

CUYAHOGA COUNTY RECORDER  
PATRICK J. OMALLEY - 65  
DEED 06/29/2007 10:19:48 AM  
**200706290189**

AMENDED AND RESTATED

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

FOR

PALMETTO WOODS HOMEOWNERS ASSOCIATION

PLEASE CROSS MARGINAL REFERENCE WITH THE AMENDED MASTER  
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND  
RESTRICTIONS OF PALMETTO WOODS HOMEOWNERS ASSOCIATION  
RECORDED AT VOLUME 92-11445, PAGE 16 ET SEQ. OF THE CUYAHOGA  
COUNTY RECORDS.

**AMENDED AND RESTATED**  
**DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS**  
**FOR**  
**PALMETTO WOODS HOMEOWNERS ASSOCIATION**

WHEREAS, on or about October 16, 1992, Martin H. Lax and Ernest Stern, Joint Venture, an Ohio partnership ("Declarant"), executed the Amended Master Declaration of Covenants, Conditions, Easements and Restrictions of Palmetto Woods (the "Original Declaration"), which included the Amended By-Laws of Palmetto Woods Homeowners Association (the "Original Bylaws") and caused same to be recorded on or about December 15, 1992, at Volume 92-11445, Pages 16 et seq. of the Cuyahoga County Records, and

WHEREAS, the Original Declaration subjected the real estate described on "Exhibit A" attached to the Original Declaration (the "Property") to the easements, covenants and restrictions contained in the Original Declaration; and

WHEREAS, the Palmetto Avenue Homeowners Association (the "Association") is a corporation consisting of all Owners in Palmetto Woods and as such is the representative of all Owners, and

WHEREAS, pursuant to Article XI, Section 11.02 of the Original Declaration, the Original Declaration may be amended by the Association with the approval of persons owning not less than fifty-one (51%) of the Townhouse Units; and

WHEREAS, Bylaws Article X authorizes amendments to the Original Bylaws with the approval of two-thirds (2/3rds) of the Townhouse Units, and

WHEREAS, Owners representing at least 67% of the voting power of the Association have executed an instrument in writing setting forth specifically the amendment to the Original Declaration, including the Bylaws (the "Amendment"), and

WHEREAS, the Association has in its records the signed, written consents to the Amendment signed by Owners representing 68.518% of the Association's voting power, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 68.518% of the Association's voting power authorizing the officers of the Association to execute the Amendment on their behalf, and

WHEREAS, the proceedings necessary to amend the Original Declaration, including the Original Bylaws have in all respects been complied with.

NOW THEREFORE, the Original Declaration, which includes the Original Bylaws, is hereby amended by the following (including the attached document):

A) Effective July 1, 2007, or the date of the recording of this Amendment, whichever occurs latest, REPLACE the original DECLARATION, Pages 1 through 20, and original BYLAWS, Pages 1 through 14, as recorded in Cuyahoga County Records Volume 92-11445, Page 16 et seq. and as subsequently amended, in full, with the new AMENDED AND RESTATED DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR PALMETTO WOODS HOMEOWNERS ASSOCIATION, Pages 1 through

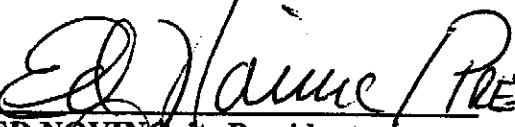
29, and AMENDED AND RESTATED BYLAWS OF PALMETTO WOODS HOMEOWNERS ASSOCIATION, Pages 1 through 22, as attached hereto and as if fully rewritten hereon.

B) Any conflict between the provisions of the Amended and Restated Declaration and Bylaws as contained in this amendment and the Original Declaration and Original Bylaws as previously recorded in Volume 92-11445, Page 16 et seq. of the Cuyahoga County Records shall be interpreted in favor of the provisions of this Amendment. Upon the recording of this Amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the Amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

IN WITNESS WHEREOF, the said Palmetto Avenue Homeowners Association has caused the execution of this instrument this 18 day of JUNE, 2007.

**PALMETTO AVENUE HOMEOWNERS ASSOCIATION**

By:

 PRESIDENT  
ED NOVINC, its President

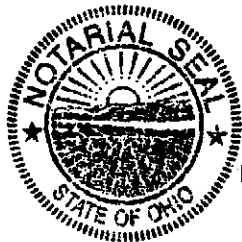
By:

 SECRETARY  
LYNNE TRUSNIK, its Secretary

STATE OF OHIO                     )  
  )     SS  
COUNTY OF CUYAHOGA         )

**BEFORE ME**, a Notary Public in and for said County, personally appeared the above named Palmetto Avenue Homeowners Association, by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 3 of 4, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal at RAVENNA, Ohio, this 18th day of JUNE, 2007.



Karen Reed  
**NOTARY PUBLIC**

KAREN REED  
Notary Public  
in and for  
the State of Ohio  
My Commission Expires  
August 6, 2010

This instrument prepared by:  
**Kaman & Cusimano, Attorneys at Law**  
2000 Terminal Tower  
50 Public Square  
Cleveland, Ohio 44113  
(216) 696-0650

**AMENDED AND RESTATED**  
**DECLARATION OF EASEMENTS, COVENANTS**  
**AND RESTRICTIONS**  
**FOR**  
**PALMETTO WOODS HOMEOWNERS ASSOCIATION**

AMENDED AND RESTATED  
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS  
FOR  
PALMETTO WOODS HOMEOWNERS ASSOCIATION

TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
I	DEFINITIONS	1
	(A) Assessments	1
	(1) Annual Assessment	1
	(2) Special Assessment	1
	(B) Association	2
	(C) Board	2
	(D) Common Elements	2
	(E) Common Expenses	2
	(F) Declarant	2
	(G) Declaration	2
	(H) Line	2
	(I) Lot	2
	(J) Member	2
	(K) Occupant	2
	(L) Original Declaration	2
	(M) Owner	3
	(N) Person	3
	(O) Plat	3
	(P) Property	3
	(Q) Unit	3
II	PURPOSE AND RESTRICTIONS OF USE ON PROPERTY	3
	(A) Purpose of Property	3
	(B) Parking Spaces	3
	(C) Restrictions	4
	(1) Prohibited Activities	4
	(2) Nuisances	4
	(3) Office Use	4
	(4) Occupancy Limit	5
	(5) Occupancy Restriction	5
	(6) Vehicle Restrictions	5
	(7) Power Equipment and Vehicle Maintenance	6

<u>ARTICLE</u>		<u>PAGE</u>
	(8) Animals and Pets	6
	(9) Changes in Appearance and Alterations	7
	(10) Impairment or Structural Integrity of Units	7
	(11) Temporary Structures	7
	(12) Exterior Signs, Displays and other Installations	7
	(13) Landscaping	8
	(14) Fences, Walls, Hedges	8
	(15) Interference with Use of Common Elements	8
	(16) Storage and other Activities	8
	(17) Laundry or Rubbish on Property	8
	(18) Hazardous Uses and Waste	9
	(19) Drilling	9
	(20) Applicability	9
III	SALE OR OTHER ALIENATION OF UNITS	9
IV	ASSOCIATION AND VOTING RIGHTS	10
	(A) Membership	10
	(B) Voting Rights	10
	(C) Board of Directors and Officers	10
	(D) Administration of Property	10
	(E) Service of Process	10
V	MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS	11
	(A) Management	11
	(B) Delegation of Authority	11
	(C) Maintenance Responsibilities of the Association	11
	(D) Owners	12
	(E) Shared Responsibilities	13
	(F) Owner's Additional Maintenance Responsibilities	14
	(G) Interpretation of Maintenance Obligations	14
VI	PARTY WALLS AND INTERIOR UTILITY LINES	15
	(A) General Rules of Law to Apply	15
	(B) Sharing of Repair and Maintenance	15
	(C) Destruction by Fire and Other Casualty	15
	(D) Weatherproofing	15
	(E) Right to Contribution Runs with the Land	15

<u>ARTICLE</u>	<u>PAGE</u>
VII ASSESSMENTS AND LIEN OF ASSOCIATION	15
(A) General	15
(B) Obligation to Pay Assessments	16
(C) Failure to Pay Assessments When Due	16
(D) Lien of Association	16
(E) Priority of Association's Lien	17
(F) Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses	17
(G) Liability for Assessments Upon Voluntary Conveyance	17
VIII CONDEMNATION	18
IX REMEDIES FOR VIOLATIONS	18
(A) Abatement and Enjoinment	18
(B) Cost of Enforcement	19
(C) Cure by Association	19
(D) Suspension of Voting Rights	19
X OTHER DUTIES OF THE ASSOCIATION	20
(A) Taxes and Assessments	20
(B) Common Element Utilities Billed to Units	20
(C) Management	20
(D) General	21
XI INSURANCE	21
(A) Casualty Insurance	21
(1) Scope of Coverage	21
(a) Owners	21
(b) Association	22
(2) Risks to be Insured and Amount Thereof	22
(3) Insurable Interest and Loss Payments	22
(a) Owner	22
(b) Association	22
(4) Insurance Company Rating	23
(5) Damage and Destruction	23
(a) Responsibility for Repairs	23
(b) Common Element and Exterior Unit Repairs	23
(c) Interior Unit Repairs	23
(d) Insufficient Insurance Proceeds	24
(6) Disbursement of Excess Insurance Proceeds	24
(7) Waiver of Subrogation	24



<u>ARTICLE</u>	<u>PAGE</u>
(B) Public Liability Insurance	25
(C) Other Association Insurance	25
XII EASEMENTS	25
(A) Utility Easements	25
(B) Easement for Ingress and Egress	25
(C) Open Space	26
(D) Limited Use Facilities	26
(E) Easements for Construction and Alterations	26
(F) Easements for Encroachments on the Common Elements	26
XIII GENERAL PROVISIONS	26
(A) Enforcement	26
(B) Amendment	26
(C) Headings	27
(D) Notices	27
(E) Annexation	27
(F) Covenants Running with the Land	28
(G) Waiver	28
(H) Severability	28
(I) Duration	28
(J) Priority of Documents	28
(K) Conveyance of Common Elements	28
(L) Construction	29
(M) Interpretation	29
(N) Scrivener's Corrections	29

AMENDED AND RESTATED  
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS  
FOR  
PALMETTO WOODS HOMEOWNERS ASSOCIATION  
A Nonprofit Ohio Corporation

ARTICLE I

DEFINITIONS

Whenever used herein, and in any amendments, supplements or Bylaws hereto, unless the context otherwise requires, the capitalized words below shall be defined as follows:

(A) "Assessments" means the determination of Common Expenses, to be divided pursuant to the requirements of the Declaration and Bylaws, and other charges levied against the Owner(s) which, from time to time, shall be payable by each Owner as determined in accordance with the Declaration, the Bylaws and the Rules. The term "other charges" shall include, without limitation, the costs, expenses and charges for repairs and replacements made by the Association that the Owner was obligated or responsible to make, any special charges made by the Association to the Owner for Special Services or facilities rendered to the Owner and for special or extraordinary uses or consumptions attributable to such Owner, damages, enforcement penalties or fines resulting from the failure of the Owner or any Occupant of the Unit to comply with any of the covenants, conditions, obligations or restrictions contained in this Declaration, the Bylaws or with any of the Rules, together with the costs (including court costs and reasonable attorneys' fees) of any action to obtain injunctive or other necessary relief against such noncompliance, any other charges or assessments permitted by this Declaration or the Bylaws to be made against the Owner, interest upon each assessment and charged at the highest legal rate which may be charged to an individual from the date the assessment or charge first comes due to the date it is paid in full, monthly administrative late charges, and the reasonable costs of collection of any unpaid assessments and charges (including court costs and reasonable attorneys' fees).

(1) "Annual Assessment" means the share of the estimated cash requirement levied against the Owner(s) to pay for the Common Expenses, including reserves, for the ensuing calendar year in accordance with the Declaration and Bylaws, which is to be paid in monthly installments throughout the year as determined by the Board and commonly known as the "monthly maintenance fee."

(2) "Special Assessment" means the share of the Common Expenses or other charges levied against the Owner(s) to pay for special or specific projects or expenses not provided for in the Annual Assessment for the ensuing year, which is to be paid in a lump sum or installments as the Board shall determine.

(B) "Association" means Palmetto Woods Homeowners Association, an Ohio non-profit corporation, its successors and assigns.

(C) "Board" means the Board of Directors of the Association.

(D) "Common Elements" means all real property (including the improvements thereto and facilities thereon) owned by the Association, including easement rights, for the common use and enjoyment of the Owners.

(E) "Common Expenses" means those expenses designated as Common Expenses in this Declaration or in the Bylaws.

(F) "Declarant" means Martin H. Lax and Ernest Stern, Joint Venture, an Ohio partnership, its successors or assigns, or any successor or assign to all or substantially all of its interest in the Development of said Property.

(G) "Declaration" means this Amended and Restated Declaration.

(H) "Line" means a utility line, pipe, conduit, wire, television cable, vault and appurtenances thereto.

(I) "Lot" means any Sublot shown upon the Plat of the Property and shown on any plat filed with the Cuyahoga County Recorder of any part(s) of the Development Area that are added to the Property and subjected to this Declaration. The Common Elements shall not be a Lot.

(J) "Member" means a member of the Association, being Owners of the Units.

(K) "Occupant" means a natural person who lives in a Unit who shall be either the Owner or a lessee who holds a written lease.

(L) "Original Declaration" means that document and its attachments as originally recorded at Volume 92, Page 11445 et seq. of the Cuyahoga County Records, on or about December 15, 2002, together with all amendments thereto, including the First Amendment to the Declaration recorded at Instrument No. 200306240570 of the Cuyahoga County Records, on June 24, 2003. Except as otherwise expressly provided for herein, this Amended and Restated Declaration and attached Bylaws supersedes the Original Declaration, as well as the Bylaws attached thereto, in all respects.

(M) "Owner" means the record Owner, whether one or more persons or entities, of a fee simple title to any Unit that is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(N) "Person" means a natural person or corporation, partnership, limited partnership, trust or other entity.

(O) "Plat": means as contained in the original declaration.

(P) "Property": shall mean and refer to the real property described in Exhibit A of the Original Declaration and as amended and includes all lots, Units and common elements.

(Q) "Unit" means the townhouse structure which the Owner will own, in fee simple title, which shall be located in a structure containing either; four (4), six (6) or eight (8) separate Units. Such Unit is designed and intended for use and occupancy as a residence by a single family.

## ARTICLE II

### PURPOSE AND RESTRICTIONS OF USE ON PROPERTY

In addition to those other covenants, restrictions, conditions, obligations and limitations provided elsewhere in this Declaration, the following covenants, restrictions, conditions, obligations and limitations as to use and occupancy of the Property shall also run with the Land and shall be binding upon each Owner, and each Owner's Occupants, heirs, tenants, licensees and assigns:

(A) Purpose of Property. The purpose of the Property and of the Units and facilities situated therein is residential housing and those uses that are both customarily accessory and incidental to residential dwelling. Each Unit shall be used as a residence for a single family and for no other purpose, except as permitted by Paragraph C(3) of this Article II. No part of the Property shall be used except for the foregoing purposes and except for such other uses or purposes as are expressly permitted or contemplated herein.

(B) Parking Spaces. Areas of land have been designated as parking spaces intended for the use of the Owners in Palmetto Woods. The designated areas are not dedicated hereby for use by the general public, but are dedicated to the common use and enjoyment of the Owners in Palmetto Woods.

(C) Restrictions.

(1) Prohibited Activities. No industry, business, trade or profession of any kind, commercial, religious, educational or otherwise, whether designated for or not for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted by any Owner on any part of the Property, except as expressly permitted in Subparagraph (3) of this Paragraph (C).

(2) Nuisances. No noxious or offensive activity shall be carried on in any part of the Property, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance, disturbance or nuisance to the neighborhood, including the Association, its Board members, managing agent and contractors, and/or other Owners or Occupants. This shall include, without limitation, transmission of any television or other communication signals that interfere with communication reception in any other Unit.

(3) Office Use. An Owner may use a portion of his/her Unit for his/her office or studio, provided:

(a) That the activities within the Unit shall not interfere with the quiet enjoyment or comfort of any other Owner or Occupant;

(b) That in no event shall any part of the Unit be used as a school, music studio or day care facility;

(c) That such use does not result in walk-in or customer traffic to the Unit from the general public or from business invitees nor any door-to-door solicitation of other Owners or Occupants;

(d) That such use does not result in the Unit becoming principally an office as distinct from a residence or in the Unit developing a reputation as an office;

(e) It is not apparent or detectable by sight, sound or smell from outside the Unit;

(f) Conforms to all local zoning requirements;

(g) Does not result in or involve regular or unreasonably large volume of business-related deliveries to or from the Unit, as determined by the Board; and

(h) Does not constitute a hazardous or offensive use, or threaten the security or safety of other Occupants, all as the Board, in its sole determination, decides.

(4) Occupancy Limit. No more than two (2) Persons per bedroom shall be permitted to reside in a Unit ("reside" means more than thirty [30] days out of any twelve [12] month period). For the purposes of this restriction only, any person thirty-six (36) months of age or younger shall not be counted in determining whether the occupancy limit has been reached or exceeded. Upon request from the Association, each Owner shall provide the Board with the names of all residents of the Unit and the license number and vehicle description owned by residents and maintained on the Property.

(5) Occupancy Restriction. No person who is determined to be a sexual predator pursuant to the Ohio Sex Offenders Act or similar statute from another jurisdiction and required to register with a designated registering agency pursuant to said Act or similar statute, as the same may from time to time be amended, may reside in or occupy a Unit for any length of time. Any violation of this restriction shall subject the Owner and/or any occupant of the Unit to any and all remedies provided for by law as well as this Declaration. The Association shall not, however, be liable to any Owner or Occupant, or anyone visiting any Unit or the Association, as a result of the Association's alleged failure, whether negligent, intentional or otherwise, to enforce the provisions of this restriction.

(6) Vehicle Restrictions.

(a) No unlicensed vehicle, trailer of any type, camper, mobile home, motor home, recreational vehicle, house car, motorcycle, truck (other than a sports utility vehicle, pick-up truck or van, no more than one (1) ton load carrying capacity), boat or similar vehicle or equipment shall be permitted to remain upon any portion of the Property without the Board's prior written consent, except that any such vehicle or equipment may be parked within the appurtenant entrance driveway of a Unit for the limited purpose of loading or unloading the same in an expeditious manner, and except that any such vehicle or equipment may be kept inside a garage of a Unit if the garage door is kept closed so that the vehicle or equipment cannot be seen from the Common Elements.

(b) Commercial vehicles are prohibited from any part of the Property unless authorized in advance by an Owner in conjunction with work being performed on the Owner's Unit or by the Board. Commercial vehicles are further prohibited from remaining overnight on the Property unless first approved by the Board and the Owner, if any, responsible for such commercial vehicle. Commercial vehicles are defined to include any vehicle used as part of or in furtherance of any industry, trade, or occupation, whether for profit, altruism, exploration or otherwise. Commercial vehicles prohibited from the Property shall not include sedans, vans or trucks of less than one (1) ton load carrying capacity that are used both for business and personal use, provided that such vehicles shall not display or have any equipment, or any apparatus

found in violation of this provision by the Board, shall be permanently removed from the Property upon three (3) days' written notice from the Association.

(9) Changes in Appearance and Alterations. No building, fence, wall or other structure shall be temporarily or permanently constructed, erected or maintained upon or to a Unit or Lot, nor shall any exterior addition, change or alteration be temporarily or permanently made to any existing Unit, building, fence or wall or other structure (including, without limitation, the material constituting the exterior surface of the Units and the color of the paint thereon), until the plans and specifications showing the nature, color, kind, shape, height and materials and location of the same shall have been submitted to and approved in writing by the Board. In considering and deciding upon any such application, the Board shall ensure that the consistent, first class architectural and community appearance that is associated with the Palmetto Woods Planned Unit Development is preserved and maintained and also ensure harmony of external design, appearance and location in relation to surrounding structures and topography. While a lack of response from the Board to any such submission shall be deemed a denial of same, the Board shall provide the Owner with an acknowledgment of receipt of Owner's application within fifteen (15) days of the receipt of same and shall then make every reasonable effort to provide a substantive response to the Owner within thirty (30) days of the receipt of the Owner's application.

(10) Impairment or Structural Integrity of Units. Nothing shall be done in any Unit or in, on or to any Lot or Common Elements that will impair the structural integrity of any Unit or which would structurally change any Unit, except as otherwise provided in this Declaration and except with the Board's prior written consent and required municipal permits.

(11) Temporary Structures. No temporary building, trailer, tent, shack, free standing garage, barn or other outbuilding shall be constructed or maintained, temporarily or permanently, on any part of the Property. A moving POD shall be permissive for moving purposes, for a time period not to exceed fourteen (14) days.

(12) Exterior Signs, Displays and other Installations. No sign, advertising, or any window displays, awning, canopy, shutter, screen, radio, television or other communications antenna or device (except as otherwise specifically permitted by Federal law and in strict accordance with the Board's Rules), or anything else, shall be displayed from, affixed to, or placed upon the exterior walls, windows (including both the interior and exterior surface of same), doors, patios or roofs of any Unit, or upon any other part of the Property outside a Unit without either the Board's prior written consent or in strict accordance with the Rules. Additionally, lot owners are prohibited from placing for sale signs anywhere on the exterior of the town home. However, a lot owner is permitted to place one (1) For Sale Sign on an interior window unit. Open

for such equipment, signs, markings or other indications of a commercial purpose or nature, including, without limitation, salt dispensers, snowplows or snowplow hitches, all as the Board may further define and regulate.

(c) All vehicles on the Property shall be kept in a state of good and clean repair in accordance with Ohio law. Junk vehicles, including excessively noisy or polluting vehicles or equipment, as solely determined by the Board, shall not be operated or stored anywhere on the Property. The Owner shall be responsible for the cost to clean up or repair any damage to the Property by a vehicle, including without limitation, due to leaking oil or other vehicle fluids, whether from a vehicle owned by the Owner or owned by or belonging to the Owner's Occupant, or his/her tenant, a member of the Owner or Occupant's family, or the Owner or Occupant's guest or invitee.

(d) The Association, as determined by the Board, shall have the authority, in addition to all other remedies, to tow away and cause to be stored any vehicle or equipment that is in violation of any Declaration provision or restriction, or any Rule, whether such vehicle belongs to a Owner or his/her tenant, a member of the Owner or Occupant's family, or the Owner or Occupant's guest or invitee. Charges for such towing and storage shall be paid by the Owner responsible for the presence of such vehicle or equipment.

(7) Power Equipment and Vehicle Maintenance. No unusually large or heavy power or electrical equipment or vehicle maintenance (other than emergency work), as the Board so defines, shall be permitted or operated on the Property except with the Board's prior written consent and except as reasonably necessary for the maintenance, repair and replacement of the Property. In determining whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

(8) Animals and Pets. No animals or birds of any kind shall be raised, bred or kept in any Unit, Lot or the Common Elements, except that no more than two (2) dogs (excluding, however, any dog of vicious breed, including, without limitation, any dog of full or mixed pit-bull, rottweiler or Presa Canario breeds, which are strictly prohibited from residing, visiting or being anywhere on the Property at anytime, except as specifically authorized in writing by the Board), cats, canaries and domestic, caged (including fish tanks) household pets (which shall not include any snakes, other reptiles or exotic animals as the Board may, in its sole discretion, from time to time further define) may be kept in Units, subject to the Rules, provided that they are not kept, bred, or maintained for any commercial purpose and, provided, further, that any such pet causing or creating a nuisance or disturbance, or



House signs are permitted only on the day of the open house and a lot owner shall have no more than one open house per week.

(13) Landscaping. The Board may, but shall not be obligated to, give consent to the planting of trees, shrubs, and other plants on a Lot, Parcel and on the Common Elements near a Lot and may permit landscaping of a Lot, Parcel and of Common Elements near a Lot, subject to any conditions the Board may require. If such permission is given subject to conditions, the Owner to whom the permission is granted shall comply with all of the conditions imposed, including, without limitation, responsibility for the maintenance of any and all landscape changes, whether planted or made by the Owner or any predecessor Owner. The Units, Lots and Parcels shall not be altered, decorated, landscaped or adorned in any manner contrary to such Rules as may be established therefor by the Board, nor shall they be used in any manner other than their obviously intended purposes without the Board's prior written consent.

(14) Fences, Walls, Hedges. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct right-of-way sight lines for vehicular traffic.

(15) Interference with Use of Common Elements. The Common Elements and every part thereof shall be used in such manner as not to interfere with, restrict or impede the use thereof by others entitled to the use thereof and in accordance with this Declaration, the Bylaws, and Rules adopted by the Board. There shall be no obstruction of, nor shall anything be stored in or on, the Property, except within the Units, without the Board's prior written consent, except as expressly provided by this Declaration or the Rules.

(16) Storage and other Activities. Nothing shall be stored, maintained, or used on the Lots, or any other part of the Lots, or on the Common Elements which in the judgment of the Board creates an unsightly appearance. There shall be no playing, parking of baby carriages, playpens, bicycles, wagons, toys, pools, sand boxes or other personal property on any part of the Lots, Parcels or Common Elements, including the patio areas, except in accordance with the Rules. Unless the Board so approves, no wood, lumber, metals, bulk material, refuse or trash shall be burned, kept, stored or allowed to accumulate on the Property, except within a Unit, provided a nuisance is not created, and except that necessary building materials may be stored in neat and reasonable quantities during the course of construction or reconstruction of any Board approved building or structure.

(17) Laundry or Rubbish on Property. Clothes, sheets, blankets, laundry of any kind and/or any other articles are strictly prohibited from being hung out or exposed on any part of any Lot or Common Elements, except in strict accordance with the Rules. The Units and Common Elements shall be

kept free and clear of garbage, rubbish, debris and other unsightly materials as defined and determined by the Board. Each Owner shall, further, keep all garbage and refuse in covered cans and shall cause same to be moved to, and subsequently moved from, the curb for the collection of such garbage and refuse, all in strict accordance with the Rules.

(18) Hazardous Uses and Waste. Nothing shall be done or kept in or on any part of the Property which will increase the rate of insurance applicable for the residential use of any Unit and the contents thereof, or result in the cancellation of insurance on any Unit or on the contents thereof, without the Board's prior written consent. No Owner shall permit anything to be done or kept in or on any part of the Property that would be in violation of any law. No waste of any Lot or any Unit thereon will be committed.

(19) Drilling. No portion of the surface of the Property shall be used for the purpose of boring, mining, quarrying, exploring or removing oil or other hydrocarbons, minerals, gravels, or earth without the prior written consent of the Board.

(20) Applicability. Each of the foregoing restrictions shall apply to all Owners and to any Person who, from time to time, occupies, resides, or is in possession of any part of the Property and to any other Person lawfully or unlawfully upon any part of the Property. No Owner shall cause or permit to exist a violation of the foregoing restrictions by himself/herself or any of his/her occupants, lessees, employees, agents, guests, licensees or invitees, or any other Person claiming by, through or under him/her.

### ARTICLE III

#### SALE OR OTHER ALIENATION OF UNITS

The Association shall have no right of first refusal with respect to the purchase or any other conveyance, whether by gift, involuntary sale or otherwise, of a Unit. An Owner shall be able to transfer his/her Unit thereon freely, provided, however, that, at least seven (7) days prior to transfer, the Owner shall submit in writing to the Association: (a) payment in full to the Association of all outstanding Assessments and other charges levied against the Unit and that are due or become due up until the date of transfer of the Unit; (b) a written verification that the new Owner has received a set of governing documents, including the Declaration, Bylaws and Rules (a set of such documents may be obtained from the Association for a reasonable charge), and (c) the new Owner's name, home and business mailing addresses, and the home and business telephone numbers of the Owner and all Occupants of the Unit as well as the name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner. Within thirty days after a change in any information that division (c) of this Article requires, an Owner shall notify the

Association, in writing, of the change. When the Board requests, an Owner shall verify or update the information.

#### ARTICLE IV

##### ASSOCIATION AND VOTING RIGHTS

(A) Membership. The Association shall administer the Property. Each Owner, upon acquisition of title to a Unit, shall automatically become a Member of the Association. Such membership shall terminate upon the sale or other disposition by such Member of his/her Unit, at which time the new Owner of such Unit automatically shall become a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit that is subject to this Declaration.

(B) Voting Rights. The Association shall have one class of voting membership. All Owners shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(C) Board of Directors and Officers. The Board, including the officers of the Association, elected as provided in the Bylaws, shall exercise the powers, discharge the duties and be vested with the rights of the Association conferred by operation of law, by the Bylaws and by this Declaration, unless a vote of the Owners is specifically required; provided, however, that in the event any such power, duty or right shall be deemed exercisable or dischargeable by, or vested in, an officer or member of the Board, solely in his/her capacity as an officer or a member of the Board, he/she shall be deemed to act in such capacity to the extent required to authenticate his/her acts and to carry out the purposes of this Declaration and Bylaws.

(D) Administration of Property. The administration of the Property shall be in accordance with the provisions of this Declaration and the Bylaws. Each Owner, tenant, Occupant, or guest of an Owner shall comply with the provisions of the general law, this Declaration, the Bylaws and the Rules, and the decisions, resolutions and duly adopted motions of the Association and the Board, as lawfully amended from time to time.

(E) Service of Process. Service of summons or other process upon the Association may be made in accordance with the provisions of the Ohio Revised Code, Section 1702.06. The President of the Association or such other person as designated by the Board shall serve as the Statutory Agent to receive service of process for the Association. The name and address of the Statutory Agent (and of such successor) shall be filed with the Ohio Secretary of State on the customary forms prescribed therefor.

## ARTICLE V

### MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

(A) Management. The Association, through the Board, shall manage the Property and the affairs of the Community with the right, however, to delegate its authority as provided in the Declaration and Bylaws.

(B) Delegation of Authority. Except as otherwise provided herein, or in the Rules, the management, maintenance, repair and replacement of the Common Elements shall constitute a Common Expense. The Association may delegate all or any portion of its authority to discharge such responsibility to a manager or managing agent. Such delegation may be evidenced by one or more management contracts, each of which shall provide for termination with or without cause and shall provide for the payment of reasonable compensation to said manager or managing agent as a Common Expense; provided however, that no such management contract shall be for a term in excess of three (3) years.

(C) Maintenance Responsibilities of the Association. Except as otherwise expressly provided herein, the Association shall, to the extent and at such times as the Board, in the exercise of its business judgment, determines, keep the Common Elements and such additional portions of the Property as the Association is required to maintain as set forth below, in a reasonable state of good working order, condition and repair, in a reasonably clean, neat, safe and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to the Common Elements, by promptly, properly and in a good and workmanlike manner, making all reasonable repairs and replacements, and alterations and improvements (subject, however, to the limitations set forth in Bylaws Article X, Section 2) necessary to comply with the foregoing. The Association is responsible to maintain and replace the following:

- (1) Exterior Lights;
- (2) Balcony/Patio and Deck concrete slabs;
- (3) Utilities serving the Common Elements;
- (4) Common Utility lines, including; the electric, gas, sewer, telephone/cable, and water utilities serving more than one unit;
- (5) Footer Drains serving more than one Unit;
- (6) Landscaping installed by the Developer;
- (7) Bushes, Flowerbeds, and Trees;
- (8) Driveways, Roads, and All Walkways;

- (9) Fences;
- (10) Split Rail Common Elements;
- (11) Retaining Walls in Common Elements;
- (12) Gutters and Downspouts, including replacing the Aluminum;
- (13) Painting of the Siding;
- (14) Guardrails;
- (15) Monument Signs and Street signs;
- (16) Five (5) Foot Post Lights;
- (17) Reasonable Snow Removal from Driveways, Roadways, and City Sidewalks.

(D) Owners. The Owners are responsible to Maintain and Replace the following:

- (1) Townhouse Doors, including storm, screen, frames, trim, thresholds, kick plates, locks, unit numbers, and door bell/knocker;
- (2) Townhouse Windows, including screens, glass, caulking, glazing, and skylights;
- (3) Air-conditioning Units,
- (4) Furnaces,
- (5) Hot Water Tanks;
- (6) Outdoor Electrical Outlets;
- (7) Gas, Electric, Water, and Cable/Telephone Meters and lines serving only that unit regardless of their location;
- (8) Crawl Spaces and Attics;
- (9) Basements;
- (10) Sump Pumps;
- (11) Foundation;

- (12) Owner Installed landscaping;
- (13) Front Door and Stoops;
- (14) Outside Spigots;
- (15) Flag Holders;
- (16) Fence Gates installed by the Owners;
- (17) Fascia Boards;
- (18) Garage doors and floors;
- (19) Shared Firewalls;
- (20) Radon Gas;

(21) To the extent service is not provided by the respected utility company, the electric, gas, sewer, telephone/cable, and water utilities serving only one unit;

(22) Reasonable Snow Removal of the Individual Sidewalk leading to the Front Door and Stoop of the Unit.

(E) Shared Responsibilities. As is solely determined by the Board, the Association is responsible to only replace, while the Owners are responsible to maintain the following:

- (1) Shutters;
- (2) Vents and Stacks;
- (3) Shingles on the Roofs\*;
- (4) Underlayment Felt Paper on the Roofs;
- (5) Roof Vents;
- (6) Vinyl or Aluminum siding;
- (7) House wrap.

\* Buildings A (Unit #s 110, 112, 114, 116, 118, and 120), B (Unit #s 122, 124, 126, 128, 130, and 132), C (Unit #s 111, 113, 115, 117, 119, and 121) and D (314, 316, 318, and 320) will be specially assessed for the initial replacement of roof with buildings A and B estimated being replaced in 2008, C in 2009, and building D

within the next ten (10) years. All buildings (including A, B, C, and D) will start to reserve for future roof replacement.

Any disputes as to whether the item should be replaced by the Association or repaired by owners shall be determined by the Board.

(F) Owner's Additional Maintenance Responsibilities. In addition to the above mentioned responsibilities, the Owner is also responsible for the following.

(1) To ensure that all of the work required of the Owner be performed by such Owner promptly, properly and in good workmanlike manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Unit and/or Property, using competent and qualified labor, and in accordance with any Board designated specifications.

(2) Pay for the cost, including labor and materials, of removing, relocating and reinstalling any improvement, installation, structure, planting or other item placed in, upon or attached to any Common Elements, Parcel, Lot or Unit by the Owner, or the predecessor of Owner of the Unit, that is required, as determined by the Board, in conjunction with or in furtherance of the Association's maintenance, repair and replacement responsibilities as set forth in this Declaration.

(3) Not to make any additions or alterations in or to the Units, Lots, Parcels or Common Elements, remove any portion thereof or make any additions thereto, make any improvements thereon or do anything that would or might jeopardize or impair the safety or soundness of any Unit without obtaining the Board's prior written consent.

(4) Perform his/her responsibilities in such a manner so as not to unreasonably disturb any other person(s) residing within the Property.

(G) Interpretation of Maintenance Obligations. Any conflict between the maintenance provisions of this Article V and any other provision of this Declaration, the Original Declaration or the Bylaws shall be interpreted in favor of the maintenance obligations as stipulated in this Article V. A spreadsheet of maintenance responsibilities is attached hereto and incorporated herein.

## ARTICLE VI

### PARTY WALLS AND INTERIOR UTILITY LINES

(A) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units upon the Property and placed on the dividing line between the Lots, used to separate one Unit from another, or used as structural support by a Dominant Unit in respect to its Servient Unit shall constitute a party wall. All utility lines running through and serving two (2) or more Units within a party wall or within the interior of a Unit constitutes common utility lines, and to the extent not inconsistent with the provisions of this Paragraph, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto. All utility lines serving one Unit but running underneath another Unit remain the served Unit's responsibility.

(B) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(C) Destruction by Fire and Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall shall restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or intention acts or omissions.

(D) Weatherproofing. Notwithstanding any other provisions of this Article VI, an Owner who by his/her negligent or intentional act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(E) Right to Contribution Runs with the Land. The right of any Owner to contribution from any other Owner under this Article VI shall be appurtenant to the Land and shall pass to such Owner's successors in title.

## ARTICLE VII

### ASSESSMENTS AND LIEN OF ASSOCIATION

(A) General. The Common Expenses of the Association shall be those costs and expenses for which all Owners are responsible as set forth in this Declaration and the Bylaws, including the maintenance, taxes, insurance and administration of the Common Elements, but excepting the costs solely attributable to the Units as set forth in this Declaration and for which a separate Townhouse Assessment is levied. All Assessments for Common Expenses shall be divided equally amongst all Units, so that each Lot is assessed the same amount. Every Owner shall pay his/her proportionate



share of any Assessment levied against him/her in such manner and at such times as are provided herein and in the Bylaws.

(B) Obligation to Pay Assessments. Each Owner hereby covenants and agrees by acceptance of the deed to a Lot, whether or not it shall be so expressed in any such deed or other conveyance, to pay to the Association all Assessments levied against such Lot in accordance with this Declaration and the Bylaws. The obligation to pay all such Assessments is an independent covenant. No Owner of a Lot may exempt himself/herself from liability for Assessments by waiver of the use or enjoyment of any of the Common Elements, by the abandonment of his/her Unit or Lot, or for any other reason. Regardless of any effort or action of an Owner to the contrary, the Association shall credit any and all payments made by an Owner for all Assessments levied against such Owner in the order established by the Board. Each Owner shall be personally liable, jointly and severally, for all Assessments chargeable for the period of his/her Lot ownership.

(C) Failure to Pay Assessments When Due. Any Assessment not paid within ten (10) days after the same shall have become due and payable shall be subject to a monthly administrative late charge established by the Board and may, as the Board so determines, also bear interest until the same shall have been paid at the rate of ten percent (10%) per annum from and after the date the same became due. Each Owner shall also be liable for any and all costs incurred by the Association in connection with the collection of delinquent Assessments from such Owner, including, without limitation, reasonable attorneys' fees, monthly administrative late charges, recording costs, title reports, court costs, and other related charges.

(D) Lien of Association. The Association shall have a continuing lien upon each Owner's Lot for the payment of the portion of any Assessments chargeable against such Lot that remains unpaid for ten (10) days after the same have become due and payable, together with the other amounts provided for in Paragraph B of this Article VII ("Assessment Lien"). The Association, as the Board so determines, may file a certificate of Assessment Lien or an Affidavit of Assessment Lien, with the Recorder of Cuyahoga County, setting forth a description of the Lot, the name(s) of the record Owner(s) thereof and the amount of such unpaid portion of the Assessments, and other amounts due. The lien so filed shall also act to automatically secure all Assessments that become due and payable after the certificate is filed until the claim of lien is satisfied. In addition to the above, each Owner, by acceptance of a deed conveying a Lot to him/her, hereby irrevocably appoints the Association, and its agents, his/her attorney-in-fact, coupled with an interest, to sign a mortgage in favor of the Association to establish a mortgage lien upon the Owner's Lot in an amount equal to the Assessment Lien. Such appointment is for the purpose of assuring that the Association's Assessment Lien may be filed and established of recording in the event there are any difficulties in obtaining a recordation of the lien.

(E) Priority of Association's Lien. The lien provided for in Paragraph D of this Article VII shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been theretofore filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by or on behalf of the Association after authorization from the Board. In any such foreclosure action, the Association, or its agent or nominee, shall be entitled to bid, acquire, hold, lease, encumber and/or convey the Lot, whether at the foreclosure sale of same or otherwise. The provisions of Bylaws Article X, Section 6 shall be applicable to the Association's acquisition.

(F) Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. Where the mortgagee of a first mortgage of record or other purchaser of the Lot acquires title to the Lot as a result of foreclosure of the first mortgage, or in the event a mortgagee should accept a deed in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of the Assessments chargeable to such Lot that became due prior to such acquisition of title to such Lot by such acquirer unless such share is secured by a lien for Assessments recorded prior to the recording of the foreclosed mortgage. Any funds received on the judicial sale of the Lot in excess of the first mortgage lien, the court costs and the real estate taxes, shall, however, be paid over to the Association, to the extent of the unpaid Assessments due to the Association. The Owner(s) of a Lot, prior to the judicial sale thereof, shall be and remain after the date of the judicial sale personally and primarily liable, jointly and severally, for the Assessments against the judicially sold Lot up to the date of the judicial sale; but any unpaid share of Assessments shall be deemed to be Common Expenses collectible from all of the Owners, including the acquirer of the foreclosed Lot, his/her successors or assigns, at the time of the first assessment next following the acquisition of title by such mortgagee, its successor or assigns.

(G) Liability for Assessments Upon Voluntary Conveyance. In a conveyance of a Lot, other than a conveyance described in Paragraph (G) of this Article VII, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid Assessments levied against the grantor and the Lot without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any prospective grantee shall be entitled to a statement from the Association, provided through the grantor, within thirty (30) days after receipt by the Association of a request from the grantor, setting forth the amount of all unpaid Assessments; and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid Assessments levied against the grantor in excess of the amount set forth in such statement for the period reflected in such statement. As used in this Paragraph, "grantor" shall include a decedent and "grantee" shall include a devisee or heir, or any other successor or assign of a grantor.

## ARTICLE VIII

### CONDEMNATION

In the event that all or any part of the Common Elements shall be temporarily or permanently taken by an authority having the power of eminent domain, each mortgagee of a Unit which has requested notice from the Association and each Owner shall be notified by the Board within thirty (30) days after the Board has received written notice of the proposed acquisition or the proceeding. The Board shall have the exclusive right to handle, negotiate, settle and conduct all matters, proceedings and litigation incident thereto. The Association shall repair, restore and, if reasonably feasible, replace the Common Elements taken unless seventy-five percent (75%) of the Members present at a meeting at which a quorum is present called for such purpose affirmatively vote not to repair, restore or replace said Common Elements. If the Owners have elected as above provided not to repair, restore or replace the Common Elements so taken or if the Association shall repair, restore or replace the Common Elements and in either event if there shall be any part of the award or settlement in excess of the Association's total costs and expenses associated with such taking, including, without limitation, appraisal associated with such taking, including, without limitation, appraisal or legal fees, each Owner shall be entitled to receive, subject to the rights of his/her mortgagees, an equitable share of such excess award or settlement. The equitable share of each Owner will be the amount determined by the Board, based upon what, in the Board's sound judgment, is fair, just, and equitable in the circumstances. The division may exclude some Owners all together and may give some Owners more than other Owners. Without intending to limit the considerations that may be relevant to the Board's determination of what is fair, just and equitable in the circumstances, it seems possible that if all of the Common Elements behind one group of Units were taken and no other Units were affected, all of the excess award might possibly be divided among the Owners of the Units directly affected and no part of the award would be given by the Board to any other Owners.

## ARTICLE IX

### REMEDIES FOR VIOLATIONS

(A) Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision contained in this Declaration, the Bylaws or in the Rules, including the failure of an owner to maintain an item of owner responsibility, shall give the Board, on behalf of the Association, in addition to the rights hereinafter set forth in this Declaration, the right:

(1) To enter upon or in the Property, including any Parcel or Lot, or portion thereof, upon which, or as to which, such violation or breach or lack of maintenance exists and to summarily repair, abate or remove, at the expense of the Owner of such Lot, any structure, thing or condition that may exist thereon

contrary to the intent and meaning of the provisions of this Declaration, the Bylaws or the Rules, and the Association, its Board, or its agents, shall not be thereby deemed guilty in any manner of trespass;

(2) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; and

(3) To effect and to cause the effectuation of reasonable sanctions, including, but not limited to, the imposition of reasonable penalty or enforcement assessments, as may be further defined in the Rules, payable to the Association, after notice and a reasonable opportunity to be heard is provided, and/or the enforcement by the Police of municipal ordinance; all as may be deemed necessary or proper to secure and compel compliance with the Declaration, Bylaws, or Rules, as well as to deter continued non-compliance with such Declaration, Bylaws, or Rules.

(B) Cost of Enforcement. If any Owner or Lessee (either by his/her own conduct or by the conduct of any Occupant(s), tenant(s), resident(s), guest(s) or employee(s) of his/her Unit) shall violate any provisions in this Declaration, the Bylaws or Rules, said Owner shall pay to the Association, in addition to any other sums due, including all costs of repair or removal and any penalty or enforcement assessments, all costs and expenses incurred by the Association in connection with the enforcement of said provision or Rule, including, without limitation, reasonable attorneys' fees and court costs. Said costs and expenses shall be charged as an Assessment against said Owner's Unit. The Association, in addition to all other remedies available, shall have the right to place a lien upon the estate or interest of said Owner for all costs and charges provided for in this Paragraph as further explained and set forth in Article VII, Paragraph (E) of this Declaration.

(C) Cure by Association. If any Owner fails to perform any act that he/she is required to perform by this Declaration, the Bylaws or the Rules, the Association, through the Board, may, but shall not be obligated to, undertake such performance or cure such violation, and shall charge and collect from said Owner the entire cost and expense, including reasonable attorneys' fees, of such performing or cure incurred by the Association. Any such amount shall be deemed to be an additional Assessment upon such Owner and shall be due and payable when the payment of the Assessment next following notification of such charge becomes due and payable, and the Association may obtain a lien for said amount in the same manner and to the same extent as if it were a lien for Common Expenses.

(D) Suspension of Voting Rights. The Association shall have the power, right and authority to suspend the voting rights of an Owner for any period during which (A) any Assessment against his or her Lot remains unpaid, or (B) for any period during which an infraction of the covenants, restrictions, or conditions of this Declaration and for any infraction of the Association's rules and regulations.

## ARTICLE X

### OTHER DUTIES OF THE ASSOCIATION

In addition to the other terms, conditions and covenants set forth elsewhere in this Declaration, the Association shall also be responsible for the following:

(A) Taxes and Assessments.

(1) The Association shall be responsible for Cuyahoga County real estate taxes on the property owned by the Association.

(2) Each Owner shall be responsible for payment of the taxes and assessments for such Owner's Unit and all Limited Use Facilities appurtenant to such Units. If taxes and assessments are not assessed against the appurtenant Unit(s), but are assessed against the Association, the Association shall pay such taxes and assessments and shall charge the appurtenant Owners for their pro rata share of the costs of such taxes and assessments, as a Special Assessment, payable within fifteen (15 ) days of receipt of an invoice by the Association. The determination of the amount of such taxes and assessments attributed to a Limited Use Facility shall be made by the Association in its sole discretion and shall be conclusive and binding upon all persons.

(B) Common Element Utilities Billed to Units. If a utility service is used for the benefit of a Common Element, but is furnished from one Unit and metered as part of the service provided to the Unit, the Association will pay to the Owner of the Unit the fair and reasonable part of the Owner's bill for such Common Element services; provided a like situation does not exist with all Units. Additionally, the City of Bedford bills individual Owners for water usage; however, the Association guarantees payment. Therefore, if an Owner does not pay for their water bill, the Association is authorized to file a lien on the Unit for the unpaid water bill.

(C) Management. The Association shall provide the management and supervision for the operation of the Common Element and facilities. The Association shall maintain such policies, programs and procedures as it deems necessary or desirable to fully implement this Declaration and may, but shall not be required to:

(1) Adopt rules with respect to the use of the Common Element by Owners, Occupants and guests;

(2) Supervise employees and agents, including, without limitation, attorneys, accountants and consultants, maintenance firms and contractors; and

(3) Delegate all or a portion of its authority and management responsibilities to a manager, managing agent, or management company. Such delegation may be evidenced by a management contract which provides for the duties to be performed by the managing agent and for the payment to the agent of a reasonable compensation in accordance with Article V (B) of this Declaration.

(D) General. The Board, on behalf of the Association, shall have the power and authority to and shall perform and carry out all other duties and acts reasonably necessary to give effect to and implement the intent of the provisions of this Declaration and the Articles and Bylaws of the Association, and may take such actions as it, in its discretion, deems desirable to assure compliance on the Property with all applicable municipal, county and state building, zoning, safety and fire codes and regulations, and with all applicable federal laws and regulations.

## ARTICLE XI

### INSURANCE

#### (A) Casualty Insurance

##### (1) Scope of Coverage.

(a) Owners. Each Owner shall obtain and maintain Property Casualty Insurance (which is called "Casualty Insurance" below) in full force and effect on his/her Unit, including the structure and all other components of said Unit, and all improvements, installations, utilities and fixtures attached or appurtenant to and serving only the Unit. The Board is authorized to establish and promulgate minimum policy limits for Unit Casualty Insurance based on what the Board reasonably believes is required for the protection of the Association and its Owners as a whole. Each Owner shall provide the Association with a certificate of insurance evidencing compliance with this Paragraph (A) at the time of purchase and all renewals of the Owner's Casualty Insurance or as otherwise directed by the Board in writing. Notwithstanding anything to the contrary below, the Association is hereby authorized and empowered, but not required, to purchase any such Casualty Insurance for and on behalf of any Owner who fails to comply with any of the requirements of this Article XI, including the failure of Owner to deliver proof of the required insurance to the Association, at the Owner's expense.

(b) Association. The Association shall obtain and maintain Casualty Insurance on all of the insurable improvements comprising the Common Elements.

(2) Risks to be Insured and Amount Thereof. All Casualty Insurance policies obtained by the Association and each Owner pursuant to the requirements of Paragraph (A)(1) above, shall protect against loss or damage by fire and other hazards now or hereafter embraced by "extended coverage, vandalism and malicious mischief," and all other perils which are customarily covered, including perils normally covered by the standard "all-risk" endorsement; in an amount sufficient to cover one hundred percent (100%), less deductible, of the replacement cost of any repair or reconstruction in the event of damage or destruction from any such casualty. The term "replacement cost" means the cost needed to repair or reconstruct the damaged item to the condition it was in just before the insured damage was sustained.

(3) Insurable Interest and Loss Payments.

(a) Owner. Every Owner Casualty Insurance policy shall name the Owner, the Association and the holders of mortgages upon the Owner's Unit, as their interests may appear, as insureds, and shall further provide that said Casualty Insurance cannot be terminated without at least ten (10) days prior written notice to the Association. The insurance proceeds payable on any loss under any Owner Casualty Insurance policy required to be obtained and maintained by an Owner pursuant to Paragraph (A)(1) above, shall be endorsed over and paid to the Association, or any insurance trustee the Board designates, particularly for any loss to, concerning, or related to the exterior of a Unit.

(b) Association. The Association's Casualty Insurance shall be for the benefit of the Association, each of the Owners, and the holders of mortgages upon the Units and Common Elements, as their interest may appear, and shall provide for the issuance of certificates of insurance with mortgagees' endorsements to the holders of mortgages on the Units, if any. The Board shall have the sole right and authority to file, or authorize the filing of, any and all claims for damage or destruction that are or may be covered by the Association's Casualty Insurance policy regardless of the person(s), including mortgagees, who may be named as an additional insured or beneficiary of such policy, as the Board determines is consistent with the intent of this Declaration and in the Association's best interests; provided, however, that a mortgagee having an interest in such losses may participate in the settlement negotiations, if any, related thereto.

(4) Insurance Company Rating. All Casualty Insurance policies obtained by the Association and each Owner shall be written with a company licensed to do business in the State of Ohio and, unless not reasonably available as determined solely by the Board, holding a rating of "A" or better by Best's Insurance Reports, or its present day equivalent rating service.

(5) Damage and Destruction.

(a) Responsibility for Repairs. Notwithstanding anything to the contrary in this Declaration, if any Unit shall be damaged or destroyed by fire, wind, act of God, vandalism, riot, intentional act, negligence, malicious mischief, or other perils customarily insured against, the Owner of the Unit shall promptly cause the damage to be repaired or restored. All insurance proceeds received from the Association's Casualty Insurance and/or any Owner's Casualty Insurance shall first be used and applied to the repair and restoration of the Property damaged by the casualty for which such proceeds are paid. If the Owner fails to commence required repairs, or if the Owner fails to diligently complete all such repairs within a reasonable time thereafter, all as determined by the Board, the Association shall have the right, but not the obligation, upon written notice to the Owner, to commence or complete the repairs, with the Owner solely responsible for any and all costs or expenses not covered by the insurance proceeds received.

(b) Common Element and Exterior Unit Repairs. Repair and restoration of damage or destruction to the Common Elements and any exterior portions of any Unit shall be substantially made to the same condition such Elements existed immediately prior to said damage; provided that such repairs to the exterior portions of the Unit shall be to the Owner of said Unit's reasonable satisfaction and provided, further, that the Board may provide for or permit the use of such new or alternative materials as the Board reasonably determines are in the Association's best interest, with the intention to at all times preserve the first class architectural design and appearance that is associated with Palmetto Woods, a planned unit development.

(c) Interior Unit Repairs. Repair and restoration of those internal portions of the Unit not visible from the exterior may, but is not required to, be substantially the same as existed immediately prior to damage or destruction; provided that in no event may an Owner alter, modify or deviate from the structure or exterior appearance of the Unit as it existed immediately prior to the damage or destruction without the Board's express prior written permission. The Board shall endorse any funds received, whether as loss-payee or otherwise, for damage to the internal, non-structural portions of the Unit over to the affected Owner upon receipt of such signed release or other documentation as the Board



determines is necessary for the reasonable protection of the Association's interests.

(d) Insufficient Insurance Proceeds. If the insurance proceeds received are not sufficient, including, as a result of the deductible, to make all needed repairs and replacement to the Unit, the additional cost of such repairs shall be borne by the Owner. If the insurance proceeds received are not sufficient, including, as a result of the deductible, to make all needed repairs and replacement to the Common Elements, the additional cost of such repairs shall be borne by the Association, provided that if any such damage or destruction was caused by the negligence or intentional act of an Owner, or anyone the Owner is responsible for, then in such case any costs not covered by the Association's Casualty Insurance, including the insurance deductible, shall be paid by the responsible Owner. If insurance proceeds are not available because either the Association or an Owner failed to obtain and maintain Casualty Insurance in accordance with Paragraph (A)(1) above, the Association or the Owner, as the case may be, who did not obtain the required insurance is fully responsible for all repair costs and related expenses that would have been covered had the requisite Casualty Insurance been obtained and maintained.

(6) Disbursement of Excess Insurance Proceeds. If the cost of such repairs is less than the amount of such insurance proceeds received, the excess shall be distributed to the Association or Owner who purchased the Casualty Insurance; provided that if there is a mortgage lien or liens on the Unit, the remittance to the Owner thereof and his/her mortgagees shall be paid to them as their interests may appear. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee. If distributed to the Association, the Association shall place such funds in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Elements.

(7) Waiver of Subrogation. Each Owner and Occupant, as a condition of accepting title and possession, or either one of such, of a Unit, and the Association agree, that in the event any part(s) of the Property (including the Units therein) or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of any Owner, Occupant or the Association, and the lessees of any one of them, the rights, if any, of any party against the other, or against the employees, agents, licensees or invitees of any party, with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the insurance proceeds actually paid.

(B) Public Liability Insurance. The Association shall insure itself, all Owners, members of their respective families and other persons residing with them in the Property, their tenants and all persons lawfully in possession or control of any part of the Property against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about or arising out of or relating to the Common Elements, such insurance to afford protection to a limit of not less than Two Million Dollars (\$2,000,000.00) in respect to bodily injury, disease, illness or death suffered by any one person, to the limit of not less than Four Million Dollars (\$4,000,000.00) in respect to any one occurrence and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to damage to or destruction of property arising out of any one accident. Such insurance shall contain a "severability of interest" endorsement that shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association, the Board, other Owners or occupants. Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units.

(C) Other Association Insurance. The Board may purchase and maintain contractual liability insurance, directors' and officers' liability insurance and such other insurance as the Board may determine is in the Association's best interest.

## ARTICLE XII

### EASEMENTS

(A) Utility Easements. There is hereby reserved in favor of Developer and granted to the Association, their successors and assigns, a blanket easement upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to, water, sewer, energy, drainage, gas, telephone, electricity, television, cable and communication lines and systems. By virtue of this easement, it shall be expressly permissible for Developer, the Association and their successors and assigns, or the providing utility or service company to install and maintain facilities and equipment on the Property, to excavate for such the roofs and exterior walls of buildings and other structures constructed within the Property providing such company restores disturbed areas to the condition in which they were found. Notwithstanding anything to the contrary contained in this Paragraph, no sewers, electrical lines, water lines, or other utility service line or facilities for such utilities may be installed or relocated except as approved by the Board.

(B) Easement for Ingress and Egress. There is hereby created a blanket easement upon, across, over and through the sidewalks, roads, bike paths, all purpose trails and parking areas in favor of Developer, the Association, all Owners and Occupants and the guests, licensees and invitees of such parties for pedestrian and vehicular ingress and egress to and from all of the various portions of the Property, provided that nothing in this Paragraph shall be deemed to authorize a trespass upon a Unit, title to which is held by Owner for such Owner's private use.

(C) Open Space. Developer, all Owners, Occupants and the guests of such parties shall have the right to enter upon, use and enjoy the Common Elements for their intended purposes in accordance with this Declaration and the applicable Rules.

(D) Limited Use Facilities. All Owners, Occupants and the guests of such parties shall have the right to enter upon, use and enjoy the Limited Use Facilities designated for their use in accordance with this Declaration and the applicable Rules.

(E) Easements for Construction and Alterations. Easements are hereby created upon portions of the Common Elements necessary in connection with the construction, alteration, rebuilding, restoration, maintenance and repair of any Unit, Limited Use Facility and other structures and improvements within Palmetto Woods, provided that in the exercise of any rights under this easement, there shall be no unreasonable interference with the use of any building or structure on the Property. Any person benefiting from the foregoing easement shall indemnify and save harmless the Developer, the Association and each Owner for and against any and all losses, damages, liabilities, claims and expenses, including reasonable attorneys' fees resulting from any construction, rebuilding, alteration, restoration, maintenance and repair within the Palmetto Woods and shall repair any damaged caused in connection with such activities.

(F) Easements for Encroachments on the Common Elements. Easements are hereby created for any balcony, roof, or other portion of a Unit or structure which extends over the Common Elements provided the same was shown on the plans and specifications approved by the City. Easements are also created on the Common Elements resulting from the construction, installation, settling, or natural shifting or any Unit or other building or structure in Palmetto Woods on the Common Elements so long as the same were inadvertently or unintentionally created.

### ARTICLE XIII

#### GENERAL PROVISIONS

(A) Enforcement. The Association and any Owner shall have the right to enforce, by any proceeding at law or in equity, the restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. All remedies specified in this Declaration shall be non-exclusive and in addition to any other remedies available in law or equity. Failure by any person to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(B) Amendment. This Declaration 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 Declaration shall become binding and effective on the date of the filing of same with the Cuyahoga County Recorder's office. Notwithstanding anything in this Paragraph (B) to the contrary, the easements and rights set forth in Article XII of this Declaration shall be perpetual and no amendment or termination of the provisions of said Article XII shall be effective unless said amendment or termination is executed by the required percentage of the Owners.

This Declaration may be terminated and the Property removed from the provisions of this Declaration only by a writing to that effect signed in form for recording by all Owners and by all holders of all bona fide mortgages against any and all parts of the Property. Upon termination of this Declaration the Common Elements shall be owned in common by the Owners of the Units. The undivided interest in the Common Element owned by each Owner shall be a fraction, the numerator of which shall be the number of Units owned by the Owner and the denominator of which shall be the number of Lots within the Property. The Owner shall at all times have an easement, appurtenant to his Lot, of ingress and egress over what was the Common Element to and from his Lot and that part of the nearest public, dedicated street which provides access to the Lot. Such access easement shall, also, be upon and over any of the drives and roads within the Property between the Lot and the dedicated public street or streets.

(C) Headings. The heading to each Paragraph and each Subparagraph hereof is inserted only as a matter of convenience and reference and in no way defines, limits or describes the scope of intent of this Declaration nor in any way affects this Declaration.

(D) Notices. Any notice required pursuant to this Declaration or the Bylaws to be given by or to the Association or any Owner, shall be in writing and may be given (1) to the Association by mailing such notice by registered or certified mail, return receipt requested, postage prepaid, to the Statutory Agent of the Association at his (or its) address on file with the Secretary of State of the State of Ohio, or to the resident address of the President of the Association, and (2) to an Owner (a) by mailing the notice by regular U.S. mail to the resident address of the Owner, or (b) by placing the notice upon or beneath the front door of the Owner's Unit or otherwise leaving it at the Owner's Unit. Notwithstanding the foregoing, any Owner may specify by notice a postal address other than his resident postal address as the place to which notices sent by mail may be sent to him (or her) and notices delivered to such address shall be deemed to have been properly given to such Owner on the date of delivery or refusal to accept delivery. Likewise, the Association, by notice to the Owners, may specify an address or place, other than that specified herein, for service of notice on the Association.

(E) Annexation. Additional land may be annexed to the Property and subjected to the easements, covenants, conditions and restrictions of this Declaration only by the affirmative vote of Members holding fifty percent (50%) or more of the voting power of the Association.

(F) Covenants Running with the Land. Each grantee, lessee, or contractee of any interest whatsoever in any part of the Property, by the acceptance of a deed of conveyance, lease, or contract in respect to any interest in any part of the Property accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges provided for in this Declaration. The jurisdiction, rights and powers created or reserved by this Declaration, all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the Land, and shall bind any person having at any time any interest or estate in the Property, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed, lease and contract.

(G) Waiver. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration 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.

(H) Severability. The invalidity of any covenant, restriction, condition, limitation or any other provisions of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

(I) Duration. The easements, covenants, conditions and restrictions created by this Declaration are and shall be perpetual, unless amended pursuant to the provisions of Paragraph (B), above.

(J) Priority of Documents. In the event of any inconsistency between this Declaration, the Articles of Incorporation of the Association, and the Bylaws, the provisions of this Declaration shall prevail over the Articles of Incorporation and the Bylaws, and the Articles of Incorporation shall prevail over the Bylaws.

(K) Conveyance of Common Elements. No later than the first date that Declarant conveys title to a Lot, Declarant shall deliver to the Association a general warranty deed, conveying indefeasible, merchantable, fee simple title in the Common Elements free and clear of all liens and encumbrances whatsoever, except taxes and assessments which may be a lien but are not delinquent for non-payment, the easements, covenants and restrictions created by this Declaration and the Plat(s), and any other easements and restrictions affecting the Property at the time of the conveyance.

(L) Construction. Wherever the masculine singular form of the pronoun is used in this Declaration or the attached Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, as the context so requires.

(M) Interpretation. The provisions of this Declaration, and the Exhibits attached hereto, including the Bylaws, shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class community; provided, however, that the language used shall not be strictly construed against the Association, the Board or any Owner.

(N) Scrivener's Corrections. Scrivener reserves unto itself the right to make corrections or changes in this Declaration and any of the Exhibits attached hereto, including the attached Bylaws, which arise due to typographical mistakes or scrivener errors. Said changes may be made by Scrivener despite the fact it does not own an interest of the Association's voting power but shall only be done if said changes do not materially affect the ownership interest of anyone else. Said changes shall otherwise be in accordance with Paragraph B above.

CUYAHOGA COUNTY RECORDER  
PATRICK J. O'MALLEY - 7  
DECL 09/14/2007 11:38:47 AM  
**200709140263**

AMENDMENT TO THE  
AMENDED AND RESTATED DECLARATION OF EASEMENTS,  
COVENANTS AND RESTRICTIONS  
FOR  
PALMETTO WOODS HOMEOWNERS ASSOCIATION

PLEASE CROSS MARGINAL REFERENCE WITH THE AMENDED AND RESTATED  
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS OF  
PALMETTO WOODS HOMEOWNERS ASSOCIATION RECORDED AT INSTRUMENT  
NO. 200706290189 OF THE CUYAHOGA COUNTY RECORDS.

AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF  
EASEMENTS, COVENANTS AND RESTRICTIONS  
FOR  
PALMETTO WOODS HOMEOWNERS ASSOCIATION

WHEREAS, the Amended and Restated Declaration of Easements, Covenants and Restrictions for Palmetto Woods Homeowners Association ("Declaration") were recorded on June 29, 2007, at Cuyahoga County Records, Instrument No. 200706290189;

WHEREAS, scrivener has learned and confirmed that there was an error in Declaration Article V, Section (G) therein and needs to be corrected; being that the reference to a spreadsheet of maintenance responsibilities being attached to the Amended and Restated Declaration was not attached;

WHEREAS, scrivener averring and representing the correction of said Declaration Article V, Section (G) will not materially affect any rights or interests of any Unit Owner not previously agreed to or consented by the Unit Owners;

NOW THEREFORE, the spreadsheet of maintenance responsibilities is now attached hereto.

IN WITNESS WHEREOF, the scrivener of the said Declaration has caused the execution of this instrument this 12 September 2007.

PALMETTO AVENUE HOMEOWNERS  
ASSOCIATION

By: David W Kaman  
DAVID W. KAMAN, Scrivener



STATE OF OHIO                    )  
                                      )  
COUNTY OF CUYAHOGA        )       SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named scrivener for the said Declaration who acknowledges that he did sign the foregoing instrument and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Cleveland, Ohio, this 12 September 2007.

Eva M. Mittler  
NOTARY PUBLIC



EVA M. MITTLER  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Cuyahoga Cty.  
My Comm. Exp. 4/28/2012

This instrument prepared by:  
KAMAN & CUSIMANO, Attorneys at Law  
2000 Terminal Tower  
50 Public Square  
Cleveland, Ohio 44113  
(216) 696-0650

## PALMETTO WOODS MAINTENANCE RESPONSIBILITIES

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<b><u>Doors</u></b>			X	X
Storm/Screen Door			X	X
Thresholds/Kick plates			X	X
Locks			X	X
Unit Numbers			X	X
Door Bell/Knocker			X	X
Front Door/Side Light Painting	X	X		
<b><u>Windows</u></b>			X	X
Painting			X	X
Caulking Frames			X	X
Glaze			X	X
Skylights			X	X
Shutters		X	X	
Screens			X	X
Glass			X	X
Hardware			X	X
<b><u>Interior Walls</u></b>			X	X
Drywall			X	X
Insulation			X	X
<b><u>Exterior Lights</u></b>				
Street Lights (16ft)	X	X		
Wiring	X	X		
Bulb Replacement	X	X		
Post Lights (5ft)			X	X
Wiring			X	X
Bulb Replacement			X	X
Street and Post Lights Painting	X	X		
<b><u>Vents/Stacks</u></b>			X	X
Dryer			X	X
Furnace			X	X
Kitchen			X	X
Toilet			X	X
<b><u>Balconies/Patios/Decks</u></b>	X	X		

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<b><u>Chimneys</u></b>			X	X
Chimney Screen/Cap			X	X
<b><u>Crawl Spaces/Attics</u></b>			X	X
Basements			X	
Sump Pump			X	X
Footer Drains (serving entire building)	X	X		
<b><u>Foundation/Slabs</u></b>			X	X
Cracks			X	X
Waterproofing Foundation Wall			X	X
Footer Drains (serving entire building)	X	X		
Settlement			X	X
<b><u>Landscaping</u></b>				
Developer Installed	X	X		
Owner Installed			X	X
Weed Patio Bed Area			X	X
Weeding and Mulching Common Elements & Fountain	X	X		
Trimming of Bushes	X	X		
Trim Trees	X	X		
<b><u>Walks and Driveways</u></b>				
Drives, Roads, All Walkways	X	X		
Stoops			X	X
<b><u>Reasonable Snow Removal</u></b>				
City sidewalks	X			
Sidewalk to Unit front door and stoop			X	
Driveways and Walkways	X			
<b><u>Fences</u></b>	X	X		
Fence Gates (installed by owners)			X	X
Painting	X	X		
Common Elements	X	X		
Split Rail Common Elements	X	X		

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<u>Retaining Walls</u>	X	X		
<u>Gutters/Downspouts</u>	X	X		
Fascia Boards			X	X
Aluminum on Fascia Boards	X	X		
<u>Roofs*</u>		X	X	
Shingles		X	X	
Underlaymetn (felt paper)		X	X	
Roof Vents		X	X	
Plywood			X	X
<u>Siding</u>				
Vinyl/Aluminum Siding		X	X	
Painting	X	X		
Shutters		X	X	
Tyvek	X	X		
Trim and molding		X	X	
Power Washing	X			
<u>Garage</u>			X	X
Doors			X	X
Painting	X	X		
Door Openers			X	X
Floor			X	X
<u>Fire Walls</u>			X	X
<u>Radon Gas</u>			X	X
<u>Guard Rails</u>	X	X		
<u>Monument Signs &amp; Street Signs</u>	X	X		

Buildings A (Unit #s 110, 112, 114, 116, 118, and 120), B (Unit #s 122, 124, 126 128, 130, and 132), C (Unit #s 111, 113, 115, 117, 119, and 121) and D (314, 316, 318, and 320) will be specially assessed for the initial replacement of roof with buildings A and B estimated being replaced in 2008, C in 2009, and building D within the next ten (10) years. All buildings (including A, B, C, and D) will start to reserve for future roof replacement.

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<u>Utilities</u>				
<u>Underground Utilities</u>				
Sewer (serving common elements)	X	X		
Sewer (serving individual unit)			X	X
Water (serving common elements)	X	X		
Water (serving individual unit)			X	X
Storm Water Lines & Catchbasings (serving common elements)	X	X		
Electric (serving common elements)	X	X		
Electric (serving individual units)			X	X
<u>Aboveground Utilities</u>				
Serving Common Elements	X	X		
Serving Individual Unit			X	X
Meters			X	X
Air-Conditioning			X	X
Furnaces			X	X
Hot Water Tanks			X	X
Outdoor Electrical Outlets			X	X
Outdoor Faucets			X	X
Demarcation meters			X	X
gas			X	X
electric			X	X
water			X	X
cable/telephone			X	X

**201602240232**

AMENDMENT TO THE  
AMENDED AND RESTATED DECLARATION OF  
EASEMENTS, COVENANTS AND RESTRICTIONS  
FOR  
PALMETTO WOODS HOMEOWNERS ASSOCIATION

PLEASE CROSS MARGINAL REFERENCE WITH THE AMENDED AND  
RESTATED DECLARATION OF EASEMENTS, COVENANTS AND  
RESTRICTIONS FOR PALMETTO WOODS HOMEOWNERS ASSOCIATION  
RECORDED AT INSTRUMENT NO. 200706290189 OF THE CUYAHOGA  
COUNTY RECORDS.

**AMENDMENT TO THE**  
**AMENDED AND RESTATED DECLARATION OF**  
**EASEMENTS, COVENANTS AND RESTRICTIONS FOR**  
**PALMETTO WOODS HOMEOWNERS ASSOCIATION**

WHEREAS, the Amended and Restated Declaration of Easements, Covenants and Restrictions for Palmetto Woods Homeowners Association (the "Declaration") of recorded at Cuyahoga County Records, Instrument No. 200706290189, and

WHEREAS, the Palmetto Avenue Homeowners Association (the "Association") is a corporation consisting of all Owners in Palmetto Woods and as such is the representative of all Owners, and

WHEREAS, Declaration Article XIII(B) authorizes amendments to the Declaration, and

WHEREAS, Owners representing at least 51% of the Association's current voting power have executed instruments in writing setting forth specifically the matter to be modified (the "Amendment"), and

WHEREAS, the Association has in its records the signed, written consents to the Amendment signed by Owners representing 53.7% of the Association's voting power as of December 3, 2015, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 53.7% of the Association's voting power authorizing the Association's officers to execute the Amendment on their behalf, and

WHEREAS, the proceedings necessary to amend the Declaration as required by the Declaration have in all respects been complied with.

NOW THEREFORE, the Amended and Restated Declaration of Easements, Covenants and Restrictions for Palmetto Woods Homeowners Association is amended by the following:

MODIFY DECLARATION ARTICLE V, SECTION (C)(12). Said modification, to be made on Page 12 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189, is as follows (new language is underlined):

(12) Gutters and Downspouts, including replacing the Aluminum and Fascia Boards;

MODIFY DECLARATION ARTICLE V, SECTION (C)(13). Said modification, to be made on Page 12 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189, is as follows (new language is underlined):

(13) Painting of the Vinyl or Aluminum Siding, including Tyvek, Trim, and Molding, and Painting and Power Washing;

INSERT a new DECLARATION ARTICLE V, SECTION (C)(18), (19), (20), and (21). Said new addition, to be added on Page 12 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189, is as follows:

(18) Shutters on Windows;

(19) Dryer and Furnace Vents/Stacks, including Dryer Covers, Furnace Collar/Boot, Kitchen Vent Stack Boot, and Toilet Vent Stack Boot;

(20) Chimney, including Screen/Cap;

(21) Roof, including Shingles\*, Underlayment, Roof Vents, and Plywood;

\* Buildings A (Unit #s 110, 112, 114, 116, 118, and 120), B (Unit #s 122, 124, 126, 128, 130, and 132), C (Unit #s 111, 113, 115, 117, 119, and 121) and D (314, 316, 318, and 320) will be specially assessed for the initial replacement of roof with buildings A and B estimated being replaced in 2008, C in 2009, and building D by 2017. All buildings (including A, B, C, and D) will start to reserve for future roof replacement.

Any disputes as to whether the item should be maintained, repaired, and replaced by the Association or maintained, repaired, or replaced by Owners will be determined by the Board.



DELETE DECLARATION ARTICLE V, SECTION (D)(17), in its entirety. Said deletion to be taken from Page 13 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189 (deleted language is crossed out).

**(17) — Fascia Boards:**

RENUMBER DECLARATION ARTICLE V, SECTION (D)(18), (19), (20), (21), AND (22) TO READ ARTICLE V, SECTION (D)(17), (18), (19), (20), AND (21). Said modifications, to be made on Page 13 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189.

DELETE DECLARATION ARTICLE V, SECTION (E), entitled "Shared Responsibilities," in its entirety. Said deletion to be taken from Pages 13-14 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189.

RENUMBER DECLARATION ARTICLE V, SECTION (F) AND (G) TO READ ARTICLE V, SECTION (E) AND (F). Said modifications, to be made on Page 14 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189.

MODIFY DECLARATION ARTICLE V, SECTION (F), entitled "Interpretation of Maintenance Obligations." Said modification, to be made on Page 14 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200706290189, and as amended at Instrument No. 200709140263, is as follows (new language is underlined):


(G) Interpretation of Maintenance Obligations. Any conflict between the maintenance provisions of this Article V and any other provision of this Declaration, the Original Declaration, ~~or the Bylaws,~~ or the attached spreadsheet of maintenance responsibilities will shall be interpreted in favor of the maintenance obligations as stipulated in this Article V. A spreadsheet of maintenance responsibilities is attached hereto and incorporated herein. If this Article V is amended by the Owners, the Board has the authority to, but is not obligated to, revise the spreadsheet of maintenance responsibilities recorded at Instrument No. 200709140263.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment making the Association responsible for maintaining and replacing shutters on windows, vents/stacks, chimneys, fascia boards, roofs, and siding. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Unit Owners of record at the time of such filing have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of the amendment.

The Palmetto Avenue Homeowners Association has caused the execution of this instrument this 11<sup>th</sup> day of FEBRUARY, 2016.

PALMETTO AVENUE HOMEOWNERS ASSOCIATION

By:   
ED NOVINC, its President

By:   
LAUREL DOLEJS, its Secretary

STATE OF OHIO                    )  
  )  
COUNTY OF CUYAHOGA        )       SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Palmetto Avenue Homeowners Association, by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 5 of 6, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

I have set my hand and official seal in GARFIELD HTS., Ohio, this  
11 day of FEBRUARY, 2016.

  
\_\_\_\_\_  
NOTARY PUBLIC

Place notary stamp/seal here:



Anthony Lesiak  
Notary Public, State of Ohio  
My Commission Expires  
October 30, 2019

This instrument prepared by:  
KAMAN & CUSIMANO, LLC, Attorneys at Law  
2000 Terminal Tower  
50 Public Square  
Cleveland, Ohio 44113  
(216) 696-0650  
ohiohoalaw.com

# PALMETTO WOODS MAINTENANCE RESPONSIBILITIES

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<u>Doors</u>			X	X
Storm/Screen Door			X	X
Thresholds/Kick plates			X	X
Locks			X	X
Unit Numbers			X	X
Door Bell/Knocker			X	X
Front Door/Side Light Painting	X	X		
<u>Windows</u>			X	X
Painting			X	X
Caulking Frames			X	X
Glaze			X	X
Skylights			X	X
Shutters	X	X		
Screens			X	X
Glass			X	X
Hardware			X	X
<u>Interior Walls</u>			X	X
Drywall			X	X
Insulation			X	X
<u>Exterior Lights</u>				
Street Lights (16ft)	X	X		
Wiring	X	X		
Bulb Replacement	X	X		
Post Lights (5ft)			X	X
Wiring			X	X
Bulb Replacement			X	X
Street and Post Lights Painting	X	X		
<u>Vents/Stacks</u>				
Dryer Cover	X	X		
Furnace Collar/Boot	X	X		
Kitchen Vent Stack Boot	X	X		
Toilet Vent Stack Boot	X	X		
<u>Balconies/Patios/Decks</u>	X	X		

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<b><u>Chimneys</u></b>	X	X		
Chimney Screen/Cap	X	X		
<b><u>Crawl Spaces/Attics</u></b>			X	X
Basements			X	
Sump Pump			X	X
Footer Drains (serving entire building)	X	X		
<b><u>Foundation/Slabs</u></b>			X	X
Cracks			X	X
Waterproofing Foundation Wall			X	X
Footer Drains (serving entire building)	X	X		
Settlement			X	X
<b><u>Landscaping</u></b>				
Developer Installed	X	X		
Owner Installed			X	X
Weed Patio Bed Area			X	X
Weeding and Mulching Common Elements & Fountain	X	X		
Trimming of Bushes	X	X		
Trim Trees	X	X		
<b><u>Walks and Driveways</u></b>				
Drives, Roads, All Walkways	X	X		
Stoops			X	X
<b><u>Reasonable Snow Removal</u></b>				
City sidewalks	X			
Sidewalk to Unit front door and stoop			X	
Driveways and Walkways	X			
<b><u>Fences</u></b>	X	X		
Fence Gates (installed by owners)			X	X
Painting	X	X		
Common Elements	X	X		
Split Rail Common Elements	X	X		

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<u>Retaining Walls</u>	X	X		
<u>Gutters/Downspouts</u>	X	X		
Fascia Boards	X	X		
Aluminum on Fascia Boards	X	X		
<u>Roofs*</u>	X	X		
Shingles	X	X		
Underlayment (felt paper)	X	X		
Roof Vents	X	X		
Plywood	X	X		
<u>Siding</u>				
Vinyl/Aluminum Siding	X	X		
Painting	X	X		
Shutters	X	X		
Tyvek	X	X		
Trim and molding	X	X		
Power Washing	X			
<u>Garage</u>			X	X
Doors			X	X
Painting	X	X		
Door Openers			X	X
Floor			X	X
<u>Fire Walls</u>			X	X
<u>Radon Gas</u>			X	X
<u>Guard Rails</u>	X	X		
<u>Monument Signs &amp; Street Signs</u>	X	X		

Buildings A (Unit #s 110, 112, 114, 116, 118, and 120), B (Unit #s 122, 124, 126 128, 130, and 132), C (Unit #s 111, 113, 115, 117, 119, and 121) and D (314, 316, 318, and 320) will be specially assessed for the initial replacement of roof with buildings A and B estimated being replaced in 2008, C in 2009, and building D within the next ten (10) years. All buildings (including A, B, C, and D) will start to reserve for future roof replacement.

<u>Item</u>	<u>Association to Maintain</u>	<u>Association to Replace</u>	<u>Owner to Maintain</u>	<u>Owner to Replace</u>
<b>Utilities</b>				
<b>Underground Utilities</b>				
Sewer (serving common elements)	X	X		
Sewer (serving individual unit)			X	X
Water (serving common elements)	X	X		
Water (serving individual unit)			X	X
Storm Water Lines & Catchbasings (serving common elements)	X	X		
Electric (serving common elements)	X	X		
Electric (serving individual units)			X	X
<b>Aboveground Utilities</b>				
Serving Common Elements	X	X		
Serving Individual Unit			X	X
Meters			X	X
Air Conditioning			X	X
Furnaces			X	X
Hot Water Tanks			X	X
Outdoor Electrical Outlets			X	X
Outdoor Faucets			X	X
Demarcation meters			X	X
gas			X	X
electric			X	X
water			X	X
cable/telephone			X	X