

COPY

CUYAHOGA COUNTY  
OFFICE OF FISCAL OFFICER - 20  
DEED 12/29/2016 10:09:08 AM  
**201612290418**

**AMENDMENTS TO THE DEED AND THE CODE OF REGULATIONS OF WESTVIEW  
HOME OWNERS ASSOCIATION, INC.**

**WHEREAS**, the Quit Claim Deed from Westview Village, Inc. to Earl M. Linden, dated August 10, 1965, and recorded in Volume 11644, Page 255 et seq., having amended the Quit Claim Deed filed in Volume 11163, Page 223 et seq. recorded on July 14, 1964 (hereinafter "Deed") and the Code of Regulations of Westview Home Owners Association, Inc. (hereinafter "Code") adopted as such of this corporation on August 1, 1964; and

**WHEREAS**, the Association is a nonprofit corporation, Entity Number 331919 originally filed for record with the State of Ohio July 9, 1964 consisting of all Owners in the Association, and as such is the representative of said Owners; and

**WHEREAS**, Paragraph 8 of the Deed authorizes changes, modifications or revocation to the Deed; and

**WHEREAS**, the Code, **ARTICLE IX, Section C.**, subsection 2 authorizes amendments to the Code; and

**WHEREAS**, a meeting was held on the 21 day of November, 2016 and, at such meeting and any adjournment thereof, the Board confirmed as evidenced by the signatures of the undersigned that Owners representing not less than fifty-one percent (51%) of the voting power of the Association executed an instrument in writing setting forth specifically the matters to be modified (the Amendments); and

**WHEREAS**, the Association has in its records the signed, written consents to the Code Amendment A (referred to as **Exhibit "A"**), signed by the Owners representing not less than fifty-one percent (51%) of the Association's voting power, together with minutes from said meeting and any adjournment thereof; and

**WHEREAS**, the Association has in its records signed written consents to Amendments of the Deed (Amendments B and C) signed by Owners representing not less than fifty-one percent (51%) of the Association's voting power, together with minutes from said meeting and any adjournment thereof; and

**WHEREAS**, the Association has in its records the Power of Attorney signed by the Owners representing not less than fifty-one percent (51%) of the Association's voting power authorizing the Association officers to execute Code Amendment A (referred to as **Exhibit "A"**) and Deed Amendments B and C; and

**WHEREAS**, the proceedings necessary to amend the Code and the Deed as required by said documents have in all respects been complied with.

NOW THEREFORE, the Code of Regulations of the Westview Home Owners Association, Inc. is hereby amended in its entirety by Amendment A (referred to as **Exhibit "A"**), attached hereto and made a part hereof, and the Deed Amendments (referred to as Amendment B and Amendment C) of the Westview Home Owners Association, Inc. as follows:

#### **AMENDMENT B**

Paragraph 5 of the Quit Claim Deed for the Westview Home Owners Association, Inc. (hereinafter referred to as "Association") recorded in Volume 11644, Pages 255 et seq. on or about August 10, 1965 (hereinafter referred to as "Deed") is hereby amended to read as follows:

5. It shall be the duty of the Board to prepare and adopt an Operating Budget covering the estimated expenses of the Association for the coming fiscal year. The Budget shall include a reserve pursuant to ORC 5312.06 in an amount adequate to repair and replace major capital items in the normal course of operation without the necessity of special assessments, unless the Owners, exercising not less than a majority of the voting power of the Owners' Association waive the reserve requirement annually. After the adoption of the Budget, the Board shall cause the summary of the Budget and full yearly *pro rata* share of expenses or one-half (1/2) *pro rata* share as defined hereinafter of the annual expenses to be levied against the ownership interest in the premises owned by each member of the Association for the following year to be delivered each fiscal year. The Owner's *pro rata* share shall take effect on the first (1<sup>st</sup>) day of the fiscal year. The start of the fiscal year shall be determined by the Board of Trustees. If any installment of the *pro rata* share is not paid within thirty (30) days after its due date, the Board may, at its election, require the Owner to pay a reasonable late charge together with the interest at the maximum prevailing legal rate from the date of delinquency to and including the date of full payment received by the Association. If any installment of the *pro rata* share is not paid within thirty (30) days after its due date, the Board may, at its election, declare all the unpaid balance of the *pro rata* share from the then current fiscal year, attributable to that parcel of land to be immediately due and payable without further demand and may enforce collection of the full *pro rata* share or the half (1/2) *pro rata* share and all charges thereon in any manner authorized by law, the Deed (Volume 11644, Pages 255 et seq.) and the Amended Code of Regulations, except that should a member declare bankruptcy whose assessment has been accelerated shall operate as a restoration of the *pro rata* share amount to its prior status as if it had not been accelerated.

*Any conflict between the above provision and any other provisions of the Declaration/Deed, Code of Regulations/Bylaws, the Articles of Incorporation, or the Rules and Regulations shall be interpreted in favor of the above 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 a Court of Common Pleas within one (1) year of the recording of this amendment.*

#### **AMENDMENT C**

Paragraph 6 of the Quit Claim Deed for the Westview Home Owners Association, Inc. (hereinafter referred to as "Association") recorded in Volume 11644, Pages 255 et seq. on or about August 10, 1965 (hereinafter referred to as "Deed Volume 11644") is hereby amended to read as follows:

6. The Association shall have a lien upon the Owner's residence Unit interest of the *pro rata* share to be charged or levied in accordance with ORC 5312.11, as well as any related interest, administrative late fees, enforcement assessments, collection costs, attorneys' fees and paralegals' fees that are chargeable against the Owner's residence that remain unpaid thirty (30) days after any portion has become due and payable. The Association shall have a lien upon the Owner's residence unit interest for any payment of a special assessment and *pro rata* share to be charged or levied in accordance with ORC 5312.11. All of the following provisions of 5312.12 shall apply to a lien charged against the Owner's residence and premises pursuant to provisions 5312.12(A)(B)(C)(D). The full yearly *pro rata* share of expenses shall not apply to Owners of fee simple title to the residence who are sixty-two (62) years of age or older who shall pay one-half (1/2) of the full yearly *pro rata* share. Proof of age shall be confirmed by presenting the Owners' driver's license or certified birth certificate prior to the full year of reaching the age of sixty-two (62) by one of the title Owners occupying the residence. There will be no pro rating of the full yearly *pro rata* share should an Owner reach the age of sixty-two (62) during the calendar year in which the *pro rata* share reduction applies. Owners of a trust, a company, or a business shall not qualify for the sixty-two (62) years of age *pro rata* share reduction. The *pro rata* shares/assessments, including fines, if any, payable by each Owner, together with any penalty, interest, costs and reasonable attorneys' fees shall also be a personal obligation of the Owner of the Lot at the time incurred. The personal obligation shall not pass to any successors in title unless expressly assumed by them. Special assessments shall be payable in full by all members of the Association. There shall be no reduction or discount for the payment of special assessments based upon age.

*Any conflict between the above provision and any other provisions of the Declaration/Deed, Code of Regulations/Bylaws, the Articles of Incorporation, or the Rules and Regulations shall be interpreted in favor of the above 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 a Court of Common Pleas within one (1) year of the recording of this amendment.*

IN WITNESS WHEREOF, the said Westview Home Owners Association, Inc. has caused the execution of this instrument this 9 day of DECEMBER, 2016

Signed in the  
presence of:

WESTVIEW HOME OWNERS ASSOCIATION

sign

print

sign

print

STATE OF OHIO )

COUNTY OF CUYAHOGA )

) SS:

BEFORE ME, a Notary Public in and for said County, personally appeared the above-named Westview Home Owners Association by John Rice, its President, and Chad Gluss, its Secretary who acknowledged that they signed the foregoing instrument and that the same is their free act and deed personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Berea, Ohio this 9th day of December, 2016.

Notary Public

This Instrument Prepared By:  
FOTH & FOTH CO., L.P.A.  
By: Arthur Foth, Jr.  
11221 Pearl Road  
Strongsville, Ohio 44136

Jill S. Munteanu  
JILL S MUNTEANU  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES  
FEBRUARY 3, 2018

**AMENDED  
CODE OF REGULATIONS  
FOR  
WESTVIEW HOME OWNERS ASSOCIATION, INC.**

**ARTICLE I  
GENERAL**

**Section 1. Name and Nature of the Association.** The name of the Association shall be the Westview Home Owners Association, Inc., an Ohio non-profit corporation, (hereinafter "Association").

**Section 2. Membership.** Each Owner upon acquisition of title to a Sublot or Condominium shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his or her ownership, at which time the new Owner of such Sublot or Condominium shall automatically become a member of the Association.

**Section 3. Definitions.** The terms used in this Code of Regulations shall have the same meaning as set forth in the Deed from Westview Village, Inc. to Earl M. Linden, dated August 10, 1965, and recorded in Volume 11644, Page 255, et seq., having amended the Quit Claim Deed filed in Volume 11163, Page 223 et seq. recorded on July 14, 1964 of the Deed Records of Cuyahoga County, Ohio (hereinafter "Deed"). The properties of the Association remain as listed in the Deed and in the original Code of Regulations of the Association dated August 1, 1964 as are listed in Exhibit 1 to this Code of Regulations. The words used in this Code of Regulations shall have the same meaning as set forth above, unless the context shall prohibit or be validly amended by the vote taken to implement this Code.

## **ARTICLE II MEETINGS OF MEMBERS**

**Section 1. Place of Meetings.** Meetings of the Association shall be held in such suitable place convenient to the members in Cuyahoga County, Ohio as may be designated by the Board of Trustees in Cuyahoga County, Ohio.

**Section 2. Annual Meetings.** Annual meetings shall be set by the Board so as to occur in the fourth (4<sup>th</sup>) quarter of each calendar year. The annual meeting of the members shall be held at a date and time as set by the Board. During the annual or special meeting, there shall be an election of the Trustees.

**Section 3. Special Meetings.** The president may call and shall preside at all special meetings of the Association. In addition, it shall be the duty of the president to call special meetings of the Association if so directed by resolution of a majority of a quorum of the Board of Trustees or a written petition signed by at least twenty percent (20%) of the total votes of the Association. The notice of special meetings shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at special meetings except as stated in the notice.

**Section 4. Notice of Meetings.** Unless otherwise provided in this Code of Regulations, all notices, demands, statements, or other communications under this Code of Regulations shall be in writing and shall be deemed to have been duly given if delivered personally, or sent by telegram, telecopy, or electronic mail transmission, or by the United States mail, express mail or courier service, with postage or fees prepaid. Notices to members shall be delivered at the address which the member has designated in writing or filed with the secretary or, if not such address has been designated, at the address of the residence of such Owner. If the notice is to be given to the Association, the Board of Trustees or the managing agent, it shall be delivered at the principal office of the Association or the managing agent, if any, or at such address as shall be designated by the Board with written notice to the Owners. If notice is to be given by personal delivery or transmitted by telegram, telecopy, or electronic mail, the notice shall be deemed to have been given when delivered or transmitted. If notice is sent by United States mail, express mail, or courier service, the notice shall be deemed to have been given when deposited in the mail or with the courier service. Written notice or report delivered as part of a newsletter or other publication regularly sent to the members shall constitute a written notice or report if addressed or delivered to the member's address shown in the Association current list of members, or, in the case of members who are residents of the same household or who have the same address in the Association's current list of members, if addressed or delivered to one of such members at the address appearing on the Association's current list of members. Notices shall be service not less than ten (10) nor more than sixty (60) days before the meeting. Notices regarding the calling of any meeting may be delivered by electronic transmission only when it has been determined that members of the Association are able to receive the electronic

transmission as defined and addressed through the Rules duly adopted by the Board notwithstanding anything contrary to the provisions listed above.

**Section 5. Waiver of Notice.** Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after the holding of such meeting. Attendance of any member at any meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him or her of such meeting.

**Section 6. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than ten (10) nor more than sixty (60) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place of the adjourned meeting are not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings.

Those present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, provided that any action taken shall be approved by at least a majority of members present.

**Section 7. Voting Rights.** Members shall be all Owners and shall be entitled to one (1) vote for each Sublot or Condominium owned. When more than one (1) person holds an interest in any Sublot or Condominium, all such persons shall be members. The vote for any such Sublot or Condominium shall be exercised by said Owner or Owners as said Owner or Owners shall determine, but in no event shall more than one (1) vote be cast with respect to any Sublot or Condominium.

**Section 8. Proxies.** A vote allocated to a Sublot or Condominium may be cast pursuant to a proxy duly executed by an Owner. If a Sublot or Condominium is owned by more than one (1) person, each Owner of the Sublot or the Condominium may vote or may revoke the proxy given pursuant to this Section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Except as hereinafter provided, a proxy shall terminate eleven (11) months after its date, unless it specifies a shorter time. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering the Sublot or Condominium, its presentation to the Board of a copy of the mortgage shall be notice of the proxy designation, and if the mortgage so states, of the irrevocability of that designation. Written notice to the Board or notice

in a meeting of a revocation of a proxy designation shall not affect any vote or act previously taken. Each proxy shall automatically cease upon conveyance of the Sublot or Condominium.

**Section 9. Majority of Owners.** As used in this Code of Regulations, the term majority shall mean those votes, Owners, members or other group as the context may indicate totaling more than fifty percent (50%) of the total number.

**Section 10. Quorum.** Except as otherwise provided in this Code of Regulations or in the Deed, the presence in person or by proxy of twenty-five percent (25%) or more of the members shall constitute a quorum at all meetings of the Association. Any provision in the Deed concerning quorums is specifically incorporated herein.

**Section 11. Conduct of Meetings.** The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meeting and record in the minute book all resolutions adopted, as well as a record of all transactions occurring thereat.

**Section 12. Action Without a Meeting.** Any action which may be authorized or taken at a meeting of the members, except the election or removal of Board Members, may be authorized or taken without a meeting with the affirmative vote or approval, and in writing or writings signed by the same number of members of the Association having the percentage of voting power required to take such action if the same were taken at a meeting. Said writing or writings signed by the member of the Association may be filed with the secretary of the Association by 1) delivering the writing or writings to the secretary of the Association; 2) mailing the writing or writings by regular first-class U.S. mail to the attention of the secretary of the Association at the mailing address of the Association; or 3) electronic transmission as defined by the Rules duly adopted by the Board as sent by email or facsimile of the writing or writings to the Association as provided for in the duly adopted Rules of the Association regarding electronic transmissions.

### **ARTICLE III BOARD OF TRUSTEES**

**Section 1. Governing Body.** Except as otherwise provided by law, the Articles of Incorporation, the Deed and this Code of Regulations, all of the authority of the Association shall be exercised by or under the direction of the Board of Trustees.

**Section 2. Number and Qualification of Trustees.** The Board of Trustees of the Association shall consist of not less than five (5) members and not more than eleven (11) members or spouses of such members provided, however, no person and his or her spouse may serve as a Trustee at the same time.

**Section 3. Nomination of Trustees.** Nomination for the election of the Board of Trustees shall be permitted from the floor at the Annual Meeting. All candidates shall have a reasonable opportunity to communicate their qualifications to the members.

**Section 4. Election of Trustees.** The Trustees shall be elected at each annual meeting of the members of the Association or at a special meeting called for the purpose of electing said Trustees. At a meeting of the members of the Association at which Trustees are to be elected, only persons nominated as candidates shall be eligible for election as Trustees and the candidates receiving the greatest number of votes shall be elected. The Board may adopt Rules regarding nominations and procedure for elections. Election to the Board shall be by secret written ballot at such elections. Members may cast their ballots in person or by proxy, in respect to each vacancy, such voting power as they are entitled to exercise under the provisions of the Deed or this Code of Regulations.

**Section 5. Term of Office; Resignations.** Each Trustee shall hold office for a term of three (3) years and until his or her successor is elected, or until his or her earlier resignation, removal from office, or death. It is intended by this Code of Regulations that the terms of the Trustees shall be staggered. The initial terms of the Trustees elected by the members pursuant to this provision shall be adjusted to carry out this intent by any means decided by the elected Trustees.

Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in writing to that effect delivered to the secretary of the Association. Such resignation shall take effect immediately or at such other time as the Trustee may specify. In the event of death or resignation of a Trustee, his or her successor shall be elected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor. In the event there is less than a majority of the remaining Trustees to fill the remaining terms created by those who have either died or resigned, the remaining Trustees shall elect the successors who shall serve for the unexpired term of the predecessors.

**Section 6. Compensation.** The Board of Trustees shall serve without compensation, except that they may be reimbursed for actual expenses incurred on behalf of the Association.

**Section 7. Removal of Trustees.** At any regular or special meeting of the Association duly called, any one (1) or more of the members of the Board of Trustees may be removed, with or without cause, by seventy-five percent (75%) vote of the Owners of the total voting powers of the Association, and a successor may then and there be elected to fill the vacancy thus created. A Trustee whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting and the purposes thereof and shall be given an opportunity to be heard at the meeting. Additionally, any Trustee who has three (3) unexcused absences from Board meetings or who is delinquent in payment of an Assessment for more than

twenty (20) days or is in violation of any of the Covenants or Rules of the Association may be removed by a majority vote of the Trustees at a Board meeting, a quorum being present.

**Section 8. Organization Meetings.** The first meeting of the members of the Board of Trustees following each annual meeting of the members shall be held within thirty (30) days thereafter at such time and place as shall be fixed by the Board.

**Section 9. Regular Meetings.** Regular meetings of the Board of Trustees may be held at such time and place as shall be determined from time to time by a majority of the Trustees, but at least four (4) such meetings shall be held during each fiscal or calendar year with at least one (1) per quarter.

**Section 10. Special Meetings.** Special meetings of the Board of Trustees shall be called in accord with **Section 11** by the president or secretary of the Association, or by a majority of the Trustees in office, unless circumstances require that if a quorum is not in existence at the time of the need of calling a meeting, the remaining Trustees shall unanimously be required to call the special meeting. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

**Section 11. Notice of Meetings; Waiver.** Notice of the time and place of each meeting of the Trustees, whether regular or special, shall be given to each Trustee by one of the following methods: (a) personal delivery; (b) written notice by first class mail, postage prepaid; or (c) by telephone communication; (d) electronic transmission as defined by the Rules duly adopted by the Board by email or facsimile of the notice of a Board meeting to the Board either directly to the Trustee or to a person at the Trustee's home or place of business which would reasonably be expected to communicate such notice promptly to the Trustee. All such notices shall be given or sent to the Trustee's address or telephone number as shown on the records of the Association. Notice sent by first class mail shall be deposited into a United States mailbox, at least four (4) days before the time set for the meeting; notices given by personal delivery, or telephone at least seventy-two (72) hours before the time set for the meeting.

Waiver of notice of meetings of the Trustees shall be deemed to be the equivalent of proper notice. Any Trustee may, in writing, waive notice of any meeting of the Board, either before or after the holding of such meeting. Such writing shall be entered into the minutes of the meeting. Attendance of any Trustee at any meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him or her of notice of such meeting in any event.

**Section 12. Quorum of the Board of Trustees.** At all meetings of the Board of Trustees, a majority of the Trustees shall constitute a quorum for the transaction of business, and the votes of a majority of the Trustees present at a meeting at which a quorum is present shall constitute the minimum for a decision of the Board. A meeting at which a quorum is

initially present may continue to transact business, notwithstanding the withdrawal of the Trustees, if any action taken is approved by at least a majority of the required quorum for that meeting. Notice of adjournment of a meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted.

**Section 13. Conduct of Meetings.** The president shall preside over all meetings of the Board of Trustees, and the secretary shall keep the minutes of the meeting and record in the minute book all resolutions adopted, as well as a record of all transactions occurring thereat.

**Section 14. Open Meetings.** All meetings, except those meetings convened under **Section 15** of the Board of Trustees shall be open to all members of the Association, but members other than the Trustees may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board. In such case, the Board may limit the time that any member may speak.

**Section 15. Executive Session.** The Board may, with approval of a majority of a quorum of the Board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, or orders of business of similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. Minutes shall not be taken during the executive sessions which have been convened.

**Section 16. Action Without a Meeting.** Any action which may be authorized or taken at a meeting of the Board of Trustees may be authorized or taken without a meeting with the affirmative vote or approval, and in writing or writings signed by all the Trustees. Said writing or writings signed by the Trustees shall be entered into the minute book of the Association and may consist of an electronic transmission as defined by the Rules duly adopted by the Board sent by email or facsimile of the writing or writings to the Board.

**Section 17. Powers of the Association.** The Association, as defined in **ARTICLE III, Section 1** may:

a. adopt and amend a Code of Regulations for the government of the Association, the conduct of its affairs and the management of the Property;

b. adopt Rules and Regulations for the use and enjoyment of the Common Recreational Areas and to enforce violations of the Rules and Regulations which have been enacted for the health, safety and general welfare of the members of the Association and the provisions and restrictions of the Deed as against the Owners and Occupants. Any costs

c. associated with enforcement of the Deed, this Code of Regulations or Rules and Regulations of the Association, including, but not limited to attorneys' fees, witness fees, court costs, legal assistant fees, and other costs shall be collected and assessed against the violator;

d. adopt and amend budgets for revenues, expenditures and reserves and levy and collect Assessments from Owners;

e. hire and discharge managing agents and other employees, agents and independent contractors;

f. institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two (2) or more Owners on matters affecting the Association;

g. make contracts and incur liabilities;

h. regulate the use, maintenance, repair, replacement and modification of the Common Recreational Areas for which the Association has maintenance responsibility and other rights as set forth herein;

i. cause additional improvements to be made as part of the Common Recreational Areas except that this power shall be limited to improvement required solely for surface water management, landscaping, signage and/or recreational purposes;

j. acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property;

k. grant easements, liens, licenses and concessions through or over the Common Recreational Areas;

l. impose and receive any payments, fees or charges for the use, rental or operation of the Common Recreational Areas and for services provided to Owners;

m. impose charges for late payments of Assessments and after notice and an opportunity to be heard, levy reasonable fines for violations of the Deed, this Code of Regulations, or Rules and Regulations of the Association;

n. impose reasonable charges for the preparation and recordation of amendments to the Deed, this Code of Regulations or for statements of unpaid Assessments;

o. provide for indemnification of its Officers and Board of Trustees and maintain Directors' and Officers' Liability Insurance;

p. assign its right to future income, including the right to receive Common Expense Assessments, except that this power shall be limited to the purposes of repair of existing structures or improvements;

q. exercise any other powers conferred by the Deed, this Code of Regulations or Articles of Incorporation;

r. exercise all other powers that may be exercised in this state by nonprofit corporations under Ohio Revised Code 1702 and Ohio Revised Code 5312;

s. exercise any other powers necessary and proper for the governance and operation of the Association; and

t. the Trustee shall have the power to borrow money for the purpose of repair and restoration of the Common Areas with approval of a majority of a quorum of the Association members.

**Section 18. Voting By Trustees.** A Trustee who is present at a meeting of the Board or any committee meeting when corporate action is taken shall be deemed to have assented to the action taken unless:

a. he or she objects at the beginning of the meeting (or promptly upon arrival) to holding it or transacting business at the meeting;

b. his or her dissent or abstention from the action taken and entered in the minutes of the meeting; or

c. he or she delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before its adjournment or to the Association immediately after the adjournment of the meeting. The right of dissent or abstention shall not be available to a Trustee who votes in favor of the action taken.

## **ARTICLE IV OFFICERS**

**Section 1. Officers.** The Officers of the Association shall be a president, vice president, secretary and treasurer. The Board of Trustees may elect such other Officers, including one (1) or more assistant secretaries and one (1) or more assistant treasurers, as it shall deem desirable, such Officers to have the authority and perform the duties prescribed from time to time by the Board. Any two (2) or more offices may be held by the same person, excepting the offices of president and secretary. Such Officer positions shall be elected from among members of the Board of Trustees.

**Section 2. Election; Term of Office; Vacancies.** The Officers of the Association shall be elected annually by the Board of Trustees at the first meeting of the Board following each annual meeting of the members, as herein set forth in ARTICLE III. A vacancy in any office arising because of death, resignation, and removal or otherwise may be filled by the Board for the unexpired portion of the term of one (1) year.

**Section 3. Removal.** Any officer may be removed by the Board of Trustees whenever in its judgment the best interests of the Association would be served thereby.

**Section 4. Resignation.** Any Officer may resign at any time by giving written notice to the Board of Trustees, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

## **ARTICLE V POWERS AND DUTIES OF THE OFFICERS**

**Section 1. General.** The Officers of the Association shall each have such powers and duties as generally pertain to the respective Officers, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board to include but not limited to the following.

**Section 2. President.** The president shall preside at all meetings of the members of the Association and shall perform generally all duties incident to the Office and such other duties as may be assigned from time to time by the Board of Trustees. The president shall preside over all meetings of the Association and the Board. The president shall have the authority to see that orders and resolutions of the Board are carried out, and shall sign all legal instruments on behalf of the Association.

**Section 3. Vice President.** The vice president shall perform all duties of the president in the case of the latter's absence or disability.

**Section 4. Secretary.** The secretary shall record all votes and keep the minutes of the proceedings of the meetings of the Board and of the Association members. The secretary shall keep the Association membership book containing the name and address of each member and the date of the member's admission to the membership and the date of termination thereof. The secretary shall give all notices required by these Articles, this Code or the laws of Ohio. At the conclusion of the secretary's turn, the secretary shall deliver all records and papers of the Association in the secretary's possession to such duly elected successor.

**Section 5. Treasurer.** The treasurer shall be bonded, at the Association's expense in such sum as shall be fixed from time to time by the Trustees. The treasurer shall assume responsibility for the receipt and deposit in such bank accounts and investment of funds as permitted by the laws of Ohio in such vehicles, as the Board directs, the disbursement of such funds as directed by the Board, keeping of proper books of account, the preparation of an annual budget and a statement of income and expenditures to be presented to the Association Owners at the annual meetings, and the delivery or mailing of a copy of each to each of the Association members. At the conclusion of the treasurer's term, there should be delivered all monies and any other assets of the Association in the treasurer's possession or custody and its records and books to the duly elected successor.

## **ARTICLE VI AUDITS**

**Section 1. Financial Statement.** The Board shall cause the preparation of a review of a financial statement by an accountant for the immediately preceding fiscal or calendar year. There shall be an audit by a Certified Public Accountant upon the affirmative vote of a majority of the voting power of the Owners or upon a majority vote of the Trustees.

## **ARTICLE VII COMMITTEES**

**Section 1. General.** The Board may appoint committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Trustees present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and operate in accordance with the terms of the resolution of the Board designating such committee or with Rules adopted by the Board and to the full extent permitted by law.

## **ARTICLE VIII DETERMINATION AND PAYMENT OF ASSESSMENTS**

**Section 1. Adoption of Budget.** It shall be the duty of the Board annually to adopt and amend an estimated budget for revenues and expenditures covering the estimated Recreational Facilities expenses of the Association for the coming fiscal year. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operation without the necessity of special assessments, unless the Owners, exercising not less than majority of the voting power of the Owners' Association waive the reserve requirement annually. The Board shall prorate to each member his share thereof.

After the adoption of the budget, the Board shall cause the summary of the budget and the Pro Rata Share to be levied against each Sublot and Condominium for the following year. Such summary shall be delivered at least thirty (30) days prior to the start of the fiscal or calendar year. The budget and Pro Rata Share shall take effect on the first day of March or any other date decided by the Board.

There is hereby established a Special Assessment for repairing or restoring damage or destruction to the Recreational Facilities or for any legitimate purpose related to the Common Areas. If the damage or destruction for which insurance proceeds may be available is paid, such proceeds are to be first allocated to the repair and reconstruction of the Recreational Facilities and if such proceeds are not sufficient to defray the cost thereof, the Board shall, without necessity of a vote of the members, levy a Special Assessment against all Owners. Additional assessments may be made in like manner any time during or following the completion of any repair or reconstruction. If the funds available from the insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association. Special Assessments may be due and payable in accord with the terms established by the Board. Late payments of Special Assessments will be treated according to the terms of **Section 4.** of this **ARTICLE VIII.**

**Section 2. Failure to Adopt Budget.** The failure or delay of the Board to adopt a budget as provided herein shall not constitute a waiver or release of the obligation of an Owner to pay such *pro rata* share. In such event, the *pro rata* share based upon the budget last adopted shall continue until such time as the Board adopts a new budget.

**Section 3. Computation of Pro Rata Shares.** The *pro rata* share for Recreational Facilities expenses for each Sublot and Condominium shall be determined in accordance with the operating budget as they apply to various Sublots and Condominiums. Unless otherwise determined by the Board, all *pro rata* shares shall be charged on an annual basis.

**Section 4. Payment, Delinquency and Acceleration.** Unless otherwise determined by the Board, all Pro Rata Shares shall be payable annually. Any installment of the Pro Rata Share shall become delinquent if not paid on the due date as established by the Board. With respect to any installment of the Pro Rata Share not paid within thirty (30) days after its due date, the Board may, at its election, require the Owner to pay a reasonable late charge, together with interest at a rate allowable by law calculated from the date of delinquency to and including the date full payment is received by the Association. If any installment of the Pro Rata Share is not paid within thirty (30) days after its due date, the Board may, at its election, declare the unpaid balance immediately due and payable without further demand and may enforce collection of the Pro Rata Share and all charges thereon in any manner authorized by law, the Deed and this Code of Regulations, except that should a member declare bankruptcy, whose Pro Rata Share has been accelerated shall operate as a restoration of the Pro Rata Share to its prior status as if it had not been accelerated.

**Section 5. Remedies for Default.** If an Owner is in default of payment of his or her Pro Rata Share, the Board may authorize collection through any lawful means. Interest and all costs of such collection, including but not limited to court costs, attorneys' fees, paralegals' fees, and all costs of collection shall be included in the amount due from the Owner and may be collected.

## **ARTICLE IX MISCELLANEOUS**

**Section 1. Fiscal Year.** The Association may adopt any fiscal year as determined by the Board.

**Section 2. Parliamentary Rules.** Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Ohio law, the Articles of Incorporation, the Deed, or this Code of Regulations.

**Section 3. Conflicts.** If there are conflicts or inconsistencies between the mandatory provisions of Ohio law, the Deed, the Articles of Incorporation, and this Code of Regulations, the mandatory provisions of Ohio law, the Deed, the Articles of Incorporation, and this Code of Regulations (in that order) shall prevail.

**Section 4. Books and Records.**

**a. Inspection by Members.** Any Owner may examine and copy the books, records, and minutes of the Owners' Association. Subject to Division (C) of Section 5312.06 of the Revised Code describes "per reasonable standards set forth in the Code of Regulations or the Rules that the Board promulgates". The records outlined in Section 5312.06 are as follows:

"(1) Correct and complete books and records of account that specify the receipts and expenditures relating to the Recreational Facilities expenses and other legitimate receipts and expenses;

(2) Records showing the collection of the Common Expenses from the Owners;

(3) Minutes of the meetings of the association and the board of directors;

(4) Records of the names and addresses of the Owners."

Unless approved by the Board of Trustees, an Owner may not examine or copy any of the following from the books, records and minutes:

- (1) Information that pertains to property-related personal matters;
- (2) Communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation or any property-related matters;
- (3) Information that pertains to contracts or transactions currently under negotiation, or information as contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (4) Information that relates to the enforcement of the Declaration, Code of Regulations or Rules of the Owners' Association against other Owners; and
- (5) Information, the disclosure of which is prohibited by state or federal law.

**b. Inspection by Trustees.** Every Trustee shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Trustee includes the right to make extracts and copies of documents at the expense of the Association.

**Section 5. Amendment.** Except as otherwise provided by law or the Deed, this Code of Regulations may be amended by a majority of a quorum of the Owners.

**Section 6. Financial Review.** A review of the accounts of the Association shall be made annually in the manner as the Board of Trustees may decide, provided, however, after having received the Board's report at the annual meeting, the Owners, by majority vote, may require the accounts of the Association to be audited as a Common Expense by a public accountant.

## **ARTICLE X INDEMNIFICATION**

(1) The Association shall indemnify every person who is or has been a Trustee, officer, agent, employee or volunteer of the Association and those persons' respective heirs, legal representatives, successors and assigns, against expenses, including attorneys' fees, and judgments, decrees, fines, penalties, and amounts paid in settlement actually and reasonably incurred in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal administrative or investigative, and whether in an action or proceeding by or in the right of the Association, or otherwise, in which such person was or is a party or is threatened to be made a party by reason of the fact that person was a Trustee, officer, agent, employee or volunteer of the Association, or is or was serving in such capacity at the request of the Association, provided that person **(a)** acted in good faith and in a manner that person

believed to be in or not opposed to the best interests of the Association, and **(b)** in any matter the subject of a criminal action or proceeding, had no reasonable cause to believe the questioned conduct was unlawful, but provided that in the case of any threatened pending or completed action or suit by or in the right of the Association to procure a judgment in its favor against any such person by reason of that person serving in such capacity, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of a duty to the Association unless and only to the extent that the Court in which such action was brought shall determine upon application that in view of all the circumstances of the case that person is fairly and reasonably entitled to indemnity for such expenses as the Court shall deem proper.

**(2)** Unless ordered by a Court, the determination of indemnification, pursuant to the foregoing criteria, shall be made **(a)** by a majority vote of a quorum of Trustees of the Association who were not and are not parties to or threatened with any such action, suit or proceeding, or **(b)** if such a quorum is not obtainable, or if a majority of the quorum of disinterested Trustees so direct, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Association or any person to be indemnified within the past five years, or **(c)** by the Owners, or **(d)** by the Court in which such action, suit or proceeding was brought.

**(3)** Any such indemnification shall not be deemed exclusive of any other rights to which such person may be entitled under law, any agreement, or any insurance purchased by the Association, or by vote of the Owners, or otherwise.

## **ARTICLE XI DURATION**

The Association may be dissolved only with the same consents as are required to terminate the regime, as provided in the Deed. In the event that the Association is dissolved, all of its assets shall be dedicated to a public body, or conveyed to a nonprofit organization with similar purposes.

## **ARTICLE XII DEFINITIONS**

All terms used herein shall have the same meanings as set forth in the Deed.

### **ARTICLE XIII AMENDMENTS**

The Articles of Incorporation and this Code of Regulations may be amended by a majority of the members present at any meeting at which there is a quorum.

*Any conflict between the above provisions and any other provisions of the Declaration/Deed, Code of Regulations/Bylaws, the Articles of Incorporation, or the Rules and Regulations shall be interpreted in favor of the above amendment provisions. 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 a Court of Common Pleas within one (1) year of the recording of this amendment.*

### **EXHIBIT "A"**

Prepared By:  
FOTH & FOTH CO., L.P.A.  
11221 Pearl Road  
Strongsville, Ohio 44136  
440.846.0000 x228

8 19 14