the limited common areas assigned thereto, by the prior unit owner are not known to be in violation of the condominium instruments;
- (i) A copy of the condominium declaration, by-laws, and any formal rules of association; and

- (j) A statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years.

4. **STATEMENTS.** The principal officer of the Unit Owners' Association shall furnish the statements prescribed by this Article upon the written request of any prospective Unit owner within ten (10) days of the receipt of such request.

5. **COPY OF DEED and NOTICE.** In the event of any resale of a Condominium Unit by any person other than the Declarant, the new Unit Owner shall notify the Secretary of his name and address and shall file a conformed copy of the deed with the Secretary within two (2) days of the recording of the deed.

## ARTICLE IX

### EMINENT DOMAIN

1. In the event that any of the Units or the Common Areas of the Condominium are affected by eminent domain proceedings, the following shall apply:

(a) If a Unit is acquired by eminent domain, or if a part of a unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration and Bylaws, the award shall compensate the Unit Owner for his Unit and its Undivided Interest in the Common Area whether or not any of the Common Area has been acquired. Upon acquisition, unless the decree otherwise provides, that Unit's entire Undivided Interest in the Common Area shall automatically be reallocated to the

remaining Units of the Condominium in proportion to the respective Undivided Interest of the remaining Units in the Common Area prior to the taking, and the Directors shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this subsection shall thereafter be a part of the Common Area.

(b) Except as provided in subsection (a), if part of a Unit is acquired by eminent domain, the award shall compensate the Unit Owner for the reduction in value of the Unit and its Undivided Interest in the Common Area. Upon acquisition, (1) that Unit's Undivided Interest in the Common Area shall be reduced on the basis of the reduction of the fair value of the Unit as at the date of such taking bears to the fair value of the remaining Units in the Condominium is at such date; and (a) the reduction in interest in the Common Area of such Unit shall be divested from the Unit so acquired and shall automatically be reallocated to the remaining Units in proportion to the respective Undivided Interest of the remaining Units in the Common Area prior to the date of such taking.

(c) If all or any portion of the Common Area is acquired by eminent domain, the Directors shall be the party in interest to receive any such award and to pursue any additional awards due to such taking. Any such award or any action taken by the Directors pursuant hereto shall be brought or paid to the Directors naming the "Unit Owners' Association as Condemnation Trustees for the benefit of Condominium, of the several Unit Owners and their respective Mortgagees." The Directors shall divide any portion of the award not used for restoration or repair of the remaining Common Area among the Unit Owners in proportion to their respective Undivided Interest before the taking but any portion of the award attributable to the acquisition of a portion of the Common Area which had been exclusively reserved to any Unit pursuant to the terms of the Declaration shall be paid to the Owner of such Unit or his Mortgagee. Each Unit Owner hereby appoints the Directors hereof as his attorney-in-fact for the foregoing purposes.

## ARTICLE X

### AMENDMENT TO BYLAWS

**1. Amendment to Declaration and Bylaws.** Except as provided in the Declaration with regard to Convertible Land and except as otherwise provided in the Condominium Act, the following shall apply with regard to the amendment of the Condominium Documents. The consent of owners of Units to which at least one hundred percent (100%) of the votes in the Unit Owners' Association are allocated and the approval of eligible holders of mortgages (as the term 'eligible mortgage holder' is now or may at any time hereafter be defined in the FNMA Conventional Home Mortgage Selling Contract Supplement) on Units which have at least one hundred percent (100%) of the votes of Units subject to eligible holder mortgages, shall be

required to terminate the legal status of the condominium, including termination after substantial destruction or condemnation.

**2. Required Consent.** The consent of owners of Units to which at least one hundred percent (100%) of the votes in the Unit Owners' Association are allocated and the approval of eligible holders holding mortgages on Units which have at least one hundred percent (100%) of the votes of Units subject to eligible holder mortgages, shall be required to add or amend any material provisions of the condominium documents of the Condominium, which establish, provide for, govern or regulate any of the following:

(i) Voting;

(ii) Assessments, assessment liens or subordination of such liens;

(iii) Reserves for maintenance, repair and replacement of the Common Areas (or Units if applicable);

- (iv) Insurance or Fidelity Bonds;
- (v) Rights to use Common Areas or Limited common Areas;
- (vi) Responsibility for maintenance and repair of the several portions of the Condominium;
- (vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the project;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Areas or Limited Common Areas;
- (x) Convertibility of Units into Common Areas or of common areas into Units;
- (xi) Leasing of Unit estates;
- (xii) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit;
- (xiii) Any provisions that are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors of first mortgages on Units;
- (xiv) A decision by the owners' Association to establish self management when professional management had been required by an eligible mortgage holder;
- (xv) Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified he documents;

3. Provided the notice was delivered by certified or registered mail, return receipt requested, Any eligible mortgage holder that does not deliver or post to the Unit Owners' Association a negative response within sixty (60) days of a written request by the Association for approval of any addition or amendment pursuant to this paragraph shall be deemed to have consented to the addition or change set forth in such request. An affidavit by an officer of the Association making reference to this section, when recorded at the Strafford County Registry of Deeds, shall be conclusive as to the facts therein set forth as to all parties and may be relied upon pursuant to the applicable provisions hereof.

4. Furthermore, notwithstanding the foregoing, so long as the Declarant is the owner of one or more Units, no amendment to the Declaration, Bylaws or Rules may be adopted which

could interfere with the construction, display, sale, lease or other disposition of such Unit or Units.

5. A modification or amendment of the Declaration or Bylaws shall become effective only when it has been duly evidenced in accordance with the provisions of section 34 IV of the Condominium Act.

## ARTICLE XI

### MORTGAGES

**1. Notice to Board.** An owner who mortgages his Condominium Unit shall notify the Board or Secretary of the name and address of his Mortgagee and shall file a conformed copy of the Mortgage with the Secretary of the Association within two days of the recording of the Mortgage. The Secretary shall maintain suitable records pertaining to such Mortgage. An Owner shall promptly notify the Secretary when such Mortgage has been discharged in the Registry of Deeds.

**2. Notice of Unpaid Assessments for Common Expenses.** The Board or Treasurer, whenever so requested in writing by a Mortgagee of a Condominium Unit, shall promptly report any then unpaid assessments for Common Expenses due from, or any other default by, the owner of the mortgaged Condominium Unit.

**3. Notice of Default.** The Board shall give written notice to an Owner of any default by the Owner in the performance of any obligations under the Act, Declaration or Bylaws, and, if such default is not cured within thirty (30) days, shall send a copy of such notice to each holder of a Mortgage covering such Unit whose name and address has theretofore been furnished to the Board or Secretary. No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to the Declaration or these Bylaws except after thirty (30) days written notice to the holder of the first Mortgage on the Unit which is the subject matter of such suit or proceeding.

**4. Notice of Damage.** The Board of Directors shall notify; (i) the Mortgagee of a Unit whenever damage to the Unit covered by the Mortgage exceeds \$5,000.00 and the Board is made aware of such damage; and (ii) all Mortgagees whenever damage or loss to, or taking of, the Common Area exceeds \$10,000.00.

**5. Examination of Books.** Each Owner and each Mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times, on business days, but with respect to owners, not more often than once a month.

**6. Additional Notice to Mortgagees.** The Board of Directors shall provide each Mortgagee with timely notice of the following:

- (a) Any condemnation or causality loss that affects either a material portion or the Unit securing its Mortgage;
- (b) Any 60-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds a Mortgage;
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association; and
- (d) Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

## ARTICLE XII

### NOTICE

**1. Manner of Notice.** Notice shall be by either such methods allowed under the Condominium Statute or all notices, demands, bills, statements, or other communications provided for or required under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U.S. Mail, return receipt requested, first-class postage prepaid, (i) if to an owner, at the address of his Unit and at such other address as the owner may have designated by notice in writing to the Secretary; (ii) if to the Unit Owners' Association, the Board of Directors or the Manager at the principal office of the Manager or at such other address as shall be designated by notice in writing to the owners pursuant to this Section; or (iii) if to a Mortgagee, at the address provided to the Board by the Unit Owner pursuant to Article X.

**2. Waiver of Notice.** Whenever any notice is required to be given under the provisions of the statutes, the Declaration or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Condominium Act.

## ARTICLE XIII

### COMPLIANCE AND DEFAULT

**1. Relief.** Each Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these Bylaws, and the Rules and any amendments of the same. A default by an Owner shall entitle the Unit Owners' Association acting through the Board of Directors or the Manager or, if appropriate, any aggrieved owner to the following relief:

(a) **Legal Proceedings.** Failure to comply with any of the terms of the Declaration, these Bylaws, and the Rules shall be grounds for relief which may include, without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Unit Owners' Association, the Board of Directors, the Manager, or, if appropriate, by any aggrieved owner.

b) **Additional Liability.** Each Owner shall be liable for the expenses of all maintenance, repair, or replacement rendered necessary by his acts, neglect, or carelessness or the act,

neglect, or carelessness of any member of his family or his tenants, guests, employees, agents, or invitees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by an insurance company of its rights of subrogation.

(c) **Costs and Attorneys' Fees.** In any proceeding arising out of any alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and reasonable attorneys' fees incurred by the Association in enforcing the Declaration, Bylaws, Rules or Regulations, including collection, placement of liens, and foreclosure of lien.

(d) **No Waiver of Rights.** The failure of the Unit Owners' Association, the Board of Directors or of an Owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration, these Bylaws or the Rules shall not constitute a waiver of the right of the Association, the Board of Directors, or any other to enforce such right, provision, covenant, or condition in the future. All rights, remedies, and privileges granted to the Association, the Board of Directors, or any Owner pursuant to any term, provision, covenant, or condition of the Declaration or the Rules shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the



party exercising the same from exercising such privilege as may be granted to such party by the Declaration, these Bylaws, or the Rules, or at law or in equity.

(e) **Interest.** In the event of a default by an owner against him which continues for a period in excess of thirty (30) days, such Owner shall be obligated to pay interest in the amounts due at the highest rate permitted by law, or at twelve percent (12%), whichever is less, per annum from the due date thereof. In addition, the Board of Directors shall have the authority to impose a late payment charge on such defaulting owners in an amount not to exceed Twenty-Five Dollars (\$25.00) or six cents (\$.06) per dollar on any amount so overdue, whichever is greater.

(f) **Abatement and Enjoinment of Violations by owners.** The violation of any Rule adopted by the Board of Directors or the breach of any By-law contained herein or the breach of any provision of the Declaration shall give the Board of Directors or the Manager the right, in addition to any other rights set forth in these Bylaws: (i) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of provisions hereof, and the Board of Directors or Manager shall not thereby be deemed guilty in any manner of trespass; (ii) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; or

(iii) to suspend or limit the right of the Owner committing the violation to use any part of the Common Area during the continuance of such violation.

**2. Non-Compliance by Association.** Failure by the Association to comply with any of the terms of the Declaration, these Bylaws, and the Rules shall be grounds for relief which may include, without limiting the same an action to recover sums due for money damages, injunctive relief, any other relief provided for in these Bylaws, or a combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Board of Directors or any aggrieved Unit Owner.

### **3. Lien for Assessments.**

(a) The total annual assessment of each owner for the Common Expenses or any special assessment levied pursuant to these Bylaws, is hereby declared to be a lien levied against the Unit of each Owner as provided in (including without limitation the priority provisions set forth in Section 48 thereof) the Condominium Act, which lien shall be effective when perfected in accordance with said Act.

(b) In any case where an assessment against an owner as payable in installments, upon a default by such owner in the payment of any single installment, which continues for ten (10) days after written notice of such default has been sent to the Owner, the maturity of the

remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the then balance owing may be declared due and payable in full by the service of notice to such effect upon the defaulting owner by the Board of Directors or Manager. The Association, in order to perfect such lien, shall file before the expiration of six (6) months from the time that the delinquent assessment (or installment, where such assessment is payable in installments) became due and payable a memorandum in the Strafford County Registry of Deeds in the form and manner prescribed in the said Act.

(c) The lien assessments shall include interest, costs, and attorneys' fees as provided in Section 1 of this Article XIII and may be foreclosed in the manner provided by the laws of the State of New Hampshire for the foreclosure of power of sale mortgages or by suit brought in the name of the Board of Directors, acting on behalf of the Unit Owners' Association. During the pendency of such proceedings or suit, the Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale.

(d) Suit to recover a money judgment for unpaid assessment shall be maintainable without foreclosing or waiving the lien securing the same, and foreclosure shall be available without bringing suit to recover a money judgment.

## ARTICLE XIV

### COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. **Compliance.** These Bylaws are set forth in compliance with the requirements of the Condominium Act (herein sometimes referred to as the "Act").
2. **Severability.** These Bylaws are set forth to comply with the requirements of the State of New Hampshire. In case any of the Bylaws are in conflict with the provisions of the Act, the provisions of the Act will apply. If any provisions of these Bylaws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstance are held invalid, the validity of the remainder of these Bylaws shall not be affected thereby and to this end the provisions hereof are declared to be severable.
3. **Waiver.** No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by any reason of any failure or failures to enforce the same.
4. **Captions.** The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

5. **Gender, etc.** Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

6. **RECONCILIATION.** Where any term of the Bylaws conflict with a term of the Declaration, the terms of the Declaration shall be controlling.

IN WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed this \_\_\_\_ day of July, 2023.

**DECLARANT: RBV REALTY LLC**

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

Date: July 2023

Name:

Title:

duly authorized

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

**STATE OF NEW HAMPSHIRE**

Then personally appeared before me the above-named \_\_\_\_\_, known to me and further identified to me by his/her NH driver's license, Declarant of the 48 Stillings Court, small care CONDOMINIUM, and acknowledged that he executed the within instrument, for the purposes therein contained, for and on behalf of said Declarant, on this \_\_\_\_ day of July, 2023.

/seal/

---

Notary Public / Justice of the Peace

Name:

My commission expires:

**APPENDIX C**

**LIST OF UNIT NUMBERS AND COMMON AREA PERCENTAGE INTEREST**

<b>Unit Number</b>	<b>Street Address</b>	<b>Tax Map/Lot</b>	<b>Percentage Interest</b>
1	48-B Stillings Court	117/19-2	50%
2	48-A Stillings Court	117/19-2	50%

## **ARTICLES OF AGREEMENT**

**OF**

### **48 Stillings Court CONDOMINIUM OWNERS ASSOCIATION**

#### **A New Hampshire Nonprofit Association**

We, the undersigned, being of lawful age, by these Articles of Agreement, have associated and do hereby associate ourselves together to form a Association pursuant to the provisions of Chapter 292 of the Revised Statutes Annotated of the State of New Hampshire and other laws and statutes of said State relating thereto under the corporate name and for the purposes herein set forth.

#### **ARTICLE I**

##### **NAME**

The name of this Association shall be the:

48 Stillings Court CONDOMINIUM ASSOCIATION.

#### **ARTICLE II**

##### **DEFINITIONS**

1. Definitions as used herein shall be the same as specified in the 48 Stillings Court CONDOMINIUM DECLARATION and BYLAWS, dated \_\_\_\_, 2023 and recorded in the Strafford County Registry of Deeds at Book \_\_\_\_ Page \_\_\_\_

#### **ARTICLE III**

##### **PURPOSES**

1. This Association is established and shall be operated exclusively to maintain and administer (subject to all rights of the City of Rochester) the Common Area and Limited Common Area of the Condominium, and to enforce the covenants and restrictions with respect thereto, and to collect and disburse assessments and charges pursuant to the "Declaration", as amended from time to time, including any such additions thereto as may be made pursuant to

said Declaration, and for the maintenance, preservation and architectural control of the Units in the Buildings of the Condominium.

2. All assets and income of the Association shall be used exclusively for the objects herein and above set forth, including the payment of expenses incidental thereto. The Association shall not attempt to influence legislation by propaganda or otherwise, nor shall it intervene, directly or indirectly, in any political campaign on behalf of any candidate for public office.

#### **ARTICLE IV**

##### **POWERS**

This Association shall be empowered:

1. To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require such security or fidelity bonds as it deem expedient.

2. To establish, assess, levy and collect the assessments or charges against members to defray the costs, expenses and other obligations of the Association.

3. To use the proceeds of assessments and/or charges in the exercise of its powers and duties.

4. To operate, maintain, manage, administer and care for Common Area and Limited Common Area, and all such facilities and other property incidental thereto.

5. To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth in length, with all definitions of terms set forth therein being applicable to such terms in these Articles, provided, however, in any conflict between these Articles and the Declaration, these Articles shall control.

6. To obtain and/or employ any legal, accounting, administrative personnel and/or other services.

7. To make, adopt, amend, modify, and rescind from time to time and enforce rules and regulations governing the use and enjoyment of the Common Area, Limited Common Area, the Units, the Building, the Condominium, and the obligation of the Members.

8. To purchase or otherwise acquire title to an interest in, sell, lease, mortgage, subordinate and/or partially release and otherwise use, encumber and dispose of any interest in property, real or personal, tangible or intangible.

9. To open and maintain bank accounts, and to authorize the drawing of checks and other financial instruments, and to keep a full and complete record of all financial transactions, which records shall be reasonably available for inspection by the Members, and to prepare periodic financial reports and accountings as be required by the Members.

10. To borrow or raise moneys for any or the purposes of the Association and, from time to time without limit as to amount, to issue guarantees and to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instrument and evidences of indebtedness and to secure the payment thereof and of interest thereon by mortgage or pledge, conveyance or assignment in trust of the whole or any part of the Property of the Association.

11. To contract and enter into undertakings and agreements of every kind and description.

12. To consolidate or merge, on such terms and conditions as may be agreed upon, by purchase or lease from, or sale or lease to, or any other method and to the extent permitted by law, with other non-profit Association organized for similar purposes.

13. To contract for the management of the Association and the performance of its duties with a third party and delegate to said third party all of the powers and duties of the Association except those required by these Articles of the Declaration to have the approval of the Board or the Members.

14. To do any other thing, to the extent permitted by law, necessary to carry out and accomplish the purposes for which it is organized or intended to further the objects of the Association and to promote the common benefits and enjoyment of the Members.

## **ARTICLE V**

## **DISSOLUTION**

In the event the Association dissolves, its assets shall vest in the Members, as tenants in common, in the same percentage as their liability for common expenses.

## **ARTICLE VI**



### **PLACE OF BUSINESS**

Initially, the principal place of business of the Association shall be:

48 Stillings Court, Rochester, New Hampshire 03867

### **ARTICLE VII**

#### **CAPITAL STOCK**

This Association shall not have capital stock.

### **ARTICLE VIII**

#### **MEMBERSHIP**

All Members of the Association must be record owners of a fee interest in a Unit within the Condominium and all such owners shall automatically become Members of the Association. The Declarant, as identified and defined in the Declaration, shall be a Member for as long as Declarant owns at least one Unit in the Condominium.

Change of membership in the Association shall be established by recording at the Strafford County Registry of Deeds, a deed or other instrument establishing record title to any Unit and delivery to the Association of appropriate notice of such recordation.

### **ARTICLE IX**

#### **EXISTENCE**

The Association shall have perpetual existence.

### **ARTICLE X**

**LIMITATION OF LIABILITY OF OFFICERS AND DIRECTORS**

No officer or director of the Association shall be personally liable for monetary damages for breach of fiduciary duty as a director, an officer, or both, except with respect to:

(1) Any breach of the director's or officer's duty of loyalty to the Association or its shareholders.

(2) Acts or omissions which are not in good faith or which involve intentional misconduct or a knowing violation of law.

(3) Any transaction from which the director, officer, or both, derived an improper personal benefit.

**IN WITNESS WHEREOF**, the Incorporators have hereto affixed their signatures on this \_\_\_\_ day of July, 2023

**NAME AND SIGNATURE  
OF INCORPORATOR**

**POST OFFICE ADDRESS**

1. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

2. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

3. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

4. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

5. \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name