

**EXHIBIT B**  
**SECOND AMENDED AND RESTATED BYLAWS**  
**OF**  
**VALLEY CREEK VILLAGE ASSOCIATION**

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**OF**  
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**ARTICLE I**

**GENERAL**

(A) **Preliminary Statement of Scope and Effect.** These Bylaws of Valley Creek Village Association are incorporated into the Declaration. The Bylaws' purpose is to administer an owners' association for governing the Association in the manner provided by the Declaration and these Bylaws. All present or future Owners, occupants, guests, or tenants or their employees, or any other person who might use the facilities in any manner, are subject to the covenants, provisions, and regulations contained in the Declaration and these Bylaws and are subject to any Association restriction, condition, or regulation. The mere acquisition or rental of any of the Lots or Dwelling Units located within the Property or the mere act of occupancy of any Dwelling Unit constitutes acceptance and ratification of the Declaration and these Bylaws.

(B) **Name of the Association.** The Association's name is "Valley Creek Village Association" an Ohio nonprofit corporation, created in accordance with the provisions of Chapter 1702 of the Ohio Revised Code.

(C) **Principal Office and Permanent Files.** The Board will designate the place or location for the Association's Principal Office to keep and hold the Association's permanent files. The permanent files may be retained in hard copy or electronic formats. All official books and records must be kept in the Association's permanent files. If the permanent files are located at a Director's Dwelling Unit or electronically by that Director, upon the expiration of the Director's term, whether by resignation, removal, or otherwise, the Director will contact the succeeding Director or community association manager, if any, to arrange for the delivery of and access to all Association permanent files within ten business days of the change of Board position.

(D) **Definitions.** The words used in these Bylaws have the same meaning as set forth in the Declaration.

## ARTICLE II

### THE ASSOCIATION

(A) **Membership.** Every person or entity who is a record Owner of a fee simple title to any Lot or Dwelling Unit is a Member of the Association. Membership terminates upon the sale or other disposition of the Member's Lot or Dwelling Unit at which time the successor Owner automatically becomes an Association Member.

(B) **Voting Rights.**

(i) **One Vote Per Lot/Good Standing.** There will be one vote for each of the Dwelling Units on the Property. With the exception of voting on an amendment to the Declaration or these Bylaws, a Member must be in Good Standing to vote. Any provision in the Declaration or these Bylaws requiring the vote and approval of the Association's voting power means and refers to the Association's voting power that is in Good Standing.

(ii) **Multiple Owners of a Dwelling Unit or Lot.** If more than one person owns a Dwelling Unit, (plural Ownership) they are collectively entitled to cast only one vote exercising the voting power of the Dwelling Unit; the voting power may not be divided. In the case of plural Ownership, or in the case of a Dwelling Unit owned or held in the name of a corporation, partnership, fiduciary, trust, or nominee, the Board may request that a certificate naming the person authorized to cast the vote for the Dwelling Unit be signed by the Owner(s) to be filed with the Association. The certificate must be provided to the Board within ten days of the request and is conclusive until a subsequent, substitute certificate is filed with the Association. If the certificate is not on file within ten days of the Board request, the vote of the corporation, partnership, fiduciary, trust, or nominee will not be considered, nor will the presence of the alleged authorized Owner at a meeting be considered in determining whether the quorum requirements for the meeting have been met. If a Dwelling Unit is owned by a spouse, or other familial relationship, such as parent and child, or brother and sister, as tenants in common, joint tenants, or tenants by the entireties, no certificate need be filed with the Association.

(iii) **Voting in Person, by Proxy by Mail, and by Electronic Voting Technology.** For meetings that are held in person and provide for physical attendance, Members may vote in person or by proxy. The person appointed as proxy need not be a Member of the Association. Each proxy appointment will be executed in writing by the Member entitled to vote and must be returned to the Association by regular mail, hand delivery, electronic mail, or other method of delivery provided for or permitted by the Board. Every proxy appointment will automatically cease upon conveyance of the Lot by the Member.

If authorized by the Board, voting may also occur by mail and Electronic Voting Technology. Any ballots received after the date and time the Board sets for ballots to be received will be invalid. The Board may adopt any additional regulations, procedures, or rules necessary to effectuate the intent and purpose of this voting provision to support the use of the desired voting method.

**(C) Meetings of the Association.**

**(i)** Annual Meeting. The annual Association meeting will be held during September or October each year at a time and place established by the Board. The purpose of the annual meeting will include electing Directors to the Board, considering officer reports put before the Members, and to transact other business as determined by the Board.

**(ii)** Special Meeting. Special Association meetings may be held on any day when called by the President, by a majority of the Directors, or by Members entitled to exercise no less than a majority of the Association's voting power. Any person entitled to call a special Association meeting must provide a written request delivered either in person or by certified mail to the President, Treasurer, or the Secretary who must then set the date, time, and place for the special meeting and who must cause notice of the meeting to be given to all Members in accordance with these Bylaws. If notice is not given within thirty days after the receipt of the request, the person requesting the special meeting may fix the time of the meeting and give notice of the meeting to all Members in accordance with these Bylaws. No business other than the business specified in the call and set forth in the notice will be considered at any special meeting.

**(iii)** Notice of Meetings. Written notice of each meeting of the Members will be given by, or at the direction of, the Secretary or person authorized to call the meeting, delivered in accordance with the Declaration or these Bylaws, at least fourteen days before the meeting, to each Member entitled to vote at the meeting. The notice will specify the place, day, and hour of the meeting, and in the case of a special meeting, the specific purposes of the meeting, and in the case of special meetings called by the Members, the specific motion or motions (other than procedural) to be voted upon.

**(iv)** Quorum. Members in Good Standing who are present in person or by proxy, constitute a quorum for any Association meeting. Ballots submitted by mail or by Electronic Voting Technology also will count that Dwelling Unit or Lot towards the quorum.

(v) **Conduct and Order of Business at Meetings.** The meeting chair or moderator has the authority to decide and determine all procedural motions or other procedural matters to be decided at the meeting, including points of order and adjournment.

(D) **Actions Without a Meeting.** All actions, except removal of a Director, which may be taken at an Association meeting, may be taken without a meeting with the approval of, and in writing(s) signed by Members having the requisite voting power required to take the action as if the same had been taken at a meeting or in accordance with Bylaws Article II, Section (B). The voting records will be filed with the Association.

### **ARTICLE III**

#### **BOARD OF DIRECTORS**

(A) **Board of Directors.** The Board constitutes for all purposes the Board of Directors, as provided for by Ohio Revised Code Chapter 5311 commonly known as Ohio's Condominium Property Act and Chapter 5312 commonly known as Ohio's Planned Community Act and Ohio Revised Code Chapter 1702 commonly known as the Non-Profit Corporation Act.

(B) **Number and Qualification.** The Board of Directors will consist of three or five persons. Each Director must be an Owner or the spouse of an Owner. If a Unit Owner is not an individual, the Unit Owner may nominate any principal, member of a limited liability company, partner, director, officer, or employee of that Unit Owner to serve on the Board of Directors. In addition, a trustee or a qualified beneficiary of a trust which owns the Lot is also eligible to serve as a Director provided that the individual occupies the residential dwelling on the Lot and provides documentation identifying the individual as the trustee, co-trustee, or beneficiary of the trust. The majority of the Board may not consist of Owners or representatives from the same Lot unless authorized by a resolution adopted by the Board prior to the majority being comprised of Owners or representatives from the same Lot.

(C) **Nominations.** Nominations for the election of Directors to be elected by the Members will be made by a nominating committee appointed by the Board or, if a committee is not appointed, by the Board itself; there will be no nominations from the floor. The nominating committee, or Board, will make as many nominations for election to the Board as it, in its discretion, determines, but no fewer than the number of vacancies that are to be filled and will verify that the nominees satisfy all qualification requirements of Bylaws Article III, Section (B). Any qualified candidate may submit their name to the nominating committee, or Board, as a candidate, and the nominating committee, or Board, must nominate that person if that person satisfies all the qualification requirements of Bylaws Article III, Section (B). If there are fewer nominees than vacancies, the nominating committee, or Board, must nominate additional person(s) to be elected prior to the ballots

being sent to the Members so that there are, at all times, a sufficient number of nominees to fill all Board vacancies that are up for election.

Prior to sending the meeting notice, the nominating committee, or Board, will establish deadlines for when a request for nominations is sent to all Members and when receipt of nominations must be obtained. Nominations must be made and received within a reasonable time period prior to the notice of any meeting where Directors are to be elected is sent in accordance with Bylaws Article II, Section (C)(iii), so that the voting information containing all the candidates' names and an informational sheet, within size limitations determined by the Board, containing their biographical information and affirming their candidacy, can be transmitted to the Members no later than the sending of the meeting notice. The Board may adopt any additional regulations, procedures, or rules necessary to establish processes and deadlines in accordance with this nominations provision.

**(D) Election of Directors.** Unless there are no more nominees than vacancies, election to the Board by the Owners is by written ballot, submitted either in person, by proxy, by mail, or by Electronic Voting Technology, as determined by the Board pursuant to Bylaws Article II, Section (C)(v). The Association is not required to distribute ballots to the Owners via any method if there are an equal number of nominations as there are candidates, in which case the nominated candidates will automatically be elected to the Board of Directors at the election meeting. The ballots, whether electronic or written, will list the number of open seats for Directors up for election and list the names of all of the nominated candidates.

For the election of Directors, the Members, or their proxies, may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these Bylaws. The persons receiving the largest number of votes will be elected. Unless the nominated candidates who have received the largest number of votes agree otherwise, ties, including if there are an equal number of nominees as there are positions with different terms, will be determined by lot or flip of a coin by the chair or moderator of the meeting. Cumulative voting is not permitted.

The nominating committee, or if a nominating committee is not appointed, the Board itself (excluding any incumbent Directors who are running for re-election), is responsible for (i) confirming all nominated candidates meet the qualifications to serve as a Director, (ii) receiving and verifying any ballots that are cast in person or by mail, (iii) receiving and verifying any ballots cast using Electronic Voting Technology, (iv) counting each ballot submitted through any voting method, and (v) verifying the results of the election by providing the ballots and results to the chair or moderator of the meeting.

The chair or moderator will announce the election results at the meeting to be reflected in the meeting minutes and the Board will ensure the election results are provided to all Members within a reasonable time after the meeting.

**(E) Term of Office; Resignations; Vacancies.** Each Director will hold office until the expiration of their designated term and until their successor is elected, or until their earlier resignation, removal from office, or death.

**(i)** Term of Office. All Directors will be elected for a two-year term. The terms will be staggered so that at least one-third of the Directors' terms will expire annually, and a 2-3 or 2-1 rotation is maintained at all times.

**(ii)** Resignations. Any Director may resign at any time by statement to that effect made either at a meeting or in writing delivered to the Association, the Secretary, or the President, with the resignation taking effect immediately or at another time as the resigning Director may specify.

**(iii)** Vacancies. In the event of any vacancy or vacancies on the Board, the remaining Director(s), by majority vote of their number, may appoint a Member in Good standing until the next annual meeting of the Owners.

**(F) Board Meetings.**

**(i)** Organizational Meeting. Immediately after each annual meeting or special meeting held for election of a Board member, the newly elected Directors and those Directors whose terms hold over will hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of the organizational meeting need not be given.

**(ii)** Regular Meetings. Regular Board meetings may be held at the times and places as is determined, from time to time, by a majority of the Board, but at least four meetings will be held each calendar year. Notice of each regular Board meeting will be given in accordance with Bylaws Article III, Section F(v). No Member other than a Director may attend or participate in any discussion or deliberation at a Board meeting unless the Board expressly authorizes Members to attend or participate. Members do not have the right to vote on any issue at Board meetings. If the Board permits Members to attend meetings, nothing herein requires that meetings be held in a place large enough to accommodate all the Members. Members will be granted the right to be heard at any Board meeting, subject to rules established by the Board for the hearings.

**(iii)** Special Meetings. Special meetings of the Board may be held at any time, after notice in accordance with Bylaws Article III, Section F(v), upon call by the President or a majority of the other Directors.

(iv) **Executive Sessions.** At any regular or special Board meeting, the Board may, by the majority vote of the Directors, adjourn to an executive session for purposes of discussing and/or taking action on matters of confidentiality, including, but not limited to personnel issues/discipline, open contract bid solicitation, pending litigation, or other matters protected by attorney-client privilege or enforcement of the Declaration, these Bylaws, or rules against any Member. Executive session minutes are not available for inspection and/or copying.

(v) **Notice of Meetings.** Notice of the date, time, place, and purpose(s) of each Board meeting will be given to each Director by or at the direction of the designated board member or by the person(s) calling the meeting. The notice may be given in any manner or method as permitted by Ohio law and the Bylaws and at the time so that the Director receiving it may have a reasonable opportunity to attend the meeting. The notice will, in all events, be deemed to have been proper if given to each Director at least 7 days prior to the meeting. The giving of notice is deemed to be waived by any Director who attends and participates in the meeting and may also be waived in writing or by electronic mail by any Director either before or after the meeting. Unless otherwise indicated in the notice for the meeting, any business may be transacted at any organizational, regular, or special Board meeting.

(vi) **Types of Meetings.** Any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, as long as each Director can hear (or simultaneously read if in electronic format, e.g., internet chat room), participate, and respond to every other Director in real time.

(vii) **Voting Power of Board.** Each Director will have one vote. Vote of a majority of the Directors on any matter at a duly called meeting at which a quorum is present will be sufficient to determine any matter. In the event of a tie, the motion or resolution does not pass.

(viii) **Quorum.** A majority of the Directors currently then in office will constitute a quorum for the transaction of business.

(ix) **Actions Without a Meeting.** In lieu of conducting a meeting, the Board may take action with the unanimous written consent of the Directors, which written consent may be in electronic form, including by electronic mail or similar mode of communication. Those written consents will be filed with the minutes of the Board meetings.

(G) **Removal of Directors.** The Board, by a majority vote, may remove any individual Board member and create a vacancy on the Board, if:

- (i) by order of court the Director has been found to be of unsound mind;
- (ii) the Director files for bankruptcy or has by order of court adjudicated bankrupt;
- (iii) the Director is or has been convicted of a felony for theft or other theft related crime, including larceny, forgery, false pretenses, fraud, embezzlement, conversion, or any conspiracy related to any theft related crime, at any time in the past, or convicted of a felony for any other type of crime within the last 10 years;
- (iv) the Director is no longer a Director in Good Standing as defined in the Declaration, or
- (v) the Director fails to attend three consecutive or a total of four Board meetings during a calendar year.

In addition, at any Association meeting duly called at which a quorum is present, any one or more of the Directors may be removed with or without cause by the vote of Members entitled to exercise at least a 75 percent of the Association's total voting power, and a successor(s) to the Director(s) so removed by the Members may be elected at the same meeting for the unexpired term for each removed Director. Any Director, whose removal has been proposed, will have an opportunity to speak and be heard at the meeting prior to the vote for their removal.

**(H) Compensation.** While serving on the Board, the Directors cannot receive any salary or compensation for their services as a Director. Any Director may be reimbursed for actual expenses incurred in the performance of their duties, as determined by the remaining Directors.

**(I) Powers and Duties.** Except as otherwise provided by law, the Declaration, or these Bylaws; the Board will exercise all the Association's powers and authorities. The Board is responsible for the maintenance, repair, and replacement of the Common Elements on the Association's behalf. In carrying out the purposes of the Association and subject to the limitations prescribed by law, the Declaration or these Bylaws, the Board, for and on behalf of the Association, may exercise all powers necessary to carry out the Association's obligations and those powers enumerated in Chapter 5311 and Chapter 5312.

## ARTICLE IV

### OFFICERS

(A) **Election and Designation of Officers.** The Board will elect a President, Vice President(s), Secretary, and Treasurer, each of whom must also be a Director. The Board from time to time may also create other offices and appoint other officers and assistant officers as in its judgment may be necessary who are not Members of the Board, but who are Members of the Association. Additionally, appointed officers or assistant officers need not be a Director. Any two offices, other than that of President and Secretary, may be held by the same person, but no officer can execute, acknowledge, or verify any instrument in more than one capacity.

(B) **Term of Office.** The officers of the Association hold office at the pleasure of the Board, and unless sooner removed by the Board, until the organizational meeting of the Board following the date of their election and until their successors are chosen and qualified. The Board may remove any officer at any time, with or without cause, by a majority vote. A vacancy in any office, however created, will be filled by the Board.

(C) **No Compensation to Officers.** None of the officers of the Association will receive compensation for services.

(D) **President.** The President is the chief officer of the Association and will exercise general executive supervision over the Association's business and affairs and over its officers, subject, however, to the Board's control. The President will chair all Association and Board meetings unless otherwise assigned or delegated by the President. The President may execute all authorized deeds, contracts, and other obligations of the Association. The President has all the powers and duties prescribed by Chapter 5311 and Chapter 5312 of the Ohio Revised Code. The President also has other authority and will perform other duties as the Board may assign to the President or otherwise provided for in the Declaration or these Bylaws.

(E) **Vice President(s).** The Vice President(s) will perform the duties conferred upon the Vice President(s) by these Bylaws or as may be assigned by the Board or the President. At the request of the President, or in the President's absence or disability, the Vice President(s) will perform all the duties of the President, and when performing has all the power of the President with like authority of the President.

(F) **Secretary.** The Secretary will keep minutes of all Association and Board meetings and will attest to the meetings and minutes. The Secretary has the authority to execute all deeds, contracts, and other obligations of the Association approved by the Board and requiring the Secretary's signature; will keep the records as may be required by the Board; and will perform other duties as may be assigned by the Board.

(G) **Treasurer.** The Treasurer has general supervision of all finances. The Treasurer will receive and have charge of all money, bills, notes, documents, and similar property belonging to the Association, and will do with the same as the Board may require. The Treasurer will keep or cause to be kept adequate and correct financial accounts of the Association's business transactions, including accounts of its assets, liabilities, receipts, expenditures, profits, and losses, together with other accounts as may be required, and hold the same open for the inspection and examination of the Board. The Treasurer will, with the assistance of professionals as needed, have the Association in compliance with all Internal Revenue regulations including but not limited to taxes, and issuance of 1099's. The Treasurer will perform other duties as may be assigned by the Board.

(H) **Delegation of Authority and Duties.** In the absence of any officer of the Association, or for any other reason the Board may desire, the Board may delegate the powers or duties, of any of the officers as set forth in these Bylaws, to any other officer or to any Director or the Association's managing agent, lawyer, accountant, or other professional as the Board may decide. In addition, the Board is generally authorized to control the action of the officers and to require the performance of duties in addition to those mentioned above.

## **ARTICLE V**

### **INDEMNIFICATION**

(A) **Indemnification of Directors, Officers, and Committee Members.** The Association must indemnify and defend (as provided below): (1) any current or former Association Director, (2) any current or former Association officer, (3) any current or former Association committee member, or (4) any of the Director's, officer's, or committee member's respective heirs, executors, and administrators; against reasonable expenses, including attorney fees, judgments, decrees, fines, penalties, or amounts paid in settlement, actually and necessarily incurred by them in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, derivative or third party, to which they are or may be made a party by reason of being or having been a Director, officer, or committee member provided it is determined, in the manner set forth below, that (i) the Director, officer, or committee member was not and is not adjudicated to have been grossly negligent or guilty of misconduct in the performance of their duty(ies) to the Association; (ii) the Director, officer, or committee member acted in good faith in what they reasonably believed to be in, or not opposed to, the Association's best interest; (iii) in any criminal action, suit, or proceeding, the Director, officer, or committee member had no reasonable cause to believe that their conduct was unlawful and is not convicted of theft or other theft-related crime including but not limited to larceny, forgery, false pretenses, fraud, embezzlement, conversion, or any conspiracy related to any theft-related crime; and (iv) in case of settlement, the amount paid in the settlement was reasonable.

The above determination required will be made by written opinion of legal counsel whom the Board will choose. Until a determination is made, the Director(s), officer(s), or committee member(s) is or are entitled to a defense of the claims by the Association. Notwithstanding the opinion of independent legal counsel, to the extent that a Director, officer, or committee member is successful in defense of any action, suit, or proceeding, or in the defense of any claim, issue, or matter, as the Board so verifies, they must, in that event, be indemnified and reimbursed for any costs and expenses, including legal fees, incurred in the defense. Any defense the Association provides will be by legal counsel the Association's insurance carrier selects or, if not selected by the Association's insurance carrier, a majority of the Directors excluding the accused or threatened Director(s). If a majority of the Directors cannot agree on legal counsel or if all the Directors are accused or threatened in any action, the Board will appoint a special committee of three Unit Owners to select legal counsel to defend the Directors.

**(B) Advance of Expenses.** The Association may advance funds to cover expenses, including attorney fees, with respect to any pending or threatened action, suit, or proceeding prior to the final disposition upon receipt of a request to repay the amounts.

**(C) Indemnification Not Exclusive: Insurance.** The indemnification provided for in this Article is not exclusive but is in addition to any other rights to which any person may be entitled under the Articles of Incorporation, the Declaration, these Bylaws, or rules and regulations of the Association, any agreement, any insurance provided by the Association, the provisions of Ohio Revised Code Section 1702.12(E) and its successor statutes, or otherwise. The Association must purchase and maintain insurance on behalf of any person who is or was a Director, officer, or committee member against any liability asserted against them or incurred by them in the capacity or arising out of their status as a Director, officer, or committee member.

**(D) Directors, Officers, and Committee Members Liability.** The Association's Directors, officers, and committee members are not personally liable to the Owners for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith. The Association's and Owners' indemnification includes, but is not limited to, all contractual liabilities to third parties arising out of contracts made on the Association's behalf, except with respect to any contracts made in bad faith or contrary to the provisions of the Declaration or these Bylaws. Every contract or agreement approved by the Board and made by any Director, officer, or committee member is made only in the Director's, officer's, or committee member's capacity as a representative of the Association and has no personal liability under the contract or agreement (except as an Association Member).

**(E) Cost of Indemnification.** Any sum paid or advanced by the Association under this Article constitutes a common expense. The Board has the power and the responsibility to raise, by special assessment or otherwise, any sums required to discharge the Association's obligations under this Article; provided, however, that the liability of any Owners arising out of the contract made by any Director, officer or committee member, or

out of the aforesaid indemnity in favor of the Director, officer, or committee member is limited to the proportion of the total liability as the Owner's pro rata share bears to the total percentage interest of all the Owners as Association Members.

## **ARTICLE VI**

### **FISCAL YEAR**

The Association's fiscal year begins on September 1 and ends on the 31st day of August each year, or on the other day as may be fixed from time to time by the Board.

## **ARTICLE VII**

### **ASSESSMENTS**

(A) **Determination of Assessments.** The funds for the payment of Common Expenses will be assessed equally against the Lots. Special assessments, if any, required by the Board, will be levied only after approval of a majority of the Association's voting power, and paid in the manner provided in the Declaration.

(B) **Notice and Payment of Assessments.** Within thirty days after the Board has determined the amount of any Assessment, a notice of the Assessment will be mailed or presented to each of the affected Members. All Assessments will be payable to the Association, and, upon request, the Treasurer will give a receipt for each payment made.

It will be the duty of each Member to pay their proportionate share of the Common Expenses as assessed against Members. Payment of Assessments will be made in the amounts and at the times as may be determined by the Board. No Member may waive or otherwise be exempt from liability for Assessments provided, including, by way of illustration and not limitation, by non-use of the Common Elements by the Member or by attempted withdrawal from the Association. The obligation to pay Assessments is a separate and independent covenant on the part of each Member. No diminution or abatement of Assessments or set-off will be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed under the Declaration or these Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are required under the Declaration, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority or for any other cause whatsoever.

(C) **Preparation of Budget, Assessments.** The Board will prepare a budget in August/September of each year, which will be based on its estimate of the total amount (the “estimated cash requirement”) that will be required during the ensuing fiscal year to pay the Common Expenses, including a reserve for contingencies and replacements adequate to repair or replace major capital items in the normal course of operations without the need for special assessments. The Board will notify Members in September/October of the change to Assessments that will begin the ensuing January. The aggregate amount of the estimated cash requirement will become an Assessment against the Members, with the share of Assessment against each Dwelling Unit being equal. The Assessment will be due and payable by each Member as the Board may stipulate. If, at any time, the Board determines that the Association has collected a surplus at the end of any fiscal year, the amount will be applied toward reserves.

(D) **Capital Additions, Alterations, and Improvements.** Notwithstanding anything in these Bylaws or in the Declaration which authorizes expenditures, no single expenditure exceeding 5 percent of that year’s estimated budget, as determined in accordance with these Bylaws, will be made by the Association for any additions or improvements (as distinguished from maintenance, repair, or replacement) of the Common Elements, without the prior approval of the Members of the Association entitled to exercise a majority of the voting power of all Members of the Association voting at an Association meeting duly held for the purpose. If the approval is obtained, the Board will proceed with the additions, alterations or improvements and will assess all Members for the cost as a Common Expense. The limitations on expenditures by the Association contained in this section will not apply to repair of the Property due to casualty loss, emergency repairs immediately necessary for the preservation and safety of the Property, for the safety of persons, to maintain compliance with any applicable local, state or federal codes, ordinances, laws, rules or regulations, or to avoid suspension of any necessary services.

(E) **Reserve for Contingencies and Replacements.** The Board will annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the owners, exercising not less than a majority of the voting power of the Association, waive the reserve requirement in writing annually. Upon the sale of Lot by any Member, the Member will have no right to any portion of the funds in the general, reserve or painting accounts; nor will the Member have any claim against the Association with respect to the reserve account.

(F) **Failure to Prepare Annual Budget or Make Current Assessments.** In the absence of any annual estimated cash requirement of Common Expenses, including required reserves, or of any budget or Assessments based thereon, Members will continue to pay the Assessments at the existing rate established for each Member then in effect, until the first payment becomes due, pursuant to a new Assessment covering the current period duly made by the Board.

(G) **Status of Funds Collected by Association.** All funds collected will be held and expended solely for the purposes designated in the Declaration and these Bylaws, and, except for the special assessments that may be levied against less than all of the Dwelling Units and Lots and for any adjustments that may be required to reflect delinquent or prepaid Assessments, will be deemed to be held for the use, benefit, and account of all of the Members.

## **ARTICLE VIII**

### **GENERAL POWERS OF THE ASSOCIATION**

(A) **Payments as Common Expenses.** The Association through its Board of Directors, for the benefit of all the Members, will acquire and will pay for, out of the Association's funds, all Common Expenses arising with respect to, or in connection with, the Property. In addition to the provisions of the Declaration and these Bylaws, the Association's expenses may include the following:

(i) Insurance. Premiums upon a policy(ies) of insurance as required by the Declaration or law; the limits of the insurance policy(ies) will be reviewed annually.

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

(iii) Reasonable Care of Common Elements. The cost of reasonable labor and materials for landscaping, gardening, snow and ice removal, painting, cleaning, maintenance, decorating, repair, and replacements of the Common Elements and other property components that the Association is responsible for as provided for in the Declaration, all as the Board determines are reasonably necessary and proper, and the Board, on behalf of the Association, will have the

exclusive right and duty to acquire the same for the portions of the Common Elements.

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

(B) **No Active Business to be Conducted for Profit.** Nothing will be construed to give the Association authority to conduct an active business for profit on behalf of all the Members or any of them; but this will not preclude the Association from entering into contracts, licenses, and/or concession agreements, affecting parts or uses of the Common Elements that result in the production of income for the Association.

(C) **Applicable Laws.** The Association will be subject to and governed by the provisions of any statute adopted at any time and applicable to the Property submitted to a Declaration of covenants and restrictions. In the event of any conflict or inconsistency between the provisions of the Declaration and these Bylaws, the terms and provisions of the Declaration will prevail, and the Members and all persons claiming under them covenant to vote in favor of the amendments to these Bylaws as will remove the conflicts or inconsistencies.

## **ARTICLE IX**

### **BOOKS AND RECORDS OF THE ASSOCIATION**

The Board may adopt rules and regulations establishing reasonable standards for the examination and copying Association's records, which may include standards and limitations governing the type of documents that are subject to examination or copying, limitations on the use and distribution of the records, the times and locations at which the documents may be examined or copied, and a reasonable fee for the examination or copying of the documents. In the absence of any rules and regulations and subject to the limitations of Chapter 5311 and Chapter 5312, any Member, or their mortgagee, may, for reasonable identified purpose, during normal business hours and following a reasonable, prior written request to the Board, examine or copy the Association's records that are no older than five years. The reasonable fee can include copying, handling, transmitting, mailing, labor, and inspection oversight costs. Any questions or concerns about an account, the Association's records, including any aspect of the Association's income, expenses, or other financial matter, or the administration, maintenance, or operation of the Association or the Property must be submitted to the Association in writing.

The Association will not permit examining or copying of any of the following from books, records, or minutes, or any other documents pertaining to the following, unless expressly approved by the Board:

- (i) information that pertains to property-related personnel matters;
- (ii) communications with legal counsel or attorney work product pertaining to potential, threatened, or pending litigation or other property-related matters under attorney-client privilege;
- (iii) information pertaining to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (iv) information that dates back more than 5 years from the date of the request;
- (v) information that relates to the enforcement of the Restrictions, these Bylaws, or Rules and regulations against a Member; or
- (vi) the disclosure of information prohibited by state or federal law.

## ARTICLE X

### NOTICES AND OTHER ACTIONS AND COMMUNICATIONS

For all notices to be sent to the Association, the Board, or the Owners, the following provisions apply:

**(A) Service of Notices on the Association and Board.** All notices required or permitted by the Declaration or Bylaws, to the Association or the Board, must be made in writing and sent either:

- (i) by regular U.S. mail, first-class postage prepaid, or
- (ii) delivered in accordance with Section (C), below, to the Board President, or to any two other Directors, or to the Association at the address of the Association, or to the Association's manager or management company, if any, or the Association's statutory agent registered with the Ohio Secretary of State, or to any other address as the Board may designate by written notice to all Owners.

**(B) Service of Notices on Members.** All notices required or permitted by the Declaration or Bylaws to any Member will be in writing and is deemed given if it has been sent by one of the following methods:

- (i) personally delivered to the Member, or
- (ii) sent by regular U.S. mail, first-class postage prepaid, to the Member's Lot or Dwelling Unit address or to another address the Member designates in writing to the Board, or
- (iii) delivered in accordance with Section (C), below.
- (iv) If there is more than one person owning a single Lot or Dwelling Unit, a notice given to any one of those several persons is deemed to have been given personally to all of the persons owning an interest in the Lot or Dwelling Unit.

**(C) New Communication Technologies.**

(i) Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted or approved by the Board, as well as by Ohio and federal law, now or in the future, in addition to the methods described in Sections (A) and (B) above, all notices, signatures and payments may be accomplished using electronic mail or other transmission technology available at that time that is a generally accepted business practice.

(ii) The use of electronic mail or other transmission technology is subject to the following:

(a) The Association may use electronic mail or other transmission technology to send any required notice only to Owners, individually or collectively, who have given the Association written consent to the use of electronic mail or other transmission technology. Any Member who has not given the Association written consent to use of electronic mail or other transmission technology will receive notices by either of the methods identified in Section (B)(i)-(iii), above.

(b) For voting on matters, the Association may provide for voting by electronic mail or other Electronic Voting Technology.

(c) An electronic mail or transmission technology to a Member is not considered delivered and effective if the Association's transmission to the Member fails two consecutive times, e.g., the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Member becomes known to the person responsible for sending the transmission. If the electronic mail or transmission is not delivered or effective, the Association will deliver the notice or other

communication to the Member by either of the methods identified in Section (B)(i)-(iii), above.

(D) **Service of Notices on Devisees and Personal Representatives.** Notices required to be given to any devisee or personal representative of a deceased Member may be delivered either personally or by regular mail to the party at his address appearing on the records of the court where the estate of the deceased Member is being administered.

## **ARTICLE XI**

### **MISCELLANEOUS PROVISIONS**

(A) **Copies of Notice to Mortgagees.** Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Lot will be given a copy of all notices permitted or required by the Declaration or these Bylaws or be given to the Member whose Lot is subject to the mortgage or trust deed. Any mortgagee may from time to time, request in writing, a written statement from the Board setting forth all unpaid Assessments due and owing from its mortgagor Member with respect to the Lot subject to the lien of its mortgage and the request will be complied with within twenty (20) days from receipt of the request.

(B) **Non-Waiver of Covenants.** No covenants, restrictions, conditions, obligations, or provisions contained in these Bylaws are abrogated or waived by reason of any failure to enforce them, irrespective of the number of violations or breaches that may occur.

(C) **Agreements Binding.** All agreements and determinations lawfully made by the Association, through the Board, in accordance with procedures established in the Declaration and these Bylaws are binding on all Members, their successors, heirs, and assigns.

(D) **Severability.** The invalidity of any covenant, restriction, condition, limitation, or any other provision of these Bylaws, or of any part of the same, will not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws.

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

(F) **Captions.** The captions used in these Bylaws are inserted solely as a matter of convenience and will not be relied upon and/or used in construing the effect or meaning of any of the text.

(G) **Interpretation.** These Bylaws will be construed according to the fair meaning of the language used and not strictly construed against the Association, the Board, or any Member.

(H) **Scrivener Errors.** Scrivener reserves the right to make corrections or changes in these Bylaws that arise due to typographical mistakes or scrivener errors. The changes may be made by scrivener despite the fact it does not have a voting power but will only be done if the changes do not materially affect the rights or interest of anyone else.

(I) **Amendments.** These Bylaws may be amended by the affirmative written vote of the Members, exercised at a meeting or without a meeting by signed, written consent of Members entitled to exercise not less than 65% of the Association's voting power. Upon the adoption of any amendment, the President and Secretary will file with the Cuyahoga County Fiscal Office an instrument executed with the same formalities, containing the amendment being made, the volume and pages or citation of the original being amended, and a certification that the amendment was duly adopted in accordance with all required provisions.

(J) **Perpetuities and Restraints on Alienation.** If any options, privileges, covenants, or rights created by this Declaration are unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law imposing time limits, then the provision will continue only until twenty-one years after the death of the survivor of the now living descendants of Governor of the State of Ohio, Mike DeWine.