# Pitchfork Townhomes Association, Inc.

**Capital Improvement Committee**

PROPOSED SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PITCHFORK TOWNHOMES

**Summary of Proposed Changes**

**Recommendation**

The Capital Improvement Committee (CIC) of the Pitchfork Townhomes Association, Inc. (Association) has revised the previous Second Amendment initiative to ensure no Limited Common Element (LCE) is changed to a General Common Element (GCE). The prior ballot had language that “all of the unit owners in Big Sky, Big Sky II, Little Annie and Mighty J” had to vote to approve the change of specific LCEs to GCEs. With this revised ballot for the Second Amendment, the CIC is instead clarifying the responsibility for certain maintenance obligations of certain LCEs (some of which are designated in this Second Amendment), . This is in lieu of changing the LCE to a GCE. Otherwise, the proposed amendment remains unchanged from the previous ballot initiative and is summarized below.

The CIC recommends the Association’s Board approve this proposed revised amendment (Second Amendment) to the Association’s current Amended and Restated Declaration of Covenants, Conditions and Restrictions (Declaration) and present them to the Association’s membership for a vote

**Summary of Changes**

The proposed changes to the Declaration are in ﬁnal form. A clean version of the changes should be shared with the Association’s membership with the ballot along with this summary. The proposed changes are summarized ideas as follows:

1. **Maintenance and repair obligations of a building’s common elements shift from the Association membership to the individual building owners.** The proposed changes shift the maintenance and repair obligations of an individual building’s common elements from the Association to that of the individual building owners. If approved, this change makes individual building owners in charge of repairing their own buildings and paying for the expense and cost to do so. The decision must be made by a majority vote of the Unit Owners in the subject building. Those items are deﬁned in amended Exhibit C, as well as in the Second Amendment. The Association maintains its authority to levy a special assessment upon those Unit O wners for payment of the repair or maintenance if not done by the Unit Owners. Members of the Association that do not live in that building would not be obligated to pay for repairs to another building . *A* *list of a building’s common elements is shown in Article I, Section 1.8.5 and Exhibit C of the attached Second Amendment, neither are*  *exhaustive*. In essence, the amendments put each building in control of maintaining their own building, without the remaining members in the Association being responsible for payment of the same. If, however, a building needs maintenance and the Unit Owners of that building do not perform the maintenance and the Board finds that this negatively impacts other Unit Owners or impairs structural soundness , the Board maintains the authority to have the repairs done and levy a special assessment upon the Unit Owners of that building for payment thereof.
2. **The Association retains the right to protect the Association’s members’ interests if building owner(s) or U** **nit O** **wners fail to maintain, or repair, their common elements and limited common elements.** If an individual building’s GCEs or a unit’s LCEs are not maintained, or repaired, then the Association shall have the right to make repairs and levy a special assessment on the applicable Unit Owner(s) but only after notice has been provided to the Unit Owner(s) and a finding by the Board, that the condition of such building, or unit, negatively impacts other Unit Owners or impairs structural soundness.
3. **Change in threshold to approve amendments to the Declaration.** The proposed Second Amendment changes the percentage required to amend the Declaration; reducing it from an affirmative vote of 67% to a simple majority of more than 50% . There are some cases where the required vote to make changes to the Declaration is determined by the law (depending on the issue), so those requirements stay in place. Note, this proposed change does not change how the HOA membership votes are counted. Votes shall continue to be counted in accordance with the current Declaration where the number of votes are determined by the number of bedrooms within each unit.

The only issues that shall retain the requirement for at least a 67% affirmative vote are: (1) the termination of the common interest community and (2) a situation where the Association votes not to repair, or replace a GCE or LCE and if an LCE, all the unit owners whose LCE will not be repaired or replaced must consent to this.

# Next Steps

## If the Association’s membership votes to approve the proposed changes to the Declaration, the following steps need to be completed before the changes can take effect.

1. The Town of Mt Crested Butte must approve the proposed changes. The application fee is

$500. The review is administrative and should take approximately one month.

1. Upon approval from the Town, the documents are signed by the Town and the Association President, including a certification signed by the President and Secretary that they have reviewed the ballots and the requisite amount of affirmative votes was received. Once signed the Association can record the document with the County Clerk and Recorder, providing a copy to the Town of Mt. Crested Butte. There will be a recording fee

# Pitchfork Townhomes Association, Inc.

## Allocation of votes

|  |  |  |
| --- | --- | --- |
| ADDRESS | # OF BEDROOMS | ALLOCATION/VOTES |

**Lot 2 - Flying G building - Units A, B, C, D - 102, 104, 106, 108 Pitchfork**

|  |  |  |
| --- | --- | --- |
| 102 Pitchfork | 2 | 2 |
| 104 Pitchfork | 2 | 2 |
| 106 Pitchfork | 2 | 2 |
| 108 Pitchfork | 2 | 2 |
| **Lot 3 - Rocking E building - Units A, B, C, D - 101, 103, 105, 107 Pitchfork** |
| 101 Pitchfork | 2 | 2 |
| 103 Pitchfork | 2 | 2 |
| 105 Pitchfork | 2 | 2 |
| 107 Pitchfork | 2 | 2 |

**Lot 44 - Double W building - Units A1, A2, B1, B2 - 505, 507 Horseshoe and 201, 203 Pitchfork**

**Building A**

|  |  |  |
| --- | --- | --- |
| 201 Pitchfork | 2 | 2 |
| 203 Pitchfork | 2 | 2 |
| **Building B** |  |  |
| 505 Horseshoe | 2 | 2 |
| 507 Horseshoe  | 2 | 2 |
| **Lot 29 - Little Annie buil**110 Big Sky | **dding - Units A, B, C - 110, 112, 114 Big** 3 3 |
| 112 Big Sky | 3 | 3 |
| 114 Big Sky | 3 | 3 |

**Lot 43 - Big Sky Building II - Unit 101, 103, 105 - 101, 103, 105 Big Sky**

|  |  |  |
| --- | --- | --- |
| 101 Big Sky | 3 | 3 |
| 103 Big Sky | 3 | 3 |
| 105 Big Sky | 3 | 3 |
| **Lot 42 - Big Sky Building - Unit 1, 2, 3 - 107, 109, 111 Big Sky** |
| 107 Big Sky | 3 | 3 |
| 109 Big Sky | 3 | 3 |
| 111 Big Sky | 3 | 3 |

**Lot 5 - Mighty J Building - Unit A, B, C, D - 502, 504, 506, 508 Horseshoe**

|  |  |  |
| --- | --- | --- |
| 502 Horseshoe | 2 | 2 |
| 504 Horseshoe | 3 | 3 |
| 506 Horseshoe | 3 | 3 |
| 508 Horseshoe | 2 | 2 |

**PITCHFORK TOWNHOMES ASSOCIATION - WRITTEN BALLOT**

OF THE PROPOSED SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PITCHFORK TOWNHOMES

To be counted, your vote by written ballot must be received by the Association no later than 11:59 pm (Mountain time) \_\_\_\_\_\_\_\_\_\_\_, 2024 at the offices of Toad Property Management, P.O. Box 2776, 318 Elk Avenue, #10, Crested Butte, Colorado 81224. You may deliver your ballot by mail, email or personal delivery, or by Adobe Sign. If by email, please send to Alex@toadpropertymanagement.com. An Adobe Sign ballot is being sent to each owner at the most recent email address on file for the Association. Please check your spam for this electronic ballot.

I, the undersigned, hereby vote as follows:

For ☐

Against ☐

THE PROPOSED SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PITCHFORK TOWNHOMES

Signature: Print Name: Owner of Unit(s) Date:

1. The number of responses needed to establish a quorum is 20% of the votes in the Association (13 votes); provided that such Owners are in good standing.
2. You must be in good standing to cast your vote.
3. An affirmative vote of at least 67% of the total votes of the Association (61 votes) is needed for approval of the proposed amendment (41 votes).