

**DECLARATION  
FOR  
THE ARCOLA CONDOMINIUM  
3 Arcola Street  
Dover, New Hampshire**

**Table of Contents**

<u>Article</u>	<u>Name</u>	<u>Page</u>
1.	Declarant.....	2
2.	Submission of Property.....	2
3.	Name of Condominium.....	3
4.	Location.....	3
5.	Approvals.....	3
6.	Definitions.....	4
7.	Division of Property.....	4
8.	Description of Units.....	4
9.	Convertible Land.....	6
10.	Statement of Purpose and Restrictions.....	6
11.	Actions Subsequent to Casualty Damage.....	8
12.	Amendment of Declaration.....	8
13.	Resale and Subdivision of Units.....	9
14.	Unit Mortgagee Protections.....	9
15.	Miscellaneous.....	10

ARTICLE 1. **DECLARANT:**

This Condominium Declaration dated November \_\_\_\_, 2023, is made by **Golden Oaks Development, LLC**, a New Hampshire limited liability company having a mailing address of 35 Jenkins Road, Lee, New Hampshire 03861 (the “**Declarant**”) pursuant to N.H. Revised Statutes Annotated Chapter 356-B. The undersigned are the sole two members of Declarant.

ARTICLE 2. **SUBMISSION OF PROPERTY:**

Reference is made to the Condominium Site Plan entitled “Condominium Site Plan, 3 Arcola Street, Dover, Strafford County, New Hampshire, prepared for Golden Oaks Development, LLC” drawn by Norway Plains Associates, Inc., dated April 2023 and recorded \_\_\_\_\_, 2023 at the Strafford County Registry of Deeds as Plan No. \_\_\_\_\_ (hereinafter referred to as the “**Site Plan**”).

Reference is made also to the Condominium Floor Plans, entitled “Condominium Floor Plans, 3 Arcola Street, Dover, Strafford County, New Hampshire, prepared for Golden Oaks Development, LLC” (Sheet 1 through Sheet 5) drawn by Norway Plains Associates, Inc., dated April 2023, recorded at the Strafford County Registry of Deeds as Plan Nos. \_\_\_\_\_ (hereinafter referred to as the “**Floor Plans**”).

The Declarant is the owner of land and certain improvements being shown on the Site Plan, being more particularly described in **Exhibit A** attached hereto and made a part hereof. Exhibit A describes Declarant’s land first with reference to the deed by which Declarant acquired the site (which deed describes the land with reference to a 1921 survey), then more precisely with reference to the 2023 Site Plan survey.

The Site Plan shows the 25,150 square foot (0.58 acre) “Common Area” labeled Dover Tax Parcel ID 33-114 (being the land Declarant acquired by deed), as well as the 3,500 square foot (0.08 acre) area labeled “Paper Street” abutting and being a part of Declarant’s land to the extent it has not been developed as a City street.

The Declarant submits the Tax Parcel ID 33-114 25,150 square foot area shown on the Site Plan to the condominium form of ownership with Warranty Covenants. The Declarant submits the Paper Street 3,500 square foot area to the condominium form of ownership with Quitclaim Covenants (as part of the “Tax Parcel ID 33-114”). The 1921 survey referenced in Exhibit A showed Arcola Street (labeled on said plan as Arcola Avenue) as continuing along the length of what the Site Plan shows as Tax Parcel ID 33-114. New Hampshire law considers land laid out but not developed as a street as owned by abutting property owners to the midline of said street. Consequently, the Paper Street land is submitted to the condominium as part of common land subject to the possibility of Arcola Street ever being further developed and said land being

removed from the condominium form of ownership. For that reason, the property is submitted with Quitclaim Covenants.

The Declarant further submits and declares all improvements on the above-described land since Declarant's acquisition and hereinafter constructed thereon, including, specifically, the site improvements and two units and infrastructure serving same depicted on the Site Plan and Floor Plans referenced above, and all easements, rights and appurtenances thereto (all referred to as the "**Property**") to the provisions of The Condominium Act, and State of New Hampshire Chapter 356-B of the Revised Statutes Annotated (hereinafter the "**Act**" or the "**Condominium Act**") in order to create a condominium with respect to the Property. The Declarant further declares and agrees that the Property is and will be held, conveyed, encumbered, used, occupied and improved subject to the terms of this Declaration, all of which shall constitute covenants running with the Property and shall be binding on and for the benefit of the Declarant and its respective successors in interest, including all person acquiring interests in any condominium unit or units.

**ARTICLE 3. NAME OF CONDOMINIUM:**

The Condominium established hereby shall be known as **The Arcola Condominium**.

**ARTICLE 4. LOCATION:**

The Arcola Condominium is located at 3 Arcola Street, Dover, Strafford County, New Hampshire. Its two units have been assigned the following mailing addresses by the City of Dover:

- Unit 1: 3 Arcola Street – Unit 1
- Unit 2: 3 Arcola Street – Unit 2

Arcola Street has previously been known as Arcola Avenue. Declarant's vesting deed referenced in Exhibit A describes the condominium land with reference to a 1921 survey plan recorded at the Strafford County Registry of Deeds showing various lots (making up the condominium land) located on Arcola Avenue. A survey plan of abutting property recorded at the Strafford County Registry of Deeds (as Plan 117-94) also shows Arcola Street labeled as Arcola Avenue.

Notwithstanding the above, the City of Dover's street sign identifies the City street as Arcola Street. City of Dover tax assessment cards list the properties (and neighboring properties on the same street) as being on Arcola Street, and the City GIS on-line City tax maps identify the street as Arcola Street.

**ARTICLE 5. APPROVALS:**

The Land is located within the City of Dover’s Medium Density Residential (R-12) District. Notwithstanding the City’s dimensional requirements for the zone, the condominium land was granted a variance by the Dover Zoning Board of Adjustment by Notice of Decision dated January 24, 2023, Case No. Z22-13/Zone-2022-001, allowing construction of a two-family duplex dwelling four feet from the rear setback where thirty feet is technically required by Section 170-12.b of Dover Zoning Ordinance.

Neither Planning Board Subdivision nor Site Review approval was required for the Condominium development. This two unit condominium is exempt from registration with the New Hampshire Department of Justice pursuant N.H. RSA 356-B:49.

**ARTICLE 6. DEFINITIONS:**

All terms and expressions used in this Declaration which are defined in New Hampshire Revised Statutes Annotated Chapter 356-B shall have the same meaning here unless the context otherwise requires or is otherwise specifically defined by this Declaration.

**ARTICLE 7. DIVISION OF PROPERTY:**

The Property is hereby divided into two (2) separate freehold condominium units, as described further herein. The Condominium consists of the Land, developed with one (1) residential duplex structure, with both Units serviced by municipal water and sewer, driveways and parking areas and drainage infrastructure, all as partially depicted on Site Plan.

The general layout, location, numerical designations and area of each unit are shown on the Site Plans and Floor Plans. The layout and location of each unit’s Limited Common Area are described herein and shown on the Site Plan as the proposed gravel driveway parking areas between Unit 1 and Arcola Street (being Limited Common Area for Unit 1) and in front of (to the south) of Unit 2 (being the Limited Common Area for Unit 2). The driveway will otherwise be kept free of parking for access to the garage units between the residential structures, each garage unit immediately abutting Unit 1 and Unit 2 being part of those units, respectfully.

**ARTICLE 8. DESCRIPTION OF UNITS:**

Unit Boundaries. The boundaries of each unit, as built, with respect to the floor, ceilings, walls, doors and windows, are as follows:

- i. Horizontal Boundaries. The upper horizontal boundary of each unit shall be the lower surface of any finished sheathing of the framing members of the roof, or if unfinished, the plane of the bottom of such framing members. The lower boundary shall be the upper surface of the concrete slab or basement slab.

- ii. Vertical Boundaries. The vertical boundaries of each unit shall be the vertical plane of the interior wooden stud surface of all walls as it contacts the exterior surface of the wallboard or plaster, and within each unit's basement the vertical plane of interior concrete walls.
  
- iii. Doors and Windows. The exterior boundaries of each unit shall be the unfinished exterior surfaces of all doors and windows.

- iv. Decks, Steps and Bulkheads. The bulkheads, including the masonry foundations to same, shall be a part of the condominium's Common Area and all portions of the decks and steps associated with each unit shall be Limited Common Area of each unit to which they are attached and service as shown on the Site Plan.

Each unit shall include all portions of the building within the above referenced boundaries, and the space enclosed by said boundaries, inclusive of interior walls, finishes, improvements, windows and partitions, except such portions that are specifically designated in this Declaration as Common Area. The unit shall also include any plumbing and electrical facilities and appliances located within the unit servicing that unit exclusively.

The unit shall not include pipes, wires, cables, shoots, flues, conduits or other public utility lines, ducts or structural portions of the entire building which happen to be running through said unit which are utilized for or serve more than one unit or any portion of the Common or Limited Common Areas, nor shall such boundaries include any balconies or patios, if any, serving more than one unit, nor shall the unit include decks, and/or stairs designated as Limited Common Area, notwithstanding the same serving that unit exclusively.

Description of Common Area. The Common Area is depicted on the Site Plan and Floor Plans and consists of the Property other than the units and includes, but is not limited to, the Land, driveway, parking areas, walkways, fences, shrubbery and other plantings, water supply and piping, sewage disposal and piping, drainage collection and treatment infrastructure including plantings, heat pipes and ducts, and electrical to the extent that said systems serve more than one unit in the Condominium but not including those portions of the service which exclusively serve the individual units, the roof, foundation, exterior walls, columns and supports of the structure, stairs and walkways. The Common Area shall also include any and all walls constructed for each unit that are developed to separate that unit from the remaining units, with the exception of that portion of those walls which are designated as part of the unit boundaries described above.

The electric meters for both units are located on the exterior (common area) wall of Unit 1.

The Common Areas as described above are for the use and benefit of all unit owners, their guests, invitees and licensees. Upkeep and maintenance of all Common Areas and improvements thereon/under shall be the responsibility of the Unit Owners Association, by its Board of Directors. The specific use, including responsibilities for maintenance and repair of the Common Areas, shall be governed by the Bylaws and rules as adopted and amended from time to time by the Association.

Ownership Interest in Common Area. Each unit owner shall have an equal ownership interest in the Common Area as described in the table below:



<u>Street Address</u>	<u>Unit #</u>	<u>Percentage Interest In Common Area</u>
3 Arcola Street – Unit 1	1	50%
3 Arcola Street – Unit 2	2	<u>50%</u>
		Total: 100%

Limited Common Area. The Limited Common Area appurtenant to each unit is described herein and shown on the Site Plan and Floor Plans. The surface parking rights to that turnout area north of the gravel driveway between Unit 1 and Arcola Street is Limited Common Area for Unit 1. The surface parking rights to the extension of the gravel driveway beyond the garages and south of Unit 2 is Limited Common Area for Unit 2. The immediate yard areas to the rear and sides of each unit, particularly around each unit’s deck and bulkhead, shall be Limited Common Area to that unit. Maintenance and repair of said driveways and yards shall remain a Common Area association obligation and expense. Sub-surface use rights and said driveways and yards shall remain as Common Area.

**ARTICLE 9. CONVERTIBLE LAND:**

The Condominium contains no convertible land or convertible space.

**ARTICLE 10. STATEMENT OF PURPOSE AND RESTRICTIONS:**

The Condominium as a whole and each of the individual units is intended to be solely for residential purposes as more fully set forth in the Bylaws and below:

A. Residential Use. Each unit shall be occupied and used exclusively for residential purposes by the owner thereof or by his tenants. Minor home occupations allowed under Dover zoning for single family/duplex residences shall be allowed if in conjunction with eventual occupancy by said unit’s owner or tenant. This restriction shall not be construed to prohibit the owners from leasing their units so long as the lessee thereof occupy and use the leased premises in accordance with the provisions hereof and the Bylaws of this Condominium.

B. Easement for Structural Encroachments. None of the rights and obligations of the owners as set forth herein, or in any deed conveying a unit from the Declarant to a unit purchaser, shall be altered in any way by encroachments so long as they shall exist; provided, however, that 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.

C. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Line and Other Common Area Located Inside of Units; Support. Each unit owner shall have an easement in



common with the owner(s) of the other unit to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Area located in the other unit and/or serving the Common Area. Each unit shall be subject to an easement in favor of the owners of the other unit to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Area serving such other unit and/or the Common Area. The Association shall have a right of access to each unit to inspect same, to correct violations of the Rules and Bylaws and to install, maintain, repair or replace the common elements contained therein or elsewhere in the buildings. Such a right of access shall be exercised after reasonable notice to unit owners. Every portion of a unit which contributes to the structural support of a building shall be burdened with an easement of structural support for the benefit of the other unit.

D. Easements for Ingress and Egress. Each unit owner shall have an easement in common with the owners of the other unit for ingress and egress through and use and enjoyment of, all Common Area so long as such use is in accordance with this Declaration and Bylaws. Each unit shall be subject to an easement for ingress and egress through, and use and enjoyment of, all Common Area so long as such use is in accordance with this Declaration and Bylaws.

E. Easement to Facilitate Completion and Sales. Declarant shall be deemed to be the owner of any Units which have not been sold and conveyed. Declarant and its duly authorized agents, representatives, and assigns may make such reasonable use of the Condominium as may facilitate the completion or construction of both Units and Common Area and such sale and conveyance, including, without limiting the generality of the foregoing, the right to enter both Units and Common Area for construction purposes, and the right to store materials, the maintenance of a sales office in a rental office, the showing of property, and the displaying of signs. The Declarant is fully obligated to complete any buildings containing residential units on any portion of the Land, labeled "NOT YET COMPLETED" or "NOT YET BEGUN" on the Site Plan recorded pursuant to the requirements of the Condominium Act. In addition, the Declarant and its duly authorized agents, representatives, and employees shall have the right to use any and all unsold and un-conveyed Unit or Units as sales offices and/or model units. Such unit shall be units within the meaning of this Declaration and the Condominium Act, and not parts of the Common Area. The Declarant shall have the absolute right to convey or lease such Units. Further, the Declarant reserves the right to enter into certain agreements with other Unit Owners who may agree to lease their Units to the declarant for use by the Declarant as model units and/or sales offices.

F. Covenants, Easements and Restrictions of Record. The submission of the Property is subject to all covenants, conditions, easements and restrictions of record.

G. No Nuisances. No harmful or offensive use shall be made of any part of the Condominium and nothing shall be done therein which is or will become in the judgment of the Condominium Unit Owners Association an annoyance or nuisance to the other unit owners. No

use shall be made of any part of the Condominium that shall constitute a fire hazard, result in the cancellation of insurance on any part of the Condominium or be in violation of any law, ordinance or governmental regulation applicable thereto. No use shall be made of any part of the Condominium, which would increase the rate of insurance on the Common Area without prior written consent of the Condominium Unit Owners Association.

H. Units Subject to Declaration, Bylaws and Rules and Regulations. This Declaration, the Bylaws and any rules and regulations adopted by the Association, and decisions and resolutions of the Association or its representatives as amended from time to time, all contain, or will contain, certain restrictions as to use of the units and other parts of the Condominium. Each owner shall comply therewith and failure to comply with any such provision, decision or resolution shall be grounds for an action by any other unit owner or by the Association to recover sums due for damages or for injunctive relief. All such actions in law or in equity shall be authorized by resolution of the Association. The unit owner or Association, as the case may be, shall be entitled to recover all reasonable costs and expenses of such actions, including attorney's fees.

All present or future owners, tenants and occupants of units, or any other person who might use the facilities of the Property in any manner are subject to the provisions of this Declaration, the Bylaws and any rules and regulations adopted by the Association. The acceptance or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and any rules and regulations adopted by the Association, 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 Units though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof.

#### **ARTICLE 11. ACTIONS SUBSEQUENT TO 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 RSA 356-B: 43, III be used to repair or restore the structure, Common Area or Limited Common Area unless the unit owners vote to terminate the Condominium pursuant to RSA 356-B: 34. The Units Owners Association is hereby irrevocably appointed as the agent for each unit owner, for each mortgagee of a Unit and for each owner of any interest in the Condominium to adjust all claims resulting from such damage and to deliver releases upon the payment of claims. The proceeds of such insurance settlement shall be payable to a national or state chartered banking institution as trustees for the benefit of the Unit Owners Association, the individual unit owners and/or any mortgagees of the said Condominium or any individual unit thereof.

**ARTICLE 12. AMENDMENT OF DECLARATION:**

Subject to the terms of Article 14 below, this Declaration may be modified or amended by unanimous vote in person or by proxy of owners representing both units at a meeting held in accordance with the provision of the Bylaws and N.H. State law; provided, however, that no such amendment shall be effective until evidence thereof has been duly recorded at the Strafford County Registry of Deeds.

For so long as the Declarant owns one or more units, no amendment to the Declaration shall be adopted that could or would interfere with the construction, sale, renovation, lease or other disposition of such units or other rights of the Declarant as set forth herein without the Declarant's express written consent.

**ARTICLE 13. RESALE AND SUBDIVISION OF UNITS:**

A. Resale. Any units owned by unit owners may be sold by them at any time subject only to other provisions contained in this Declaration and in the Bylaws.

B. Further Subdivision of Units. There shall be no further subdivision of any unit.

**ARTICLE 14. UNIT MORTGAGEE PROTECTIONS:**

Notwithstanding anything declared to the contrary by this Declaration, or in the Bylaws executed and recorded herewith as Appendix A, the following provisions are declared are to protect the rights of unit mortgagees. These provisions are declared for the benefit of unit owners so as to make the financing of units practicable.

A. Restraints on Transfer. By this Declaration, no rights of first refusal have been retained. Any subsequent transfer of a unit by third-party purchasers from Declarant shall not retain any rights which adversely impact the rights of any mortgagee to foreclose or take title to a condominium unit pursuant to the remedies in a mortgage deed, accept a deed or assignment in lieu of foreclosure in the event of a default by a mortgagor, or sell or lease the Unit 1cquired by a mortgagee.

B. Declaration and/or Bylaws Amendments. Any amendment to this Declaration or the Bylaws which can be reasonably construed to have a materially adverse effect to any mortgagee must be agreed to by mortgagees representing at least 51% of the votes of unit estates that are subject to the mortgages.

C. Termination of Condominium. Any action to terminate the legal status of the condominium after substantial destruction, condemnation or for any other reason must be agreed to by the mortgagees that represent at least 51% of the votes of the unit estates that are subject to mortgages.

D. Notice and Implied Approval. Notice of any amendment or condominium termination action requiring mortgagee approval as a provided for in section B. and C. above shall be sent to the known address of mortgagees by certified mail, return receipt requested. Implied approval of any proposed amendment or condominium termination may be assumed if an eligible mortgagee fails to submit a response to any written proposal for amendment or termination within 60 days after it receives proper notice.

E. Other Required Notice. Unit mortgagees shall also be given written notice, by certified mail, return receipt requested of:

1) Any condemnation or casualty loss that affects either a material portion of the condominium or the unit securing the noticed mortgagee's mortgage;

- 2) Any 60-day delinquency in the payment of assessments or charges owed by the owner of the unit on which the noticed mortgagee holds the mortgage;
- 3) A lapse, cancellation, or material modification of any insurance policy maintained by the Unit Owners Association; and
- 4) Any proposed action that requires the consent of the specified percentage of mortgagees.

F. Mortgagee’s Security Confirmed. Notwithstanding any provision of this Declaration or the Bylaws regarding casualty insurance payments and/or condominium awards for losses to for the taking of condominium units and/or common elements, no such provision shall give the condominium unit owner or any other party priority over any rights of the properly secured first mortgagee of any condominium unit on behalf of which such insurance proceeds or condemnation awards are paid.

G. Unpaid Dues. Any first mortgagee who obtains title to condominium unit pursuant to the remedies of his mortgage or through foreclosure shall not be liable for more than six (6) months of the unit’s unpaid regularly budgeted assessments or charges accrued before acquisition of the title to the unit by the mortgagee. The lender shall be liable, however, for any fees or costs related to the collection of such unpaid fees, dues, and/or assessments.

**ARTICLE 15. MISCELLANEOUS:**

A. Gender and Number. The use of one gender shall be construed to mean either or both genders, and the use of the singular shall be deemed to refer either to singular or plural and vice-versa, whenever the context so requires.

B. Invalidity. The provisions of this Declaration are severable. If any provision, condition, covenant or restriction herein shall be declared to be invalid under any applicable law or ordinance, the remainder shall be unaffected thereby.

C. Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of prior violations, which may have occurred.

IN WITNESS WHEREOF, Declarant hereby executes this Declaration this \_\_\_\_\_ day of November, 2023.

GOLDEN OAKS DEVELOPMENT, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Stephen P. Kniaz, Member

Duly Authorized

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Thomas Boisvert, Member  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF STRAFFORD

November \_\_\_\_\_, 2023

Personally appeared the above named Stephen P. Kniaz, duly authorized Member of Golden Oaks Development, LLC, and acknowledged the foregoing instrument as his voluntary act and deed on behalf of said LLC, for the purposes herein contained.

Before me,

---

Notary Public  
My Commission Expires:

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

November \_\_\_\_\_, 2023

Personally appeared the above named Thomas Boisvert, duly authorized Member of Golden Oaks Development, LLC, and acknowledged the foregoing instrument as his voluntary act and deed on behalf of said LLC, for the purposes herein contained.

Before me,

---

Notary Public  
My Commission Expires: