

**COPY**

SECOND AMENDMENT TO THE DECLARATION OF  
CAPITAL HILL CONDOMINIUM, INC.

This Second Amendment to declaration dated the 4<sup>th</sup> day of October, 2011, amends the declaration of Condominium for Capital Hill Condominium, Inc. dated November 3, 1989, and recorded in the Albany County Clerk's Office on December 13, 1989 in Liber 2405 of Deeds at Page 1039, as amended by an Amendment to said Declaration dated December 23, 1989 as recorded in the Albany County Clerk's Office on January 2, 1990 in Liber 2407 at Page 351 (collectively and with this and any subsequent amendments hereinafter referred to as the "Declaration").

Whereas, the purpose of this Amendment is to amend the description of the Units to remove windows from said description, and to amend the description of the Common Elements and Limited Common Elements to include windows, and to add a new provision to the By-Laws to allow the Board of Directors to borrow money on behalf of the Unit Owners for the purpose provided in the Condominium Act provided at least sixty-seven percent (67%) of the Unit Owners both in number and in Common Interest approve such borrowing;

Whereas, Notice of the meeting of the Unit Owners and the First Mortgagees who have requested Notice was duly given, and these Amendments have been approved by the requisite percentage of the Unit Owners and there being no requested notice of such meeting by any First Mortgagee; and

WHEREAS, pursuant to Declaration Section 13.01, an Amendment of the Declaration to remove windows from the Unit descriptions, and to amend the description of the Common Elements and Limited Common Elements to include windows, and to add a new provision to the By-Laws to allow the Board of Directors to borrow money on behalf of the Unit Owners for the purposes provided in the Condominium Act requires the affirmative vote of at least sixty-seven percent (67%) of all Members of the Association, and pursuant to Declaration Section 13.01, the Association gave notice of a meeting to vote on the amendments to the Declaration to the Association, and duly held such meeting on May 9, 2011 and the affirmative vote of at least sixty-seven percent (67%) of all Members approved such amendments to the Declaration, as is evidenced by the Certification of the Board of Directors of the Association annexed hereto as Schedule "A".

Albany County Clerk  
Document Number 10980096  
Rcvd 10/13/2011 2:44:43 PM



Now Therefore, the following Amendments were duly voted on and approved:

1. **Section 5.03 of the Declaration, Dimensions of Units**, is hereby amended as follows:

**Section 5.03 Dimensions of Unit.** Each residential Unit is measured horizontally within the Unit from the exterior surface of the drywall of all opposite walls and vertically from the lower surface of the concrete slab or subfloor forming the lowermost floor up to the exterior surface of the drywall forming the uppermost ceiling of the Unit. All pipes, wires, cables, conduits, connections, fittings and other fittings from the electric meters, together with all interior doors, the entrance doors, interior walls, cabinets, fixtures and appliances within the Unit and the air conditioning condensers located outside the Unit on common property, are part of the Unit.

2. **Section 6.01 of the Declaration, Common Elements**, is hereby amended as follows:

**Section 6.01 Common Elements.** Unless otherwise provided in this Declaration, Common Elements shall include, but not necessarily be limited to, the land on which the Building is located; the foundation, columns, girders, beams, supports, main walls, roof, all exterior windows within the Building and all balcony doors within the Units, halls, corridors, stairs outside the Units; entrances and exits of the Building providing for common entry and exit; all areas outside the Building, although some such areas may be designated as Limited Common Areas as set forth in Section 6.02 of this Declaration; and all other parts and/or areas of the Property necessary or convenient to its existence, maintenance and safety or normally in common use.

3. **Section 6.02 of the Declaration, Limited Common Elements**, is hereby amended as follows:

**Section 6.02 Limited Common Elements.** Subject to the right of the Board of Directors to enter upon any restricted area for maintenance, repair or improvements of a Unit or Common Element and subject to the rules of the Board of Directors (see Article XI of By-Laws), the following portions of the Common Elements are restricted in use as specified below:

- a. All exterior windows and, if applicable, the exterior balcony doors within a specific Unit;
- b. mailbox assigned to specific Unit; and
- c. deck or balcony appurtenant to a specific Unit;

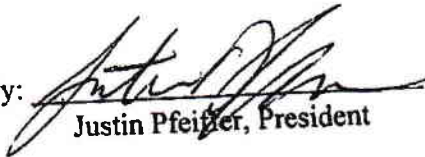
4. Section 5.02(m) of the By-Laws is hereby amended as follows:

(m) Borrowing money or behalf of the Condominium when required in connection with the operation, care, repair, upkeep and maintenance of the Common Elements or for any other purpose authorized by Real Property Law Section 339-jj(1), provided, however, that (i) the consent of at least sixty-seven percent (67%) in number and in Common Interest of all Owners, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required for the borrowing of any sum in excess of ten percent (10%) of the amount of the current annual budget of the Condominium; and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Owner. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this Subsection is not repaid by the Board, an Owner who pays to the creditor such proportion thereof as his interest in the Common Elements bears to the interest of all the Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against the Owner's Unit.

5. Except as herein amended, all other terms and provisions of the Declaration and By-Laws are hereby ratified and confirmed.

In witness whereof, this Second Amendment to the Declaration has been executed as of the date first above written.

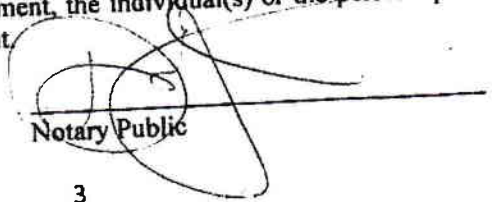
Capital Hill Condominium, Inc.  
By: Its Board of Directors on Behalf  
of all Unit Owners

By:   
Justin Pfeiffer, President

State of New York }  
                                  } ss.:  
County of Albany }

On the 4th day of October, in the year 2011 before me, the undersigned, personally appeared JUSTIN PFEIFFER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Diana Yang  
Notary Public, State of New York  
Qualified in Albany County  
No. 02YA6174777  
Commission Expires on December 10, 2011

  
Notary Public

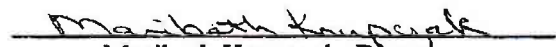
**SCHEDULE "A"**  
**CERTIFICATE OF BOARD OF DIRECTORS OF**  
**CAPITAL HILL CONDOMINIUM, INC.**


The undersigned, being all of the Directors of Capital Hill Condominium, Inc., hereby certify pursuant to Section 13.01 of the Declaration of Condominium for Capital Hill Condominium, Inc. dated November 3, 1989 and recorded in the Albany County Clerk's Office on December 13, 1989 in Liber 2405 of deeds at Page 1039, that at a meeting of the Capital Hill Condominium, Inc. duly held on May 9, 2011, (i) the requisite affirmative vote of at least sixty-seven percent (67%) of all Members was in favor of the foregoing Second Amendment to the Declaration to which this Certificate is attached; and (ii) there are no First Mortgagees who requested in writing to receive notice of the proposed Amendments. Accordingly, the consents required by Section 13.01 of the Declaration have been received and filed with the Board of Directors.

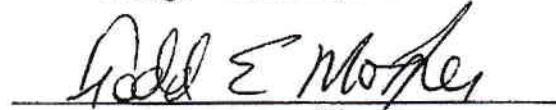
Dated: October 3, 2011

  
Justin D. Pfeiffer, Director

  
Thomas C. Congdon, Director

  
Maribeth Krupczak, Director

  
George R. Stafford, Director

  
Todd E. Mosher, Director

Record and Return to:  
Walsh & Walsh, LLP  
42 Long Alley  
Saratoga Springs, NY 12866

HOAs&Condos/4581 Capital Hill/4581 Amendment to Declaration 8-8-11