

This Instrument Prepared By:  
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**FIFTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF  
THE ORMOND HERITAGE, A CONDOMINIUM**

This Amendment to the Declaration of Condominium of The Ormond Heritage, A Condominium, (the "Amendment") is made this 14<sup>th</sup> day of DECEMBER 2021, by the Ormond Heritage Condominium Management Association, Inc. ("Ormond Heritage"), a Florida not-for-profit corporation.

**WITNESSETH**

**WHEREAS**, the Declaration of Condominium of The Ormond Heritage, a Condominium, was originally recorded among the Official Records of Volusia County, Florida, in Official Records Book 4045, Page 4588, and was previously amended as recorded in Official Records Book 4065, Page 2390; Official Records Book 4098, Page 2971; Official Records Book 4543, Page 1422; and Official Records 8101, Page 2670, of the Public Records of Volusia County, Florida; and

**WHEREAS**, the Board of Directors proposed amendments to Sections 2.9, 2.15, 3.2, 3.3, 3.4(c), 4.2(a), 6.3, 6.4, 7, 7.2, 7.3, 7.4, 8.1, 8.6, 9.5, 10.1, 10.5, 10.7, 10.11, 10.12, 10.14, 13, and 13.4 of the Declaration to clarify definitions, remove references to the developer, add language regarding changes to common elements and units, make updates consistent with current Florida statutes, require owners to have property insurance, and modify use restrictions, including changing the term of rentals; and

**WHEREAS**, the Declaration in Paragraph 13.2 states upon an amendment being proposed, the secretary of the Association shall call a special meeting of the members of the Association to be held not sooner than twenty days nor later than sixty days thereafter for the purpose of considering said amendment, and that such amendment must be approved by the affirmative vote of two-thirds of the total number of Association members entitled to vote; and

**WHEREAS**, a special meeting of the members was held for the purpose of considering the proposed amendments on November 6, 2021, and was continued until November 20, 2021; and

**WHEREAS**, the proposed amendments were approved by the affirmative vote of two-thirds of the total number of Association members entitled to vote.

**NOW, THEREFORE**, the Declaration of Condominium of The Ormond Heritage, a Condominium, as previously amended, is hereby amended as follows (Note: additions are indicated by underline; deletions by ~~strikeout~~):

**2.9 Limited Common Elements.** Limited Common Elements means those Common Elements which are reserved for the use of a certain unit to the exclusion of other units. By definition Assigned Parking Spaces, Swimming Pool, Pool Deck, Pool Mechanical Room, Ballroom, Verandah, Kitchen, Bar/Lounge, Exercise Room, and Hobby Room Card/Aux Meeting Rooms on the first and second floors, Pool Lounge including rest rooms, Jacuzzi Room including rest rooms, Library, Billiard Room, Second Floor restrooms, and garage-level Storage Rooms. Any reference made to Common Elements in the provisions of this Declaration or in The Articles of Incorporation or By-Laws of the Association meant to include Limited Common Elements unless the latter is excepted or deal with separately.

**2.15 Nuisance.** Unreasonable or unlawful use of property that results in material annoyance, inconvenience, discomfort, or injury to another person.

~~**3.2 Changes to Interior Layout, Design and Arrangement of Units.** Developer reserves the right to change the interior layout, design and arrangement of any Unit (i) so long as Developer owns the units so changed; (ii) provided such change is approved by a majority of total voting interests hereunder; (iii) provided such changes shall be reflected by an amendment to this Declaration; and (iv) provided that an amendment for such purpose shall be signed and acknowledged by the Developer and the Association. A certificate of the Association shall be required in the form and manner provided for in Paragraph 13.5 below.~~

~~**3.3 Changes to Boundaries and Unit Dimensions.** Developer reserves the right to change the boundaries between or among units so long as Developer owns the units so changed and provided such change is approved by a majority of total voting interests hereunder. No such change shall be made without amending this Declaration in the manner provided by law. The amendment for such purpose shall be signed and acknowledged by the Developer and the Association. A certificate of the Association shall be required in the form and manner provided for in Paragraph 13.5 below.~~

~~**3.4(e) Developer.** Until such time as Developer or any Successor Developer as defined by Florida Statutes or by the Florida Administrative Code, has completed all of the contemplated improvements on the land and sold all of the units contained within the Building, easements, including but not limited to ingress and egress, are hereby reserved to Developer and shall exist under, through and over the Condominium Property as may be required by Developer for the completion of the contemplated improvements and the sale of said units. Neither the unit Owners, nor the Association, nor the use of the Condominium Property shall in any way interfere with said completion of the contemplated improvements and sale of the units.~~

**4.2(a) Parking Spaces.** After the turnover of control to the Association by the Developer as defined in F.S. 718.301, if the Association decides to assign to the owners of units the exclusive use of underground parking spaces, the Association may assign to each unit one underground parking space, except unit 114 which will not have the right to be assigned an underground parking space. Such assigned spaces all be limited common elements hereunder, the use of which shall be restricted to the owner to which such parking space is assigned. ~~The Association may keep a "parking assignment book" in which the site plan of the parking garage is kept, and all spaces assigned to Units shall be recorded in the "parking assignment book". The Developer will not initially assign a parking space to each unit, and shall leave the establishment of the "parking assignment book" for the Association. After the Developer turns over "control" as defined in Florida Statutes Chapter 718, the Association shall be responsible for initiating and maintaining such a "parking assignment book" and shall develop rules and regulations regarding both initial assignments of parking spaces, and any revision thereof or reassignments of parking spaces.~~ Each assigned parking space shall be numbered designated by the Association with ~~the Unit Number to which such space is assigned in the "parking assignment book".~~ a unique alphanumeric code.

**6.3 Changes, Improvements and Additions, Association.** After completion by Developer of the improvements to the Condominium Property and except as otherwise provided below, the Association shall have the right to make or cause to be made changes, improvements or additions to the Common Elements provided any such changes, improvements or additions are approved by the Board of Directors of the Association. The cost of any such changes, improvements or additions shall be a Common Expense. The Association shall not, however, make or cause to be made any changes, improvements or additions to the Common Elements which would result in the partial or total enclosure of any part or all of any balcony or terrace or which would result in a change to the appearance of the Building different from its appearance as originally constructed. Material alterations to the condominium property can be approved by 2/3rds of the association membership. ~~This paragraph shall, however, have no application to the rights vested in Developer pursuant to the provisions of Paragraphs 3.2 and 3.3 hereof.~~

**6.4 Changes, Improvements and Additions, Unit Owners.** Except as otherwise provided herein, a Unit Owner may at his cost make such changes, improvements or additions to his Unit as he may desire, except that a Unit Owner shall not make any changes, improvements or additions to the exterior exposed to the elements parts of his Unit which the Association is required to maintain, repair or replace pursuant to the provisions of Paragraph 6.1 and, except that, a Unit Owner shall not make any changes, improvements or additions to his Unit which would result in the partial or total enclosure of any part or all of his balconies except as authorized under Florida Statutes 718.113(5). Unit owners must notify the association in writing of any changes, improvements, or additions that result in work being performed on walls, floors, ceilings, electric, plumbing, or HVAC. Sound dampening

underlayment meeting minimum specifications as adopted by the board shall be used under any hard flooring installation.

7. **Assessments.** The Board of Directors of the Association shall fix and determine from time to time the sums or sums of money necessary and adequate to provide for the Common Expenses and shall assess the Unit Owners for said sums. Additional procedures for the making and collection of such assessments shall be as set forth in the By-Laws of the Association. The expenses associated with maintaining the Common Elements shall be budgeted by the calendar year and apportioned among the units on the basis of the ratio of the area contained within the Interior Perimetrical Boundaries of each unit to the sum of the areas contained within the Interior Perimetrical Boundaries of all units in accordance with Exhibit "B." The result of this apportionment shall then be divided by 12 to give each owner his or her proportionate monthly share of the expenses for maintaining the Common Elements. The expenses associated with maintaining the Limited Common Elements shall be budgeted by the calendar year and apportioned among the number of unit owners entitled to use them by dividing the total amount of these expenses by the number of unit owners entitled to use them. The result of this calculation shall then be divided by 12 to give each owner his or her proportionate monthly share of the expenses for maintaining the Limited Common Elements. To compute the allocation of forecast annual expenses between Common Elements and Limited Common Elements, all categories used to make up the budget are to be evaluated and the number of dollars attributed to Limited Common Elements segregated and assigned to Limited Common Expenses. If the percentage of the total expenses allocated either to Common Expenses or to Limited Common Expenses changes in either direction by one percent or more from the prior year's budget, the President of the Board of Directors shall appoint a committee to review the allocation. The committee shall be comprised of at least five Unit Owners, and shall include owners of small, medium, and large sized units. For the purposes of this paragraph, small units (62 Units) are defined as unit numbers ending in 05, 06, 07, 08, 14, 15, 16, 17, medium units (45 Units) are unit numbers ending in 02, 04, 10, 11, 12, 18, 20, and large units (49 Units) are unit numbers ending in 01, 03, 09, 13, 19, 21, and PH1 – PH7. The committee shall review the expense allocation judgements and shall present a recommended allocation to the board. All assessments, including special assessments pursuant to Paragraphs 9.2(d)(1) and 9.2(e)(3)(ii) hereof, shall be the personal obligation of each Unit Owner, and each Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Unit Owner, including interest, thereon, as hereinafter provided, and all costs incident to the collection thereof including attorney's fees at trial or on appeal. In a voluntary conveyance (other than a deed in lieu of foreclosure), the grantee shall be jointly and severally liable with the grantor for his share of all assessments up to the time of conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

**7.2 Lien for Assessments.** The Association shall have a lien against each Condominium Parcel for any unpaid assessments, including special assessments pursuant to Paragraph 9.2(d) (1) and 9.2(e) (3)(ii) hereof, and for interest accruing thereon, which lien shall also secure reasonable attorney's fees incurred by the Association incident to the collection of any such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The lien is effective and shall relate back to the recording of the original Declaration of Condominium. However, as to first mortgagees of record, the lien is effective from and after recording of a claim of lien in the Public Records of Volusia County, Florida. All such liens shall state the legal description of the condominium unit, the name of the unit owner, the name and address of the Association, the amount due and the due dates. No lien shall continue for longer than one year unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. Such claim of lien shall be signed and acknowledged by an officer of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, to be prepared and recorded at his expense. The assessment lien provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Condominium Parcel subject to assessments, provided that such mortgage or mortgages are recorded prior to the Association's claim of lien. The Association's lien may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property, and the Association may also, at its option, sue to recover money judgments for any unpaid assessments without thereby waiving the lien securing the same.

When the 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 the first mortgage, or as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall be liable for the unpaid assessments that become due prior to mortgagees receipt of the deed. However, the first mortgagee's liability is limited to a period not exceeding ~~six (6)~~ twelve (12) months, and in no event shall the mortgagee's liability exceed one percent (1%) of the original mortgage debt. The first mortgagee's liability for such expenses or assessments shall not commence until thirty (30) days after the date the first mortgagee received the last payment of principal or interest. In no event shall the mortgagee be liable for more than ~~six (6)~~ twelve (12) months of the unit's unpaid common expenses or assessments accrued before the acquisition of title to the unit by mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less. The unpaid share of Common Expenses or any special assessments are collectible from all of the Unit Owners including such acquirer, his successors and assigns. A first mortgagee acquiring title to a Condominium Parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not during the period of its ownership of such Condominium Parcel, whether or not such Condominium Parcel is unoccupied, be excused from the payment of some or all of the Common Expenses or any special assessments coming due during the period of such ownership.

~~7.3 Commencement of Assessments. Assessments for Common Expenses shall commence no earlier than the first day of the month next succeeding the date of closing the first Condominium Parcel purchase, except for the Developer who shall begin to pay assessments on Developer owned units on the first day after the fourth calendar month after the date of closing of the first Condominium Parcel purchase. However, the Developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners as provided in Florida Statute 718.116(9) (a).~~

~~7.4 Working Capital Fund. Each purchaser of a Condominium Parcel from the Developer shall pay FOUR HUNDRED AND NO/100 (\$400.00) DOLLARS at the time of closing of the Condominium Parcel, which amount shall be contributed to an initial working capital fund of the Association. After the first day of the fourth calendar month after the date of closing of the first condominium purchase, it may be utilized for the purchase of pool and office furniture and other furniture, building and grounds equipment and other equipment, lawn mowers, office supplies, utility deposits, other supplies and for start up Common Expenses and other Common Expenses paid or accrued prior or subsequent to the commencement date of assessments and for any purpose for which the Association could levy an assessment.~~

8.1 **The Condominium Act.** The Condominium Act of the State of Florida.

~~8.6 Contracts. The Association, prior to passage of control, as described in the By Laws and Florida Statutes 718.301 shall not be bound by and shall not enter into contracts or leases (including a management contract) unless there is a right of termination of any such contract or lease, without cause which is exercisable without penalty at any time after transfer of control upon not more than ninety (90) days notice to the other party.~~

9.5 **Unit Owner's Insurance.** Each Unit Owner shall be required and responsible for purchasing, at his own expense, property and liability insurance upon his own personal property and such other insurance as he shall desire. Such property coverage shall name the association as an additional insured and contain at least \$2,000.00 of loss assessment coverage. Owners renting their units are responsible for ensuring that their tenants purchase renter's insurance to cover property and liability during the term of any lease and supplying proof of such insurance to the association.

10.1 **Units.** Each of the units shall be occupied only as a single family residential dwelling by the Unit Owner, members of his family, his guests, invitees, and lessees, and in the case of lessees, their families, guests and invitees. ~~So long as Developer owns a Unit, it or its agents~~

~~may utilize a unit or units for a sales office, a model Unit or any other usage for the purpose of selling units.~~

- 10.5 Leasing of units.** The leasing or renting of a Condominium unit is prohibited for lease periods of less than ~~six~~ twelve (12) months. All of the terms and provisions of the Condominium Act, the Declaration, Articles of Incorporation, the By-Laws, and the rules and regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a unit as a tenant to the same extent as against a unit Owner, and a covenant upon the part of each such tenant to abide by the rules and regulations of the Association, and the terms and provisions of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association.
- 10.7 Parking Spaces.** No trucks other than pick-up trucks with a capacity of less than or equal to one-half (1/2) ton, commercial vehicles defined as vehicles that displays signage, tools or equipment that is of a commercial nature, or any vehicle or truck, with or without signage, tools or equipment that is primarily designed to be used for commercial purposes regardless of whether the vehicle is actually used for commercial purposes, boats, house trailers, boat trailers, mobile homes, campers or trailers of any description shall be parked in any parking space except with the written consent of the Board of Directors of the Association. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery, and such other services as may be necessary. One underground parking space may be assigned to each Unit as described in Paragraph 4.2 above. The unassigned parking spaces shall be considered common elements available to all owners.
- 10.11 Cooking.** No cooking of any nature whatsoever shall take place or be permitted on Unit balconies or within twenty-five (25) feet of the building.
- 10.12 Pets.** Owner, guests or lessees are ~~not permitted to have up to three (3) pets including cats, dogs, rabbits, aquarium fish (tanks shall not exceed twenty (20) gallons individually or one hundred (100) in totality), small caged animals including gerbils, guinea pigs, hamsters, and caged birds including canaries and parakeets. Pets shall not exceed thirty (30) pounds individually dogs larger than lap dogs (small enough to be held in the owner's lap, and weighing less than 30 pounds) on Condominium Property or in owner's apartment. Service and Assistance animals must be approved by the board in accordance with adopted policies.~~ Pets ~~Dogs~~, when not in owner's apartment must be on leash or in a carry container and may be exercised on Condominium Property in designated area only. Owner, guest or lessee is liable for any damage to Condominium Property by action of his/her pet. Pet "accidents" occurring on any common area going to or coming from designated area must be immediately cleaned up by the owner involved.

~~10.14 Developer's Use. Until such time as Developer or its successors has completed all the contemplated improvements of the Condominium and closed the sale of all the Condominium Parcels, neither the Unit Owners nor the Association, nor the use of the Condominium Property shall interfere with the completion of the contemplated improvements and the sale of the Condominium Parcels. Developer or its successors and assigns may make such use of any unsold Units, and the Common Elements as may facilitate such completion and sale including but not limited to maintenance of a sales office, showing of the Units, and the display of signs.~~

13. **Amendments.** Except as otherwise provided in Paragraph 3.1, ~~3.2 and 3.3~~, and except as otherwise provided in Paragraph 13.4, amendments to this Declaration shall be proposed and adopted in the following manner.

~~13.4 Amendments Prior to Transfer of Control of Association. Notwithstanding the provisions of Paragraphs 13.2 and 13.3 hereof, until the first election of the members of the Board of Directors by Unit Owners, as provided in the Articles of Incorporation and By Laws of the Association, proposal of an amendment other than an amendment described in Section 718.110(4) and (8) Florida Statutes shall be made by the Board of Directors. Approval thereof shall require only the affirmative vote of all of the Directors at any regular or special meeting thereof. Amendments relating to matters described under Florida Statutes 718.110(4) must be joined in execution by the record owner of any unit so affected and all record owners of liens on such unit. Additionally, the record owners of all other units must approve the amendment. No amendment may permit time share estates to be created unless the record owner and all lien holders on each unit join in the execution of such amendment as required under Florida Statutes 718.110(8).~~

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IN WITNESS WHEREOF, Ormond Heritage has hereby duly adopted and executed this Amendment as set for in the Declaration of Condominium on the day and year first written above. Certified by the President and attested to by the Secretary of the Ormond Heritage.

**CERTIFICATION**

WE HEREBY CERTIFY that we are the President and the Secretary of The Ormond Heritage Condominium Management Association, Inc. and that the foregoing Amendment to the Declaration was adopted by the affirmative vote of two-thirds of the total number of Association members entitled to vote.

[Signature]  
Tyler C. Brown  
(Name and signature of witness No. 1)

[Signature]  
Patsy Z Huffine  
(Name and signature of witness No. 2)

**The Ormond Heritage Condominium Management Association, Inc., a Florida not-for-profit corporation**

SIGNED [Signature]  
WILLIAM AUCOIN, PRESIDENT

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 14<sup>th</sup> day of DECEMBER 2021, by William Aucoin, the President of Ormond Heritage Condominium Management Association., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or has produced Known To Me as identification.

NOTARY PUBLIC:  
Sign: [Signature]  
Print: Mary P West

State of Florida At Large  
(Seal)



**MARY P. WEST**  
Notary Public - State of Florida  
No. HH 198945  
My Commission Expires  
11/15/25

My Commission Expires:  
Title/Rank: FL NOTARY  
Commission Number: \_\_\_\_\_

Tyler L. Brown  
(Name and signature of witness No. 1)

Crisie J EVERETT  
(Name and signature of witness No. 2)

**The Ormond Heritage Condominium  
Management Association, Inc., a Florida  
not-for-profit corporation**

ATTEST Raymond Panknin  
RAYMOND PANKNIN, SECRETARY

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 14<sup>TH</sup> day of DECEMBER 2021, by Raymond Panknin, the Secretary of Ormond Heritage Condominium Management Association., a Florida not-for-profit corporation, on behalf of the corporation. She is personally known to me or has produced KNOWN TO ME as identification.

NOTARY PUBLIC:  
Sign: Mary P West  
Print: MARY P WEST  
State of Florida At Large  
(Seal)  
My Commission Expires:  
Title/Rank: FL NOTARY  
Commission Number: \_\_\_\_\_



**MARY P. WEST**  
Notary Public - State of Florida  
No. HH 198945  
My Commission Expires  
11/15/25