

AMENDED AND RESTATED

BYLAWS

OF

PALMETTO WOODS HOMEOWNERS ASSOCIATION

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AMENDED AND RESTATED
BYLAWS
OF
PALMETTO WOODS HOMEOWNERS ASSOCIATION
A Nonprofit Ohio Corporation

ARTICLE I

GENERAL

Section 1. Preliminary Statement of Scope and Effect. The within Amended and Restated Bylaws (the "Bylaws") are attached to the Amended and Restated Declaration of Easements, Covenants and Restrictions for Palmetto Woods (the "Declaration"). These Bylaws provide for the establishment of an Association for the government of the Property in the manner provided by the Declaration and these Bylaws. All present or future Owners or tenants or their employees, or any other Person occupying or using the facilities of the Property in any manner shall be subject to the covenants, provisions and regulations contained in the Declaration and these Bylaws and shall be subject to any restriction, condition or regulation hereafter adopted by the Board of Directors of the Association (the "Board"). The mere acquisition or rental of any of the Units located within the Property described in the Declaration, or the mere act of occupancy of any of the Units will constitute acceptance and ratification of the Declaration and these Bylaws.

Section 2. Name. The Association is an incorporated, nonprofit, Ohio corporation whose name is "Palmetto Woods Homeowners Association."

Section 3. Principal Office. The Board shall designate the place or location of the Association's principal office, which office may be at the management company's location. The Association's books and records shall be kept at the principal office.

Section 4. Terms and Definitions. All capitalized words and terms used in these Bylaws shall have the meaning given to them in the Declaration unless otherwise stated herein.

ARTICLE II

THE ASSOCIATION

Section 1. Membership. Each Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Membership may be held in the name of more than one Owner. Such membership shall terminate upon the sale or other disposition by such Owner of his/her Unit, at which time the new Owner of such Unit shall automatically become a member of the Association.

Section 2. Voting Rights. Every Member shall be entitled to one (1) vote for each Unit owned. If more than one Person shall own a Unit, they shall be entitled collectively to cast only one vote exercising the voting power of such Unit inasmuch as such voting power may not be divided among plural Owners. In the case of plural ownership of a Unit, or in the case of the Unit owned or held in the name of a corporation, partnership, fiduciary or nominee, a Certificate signed by the Owner(s) shall be filed with the Secretary of the Association naming the person authorized to cast votes for such Unit, which Certificate shall be conclusive until a subsequent substitute Certificate is filed with the Secretary of the Association. If such Certificate is not on file, the vote of such corporation, partnership, fiduciary or nominee shall not be considered nor shall the presence of such Owner at a meeting be considered in determining whether the quorum requirements for such meeting have been met. If a Unit shall be owned by a husband and wife as tenants in common, joint tenants or tenants by the entireties, no Certificate need be filed with the Secretary of the Association naming the person authorized to cast votes for such Unit, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the Association, unless prior to such meeting either spouse has notified the Secretary of the Association in writing that there is disagreement as to who shall represent their Unit at the meeting, in which case the Certificate requirement set forth above shall apply and, if no Certificate is filed with respect to such Unit and they are unable to agree upon their ballot on any subject at any meeting, they shall lose their right to vote on such subject.

Section 3. Proxies. Owners may vote, act, or execute consents, waivers or releases in person or by proxy. The Person(s) appointed as proxy need not be an Owner. Designation by an Owner(s) of a proxy to vote, act, or execute on his/her or their behalf, shall be made in writing and signed by such Owner or appointed in any other manner permitted by Ohio law, shall be filed with the Secretary, and shall be revocable at any time by actual notice to the Board by the Owner(s) making such designation. Without affecting any vote, act or execution previously taken or authorized, the Owner(s) appointing a proxy may revoke a proxy by a later dated appointment of proxy received by the Association or by giving notice of revocation to the Association in writing or in open meeting. The mere presence at a meeting of the Owner(s) appointing a proxy does not revoke the appointment.

Section 4. Meetings of the Association.

(A) **Annual Meeting.** The Association's annual meeting for the election of Board members, the consideration of reports to be laid before such meeting, and the transaction of such other business as may properly be brought before such meeting shall be held at such time and on such date in each calendar year as the Board shall determine.

(B) **Notice of Meetings.** At least fifteen (15) days before the day fixed for the Association's annual meeting, written notice stating the date, time, place and purpose of such meeting shall be given by or at the direction of the Association's Secretary. The notice shall be given by personal delivery or by regular mail to each Owner of record as of the day preceding the day on which notice is given or sent. If mailed, the notice shall be addressed to the Owners and others entitled to such notice at their respective addresses as they appear on the Association's records. Notice of the date, time, place and purpose of any meeting of the Association may be waived in writing by any Owner, either before or after the holding of such meeting, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Owner at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by the Owner of notice of such meeting.

(C) **Order of Business at Annual Meetings.** The Board shall determine the order of business at all annual meetings of the Association, provided that the following items are, at a minimum, included:

- (1) Calling of meeting to order;
- (2) Proof of notice of meeting or waiver of notice;
- (3) Reading and approval of minutes of preceding meeting;
- (4) Reports of Officers;
- (5) Reports of Committees;
- (6) Appointment of Inspectors of Election;
- (7) Election of Directors;
- (8) Unfinished and/or old business;
- (9) New Business;
- (10) Adjournment.

(D) **Special Meetings.** Special meetings of the Association may be held on any business day when called by the President of the Association, or by a majority of the Board acting with or without a meeting, or by Owners entitled to exercise at least fifty percent (50%) of the Association's total voting power. Upon written request delivered either in person or by certified mail to the Association President or the Secretary by any Person(s) entitled to call a meeting of the Association, such officer shall cause to be given to the Owners entitled thereto notice of a meeting to be

held on a date not less than seven (7), nor more than sixty (60) days after the receipt of such request as such officer may fix. If such notice is not given within thirty (30) days after the receipt of such request, the Person(s) requesting the meeting may fix the time of the meeting and give notice thereof. Calls for such meetings shall specify the date, time, place and purpose for such meeting. No business other than that specified in the call and set forth in the notice shall be considered at any special meeting. The order of business at each special meeting shall be specified in the notice or agenda thereof.

(E) Quorum; Adjournment. Except as may be otherwise provided by law or by the Declaration, at any meeting of the Association, Owners, present in person or by proxy, shall constitute a quorum for such meeting.

(F) Minutes of the Meetings. Minutes shall be taken at all meetings of the Association. Copies of the approved minutes shall be available for inspection by Owners upon reasonable request at the office of the Association, or as kept by the Secretary.

Section 5. Actions Without a Meeting. All actions, except removal of a Board member, which may be taken at a meeting of the Association, may be taken without a meeting with the approval of, and in writing(s) signed by, Owners having the voting power required to take such action as if it had been taken at a meeting. Such writings shall be filed with the Secretary of the Association.

ARTICLE III

BOARD OF DIRECTORS; ELECTION; TERM OF OFFICE

Section 1. Board of Directors. The Board shall constitute for all purposes the Board of Directors.

Section 2. Number and Qualification. The number of Board members shall be determined by a vote of the Unit owners at the annual meeting. There shall be three (3) or five (5) persons, each of whom must be an Occupant of a Unit and an Owner or the spouse of an Owner, except that in the case of a Unit held by a corporation, partnership, trust, fiduciary, or nominee, the designated representative of such Unit shall be eligible to serve as a Board member; provided further that no more than one Board member may, at any time, be the Owner, the spouse of an Owner or the representative of the same Unit. Additionally, Board members must be current, or no more than thirty (30) days delinquent to be on the Board. If a Board member is more than thirty (30) days delinquent, they immediately fail to qualify for the Board and then their position shall be considered vacant.

Section 3. Election of Directors.

(A) Only Unit Owners are eligible for election to the Board of Directors.

(B) At the first Meeting of the Members following the recording of this Amended and Restated Bylaws, the terms of all the current Board members shall expire without jeopardizing their eligibility to run for re-election. Three (3) or Five (5) Board members shall then be elected in accordance with the qualifications set forth in Section 2 above. If Five (5) Board members are to be elected, the candidate receiving the highest number of votes shall be elected to serve a three (3) year term. The candidates receiving the second and third highest numbers of votes shall be elected to serve two (2) year terms. The candidates the fourth and fifth highest number shall serve one (1) year terms. If Three (3) Board members are to be elected, the candidate receiving the highest number of votes shall be elected to serve a three (3) year term. The candidate receiving the second highest number of votes shall be elected to serve a two (2) year term. The candidate receiving the third highest number of votes will serve a one (1) year term. Thereafter, all members of the Board shall be elected to serve a three (3) year term, establishing a staggered Board.

Section 4. Term of Office; Resignations. Each Board member shall hold office until the expiration of his/her designated term and until his/her successor is elected, or until his/her earlier resignation, removal from office or death. Any Board member may resign at any time in writing to that effect made at a meeting of the Board or delivered to the Secretary of the Association; such resignation shall take effect immediately, or at such other time as the Board member may specify. A vote of the remaining Board members, even if less than a majority, shall fill any vacancy, due to resignation or death, on the Board.

ARTICLE IV

BOARD MEETINGS AND OTHER ISSUES

Section 1. Board Meetings.

(A) **Organizational Meetings.** Immediately after each annual meeting of the Association, or special meeting held in lieu thereof, the newly elected Board members and those Board members whose terms hold over shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

(B) **Regular Meetings.** Regular meetings of the Board may be held at such times and places as shall be determined, from time to time, by a majority of the Board, but at least four (4) such meetings shall be held during each fiscal year.

(C) Special Meetings. Special meetings of the Board may be held at any time upon call by the majority of the Board members. Notice of the date, time, place and purpose(s) of each special meeting shall be given to each Board member by or at the direction of the Secretary or by the Person(s) calling such meeting. Such notice may be given in any manner or method as permitted by Ohio law and at such time so that the Board member receiving it may have a reasonable opportunity to attend the meeting. Such notice shall, in all events, be deemed to have been proper if given to each Board member at least forty-eight (48) hours prior to the meeting. The giving of notice shall be deemed to have been waived by any Board member who attends and participates in such meeting and may be waived, in writing, or by telegram or electronic mail, by any Board member either before or after such meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting of the Board.

(D) Executive Sessions. At any regular or special meeting of the Board, the Board may, by the majority vote of the Directors, adjourn to an Executive Session for purposes of discussing and/or taking action on matters of confidentiality, including, but not limited to: personnel issues/discipline, open contract bid solicitation, pending litigation or other matters protected under attorney-client privilege.

(E) Types of Meetings. Any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, provided that each Board member can hear or read, participate and respond to every other Board member.

(F) Voting. Each Board member shall have one (1) vote.

(G) Quorum; Adjournment. A majority of the Board shall constitute a quorum for the transaction of business, except that a majority of the Board members in office shall constitute a quorum for filling a vacancy on the Board. Whenever less than a quorum is present at the time and place appointed for any meeting of the Board, a majority of those present may adjourn the meeting from time to time until a quorum shall be present. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, voting by Board members by proxy being expressly prohibited, except as may be otherwise expressly provided in the Declaration or in these Bylaws.

(H) Meeting Minutes. Minutes shall be taken at or for all meetings of the Board. Copies of the Board approved minutes, except for those taken during closed executive sessions, shall be available for inspection by Owners, upon reasonable request, at the office of the Association, or as kept by the Secretary.

(I) Actions Without A Meeting. In lieu of conducting a meeting, the Board may take action with the unanimous written consent of the Board members. Those written consents shall be filed with the minutes of the Board meetings.

Section 2. Removal of Board Members. Except as otherwise provided herein, the Board may remove any Board member and thereby create a vacancy in the Board, if by order of court he/she has been found to be of unsound mind, or if he/she files for bankruptcy or has been adjudicated bankrupt, or fails to attend three (3) consecutive meetings of the Board. At any Association annual or special meeting duly called at which a quorum is present, any one or more of the Board members may be removed with or without cause by the vote of Owners entitled to exercise at least a majority vote of the Association's total voting power, and a successor(s) to such Board member(s) so removed may be elected at the same meeting for the unexpired term for each such removed Board member. Any Board member, whose removal has been proposed, shall have an opportunity to speak and be heard at such meeting prior to the vote of his/her removal.

Section 3. Compensation. The Board members shall not receive any salary or compensation for any services rendered by any of them to the Association as Board members or in any other capacity. If any Board member's spouse, life partner or immediate family member (defined as any parent, child or sibling of the Board member), seeks to be retained to perform services for the Association for compensation, the respective Board member must disclose the conflict of interest and completely abstain from the Board's decision making process. If a majority of the Board has a financial interest in the particular matter, the matter shall be submitted to the Owners for approval by a majority of the disinterested Owners.

Section 4. Regulations. For the government of its action and the Association, the Board may adopt such Regulations consistent with the Declaration and these Bylaws as it deems appropriate.

Section 5. Committees. The Board may provide for such standing or special committees as it deems desirable, and discontinue the same at its discretion. Each such committee shall have such powers and perform such duties, not inconsistent with the law, as the Board may delegate to it. Each such committee shall keep full records and accounts of its proceedings and transactions. Such committee shall consist of at least three (3) members of the Association. Any such committee shall report upon all actions to the Board at the Board meeting succeeding such action and shall be subject to control, revision and alteration by the Board. Each such committee shall fix its own rules of procedure and shall meet as provided by such rules or by resolutions of the Board, and it shall also meet at the call of the President of the Association or of any two (2) members of the committee. Unless otherwise provided by such rules or by such resolutions, the provisions of Section 1(C) of this Article IV relating to the notice required to be given of special meetings of the Board shall also apply to meetings of each such committee. A majority of the members of a committee shall constitute a quorum. Each such committee may act without a meeting in

writing, by electronic mail, by telegram, or by telephone with written confirmation, but no such action shall be effective unless agreed upon by all members of the committee. Vacancies in such committee shall be filled by the Board or as it may provide.

ARTICLE V

POWERS AND DUTIES

Section 1. Powers. The Board of Directors shall have power to:

(A) Exercise for the Association all powers, duties and authority vested in or delegated to this Association pursuant to the Declaration, Articles and these Bylaws unless expressly reserved to the membership by other provisions of these Bylaws, the Articles or the Declaration.

(B) Suspend the voting rights of a member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended for a period not to exceed 360 days for infraction of the covenants, restrictions, or conditions of the Declaration or for any infraction of the Association's rules and regulations. The suspension of an Owner's voting rights shall correspondingly reduce the number of Owners needed for quorum at any Association meeting and/or to approve and adopt any Association measure, issue or action, for which Owner approval is needed.

(C) Borrow money, assign the Association's right to future income, including the right to receive Assessments, and otherwise issue, sell, and pledge notes, bonds, and other evidences of indebtedness of the Association and/or as security for a loan to the Association.

(D) Employ a managing agent, independent contractors, and such employees as they deem necessary and to prescribe their duties.

(E) Adopt and promulgate Rules, by written notice to the Owners, as the Board deems advisable for the maintenance, conservation and beautification of the Property, and/or for the reasonable health, comfort, safety and general welfare of the Owners and Occupants, and/or to govern the operation and use of the Property or any portion thereof, and to establish a procedure for levying and collecting reasonable enforcement assessments for any infractions of the Rules, or any covenant, condition, restriction or responsibility of the Declaration or these Bylaws. In the event such Rules conflict with any provisions of the Declaration or these Bylaws, the provisions of the Declaration and these Bylaws shall govern.

Section 2. Duties. It shall be the duty of the Board of Directors to implement and carry out the provisions of the Declaration, Articles and these Bylaws, including, without limitation, the duty to:

(A) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote.

(B) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.

(C) As more fully provided in the Declaration and these Bylaws:

(1) Fix the amount of the annual Assessment against each Unit at least 30 days in advance of each annual Assessment period. (The failure to so fix an annual Assessment shall not relieve any Owner from paying an Assessment when one is fixed or from paying the Assessment last fixed.)

(2) Send written notice of each annual Assessment to every Owner subject thereto at least 30 days in advance of each annual Assessment period. (The failure to send such notice within such time shall not relieve any Owner from paying an Assessment when the Owner does receive notice of the Assessment or from paying the Assessment of which the Owner last had notice.)

(3) Fix and give notice of such special Assessment(s) as may be reasonably necessary and establish the time(s) for the payment of such special Assessment(s).

(4) Collect delinquent Assessments and charges by foreclosing the lien against any property for which the Assessment(s) is not paid within 30 days after due date, bringing an action at law against the Owner personally obligated to pay the same, or initiating such other remedies or actions (including the right to forebear or postpone the prosecution of any authorized procedure) which the Board deems necessary or proper in the premises.

(D) Issue, or cause an appropriate officer or the Association's managing agent to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment.

(E) Procure and maintain liability insurance in respect to the Common Elements.

(F) Cause the Common Elements and those portions of the Units specified in the Declaration to be maintained as specified in the Declaration, including as decided upon by the Board.

(G) Pay the taxes and assessments levied against the property owned by the Association before they become delinquent.

(H) Subject to the provisions of the Declaration, procure and pay for all utilities necessary for the operation of the Common Elements and facilities, and reimburse Owners for water and electric charges payable by them in cases provided for in the Declaration.

(I) Adopt rules for the management and operation of the Common Elements and facilities.

(J) Take all actions reasonably necessary in the circumstances to enforce the covenants and restrictions set forth in the Declaration.

ARTICLE VI

OFFICERS

Section 1. General Provisions. A Board consisting of Five (5) members shall elect a President, a Vice President, a Secretary and a Treasurer, each of whom shall be a Board member. A Board consisting of Three (3) members shall elect a President, a Secretary and a Treasurer. The Board may, from time to time, create such offices and appoint such other subordinate officers and assistants as it may determine; provided that any such subordinate officer or assistant shall have no voting rights or power. Any two (2) of such offices, other than that of President and Vice President, may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity.

Section 2. Term of Office. The officers of the Association shall hold office at the pleasure of the Board, and unless sooner removed by the Board, until the organizational meeting of the Board following the next annual meeting of the Association and until their successors are chosen and qualified. The Board may remove any officer at any time, with or without cause, by a majority vote. The Board shall fill a vacancy in any office, however created.

Section 3. No Compensation to Officers. None of the officers of the Association shall receive compensation for his/her services as such.

ARTICLE VII

DUTIES OF OFFICERS

Section 1. President. The President shall be the chief executive officer of the Association, shall exercise general executive supervision over the affairs of the Association and over its several officers, subject, however, to the control of the Board, and shall chair all meetings of the Association and of the Board. The President shall have authority to sign all contracts, notes and other instruments or obligations requiring his/her signature; and shall have all the powers and duties prescribed by the Declaration, these Bylaws or Chapter 1702 of the Ohio Revised Code and such others as the Board may, from time to time, assign to him/her.

Section 2. Vice President(s). The Vice President(s) shall perform such duties as are conferred by these Bylaws or as may, from time to time, be assigned by the Board or the President. At the request of the President (or in his/her absence or inability), the Vice President designated by the Board shall perform all the duties of the President, and when so acting, shall have all the power of the President. The authority of the Vice President(s) to sign, in the name of the Association, all contracts, notes and other instruments or obligations, shall be commensurate with the like authority of the President.

Section 3. Secretary. The Secretary shall be responsible for the taking of minutes of all the proceedings of the Association and the Board and shall have the authority to sign all contracts, notes, and other instruments or obligations executed by the Association that require his/her signature; give notices of meetings of the Association and the Board; keep such books as may be required by the Board; and perform such other and further duties as the Board may, from time to time, assign to him/her.

Section 4. Treasurer. The Treasurer shall have general supervision of all finances; he/she shall receive and be in charge of all money, bills, notes, documents and similar property belonging to the Association, and shall do with same as the Board may, from time to time, require. He/she shall cause to be kept adequate and correct accounts of the business transactions of the Association, including accounts of its assets, liabilities, receipts, expenditures, profits and losses, together with such other accounts as may be required, and upon the expiration of his/her term of office shall turn over to his/her successor or to the Board all property, books, documents and money of the Association in his/her hands; and he/she shall perform such other and further duties as the Board may, from time to time, assign to him/her.

Section 5. Assistant and Subordinate Officers. The Board may appoint such assistants and subordinate officers, who need not be Board members or Owners, as it may deem desirable; provided that any such subordinate officer or assistant shall have no voting rights or power. Each such assistant and subordinate officer shall hold office at the pleasure of the Board and perform such duties as the Board may prescribe. The Board may, from time to time, authorize any officer to appoint and remove assistants and subordinate officers and to prescribe their authority and duties.

Section 6. Delegation of Authority and Duties; Control of Officers. In the absence of any officer of the Association, or for any other reason as the Board may desire, the Board may delegate the powers or duties, or any of them, of such officers as set forth in this Article VII, to any other officer or to any Board member or the Association's managing agent, lawyer, accountant, or such other professional as the Board so decides. In addition, the Board is generally authorized to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

ARTICLE VIII

APPLICABLE LAWS; PRIORITY OF DOCUMENTS

Section 1. Priority of Laws

- (A) Chapter 1702 of the Ohio Revised Code,
- (B) The Declaration,
- (C) The Articles,
- (D) These Bylaws, and
- (E) The Rules,

Shall be interpreted as a harmonious whole and this Association shall be subject to and governed by all of such laws, documents and Rules. In the event of any direct inconsistency in any provisions in any of the foregoing, the provisions in the law or document first above listed shall be given priority; provided, however, that all inconsistencies between or among the permissive provisions of Chapter 1702 of the Ohio Revised Code and any provisions of any documents or Rules, listed later, shall be resolved in favor of the documents or Rules listed later.

ARTICLE IX

INDEMNIFICATION

Section 1. In General. The Association shall indemnify any present or former Board member, officer or committee member of the Association, including, without limitation, Board members when acting solely on behalf of the Units as required by the Declaration, any present or former committee member and/or its or their respective heirs,

executors and administrators, against reasonable expenses, including attorneys' fees, judgments, decrees, fines, penalties or amounts paid in settlement, actually and necessarily incurred by him/her in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, to which he/she is or may be made a party by reason of being or having been such Board member, officer or committee member of the Association, provided it is determined in the manner hereinafter set forth that (a) such Board member, officer or committee member of the Association was not and is not adjudicated to have been grossly negligent or guilty of misconduct in the performance of his/her duty to the Association, (b) such Board member, officer or committee member acted in good faith in what he/she reasonably believed to be in or not opposed to the best interest of the Association, (c) in any criminal action, suit or proceeding, such Board member, officer or committee member had no reasonable cause to believe that his/her conduct was unlawful, and (d) in case of settlement, the amount paid in the settlement was reasonable.

The determinations herein required shall be made by written opinion of independent legal counsel chosen by the Board. Notwithstanding the opinion of legal counsel, to the extent that a Board member, officer or committee member has been successful in defense of any action, suit or proceeding, or in the defense of any claim, issue or matter, he/she shall, in that event, be indemnified as set forth above herein.

Section 2. Advance of Expenses. Funds to cover expenses, including attorneys' fees, with respect to any pending or threatened action, suit, or proceeding, shall be advanced by the Association, with the consent of a majority of the disinterested Board members, whose consent shall not be unreasonably withheld, prior to the final disposition thereof upon receipt of a request to pay such amounts.

Section 3. Indemnification Not Exclusive; Insurance. The indemnification provided for in this Article IX shall not be exclusive, but shall be in addition to any other rights to which any Person may be entitled under the Articles, any agreement, any insurance provided by the Association, Ohio State laws, including the provisions of Section 1702.12(e) of the Ohio Revised Code and its successor statutes, or otherwise. The Association shall purchase and maintain insurance on behalf of any Person who is or was a Board member, officer or committee member of the Association against any liability asserted against him/her or incurred by him/her in such capacity or arising out of his/her status as a Board member, officer or committee member of the Association.

Section 4. Indemnification by Owners. The Board members and officers of the Association shall not be personally 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, defend and hold harmless each of the Board members and officers of the Association against all contractual liabilities to third parties arising out of contracts made on behalf of the Association except with respect to any such contracts made in bad faith or intentionally contrary to the provisions of the Declaration or these Bylaws. Every agreement made by any Board member, officer or committee member of the

Association shall provide that such Board member, officer or committee member of the Association is acting only as a representative of the Association and shall have no personal liability thereunder (except as an Owner).

Section 5. Cost of Indemnification. Any sum paid or advanced by the Association under this Article IX shall constitute a Common Expense. The Board shall have the power and the responsibility to raise, by special assessment or otherwise, any sums required to discharge the Association's obligations under this Article IX; provided, however, that the liability of any Owner arising out of the contract made by the Board, any Board member, officer or committee member of the Association, or out of the aforesaid indemnity in favor of such Board member, officer or committee member of the Association, shall be limited to such proportion of the total liability hereunder as said Owner's interest in the Common Elements bears to the total interest of all the Owners in the Common Elements.

ARTICLE X

GENERAL POWERS OF THE ASSOCIATION

Section 1. Payments as Common Expenses. The Association, for the benefit of all the Owners, shall acquire, and shall pay for out of the Association's funds all Common Expenses arising with respect to, or in connection with, the Property. The expenses of the Association may include the following:

(A) **Utilities and Related Facilities.** The cost of water, waste removal, electricity, gas, heat, or any other utility service for the Common Elements.

(B) **Casualty Insurance.** Premiums upon a policy(ies) of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(C) **Liability Insurance.** Premiums upon a policy(ies) insuring the Association, the Board members, the manager or managing agent, and the Owners and Occupants against any liability to the public or to the Owners, their tenants, invitees and licensees, incident to the ownership and/or use of the Common Elements, as provided in the Declaration, the limits of which policy(ies) shall be reviewed annually.

(D) **Other Insurance.** Premiums for other insurance, including fidelity bonds or insurance, effected in accordance with the provisions of the Declaration or these Bylaws.

(E) Workers' Compensation. The cost(s) of workers' compensation insurance to the extent necessary to comply with any applicable laws.

(F) Wages and Fees for Services. The wages and fees for services of any Person or firm employed by the Association, including, without limitation, the services of a Person or firm to act as a manager or managing agent for the Property, the services of any Person(s) required for the maintenance or operation of the Property, and legal and/or accounting services necessary or proper in the operation of the Property or the enforcement or interpretation of the Declaration, these Bylaws, and Rules and for the organization, operation and enforcement of the rights of the Association.

(G) Care of Common Elements. The cost of landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacements of the Property that the Association is responsible for as provided for in the Declaration and such furnishings and equipment for such portions of the Property, all as the Board determines are reasonably necessary and proper, and the Board, on behalf of the Association, shall have the exclusive right and duty to acquire the same for such portions of the Property.

(H) Certain Maintenance of Units. In addition to the provisions and requirements contained in the Declaration, the cost of the maintenance, repair or replacement of any Unit or other item of Owner responsibility as defined in the Declaration, if such maintenance, repair or replacement is necessary, in the Board's sole discretion, for safety, aesthetics, uniformity or to protect the Common Elements, or any other portion of the buildings or any other Unit, and the Owner so responsible has failed or refused to perform such maintenance, repair or replacement within a reasonable amount of time, as determined by the Board, after written notice of the necessity thereof has been delivered or mailed to such Owner; provided that the Board shall levy a special assessment against such Owner for the cost of such maintenance, repair or replacement to replenish the expended Association funds.

(I) Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance which may, in the opinion of the Association, constitute a lien against the Property or any part thereof and which arose by virtue of the Board's authorization or direction. Where one or more Owners are responsible for the existence of such lien or for the work or labor authorized or directed by the Board, the Association may pay or otherwise discharge the lien, but the responsible Owner(s) shall be jointly and severally liable for the costs and expenses of discharging it, and any costs and expenses incurred by the Association by reason of said lien(s) shall be specially assessed to said Owners to replenish the expended Association funds.

(J) Additional Expenses. The cost and expense of any other materials, supplies, furniture, labor, services, maintenance, repairs, insurance or assessments that the Association is required or permitted to secure or pay for pursuant to the terms of the Declaration and these Bylaws or by law or which, in the Board's opinion, are necessary or proper for the maintenance and operation of the Property as a first class property or for the enforcement or interpretation of the Declaration, these Bylaws, or the Rules.

Section 2. Capital Additions and Improvements. Whenever in the judgment of the Board the Common Elements and Facilities shall require additions, alterations or improvements (as opposed to maintenance, repair and replacement) costing in excess of \$15,000 and the making of such additions, alterations or improvements shall have been approved by Unit Owners entitled to exercise not less than a majority of the voting power, the Board shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements costing \$15,000 or less may be made by the Board without approval of the Owners, and the cost thereof shall constitute a Common Expense.

Section 3. Association's Rights to Enter Units. The Association or its agent(s), accompanied by a Board member, if available under the circumstances, may enter any Unit or portion of the Unit, when necessary, in connection with any maintenance, repair or replacement for which the Association is responsible or for inspection of same. Except in the event of an emergency, the Association shall, to the extent reasonably possible, provide the Owner with prior written notice of any intended entry into the Unit, including the reason(s) therefor. If prior notice is not possible in any given situation, whether due to an emergency or other circumstance(s), the Association shall either send by U.S. regular mail or post on the Unit door, a notice to the Owner to advise of the date, time and purpose for which entry was made. Any damage to the Owner's personal property or the Unit as it existed at the time the Property was originally established that arises during the Association's entry into the Unit or during the performance of the needed maintenance, repair and replacement work shall be repaired by the Association and the cost thereof paid from the Association's insurance proceeds or charged as a Unit Expense.

Section 4. Special Services. The Board may arrange for the provision of any special services and facilities for the benefit of such Owners and/or Occupant as may desire to pay for same, including, without limitation, cleaning, maintenance, repair and replacement of Units, or installations therein, additional landscaping services and provision of other special services, or recreational, educational, medical or maintenance facilities, and any other concessions or services. The Board shall determine the costs and fees for any such special services and facilities and may be charged directly to participating Owners or Occupants, or paid from the maintenance fund and levied as a special assessment against such participating Owners or Occupants. The services and facilities may be furnished on a concession basis or other basis pursuant to which a contractee or licensee pays a fee to the

Association for the right to maintain certain facilities upon the Common Elements and charge the users thereof a fee for their use. User charges may be billed separately to each Owner benefited thereby, or may be added to such Owner's share of the Common Expenses, or as otherwise determined, and collected as a part thereof. Nothing herein shall require the establishment of user charges pursuant to this Section 5 and the Board may elect to treat all or any portion thereof as Common Expenses. In the event any special services and facilities create a surplus, these funds shall be added to the maintenance or reserve funds as the Board so determines.

Section 5. No Active Business to be Conducted for Profit. Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Owners or any of them; but this shall not preclude the Association from entering into contracts, licenses, concession agreements and the like affecting parts or uses of the Common Elements which result in the production of income for the Association or from making arrangements of the types described in Section 4 of this Article X.

Section 6. Acquisition, Lease, Sale or Exchange of Real Property. Whenever the Board determines to acquire, lease, sell or exchange real property or any interest therein, the Board shall submit such acquisition, lease or exchange to a vote of the Members and, upon the affirmative vote of the Members entitled to exercise not less than seventy-five percent (75%) of the Association's total voting power, the Board may proceed with such acquisition, lease, sale or exchange, in the name of the Association and on behalf of all Owners, and the costs and expenses incident thereto shall constitute part of the Common Expenses.

Section 7. Utility Contracts. In addition to the authority provided for in Article X, Section 1(A) of these Bylaws, the Board, on behalf of the Association and the Owners, individually and collectively, may negotiate and enter into contracts or other agreements with any utility service provider to provide for such services and service rates as the Board determines is in the best interest of the Association and/or Owners as a whole, whether or not such services are included and/or paid for as a Common Expense or paid directly by the Owners.

Section 8. Applicable Laws. The Association shall be subject to and governed by the provisions of any statute adopted at any time and applicable to property submitted to a declaration of covenants and restrictions. In the event of any conflict or inconsistency between the provisions of the Declaration and the Bylaws of the Association, the terms and provisions of the Declaration shall prevail, and the Owners and all Persons claiming under them covenant to vote in favor of such amendments to the Bylaws as will remove such conflicts or inconsistencies.

ARTICLE XI

FISCAL YEAR

The Fiscal Year of the Association shall end on the 31st day of December of each year or on such other day as may be fixed, from time to time, by the Board.

ARTICLE XII

ASSESSMENTS

Section 1. Determination of Assessments. The Board shall fix and determine from time to time the sum(s) necessary and adequate for the Common Expenses of the Property. Common Expenses shall include expenses for the operation, maintenance, repair or replacement of the Common Elements, and such other parts of the Property as provided for in the Declaration, the carrying out of the powers and duties of the Association, the items enumerated in Article X above, and any other expenses designated from time to time by the Board as Common Expenses. The Board is specifically empowered on behalf of the Association to fix the annual operating budgets and collect the Common Assessments; and to maintain, repair and replace the Common Elements.

Section 2. Notice of Assessments. When the Board has determined the amount of any Assessment, a statement of the Assessment shall be mailed or presented to each of the affected Owners. All Assessments shall be payable to the Association and, upon request, the Association shall give a receipt for each payment made. Common Assessments shall be made against Owners as herein provided in an amount no less than required to provide funds in advance for payment of all of the anticipated current Common Expenses and for all of the unpaid Common Expenses previously incurred.

Section 3. Obligation to Pay Assessments. Each Owner shall pay his/her proportionate share of the Common Expenses as assessed against the Owners. Payment of any other Assessment shall be made in such amounts and at such times as the Board may determine. The obligation to pay any Assessment is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under the Declaration or these Bylaws, or for inconvenience, discomfort or dislocation arising from the making of repairs or improvements that are the responsibility of the Association or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 4. Preparation of Budget, Assessments. The Board shall, on or before November 15th of each year, prepare a budget which shall be based on its estimate of the total amount (the "estimated cash requirement") that will be required during the ensuing calendar year to pay the Common Expenses, including a reasonable reserve for contingencies and replacements. On or before December 1st of each year, the Board shall notify each Owner in writing as to the amount of the estimated cash requirement together with a reasonable itemization thereof. Promptly thereafter the aggregate amount of the estimated cash requirement shall become an Assessment against the Owners, with the share of Assessment against each Owner to be his/her proportionate share thereof. Such Assessment shall be due and payable by each Owner commencing on January 1st and on the first day of each succeeding calendar month of such ensuing year in monthly installments (that may or may not be equal) as stipulated by the Board. If the amount of such estimated cash requirement proves to be inadequate for any reason, including non-payment of any Owner's assessment, the Board may assess the deficiency against the Owners and in such case the Board shall give written notice of such additional Assessment to all Owners indicating the reasons therefore, the amounts payable by each, and the adjusted monthly amounts reflecting such additional Assessment thereafter payable by each Owner. If, at any time, the Board determines that the Association has collected a Common Surplus at the end of any Fiscal year, such amount shall, at the Board's sole discretion, be credited promptly after the same has been determined according to each Owner's proportionate share to the monthly installments next due from Owners under the current year's assessment until exhausted or applied toward reserves. Any and all interest earned on any reserves, savings, assessments or other fees or monies held by the Association shall be first charged against such Association expenses as the Board determines is in the Association's best interest, and then to such other purposes as the Board so determines.

Section 5. Reserve for Contingencies and Replacements. The Board, on the Association's behalf and in the exercise of its sole business judgment shall build up and maintain a reasonable reserve for contingencies and to finance the cost of repair or replacement of the components of the Common Elements. The reserve may be funded by the portion of the monthly assessment earmarked in the budget for the reserve. The Board shall deposit reserve funds into an account(s) insured by The Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and any interest earned thereon shall be accumulated in the reserve account. Extraordinary expenditures not originally included in the cash requirement, which may be necessary for the year, may, at the Board's discretion, be charged first against such reserve, unless said reserve, or a portion thereof, has been previously allocated for a specific item or purpose. The Board may allocate reserves to a particular item only by a duly made, seconded and approved motion that explicitly includes the word "allocate." Allocated reserves accumulated from prior years may only be expended for the allocated item unless otherwise approved by a majority vote of the entire Association. If any funds remain after the expenditure of allocated funds on the specified allocated item, such excess funds shall become part of the general reserves. Upon the sale of a Unit by any Owner, such Owner shall have no right to any portion of the

funds in the reserve account; nor shall any such Owner have any claim against the Association with respect thereto.

Section 6. Failure to Prepare Annual Budget or Make Current Assessments. The failure or delay of the Board in the preparation of any budget or in the giving of notice thereof to Owners, or any delay in the making of Assessments against Owners, or any of them, shall not constitute a waiver or release in any manner of such Owner to pay his/her proportionate share of the Common Expenses, including reserves, whenever the same shall be determined and assessed. In the absence of any annual estimate of Common Expenses, including required reserves, or of any budget or assessments based thereon, Owners shall continue to pay the monthly assessments at the existing monthly rate established for each Owner then in effect, until the first monthly maintenance payment becomes due, pursuant to a new Assessment covering the current period duly made by the Board in the manner above provided in Section 4 of this Article XII.

Section 7. Special Assessments. The Board may levy one or more special Assessments, payable as the Board so determines, to defray, in whole or in part, any Association cost or expense as required by the Declaration or Bylaws, provided that any Assessment for any additions, alterations or improvements to the Property (as distinguished from maintenance, repair or replacement) that exceeds in total cost of \$10,000 (ten-thousand) dollars shall not be levied without having the prior approval of the Owners entitled to exercise a majority of the voting power of the Association. If such approval is obtained, the Board shall proceed with such additions, alterations or improvements and may assess all Owners for the cost thereof as a Common Expense. The limitations on expenditures by the Association contained in this Section shall, in no event, apply to repair or replacement of the Property due to casualty loss, to emergency repairs immediately necessary for the preservation and safety of the Property or its residents, to maintain compliance with any applicable local, state or federal codes, ordinances, laws, rules or regulations, or to avoid suspension of any necessary services for the safety of persons.

Section 8. Books and Records of Association. The Association shall keep full and correct books and records of account that specify the receipts and expenditures relating to the Common Elements and other common receipts and expenses, records showing the allocation, distribution and collection of the profits, losses and expenses among and from the Owners, minutes of the Association and Board meetings, and records of names and addresses of the Owners (the "Association's records"). The Board may adopt Regulations establishing reasonable standards for the examination and copying of the Association's records, which may include, without limitation, standards and limitations governing the type of documents that are subject to examination and/or copying, limitations on the use and distribution of such records, the times and locations at which the documents may be examined or copied, and a reasonable fee for the examination and/or copying of the documents. In the absence of any Board Regulations, any Owner or his/her mortgagee, or by any representative of a Owner duly authorized, in writing, may, for reasonable purposes,

during normal business hours and following a reasonable, prior written request to the Board, examine or copy the Association's records, subject to a reasonable fee. Within ten (10) days of a written request to the Board and upon payment of a reasonable fee, any Owner shall be furnished a statement of his/her account setting forth the amount of any unpaid Assessments or other charges due and owing from such Owner.

Section 9. Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein, and, except for such special Assessments as may be levied against less than all of the Owners and for such adjustments as may be required to reflect delinquent or prepaid Assessments, shall be deemed to be held for the use, benefit and account of all of the Owners. All sums collected by the Association from Assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board. All Assessment payments by an Owner shall be applied as provided herein and in the Declaration.

Section 10. Annual Review. The books of the Association shall be reviewed once a year by the Board. In addition, at any time, upon the request of three (3) Board members or of Owners holding fifty percent (50%) or more of the Association's total voting power, the Board shall cause an audit of the books of the Association; any such audit shall be at the expense of the Association and a copy of such audit shall be sent to every Owner within thirty (30) days of Association's receipt of same.

ARTICLE XIII

AMENDMENTS

These Bylaws may be amended at any meeting of the Association by the affirmative vote of or, if not at a meeting, by an instrument signed by, in either case, persons owning not less than fifty-one percent (51%) of the Units. Amendments to the Bylaws shall become binding and effective on the date of the filing of same with the Cuyahoga County Recorder's office.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1. Mortgagees. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit shall be given a copy of any and all notices permitted or required by the Declaration or these Bylaws to be given to the Owner whose Unit is subject to such mortgage or trust deed. Any Mortgagee may, from time to time, request in writing a written statement from the Board setting forth any and all unpaid assessments due and owing from its mortgagor Owner with respect to the Unit subject to the lien of its mortgage and such request shall be complied with within twenty (20) days from receipt thereof.

Section 2. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in these Bylaws 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.

Section 3. Agreements Binding. All agreements and determinations lawfully made by the Association, through the Board, in accordance with the procedure established in the Declaration and these Bylaws shall be deemed to be binding on all Owners, their successors, heirs and assigns.

Section 4. Severability. The invalidity of any covenant, restriction, condition, limitation, or any other provision of these Bylaws, or of any part of same, shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.