

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
BEACON PLACE AT CHURCH SQUARE

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ARTICLE I

NAME AND GENERAL DESCRIPTION OF PROPERTY

The Property is known as Beacon Place at Church Square. The real property that is transferred, sold, conveyed, and occupied subject to this Amended and Restated Declaration ("Declaration") is described in the legal description and made a part of this Declaration by reference as Exhibit B. The Property is a planned residential community consisting of Lots with residential, freestanding Homes and Townhome Homes all of which are subject to a general plan of development situated in the City of Cleveland, Cuyahoga County, Ohio.

ARTICLE II

EXHIBITS AND DEFINITIONS

(A) **Exhibits.** The following Exhibits are attached to and made a part of this Declaration:

- (1) **EXHIBIT A:** The Amended and Restated Bylaws of Beacon Place at Church Square Homeowners' Association, Inc. ("Bylaws");
- (2) **EXHIBIT B:** Legal Description;
- (3) **EXHIBIT C:** Drawings.

(B) **Definitions.** Capitalized terms used in this Declaration or the attached Amended and Restated Bylaws of Beacon Place at Church Square Homeowners Association, Inc. have the meaning ascribed to them in this Declaration Article II, Section (B) and if not defined below, the meaning ascribed to the term where it first appears in this Declaration or the attached Bylaws or as defined in Ohio Revised Code Section 5312. The following terms used in this Declaration or Bylaws are defined as follows:

- (1) **"Assessments"** means the determination of the share of Common Expenses, including reserves, and other charges levied against the Lot(s), which, from time to time, will be payable by the Owner(s) as determined in accordance

with the Declaration, Amended Bylaws, and the rules. The term "other charges" includes, without limitation:

(i) costs, expenses, and charges for maintenance, repairs, and replacements made by the Association that were the obligation or responsibility of the Owner to make;

(ii) special or extraordinary uses or consumptions attributable to such Owner;

(iii) damages or enforcement Assessments resulting from the failure of the Owner or any occupant, tenant, guest, or invitee of the Living Unit or Lot to comply with any of the covenants, conditions, obligations, or restrictions contained in the Declaration, Amended Bylaws, and/or the rules, together with the costs, including court costs, reasonable attorneys' fees, and paralegal fees if any action to obtain injunctive or other necessary relief against such non-compliance;

(iv) any other charges or Assessments permitted by the Declaration, these Amended Bylaws, or Chapter 5312 to be made against the Lot;

(v) reasonable costs of collection of any unpaid Assessments, enforcement Assessments, charges (including title reports, court costs, reasonable attorneys' fees, and paralegal fees), interest, and reasonable monthly administrative late charges;

(vi) "**Annual Assessments**" means the share of the estimated cash requirement levied against the Lots(s) to pay for the Common Expenses, including reserves, for the ensuing fiscal year in accordance with the Declaration and Amended Bylaws; and

(vii) "**Special Assessments**" means the share of the Common Expenses or other charges levied against the Owner(s) to pay for special or specific projects or expenses not provided for in the estimated cash requirement for the ensuing fiscal year, which is to be paid as the Board determines.

(2) "**Association**" means the Beacon Place at Church Square Homeowners Association, Inc., a nonprofit Ohio corporation, its successors and assigns created to govern, operate, control, and administer Beacon Place at Church Square, including the Common Elements, and to enforce the covenants and restrictions contained in this Declaration and as amended from time to time.

(3) **"Articles" and "Articles of Incorporation"** mean those Articles, filed with the Secretary of Ohio, incorporating Beacon Place at Church Square Homeowners Association, Inc., as a corporation not for profit under the provisions of Chapter 1702 of the Revised Code of Ohio, as the same may be amended from time to time.

(4) **"Authorized Communications Equipment"** means any communications equipment that is selected by the Board, in its sole discretion, that provides an electronic communication transmission, including but not limited to, by telephone, video conference, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention and participation of, the Member.

(5) **"Board"** means the Board of Directors of the Association and which may be referred to as Board, Board of Directors or Directors in the governing documents.

(6) **"Bylaws"** means the Amended and Restated Bylaws of Beacon Place at Church Square Homeowners Association, Inc. attached as Exhibit A and made a part of this Declaration and as may be amended from time to time.

(7) **"Chapter 5312"** means Chapter 5312 of the Ohio Revised Code, as amended or supplemented from time to time.

(8) **"Chapter 1702"** means Chapter 1702 of the Ohio Revised Code as amended or supplemented from time to time.

(9) **"City"** means the City of Cleveland, Ohio.

(10) **"Coach Homes"** means four Townhomes that face Euclid Avenue and that have decorative masonry walls, fences, pillars and a shared driveway. All references to Townhomes include Coach Homes unless Coach Home is specifically referenced.

(11) **"Common Elements"** means any real and personal property that the Association owns, holds in fee, has use of under a lease or easement, or otherwise holds for the common use and enjoyment of the owners or Occupants that are not part of or within a Lot.

(12) **"Common Expenses"** means the actual and estimated expenses or financial liabilities of the Association designated as Common Expenses in Chapter 5312, this Declaration, the Bylaws, and the following:

(a) costs, rentals, charges, payments, taxes, and obligations of the Association incurred in the operation, administration, management, maintenance, repair, replacement, insurance, security and improvement of the Common Elements and property provided for in this Declaration, and for any reserve funds established for those purposes;

(b) costs, charges, and obligations of the Association incurred in providing for utility services used, rented, or supplied to or furnished to the Common Elements or Lot;

(c) amounts the Board from time to time determines to be Common Expenses including any reasonable amounts for reserve funding; and

(d) all sums lawfully assessed against the Living Units or Owners by the Association

(13) **“Community Standard”** means the standard conduct, maintenance, or other activity generally prevailing within the Property (“Beacon Place at Church Square”) as determined by the Board and as may be set forth within this Declaration or the Rules and regulations.

(14) **“Declaration”** means this Amended and Restated Declaration of Covenants, Conditions, and Restrictions.

(15) **“Electronic Voting Technology”** means an electronic voting system that accurately and securely records the voting Member’s intent to cast a ballot on a matter in the way identified by the Member, and provides for the counting of electronic votes submitted, including by means of internet, application, web, virtual, or other electronic technology.

(16) **“Home”** means a detached, freestanding residential structure constructed on a Lot

(17) **“Good standing”** means the Member is not engaged in litigation against the Association, including the Board or any Director, or is not more than 30 days past due in any payment due to the Association of any Assessment as of the date of the meeting at which a vote is taken or, if no votes are taken at a meeting, the date a vote is tabulated.

(18) **“Living Unit”** means a residential home, whether a detached Home or an attached Townhome constructed within a Lot, situated within the Property intended to be inhabited for residential use by Occupants related by blood, marriage, or legal adoption living together as a single family, or unrelated Persons who function as an integrated economic unit. Once a Living Unit initially exists on a Lot, the Lot is thereafter deemed to have a Living Unit on it at all times for all purposes of this Declaration.

(19) **“Lot”** means a tract of land within the Property that has a separate parcel number as assigned by the County Auditor. The term contemplates that the Lot is improved with a Living Unit.

(20) **“Member”** means each Owner is a Member of the Association.

(21) **“Occupant(s)”** means any natural person who resides in a Living Unit.

(22) **“Original Declaration”** means those documents and their attachments as originally recorded on October 15, 1996, at Volume 96-10152, Page 14 et seq. of the Cuyahoga County Records, together with all amendments thereto. Except as otherwise expressly provided for in this document, this Declaration and attached Bylaws supersedes the Original Declaration and any and all subsequent amendments to the Original Declaration, in all respects.

(23) **“Owner”** means any Person who holds, whether or not in possession, record fee simple title in any Lot. Owner does not include any Persons having an interest merely as security for the performance of an obligation unless and until said Person has acquired title through a foreclosure or any act or proceeding in lieu of foreclosure.

(24) **“Party Wall”** means the common wall and boundary between and shared by two Townhomes.

(25) **“Person”** means a natural person, a corporation, partnership, limited partnership, limited liability company, trust, and any other legal entity to which the law attributes the capacity of having rights and duties.

(26) **“Property”** means the land described in Exhibit C, as was amended from time to time by the addition and incorporation of additional land by the Developer and in the legal description attached as Exhibit B.

(27) **“Rules”** means the rules and regulations governing the operation and use of or any portion of the Property, including the Living Units and Lots, as the Board may adopt from time to time. The Rules and regulations must be consistent with the rights and duties established by this Declaration and the City of Cleveland Zoning Code.

(28) **“Townhome”** means an attached residential structure constructed on a Lot and includes the four Coach Homes.

ARTICLE III

BEACON PLACE AT CHURCH SQUARE ASSOCIATION

(A) **Existence.** The Association is a non-profit corporation existing under the laws of the State of Ohio. The Bylaws for the Association are marked Exhibit A and are attached to this Declaration. The Association’s Articles of Incorporation (“Articles”) are filed with the Ohio Secretary of State in accordance with applicable law. The Articles and Bylaws may be amended as permitted by law and as set forth in the respective document without an amendment of this Declaration.

(B) **Purpose.** The Association has been formed for the purpose of insuring that the Common Elements and other areas for which it is responsible will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them. The purpose of the Association is to operate, maintain, and repair the Common Elements and any improvements thereon, to maintain certain decorative entranceways and common landscaping on the Property and other features within the Property as designated by the Board, to pay for the costs of lighting of the Common Elements if any, and to take other action as the Association is authorized to take with regard to the Property pursuant to its Articles, Bylaws, or this Declaration. The Association may maintain any other area on the Property or otherwise if the Board determines the maintenance to be in the best interest of the Owners.

(C) **Membership.** Each Owner, upon acquisition of title to a Living Unit or Lot automatically becomes a Member of the Association. Membership terminates upon the conveyance of record by the Owner of their Living Unit or Lot, at which time the new Owner automatically becomes an Association Member.

(D) **Voting Rights.** Each Member is entitled to one vote for each Lot owned. The vote for each Lot must be exercised in accordance with the Bylaws.

(E) **Board of Directors and Officers.** The Board of Directors and officers of the Association, elected as provided in the Bylaws, will exercise the powers, discharge the duties, and be vested with the rights of the Association conferred by operation of law, the Bylaws, and this Declaration, unless a vote of the Owners is specifically required. In the event any power, duty, or right is deemed exercisable or dischargeable by, or vested in, an officer or member of the Board, solely in their capacity as an officer or a member of the Board, they are deemed to act in the capacity to the extent required to authenticate their acts and to carry out the purposes of this Declaration and the Bylaws.

(F) **Administration of Property.** The Association will administer the Property to the extent provided for in this Declaration. The administration of the Property must be in accordance with the provisions of this Declaration and the Bylaws. Each Owner or Occupant must comply with the provisions of applicable law, this Declaration, the Bylaws, the Rules, and the decisions, resolutions, and duly adopted motions of the Association and the Board, as lawfully amended from time to time.

(G) **Service of Process.** The person to receive service of process for the Association will be as designated by the Board of Directors. This designation will be accomplished by filing with the Ohio Secretary of State the required statutory agent designation form.

ARTICLE IV

ASSOCIATION RIGHTS

The Association has the right to:

(A) borrow money, issue, sell, or pledge notes, bonds, or other evidence of indebtedness of the Association, to assign, without limitation the Association's right to present or future income, including the right to receive insurance proceeds, and other income or compensation, as collateral for any monies borrowed, and to assign the Association's lien rights, and execute related documents, with the prior approval of a majority of the Association's voting power that is present, in person or by proxy, at an Association meeting or with the written consent of at least a majority of the Association's total voting power outside of a meeting;

(B) enter or authorize its agents to enter in or on the Property, or any part thereof, when necessary in connection with any maintenance, repair, replacement, or construction for which the Association is responsible or has a right to maintain, repair, replace or construct. Entry will be made with as little inconvenience to Owners and Occupants as practicable. Any damage caused in so doing will be repaired by the Association; and

(C) grant, obtain, or dedicate to public use easements and rights-of-way for access and easements for the construction, extension, installation, maintenance, repair, or replacement of utility services and facilities or to or from a public utility or governmental authority, and to or from any organization or agency which has the power of eminent domain or condemnation.

ARTICLE V

ASSOCIATION RESPONSIBILITIES

(A) **Management.** Subject to the provisions of Declaration Article V, Section (B) below, the Association will provide for the management of and supervision for the operation of the Common Elements and any other portions of the Property the Association is to maintain. The Association will establish and maintain policies, programs, and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Owners and may but is not required to: (i) adopt Rules; (ii) engage employees and agents; and, (iii) delegate all or any portion of its authority and responsibilities to a manager, managing agent, or management company.

(B) **Maintenance.** The Association will reasonably maintain, repair, and replace the Common Elements and other property owned by the Association in a clean, safe, neat, healthy and workable condition, in good repair, and will promptly make all necessary repairs and replacements, structural and nonstructural, ordinary and extraordinary, subject to the provisions of this Declaration including:

(1) **Entrances.** any entrance areas including all signage, associated landscaping, hardscaping, lights or lighting system, if any;

(2) **Irrigation.** all components or parts of any irrigation system in the Common Elements in good order and condition, including operation;

(3) **Coach Homes.** masonry wall, fence and pillars in front of the four Coach Homes and facing Euclid Avenue;

(4) **Community Signs.** all signs located within the Property, including illumination, if any;

(5) **Fencing.** all fencing within the Common Elements;

(6) **Landscaping.** grass, plantings, trees and shrubs within the Common Elements (Maintenance includes by way of example and not limitation mowing, cutting, fertilizing, pruning, spring and fall clean up.);

(7) **Lot Landscaping.** reasonable lawn care and landscape maintenance of all Lots (The Board in its sole discretion defines reasonable. Reasonable lawn care maintenance includes mowing, and by way of example, may include fertilization, grub and weed control. Reasonable landscape maintenance may include by way of example the pruning of trees and shrubs, and the installation of mulch. The Association is not responsible for the rear Lot maintenance of detached Homes.)

(8) **Snow Removal.** The Association has the right but is not obligated to remove snow from any and all sidewalks within the Property when snow accumulation exceeds two inches in depth. The Association is not required to and is not responsible for removing ice or isolated snow drifts from sidewalks at any time.

(9) **Common Utilities.** The Association will maintain common utility facilities and pay all charges for water, gas, sewer, electricity, light, heat or power, telephone, security and other services, used, rented or supplied to or in connection with the Common Elements or any other property owned by the Association. All common utility services are contracted for, metered and billed by and to the Association.

(C) **Association Work on Lots.** If any portion of a Lot, must be repaired or replaced in conjunction with maintenance, repair, or replacement of the Common Elements, the Association may undertake the repair or replacement of the portion of the Lot and charge to the Lot Owner the cost of the repair or replacement on the Lot, including the cost of any material as an individual Assessment, as the Owner is responsible for maintenance, repair, and replacement of their Lot.

(D) **Exceptions and Limitations to Association Maintenance.** With the exception of Declaration Article V, Section (C) above, Lot Owners will repair and replace the Lot, Living Unit, or the Common Elements required to be made by the Association that are necessary as the result of the acts or negligence of the Owner or their Occupants, or their respective agents, employees, guests, or contractors.

(E) **Interpretation of Maintenance Obligation.** Any conflict between the maintenance provisions of this Declaration Article V and any other provision of this Declaration or the Bylaws must be interpreted in favor of the maintenance obligations as stipulated in this Declaration Article V. In the event of any uncertainty or good faith dispute as to whether the Association or an individual Owner is responsible for the

maintenance, repair, or replacement of a given item, the Board's determination, exercised in good faith, as to whether any particular maintenance, repair, or replacement to be made is the Association or individual Owner's responsibility is final, provided that the determination must thereafter be consistently followed.

(F) **Right of Entry for Maintenance.** The Association has a right of access to, in, and through each Lot and may therefore enter any Lot as necessary to inspect, provide, perform, and complete any maintenance, repair, or replacement for which the Association is responsible as set forth in this Declaration.

(G) **Taxes and Assessments.** The Association will pay all taxes and Assessments levied against the Common Elements, any other property that the Association may own, including personal property taxes, general real estate taxes, and Assessments by any applicable public authority.

ARTICLE VI

OWNER RESPONSIBILITIES

(A) **Covenant of Good Maintenance.** At their expense, Owners will keep and maintain their Lots, Living Units, and all improvements, all appurtenances, and structures in a state of good working order, condition, and repair and in a manner that reflects the Community Standard of safety, cleanliness, good repair, neatness, and attractiveness from neighboring Lot site lines and from the street. All replacements must be of the same (or better) specification, quality, kind, and type as the item being replaced. Each Owner must keep the exterior and interior of their Living Unit or Lot, and any adjacent Common Elements free from debris, rubbish, rubble, and other unsafe or unsightly conditions. The "Covenant of Good Maintenance" of Lots and Living includes maintenance, repair and replacement of:

- (1) all components of, fixtures, and installations attached or affixed to the exterior of the Living Unit;
- (2) any Improvement(s) to any Living Unit or Lot including:
 - (a) landscape beds, plantings, and trees;
 - (b) hardscape features including by way of example, edging material, decorative or retaining walls, room addition, patio, porch, or deck.

(3) All of the work required in Sections (A)(1) and (2) above must be promptly, properly and in a good workman-like manner, using material of equivalent or better quality than those originally installed and in accordance with any Board specifications or Rules.

(B) Owner's Breach of Covenant of Good Maintenance.

(1) Association will notify Owner in writing of any reasonable need for maintenance or repair, or of a failure to comply with the "Covenant of Good Maintenance" (good working order, condition, and repair, safety, cleanliness, neatness, and attractiveness). Within 30 days of the date of written notice:

(a) Owner will request a hearing to object to the alleged reasonable need or failure to comply, or

(b) Owner will complete or diligently proceed to complete the maintenance or repair as determined by the Board.

(2) Upon prior written notice to the Owner, the Association has the right to undertake or perform maintenance or repair on behalf of the Owner if the Owner fails to comply with Section (B)(1) or (2) above.

(3) Prior written notice of the Association's maintenance or repair on behalf of the Owner is not required if the lack of maintenance or repair results from, is related to, or may cause an emergency condition, presents a clear and imminent danger to the health and safety of the community or Members, or is an ongoing, continuing or reoccurring situation.

(4) The Association will provide a written statement or invoice to the Owner for any charges the Association incurs for that Living Unit or Lot that is related to the maintenance, repair, or any act it undertakes related to this Section (B), including legal fees and costs. The Owner will reimburse the Association for all charges on the invoice within 30 days from the invoice date.

(C) Party Walls/ Shared Roofs and Shared Coach Home Driveway. Each wall and roof and shared Coach Home driveway which is built as part of the original construction of a Townhome and that may exist on the dividing line between Lots or Living Units constitutes a party wall and/or shared roof or shared Coach Home driveway, and the general rules of law and of liability for property damage due to negligent or willful acts or omissions will apply. Each Owner is responsible for the maintenance, repair, and replacement of the party walls, shared roofs, and siding of their Living Unit, including all components of the party walls, roofs and siding, such as, without limitation, drywall, insulation, wood or other framing, shingles, siding, gutters, downspouts, flashing, ice and

water shield, underlayment, and house wrap. Each Owner of a Coach Home is responsible for the maintenance, repair and replacement of the shared driveway. Because each Living Unit within a Townhome is attached to one or two other Living Units, the maintenance, replacement or repair of party walls, roof or siding materials or the shared driveway of one Living Unit will, at times, require the cooperation of each Owner of an attached Living Unit for structural integrity or functionality of the party wall, roof or siding, or a shared driveway including proper warranting of the party wall, roof or siding, driveway work or materials, or aesthetics, or both. To foster and ensure cooperation by and between Owners, the Board has the power to:

(1) establish mandatory minimum standards and specifications for the repair or replacement of party walls, roofs, siding and shared driveway;

(2) establish minimum qualifications, including necessary permits, licenses, or bonds, for contractors retained by Owners to replace or perform major repairs of, as determined by the Board, the party walls, roofs, siding and shared driveway;

(3) establish mandatory guidelines and criteria to evaluate and determine when a given wall, roof, or siding component needs repair or replacement, including, without limitation, complete replacement of the party walls, roof, including overlay, or siding; and shared driveway and;

(4) as an Association expense, to retain a professional engineer, architect, roofing consultant, or other qualified person or company to advise the Board in establishing any standard, specification, qualification, guideline, or criteria.

(5) In addition to the right, but not the obligation, granted to the Association in this Declaration Article VI, Section (C), if Townhome Owners that share a party wall, roof, siding or driveway do not agree as to when or to what extent the party wall, roof, siding or driveway must be repaired or replaced, any Townhome Owner, individually or in conjunction with another Townhome Owner or Townhome Owners of the shared party wall, roof, siding, or driveway may seek a resolution of the dispute by:

(a) Submitting a written request to the Board specifying the work the Townhome Owner asserts is necessary. Upon the Board's receipt of a request, the Board will set a hearing to determine what, if any, repair or replacement is needed, and notify the Owners of Townhomes in the same attached building as the Owner who submitted the request, in writing, at least seven days in advance of the date, time, and location of the hearing. The Board will further retain, at its sole discretion and determination, an

independent, professional engineer, architect, roofing consultant, or other qualified person or company, to inspect the wall, roof, or siding at issue, attend the hearing, consider the information and documentation submitted by each, and render a decision as to what, if any, repair or replacement is needed. The decision rendered by the qualified person or company is final and binding against the Townhome Owners at issue, and judgment may be entered upon it in accordance with Ohio law by a court of law. The Association will assess all costs, fees, and expenses incurred in this process equally against the Townhome Owners that that are the subject of the request;

(b) Submitting the dispute to binding arbitration administered by the American Arbitration Association, or, if not in existence, an arbitration forum or panel referred to the Townhome Owner by the Ohio State Bar Association. Demand for arbitration will be made in writing, delivered to the Townhome Owners that are the subject of the dispute and filed with the person or entity administering the arbitration. The decision rendered by the qualified person or company is final and binding against the Townhome Owners at issue, and judgment may be entered upon it in accordance with Ohio law by a court of law; or,

(c) Filing a complaint in any court having jurisdiction of over the issue. The prevailing Townhome Owner or Townhome Owners in the court action is entitled to an award of reasonable attorney's fees, and other costs and expenses of litigation, from the Townhome Owner or Townhome Owners at issue.

(6) The Board has the right and authority to adopt and enforce any other Rules, polices, or procedures it determines will further the maintenance of the walls, roofs, and siding in a condition of good repair, condition, and appearance to maintain the values of the Living Units within Beacon Place at Church Square as a whole.

(7) The Association, including the Board, is not liable for or responsible to any Townhome Owner for any defect, failure, or error in any standard, specification, qualification, guideline, criteria, Rule, policy, procedure, or other requirement the Board adopts or establishes, or for any decision or ruling of any independent, professional engineer, architect, roofing consultant, or other qualified person or company the Association retains, in accordance with this Declaration Article VI, Section (C).

(D) **Negligence of Owner.** Each Owner will make, at the Owner's sole expense, all repairs and replacements to any other Lot or the Common Elements that is required as a result of the acts or negligence of the Owner, their Occupants, or any of their employees, agents, contractors, or guests. Notwithstanding the foregoing obligation of the Owner, the Association may, but is not obligated to, repair and replace the property damaged or destroyed by reason of the act or neglect of an Owner, an Occupant, or their invitee, agent, employee, licensee, or guest, and charge and collect from the Owner the cost and expense paid or incurred in making any repair or replacement. If the repair or replacement is made by the Association, the cost and expense will be a lien against the Owner's Lot, which the Association may assert and collect in the same manner as the Association may assert and collect a lien against an Owner's Lot for nonpayment of Assessments. The right of the Association to assert and collect upon a lien is not exclusive, but is in addition to all other rights and remedies available to the Association in this Declaration and Bylaws, in law, and in equity for recovery of the cost and expense so incurred.

(E) **Non-disturbance.** Each Owner must perform their responsibilities in a manner that will not unreasonably disturb any other Person(s) residing within the Property.

(F) **Compliance.** Each Owner must faithfully and promptly pay all charges and Assessments made against the Owner or the Owner's Lot in accordance with this Declaration and the Bylaws and to observe, fulfill, and perform all of the covenants, restrictions, and all other obligations of an Owner as set forth in (or intended by) this Declaration, the Bylaws, and Rules.

ARTICLE VII

COVENANTS, CONDITIONS AND RESTRICTIONS

(A) **Purpose of Property, Application and Scope of Covenants, Conditions and Restrictions.** The purpose of the Property, Living Units, and Lots is to create and maintain a residential community and those uses that are both customarily accessory and incidental to residential living. Each Living Unit must be used as a residential Living Unit and for no other purpose except as permitted by this Declaration. No part of the Property may be used except for the foregoing purposes and except for other uses or purposes as are expressly permitted or contemplated in this Declaration.

(B) **Rights.** Any Owner(s) of a Lot or Living Unit, and any Occupant, has the right to use and enjoy the Common Elements and each is subject to the restrictions contained herein and to any Rules promulgated or adopted by the Board.

(C) **Common Element Prohibitions.**

(1) discharge of fireworks including all combustible or explosive devices used for producing a striking display or light or loud noise;

(2) discharge of firearms including, without limitation, "B-B" guns, pellet guns, and other firearms of all types, regardless of size;

(3) feeding wildlife;

(4) storage of any rubbish, trash, or garbage;

(D) **Lot and Living Unit Restrictions.**

(1) **Prohibited Structural and Exterior Modifications and Installations.**

To preserve, protect, and promote the original design, appearance, and value of the Property as a whole, including the following temporary or permanent structures, installations, alterations, plantings, placements, additions, improvements, other items or modifications are prohibited:

(a) above-ground and in-ground swimming pools as defined by the Board;

(b) barred security doors, high intensity security lighting, window air-conditioning units that extend beyond the exterior perimeter wall, and metal window coverings or shutters;

(c) clothes, sheets, blankets, laundry of any kind, or any other articles on or within any window, on any exterior part of any Living Unit, Lot, or the Common Elements;

(d) long term storage of bicycles, wagons, or recreational equipment on any exterior portion of any Lot including driveways, subject to Board rule;

(e) outbuildings, utility sheds, shacks, trailers, or any other structures of a permanent or temporary nature;

(f) permanently installed basketball hoops and courts;

(g) any improvement, building, or structure, whether temporary or permanently installed, on any Lot used at any time as a temporary or permanent residence, other than a Living Unit.

(h) electronic pet containment fences, installed underground and located directly behind a Living Unit;

(2) Structural and Exterior Modifications and Installations Permitted with Written Board Approval or by Rule. The following temporary or permanent structures, installations, alterations, plantings, placements, additions, improvements, other items, or modifications may be permitted with the Board's prior written consent or in strict accordance with Board Rules or State or Federal law where specifically stated below:

(a) real estate signs related to the sale of the Living Unit, one political sign, and one school activity-related sign subject to Board Rules;

(b) flags and poles in accordance with State or Federal law;

(c) items related to construction or renovation of a Living Unit or Lot including any equipment, vehicles, storage pods, or trash containers are prohibited from remaining on any Lot for more than 60 days and subject to Board Rules;

(d) outdoor fire pits, fireplaces, cooking devices, or ovens that are permanent installations;

(e) pergolas, awnings, and canopies;

(f) permanent hardscape installations including walls or pillars;

(g) external radio and television reception, transmission, or other communications antenna, satellite dishes, or devices except as otherwise specifically permitted by State or Federal law;

(h) skylights;

(i) solar panels;

(j) temporary pools and permanently installed hot tubs subject to Board Rules;

(k) keeping and storage of portable basketball hoops subject to Board Rules;

(l) window replacement;

(m) container flower and vegetable gardens are permitted on the deck or patio of Townhomes; container and flower gardens are permitted on the deck, patio or in the rear yard of a Home.

(3) General Restrictions.

(a) **Laundry, Rubbish, and other Unsightly or Unkempt Conditions.** Each Owner is responsible to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on the Owner's Lot. The Common Elements and Lots must be kept free and clear of garbage, rubbish, debris, and other unsightly materials as defined and determined by the Board. All rubbish, trash, and garbage must be regularly removed from the Lot and must not be allowed to accumulate. Trash, garbage, and other waste must not be kept anywhere on the Property, except in sanitary, clean, and covered containers, or in sealed or tied plastic bags, in accordance with applicable law, including applicable City or County ordinances, and the Rules.

(b) **Animals and Pets.** Except as expressly provided for below, pets, including rabbits, livestock, fowl, poultry, pigs, snakes, amphibians or other reptiles, insects, spiders, horses, Exotic Pets (as defined below), wild hybrids, or any other animals of any kind are prohibited from being raised, bred, or kept in any Living Unit, on a Lot, or in the Common Elements.

(i) An Owner may have and keep 2 Permitted Pets in their Living Unit, excluding any "Prohibited Dog" or "Vicious Dog," as defined below. Any Owner that keeps any Permitted Pet defined below and as described above, must comply with the restrictions contained in this Declaration Article VII, Section (D)(3)(b) and with the Association Rules.

(ii) A "Permitted Pet" is a domestic household pet including any dog, cat, bird, fish, or other aquatic life permitted by this Section (D)(3)(b).

(iii) No Permitted Pet may, at any time, be kept, bred, or maintained for any commercial purpose.

(iv) The Board may require the permanent removal of any Permitted Pet from the Property that causes or creates a nuisance or unreasonable disturbance upon three days' written notice from the Board.

(v) A Permitted Pet must be kept in a Living Unit and only those portions of the Property as the Board designates, unless the Permitted Pet is on a hand-held leash, is being carried, or is otherwise transported across, to, or from the Property.

(vi) A "Vicious Dog" is a Prohibited Dog. It cannot be kept, harbored, or permitted to remain on any part of the Property or within a Living Unit for any length of time. A Vicious Dog is a dog that: (1) is or has been the subject of a police report; or (2) is defined or found to be a "vicious" dog under any State or local law, ordinance, or other regulation, or by a court of law.

(vii) An "Exotic Pet" is an animal that is a rare or unusual pet kept within a human household, which is generally thought of as a wild species, not domesticated, and not typically kept as a pet.

(viii) If an Owner has any non-Permitted Pet, Prohibited Dog or Exotic Pet residing in their Living Unit for 60 or more days prior to the date of the recording of this Declaration, and registers the non-Permitted Pet, Prohibited Dog, or Exotic Pet with the Association within 90 days of the date of recording of this Declaration, the non-Permitted Pet, Prohibited Dog, or Exotic Pet is "grandfathered" and permitted to remain on the Property, until its demise or relocation off the Property for a period of 30 or more consecutive days, at which time it may not be replaced.

(c) **Drones.** To protect the privacy and quiet enjoyment of the Owners, residents, Occupants, guests, and invitees of Beacon Place at Church Square, the use, operation, or control of drones or any other remote flying device whether or not the devices are equipped with camera or surveillance equipment is prohibited on the Common Elements. Drones are permitted on Lots so long as any camera or surveillance equipment is not used for photography or surveillance of any other Lot.

(d) **Garage and Estate Sales.** Garage, yard, estate or similar sales are prohibited.

(e) **Occupancy Limit.** No more than two persons per bedroom are permitted to reside in a Living Unit. "Reside" is defined as no more than 30 days out of each 12 month period. For the purposes of this restriction only, any person 36 months of age or younger will not be counted in determining whether the occupancy limit has been reached or exceeded.

(f) Parking and Storage of Vehicles.

(i) Private motor vehicles, vans, and pickup trucks of three-quarter ton or less may only be stored in a garage or parked on a paved driveway on a Lot. However, no motor vehicle may be left on any driveway or other part of the Property longer than five consecutive days in a condition that is incapable of being operated upon the public roadways. After five days, the vehicle will be considered a nuisance and detrimental to the welfare of the neighborhood and must be removed.

(ii) No towed vehicle, boat, motor home, or mobile home will be left or kept on any Lot or other part of the Property outside of a garage longer than three consecutive days at a time, or for a total of more than six days each calendar year. After the expiration of any three-day period, any towed vehicle, boat, motor home, or mobile home will be considered a nuisance and detrimental to the welfare of the neighborhood and must be removed from the Property or stored in a garage.

(iii) No commercial vehicle of any kind may be parked, stored, or temporarily kept on any Lot or other part of the Property, except when stored wholly within a garage, or except when there temporarily to service existing improvements or to be used in connection with the construction of new improvements on a Lot or other part of the Property.

(iv) For the safety, security, and aesthetics of the community, garage doors are to be kept closed overnight and generally during daytime hours when the garage is not being used.

(v) "For Sale" or similar signage are prohibited in, on, or from any vehicle parked or stored on the Property for more than 30 days.

(vi) Junk vehicles, including excessively noisy or polluting vehicles, as solely determined by the Board, or equipment or vehicles on blocks are prohibited from being operated or stored anywhere on the Property.

(vii) Motorcycles, excluding mini-bikes and trail bikes, are permitted on the Property but are subject to any Rule limiting the permissible decibel noise level from a motorcycle when running or in use anywhere on the Property.

(viii) The Association, as determined by the Board, has the authority, in addition to all other remedies, to tow away and cause to be stored any vehicle or equipment that is in violation of any Declaration provision or any Rule, whether the vehicle belongs to an Owner or Occupant, or their tenant, a member of the Owner's or Occupant's family, or the Owner's or Occupant's guest or invitee. The Owner responsible for the presence of the vehicle or equipment must pay all charges for towing and storage.

(g) **Office Use.** No industry, trade, profession, or any other business of any kind, whether commercial, religious, educational, or otherwise, whether designated for or not for profit, altruism, exploration, or otherwise, may be conducted, maintained, or permitted by any Owner on any part of the Property, except that an Owner or Occupant may use a portion of the Living Unit for business activity(ies) so long as:

(i) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Living Unit and does not interfere with the quiet enjoyment or comfort of any other Owner or Occupant;

(ii) the activity is consistent with the residential character of the Property and does not constitute a nuisance, a hazardous or offensive use, or threaten the security or safety of other Occupants;

(iii) the activity conforms to all zoning and other governmental requirements;

(iv) in no event may any part of the Living Unit be used as a school, music studio, or day care facility;

(v) the activity does not involve non-resident employees, staff, or independent contractors working in the Living Unit;

(vi) the activity does not result in walk-in traffic to the Living Unit from the general public or from regular or repeated business invitees nor result in any door-to-door solicitation of other Owners or Occupants;

(vii) the activity does not result in the Living Unit becoming principally an office or business as distinct from a residence or in the Living Unit developing a reputation as an office or a business; and,

(viii) the activity does not result in or involve regular or unreasonably large volume of business-related deliveries to or from the Living Unit, as may be further defined or regulated in the Rules.

The Board, in its sole discretion, determines whether or not any business activity violates any of the above conditions or requirements.

(h) **Occupancy Restriction.** A Person who is classified as a sex offender/child-victim offender and for whom the County Sheriff or other government entity must provide community notice of the sex offender's residential address, is prohibited from residing in or occupying a Living Unit and from remaining in or on the Property for any length of time. The classification of a sex offender/child-victim offender and the determination of whether notice is required is made by a court of law in accordance with the Ohio Sex Offenders Act, or similar statute from another jurisdiction as either may be amended or renamed from time to time. The Association is not liable to any Owner, Occupant, or visitor of any Owner, or of the Association, as a result of the Association's alleged failure, whether negligent, intentional, or otherwise, to enforce any provision of this Occupancy Restriction.

(i) **Leasing of a Living Unit.** To create a community of primarily occupied by resident Owners, including the preservation of property values and the well-being of Owners and Occupants; the leasing of any Living Unit is subject to each of the following conditions and restrictions.

(i) No Living Unit can be rented or leased by the Owner for hotel, Air BnB, VRBO or other, similar rental service or for transient purposes, which is defined to mean a rental for any period less than six full, consecutive calendar months;

(ii) Sub-leasing of any Living Unit in whole or in part or the leasing of any individual rooms within a Living Unit is prohibited.

(iii) The Association has at all times a limited power of attorney from and on behalf of any owner who is more than 30 days delinquent in the payment of any Assessment or charges due to the

Association to collect the lease or rental payments directly from the Living Unit Owner's tenant or renter until the delinquency is paid in full.

(iv) All leases must be in writing. The lessee must abide by the terms of the Declaration, Bylaws, and Rules. When an Owner leases their Living Unit, the Owner continues to be responsible for all obligations of ownership of their Living Unit and the Owner is jointly and severally liable with the lessee to the Association for the conduct of the lessee and any damage to property. The Owner must deliver a completed tenant information form to the Board prior to the beginning of the lease. The information form will be used by the Association only in cases of emergency.

(v) Any land contract for the sale of a Living Unit must require an initial payment of at least five percent of the purchase price and require payment in full of the balance of the purchase price within 15 years of the execution of the land contract. Any land contract must be recorded with the Cuyahoga County Fiscal Office and a recorded copy of the land contract must be delivered to the Board within 30 days of recording. Any land contract not meeting the requirements of this Declaration Article VII, Section (D)(30)(i)(v) is an impermissible lease. The buyer of a Living Unit on a land contract meeting the requirements of this Declaration Article VII, Section (D)(30)(i)(v) is considered the Owner of the Living Unit for all purposes and obligations under this Declaration, the Bylaws, and the Rules, except only and specifically to the extent otherwise provided in the land contract between the buyer and seller.

(j) **Sale of a Lot and Occupancy Information.** Prior to the transfer of any Lot, the Owner must submit to the Association: (a) the new Owner's name, home address, electronic mail address, home and business mailing addresses, and the home, mobile, and business telephone numbers of the Owner and all Occupants of the Living Unit; (b) payment in full to the Association of all outstanding Assessments and other charges levied against the Living Unit and that are due or become due up until the date of transfer of the Living Unit; and (c) a written verification that the new Owner has received a set of governing documents, including this Declaration, the Bylaws, and any subsequent amendment, and the Rules (a set may be obtained from the Association at a reasonable charge). An additional purpose for the submission of this information is to provide the Association with an opportunity to verify that the Assessments chargeable to the Lot are current. Within 30 days of title transferring to a new Owner, the Owner

must provide to the Association the Owner's and all Occupants' names, mailing addresses, and telephone numbers. Any change in the information, whether or not the result of a subsequent transfer, must be provided to the Board, in writing, within 30 days of said change.

(k) **Use of Association Name.** Except as authorized by the Board, no Owner or Occupant may use the name "Beacon Place at Church Square Homeowners Association, Inc.," or any derivative using "Beacon Place at Church Square," in any website domain name, web address, URL, or social media address, including Facebook. No Owner or Occupant may use the name "Beacon Place at Church Square Homeowners Association, Inc.," or any derivative using "Beacon Place at Church Square," in any printed, electronic, or promotional material without the Board's prior written consent. However, Owners may use the name "Beacon Place at Church Square" and "Beacon Place at Church Square Homeowners Association, Inc." in printed, electronic, and promotional material where the words are used solely to specify where their respective particular Living Unit is located within Beacon Place at Church Square subdivision.

(l) **Neighbor-to-Nighbor Disputes.** The Association may, but is not obligated to, take enforcement action when a dispute under the Declaration or Rules is solely a dispute between neighbors involving an alleged nuisance or offensive behavior, not involving damage to the Common Elements and not involving a violation of the Association's architectural or maintenance standards. In any dispute between neighbors, Occupants must first work in good faith with each other to resolve their differences before the complaining Owner reports an alleged violation of the governing documents to the Association. An Owner's complaint to the Association about a neighbor must: (a) be in writing; (b) give as much detail as possible concerning the dispute; (c) provide specific information about what informal efforts to resolve the matter were undertaken by the complaining Owner(s); and (d) provide the name, address, phone numbers, and email address of the complaining Owner(s).

(m) **Applicability.** Each of the foregoing restrictions apply to all Owners, Occupants, and Persons who, from time to time, occupy, reside, or is in possession of any part of the Property, and to any other Person lawfully or unlawfully upon any part of the Property and not to the Association as the Board so determines. No Owner may cause or permit to exist a violation of the foregoing restrictions by themselves or any of their Occupants, employees, agents, guests, licensees, or invitees, or any other Person claiming by, through or under them.

ARTICLE VIII

ARCHITECTURAL CONTROL

(A) No improvement will be commenced, erected, or placed within the Property, including any Lot or Living Unit nor will any exterior addition to, or change or alteration of any existing improvement (including but not limited to painting, staining, and re-siding) be made until the plans and specifications showing the nature, kind, shape, height, colors, materials, and location of the same have been submitted to and approved by the Board in writing as being in conformity with the plan, this Declaration, and in harmony of external design and location in relation to surrounding structures and topography. If the Association is professionally managed, submissions to the Board will be sent to the community association manager's office.

(B) The decisions of a majority of the Board with respect to matters coming before it will be final and binding. If the Board fails to approve or disapprove any proposed improvement within 30 days after the plans and specifications have been submitted, Board approval will be deemed to have been denied.

(C) All plans and specifications submitted to the Board will contain all information required by the Board.

(D) The Board has the right to disapprove any plans and specifications submitted to it because of any of the following:

(1) failure of the proposed improvement or plans and specifications to comply with this Declaration;

(2) failure to include information in the plans and specifications as may be reasonably requested;

(3) objection to the design, size, appearance, color, or materials of any proposed improvement;

(4) incompatibility of any proposed improvement or use with existing structures or uses upon other Lots or land within the vicinity of the proposed improvement;

(5) objection to the location of any proposed improvement with reference to any other Lots or Common Elements;

(6) objection to the grading plan for any lands;

(7) objection to the finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed improvement.

(E) In any case where the Board disapproves any plans and specifications, or approves them only as modified or upon specified conditions, the disapproval or qualified approval will be accompanied by a statement of the grounds upon which the action was based.

(F) Upon approval by the Board of any plans and specifications submitted to it, a copy of the plans and specifications may be required to be deposited as part of the Association's permanent record and a copy of the plans and specifications bearing approval, in writing, will be returned to the applicant.

(G) The Board may promulgate Rules governing the form and content of submitted plans, may amend and modify those Rules, and may issue statements of policy regarding the application process.

(H) If any improvement will be altered, erected, placed, or maintained within the Property other than in accordance with plans and specifications approved by the Board, alterations, erections, maintenance or use will be deemed to be undertaken in violation of this Declaration Article VIII and without the approval required herein and, upon written notice from the Board, any improvements so altered, erected, placed, or maintained in violation hereof will be removed and re-altered and the use will be terminated, so as to extinguish the violation.

(I) If 60 days after notice of the violation the Owner of the Lot or Living Unit upon which the violation exists has not been removed or the violation terminated, the Association will have the right, through its agents and employees to enter upon the land and to take any steps necessary to extinguish the violation and the cost thereof will be assessed to the Owner. The Owner will pay the amount for the removal within 10 days after being invoiced. The amount assessed to the Owner is a binding, personal obligation of the Owner and a lien may be filed against the Lot as provided in this Declaration Article X Section (E).

(J) Any agent of the Association or the Board may, upon notice to the Owner, at reasonable times enter upon and inspect any Lot, Living Unit, or other improvements for the purpose of ascertaining whether the maintenance, construction, or alteration of the improvements are in compliance with the provisions hereof; and the Association, the Board, nor any agent will be deemed not to have committed a trespass or other wrongful act by reason of the entry or inspection.

ARTICLE IX

INSURANCE

(A) Scope of Insurance Coverage.

(1) **Owners.** Each Owner will obtain and maintain in full force and effect casualty insurance on their Lot and Living Unit, and all improvements, installations, and fixtures attached or appurtenant to and serving only the Living Unit and Lot. The Board may require insurance on utilities serving the Living Unit or Lot by Rule.

(2) **Association.** The Association will obtain and maintain casualty insurance on the Common Elements and any other real or personal property owned by the Association and on all improvements, fixtures, installations attached or appurtenant to and serving the Common Elements.

(B) **Risks to be Insured and Amount Thereof.** All property insurance policies obtained by the Association and each Owner, pursuant to the requirements of Declaration Article IX, Section (A) above, must protect against loss or damage by fire and other hazards now or hereafter embraced by an "all-risk" or special form policy, and all other perils, which are customarily covered by similarly constructed and situated developments in Cuyahoga County, Ohio, in an amount sufficient to cover one hundred percent, less deductible, of the replacement cost of any repair or reconstruction in the event of damage or destruction from any casualty (excluding excavation and foundation costs and other items normally excluded from coverage). The term "replacement cost" means the cost needed to repair or reconstruct the damaged item to the condition it was in just before the insured damage was sustained.

(C) Damage and Destruction.

(1) **Responsibility for Repair.** Notwithstanding anything to the contrary in this Declaration, if any Living Unit is damaged or destroyed by any event or loss covered by the standard "all-risk" or special form endorsement, regardless of the deductible amount, the Owner must promptly cause the damage to be repaired or restored at the Owner's sole expense. All insurance proceeds received from the Association's casualty insurance and/or any Owner's casualty insurance must first be used and applied to the repair and restoration of the property damaged by the casualty for which the proceeds are paid. If the Owner fails to commence required repairs or if the Owner fails to diligently complete all of the repairs within a reasonable time thereafter, all as determined by the Board, the Association has the right, but not the obligation, upon written notice to the Owner, to commence or complete the repairs to the Living Unit's exterior, with the Owner solely

responsible for any and all costs or expenses not covered by the insurance proceeds received to be charged as an Assessment against the Lot.

(2) Common Elements Repairs. Repair and restoration of damage or destruction to the Common Elements must be substantially made to the same or better condition of the areas as they existed immediately prior to said damage, provided that the Board may permit the use of new or alternative materials as the Board reasonably determines are in the Association's best interest.

(D) Waiver of Subrogation. Each Owner and Occupant, as a condition of accepting title and possession, to a Lot, and the Association agree that, in the event any part(s) of the Property or the fixtures or personal property of anyone located in or on the Property are damaged or destroyed by fire or other casualty that is covered by insurance of any Owner, Occupant, or the Association, as provided for in this Article IX, the rights of recovery and subrogation, if any, of any party or their respective insurance company, against the other, or against the employees, agents, licensees or invitees of any party, with respect to the damage or destruction and with respect to any loss resulting therefrom are waived to the extent of the insurance proceeds actually recovered.

(E) Public Liability Insurance. The Association must insure itself, all Owners, members of their respective families, and other Occupants, and all Persons lawfully in possession or control of any part of the Property against liability for bodily injury, disease, illness, or death and for injury to or destruction of property occurring upon, in, or about or arising out of or relating to the Common Elements, the insurance to afford protection to a limit of not less than Two Million Dollars in respect to bodily injury, disease, illness, or death suffered by any one Person, to the limit of not less than Four Million Dollars in respect to any one occurrence and to the limit of not less than Two Million Dollars in respect to damage to or destruction of property arising out of any one accident. The insurance must contain a "severability of interest" endorsement that must preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association, the Board, other Owners, or Occupants. The policy will not insure against liability for personal injury or property damage arising out of or relating to the individual Living Units or Lots.

(F) Fidelity Insurance or Bonding. The Association must also obtain and maintain adequate insurance or fidelity bonding of all Persons who control or disburse Association funds. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or manager, managing agent, or management company, at any one time, against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of Association funds. As used in this Declaration Article IX, Section (F), the term "Persons who control or disburse Association funds" refers to any individual with authority and/or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any Association account or deposit, including but not

limited to, the management company's principals and employees and the president, secretary, and treasurer of the Association.

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

ARTICLE X

ASSESSMENTS AND LIEN OF ASSOCIATION

(A) **General.** Assessments for the Common Expenses must be made in the manner provided for below. Unless otherwise stated in this Declaration, Assessments must be levied among all the Owners and their respective Lots equally, which is 1/92 for each Owner. Every Owner must pay their proportionate share of the Common Expenses and any other Assessments levied against them in any manner and at any time provided for in this Declaration or as the Board may determine.

(B) **Individual Assessments.** The Board may levy Assessments against an individual Lot or Living Unit to cover fees, costs, damages, and other expenses or charges as provided for and in accordance with this Declaration, the Bylaws, or the Rules. Any individual Assessment is due and payable as the Board so determines and gives written notice to the Owner(s) subject to the Assessment.

(C) **Obligation to Pay Assessments.** The obligation to pay all Assessments is an independent covenant and is a charge on the Lot or Living Unit, and is a continuing lien upon the Lot against which each Assessment is made until paid in full. No Owner of a Lot may exempt themselves from liability for Assessments by waiver of the use or enjoyment of any of the Common Elements that the Association owns or operates, by abandonment or destruction of their Living Unit, or for any other reason. Regardless of any effort or action of an Owner to the contrary, the Association will credit any and all payments made by an Owner for all Assessments levied against the Owner in the order set forth in Declaration Article X, Section (D)(2) below.

(D) **Failure to Pay Assessments When Due.**

(1) Any Assessment not paid on or before the last day of the month in which a quarterly payment is due is subject to a monthly administrative late charge established by the Board and may, as the Board so determines, also bear interest charged at the highest legal rate that may be charged to an individual from the date the Assessment or charge first comes due until the same is paid in full. Each

Owner is also liable for any and all costs the Association incurs in connection with the collection of delinquent Assessments from the Owner, including reasonable attorneys' fees, recording costs, title reports, court costs, paralegal fees, and other related fees, expenses, and charges, which are added to the amount of the continuing lien.

(2) The Association may, but is not obligated to, accept any partial payment on an Owner's account. If the Association accepts a payment that is less than payment in full, the Association will credit the partial payment in the following order of priority:

- (a) to interest owed to the Association;
- (b) to administrative late fees owed to the Association;
- (c) to collection costs, attorneys' fees, and paralegal fees the Association incurs; and, finally,
- (d) to the principal amounts the Owner owes to the Association for the Common Expenses, enforcement Assessments chargeable against the Living Unit, or any other Assessments or charges.

(E) **Lien of Association.** The Association has a lien upon each Owner's Lot interest for the payment of the portion of any Assessment(s) chargeable against the Lot that remain(s) unpaid for 10 days after the same becomes due and payable, together with the other amounts provided for in this Declaration, from the time a certificate, subscribed by the Association President or other Association representative as is permitted by Ohio law, is filed with the Cuyahoga County Fiscal Office in accordance with the Board's authorization. The certificate will contain a description of the Lot, the name(s) of the record Owner(s), and the amount of the unpaid portion of the Assessment(s) and any other amounts due. The lien is continuing upon the Lot, and will and does also act to automatically secure and include all Assessments that become due and payable after the certificate is filed until the claim of lien is satisfied. The lien is valid for a period of five years from the time of filing unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the Court in an action brought to discharge the lien in accordance with this Declaration or State law. In addition, each Owner is personally liable, jointly and severally, for all Assessments chargeable to their Lot for the period of their Lot ownership. The existence of a mortgage, lien, or other encumbrance and of a condition, possibility of reverter, or the like, is not a defense of title under the preceding sentence.

(F) **Priority of Association's Lien.** The lien provided for in Declaration Article X, Section (E) above takes priority over any lien or encumbrance subsequently arising or created, except for: a) liens for real estate taxes and Assessments of political subdivisions, and b) liens of bona fide first mortgages, which have been filed for record. However, with respect to any bona fide first mortgage on a Lot that is filed for record after the date of this Declaration, an amount equal to the lesser of the amount of the delinquency or six months of Common Expense Assessments levied against the Lot, based on the budget adopted by the Association for the year in which the foreclosure action against the Lot is commenced, plus the Association's reasonable attorney's fees, costs, and expenses related to the foreclosure, is prior to any lien or encumbrance arising or created by the bona fide first mortgage. The lien provided for in Declaration Article X, Section (E) above may be foreclosed in the same manner as a mortgage on real property in an action brought by or on behalf of the Association after authorization from the Board. In a foreclosure action, the Owner(s) of the Lot affected is required to pay a reasonable rental for the Living Unit during the pendency of the action, in addition to any Assessments otherwise chargeable against the Lot, and the Association in the action is entitled to the appointment of a receiver to collect the same. At any foreclosure sale, the Association, or its agent or nominee, is entitled to bid and acquire the Lot.

(G) **Dispute as to Common Expenses.** Any Owner who believes that any Assessment the Association levies against their Lot for which the Association has filed a certificate of lien, has been improperly determined, may bring an action in the Court of Common Pleas for Cuyahoga County, Ohio, for discharge of all or any portion of the lien; but the lien will continue until the amount of the lien so determined is paid in full. The Association may counterclaim in the action for foreclosure of the amount of the lien found to be due.

(H) **Non-Liability of Foreclosure Sale Purchaser.** When a bona fide first mortgagee or other purchaser acquires title to a Lot as a result of foreclosure of the first mortgage or acceptance of a deed in lieu of foreclosure, the mortgagee or purchaser, their respective successors and assigns and all future grantees of said Lot, are not liable for the Assessments levied against the Owner of the Lot prior to acquisition of title to the Lot whether or not a lien was filed in accordance with Declaration Article X, Section (E) above, unless the share is secured by a lien for Assessments recorded prior to the recording of the foreclosed mortgage. Any funds received on the judicial sale of the Lot in excess of the first mortgage lien, the court costs, and the real estate taxes, must, however, to the extent otherwise permitted under the laws of the State of Ohio, next be applied to satisfy the Association's lien for Assessments. The Owner(s) of a Lot is and remains personally and primarily liable, jointly and severally, for the Assessments accruing against the Lot prior to the date of the judicial sale as provided in this Declaration Article X, Section (H); but, any unpaid share of Assessments are Common Expenses collectible from all of the Owners, including the acquirer of the foreclosed Lot, their successors or assigns, at the time of the

first Assessment or Assessment installment next following the acquisition of title by the mortgagee, its successor or assigns.

(I) **Liability for Assessments Upon Voluntary Conveyance.** Except as set forth in Declaration Article X, Section (H) above, the grantee(s) of the ownership interest in a Lot is jointly and severally liable with the grantor for the amount of all unpaid Assessments, whether or not a lien has been perfected, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. A mortgagee other than a first institutional mortgagee, a purchaser at a foreclosure sale of a mortgage other than a first mortgage to an institutional mortgagee, their respective successors and assigns, a devisee of an ownership interest, or the transferee of an ownership interest pursuant to the Statute of Descent and Distribution, is deemed to have obtained said Lot through a voluntary conveyance for purposes of this Declaration Article X, Section (I).

ARTICLE XI

EASEMENTS

(A) **General.** Beacon Place at Church Square is made subject to the following easements:

(1) **Easement to Use and Enjoy Common Elements.** An easement is granted in the Association's and each Owner's favor for the use and enjoyment of the Common Elements, subject to Rules and regulations that the Board may adopt from time to time.

(2) **Encroachments.** Each Lot, the Living Units on the Lots, and the Common Elements are subject to any easements for encroachments created by construction, settling, and overhangs of any other Living Units or other improvements. Valid easements for encroachments and for the maintenance of same exist as long as the encroachments exist.

(3) **Access.** An easement is further granted to all police, fire protection, ambulance, and all similar persons, companies, or agencies performing emergency service to enter upon the Lots and Common Elements in the performance of their duties. Further, an easement is granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter upon or to cross over the Common Elements and the Lots to inspect and to perform the Association's duties of maintenance and repair of the Property.

(B) **Acceptance and Grant of Easements.** The Association, through and as the Board so determines, may:

(1) dedicate, transfer, or grant easements in all or any part of land or facilities the Association owns or controls: (a) to any municipality, public agency, authority, or utility; or, (b) to any Owner to install, operate, use, maintain, repair, and replace in, on, over, or under the land or any part thereof roads, rights-of-way, utility facilities of all types and access to or for the benefit of the City, Owners, or the Association; and further, to construct Improvements and establish grade, and for other reasonable purposes as the Board may determine; and,

(2) obtain easements for the construction, extension, installation, inspection, maintenance, or replacement of utility facilities to or from a public utility or governmental authority, and to or from anybody or agency that has the power of eminent domain or condemnation.

(C) **Utilities.** The Association may grant easements through the Common Elements for utility purposes for the benefit of the Property, including, but not limited to, the right to install, lay, maintain, repair, and replace water mains and pipes, sewer lines, gas mains, cable television, television wires and equipment, and electrical conduits and wires under, along, and on any portion of the Common Elements.

(D) **Applicability.** All easements and rights described in this Declaration are easements appurtenant, running with the land, perpetually in full force and effect, and at all times inure to the benefit of and be binding on the Association and any Owner, purchaser, Occupant, mortgagee, and other Person now or in the future having an interest in any part of the Property. The easements and grants provided in this Declaration will in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation will not defeat or fail to reserve said rights or easements but the same are deemed conveyed or encumbered, as the case may be, along with the Lot.

ARTICLE XII

ASSOCIATION REMEDIES

(A) **Abatement and Enjoinment.** The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision contained in this Declaration, the Bylaws, or Rules, gives the Board, on behalf of the Association, in addition to any rights set forth elsewhere in this Declaration, the right:

(1) To enter upon or in the Property, including any Lot, or portion thereof, upon which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the Owner, any structure, thing, or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, the Bylaws, or Rules, and the Association, its Board, or its agents, will not be deemed guilty in any manner of trespass;

(2) Repair, restore, or otherwise correct a condition of disrepair or neglect to the exterior areas of any Lot and to perform any work or duties required of an Owner in accordance with this Declaration if the Owner has not made the repair or restoration or has not cured said condition within a reasonable time (as determined by the Board) after notice thereof from the Board. However, the Board need not give prior notice if in its opinion it is acting to prevent personal injury or damage to property or in any other emergency situation. The Association will charge and assess the costs and expenses incurred to the Owner who should have performed the work or cured the condition, as an individual Assessment in accordance with the provisions of this Declaration;

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

(4) The Board will impose the following enforcement procedure when levying an enforcement assessment or charge for damages against an Owner:

(a) Prior to imposing a charge for damages or an enforcement assessment, the Board will give the Owner a written notice that includes:

(i) a description of the property damage or violation;

(ii) the amount of the proposed charge or assessment;

(iii) a statement that the Owner has a right to a hearing before the Board to contest the proposed charge or assessment;

(iv) a statement setting forth the procedures to request a hearing;

(v) a reasonable date by which the Owner must cure the violation to avoid the proposed charge or assessment;

(b) Hearing Requirements:

(i) to request a hearing, the Owner must deliver a written notice to the Board not later than the tenth day after receiving the notice required by Section (A)(4)(a) above. If the Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately impose a charge for damages or an enforcement assessment;

(ii) if an Owner timely requests a hearing, at least seven days prior to the hearing the Board will provide the Owner with a written notice that includes the date, time, and location of the hearing;

(iii) the Board will not levy a charge or assessment before holding a properly requested hearing;

(c) The Board may allow a reasonable time to cure a violation described in Section (A)(4)(a) above before imposing a charge or assessment.

(d) Within 30 days following a hearing at which the Board imposes a charge or assessment, the Association will deliver a written notice of the charge or assessment to the Owner.

(e) The Association will deliver any written notice required above to the Owner or any Occupant of the Lot by personal delivery, by certified mail, return receipt requested, or by regular mail.

(B) Cost of Enforcement. If any Owner (either by their conduct or by the conduct of any Occupant(s), tenant(s), guest(s), or invitee(s) of their Lot) violates any provision of this Declaration, Bylaws, or Rules, said Owner will pay to the Association, in addition to any other sums due, including all costs of repair or removal and any enforcement Assessments, all costs and expenses incurred by the Association in connection with the enforcement of said provision or Rule, including reasonable attorneys' fees and court costs. The Board may also levy reasonable charges for damage to the Common Elements or any part of the Property for which the Association is responsible to maintain. Said enforcement Assessments, charges for damage, costs, and expenses will be charged as a Special Assessment against said Lot. The Association, in addition to all other remedies available, has the right to place a lien upon the estate or interest of said Owner for the payment of any Assessment or charge levied against the Lot and that remain

unpaid 10 days after any portion has become due and payable as further explained and set forth in this Declaration.

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

(D) **Suspension of Voting Rights and Use.** The Association has the power, right, and authority to suspend the voting rights of a delinquent Owner and their use of the Common Elements as set forth in Bylaws.

ARTICLE XIII

AMENDMENTS

(A) **Amendments by Owners.** This Declaration and the Bylaws may be amended with the written consent or the affirmative vote of Members entitled to exercise not less than a majority of the Association's total voting power. Upon the adoption of any amendment, the President of the Association will file with the Cuyahoga County Fiscal Office an instrument executed with the same formalities as this Declaration, containing the amendment being made, the instrument number of the original being amended, and the manner of the adoption of the amendment. Amendments to this Declaration or the Bylaws become binding and effective on the date of the filing of same for record with the Cuyahoga County Fiscal Office. No amendment or rescission of the Declaration restrictions that is contrary to the City Zoning Resolution now in effect or as hereinafter amended is permitted.

(B) **Special Amendments.** The Board, in its sole discretion and if desired, without a vote of the Owners, has the right and power to record a special amendment ("Special Amendment") to this Declaration or Bylaws at any time, and from time to time, which amends this Declaration or Bylaws, for the following purposes:

(1) to meet the requirements of institutional mortgagees, guarantors, and insurers of first mortgage loans, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage

Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any public, quasi-public, or private entity that performs (or may in the future perform) functions similar to those currently performed by the entities, or

(2) to correct clerical, typographical, or similar errors in this Declaration, the Bylaws, any Exhibit, or attachment hereto or any supplement or amendment to this Declaration, or to the Articles, or

(3) to clarify any ambiguities in this Declaration, the Bylaws, any Exhibit, or attachment hereto or any supplement or amendment to this Declaration, or to the Articles, or

(4) to bring any provision into compliance with the provisions of any applicable governmental statute, rule, or regulation, or any judicial determination, or

(5) to enable a title insurance company to issue title insurance with respect to the Property or any portion thereof.

In furtherance of the foregoing, a power coupled with an interest is reserved and granted to the Board to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance is deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Board to vote in favor of, make, and record Special Amendments.

(C) **Limitation on Owner Challenge.** Any Owner who is aggrieved by an amendment to this Declaration or the Bylaws made in accordance with Declaration Article XIII, Section (A) above or that the Board makes in accordance with Declaration Article XIII, Section (B) above may commence a declaratory judgment action to have the amendment declared invalid; provided, that any action must be filed in the Cuyahoga County Court of Common Pleas within one year from the date of the recordation of the amendment with the Cuyahoga County Fiscal Office.

(D) **Termination of Association.** A vote to terminate the applicability of this Declaration and to dissolve the Association requires the unanimous, affirmative consent of all Owners.

ARTICLE XIV

SALE OR OTHER ALIENATION OF LIVING UNITS

The Association does not have a right of first refusal with respect to the purchase or any other conveyance, whether by gift, involuntary sale, or otherwise, of a Lot. An Owner is able to transfer their Lot freely. However, prior to any transfer, the Owner must submit to the Association: (a) payment in full to the Association of all outstanding Assessments and other charges levied against the Lot and that are due or become due up until the date of transfer of the Lot; (b) a written verification that the new Owner has received a set of governing documents, including this Declaration, Bylaws, and Rules (a set of the documents may be obtained from the Association for a reasonable charge); and, (c) the new Owner's name, home address, electronic mail address, home and business mailing addresses, and the home, mobile, and business telephone numbers of the Owner and all Occupants of the Living Unit as well as the name, business address, and business telephone number of any Person who manages the Owner's Lot or Living Unit as an agent of that Owner. Within 30 days after a change in any information that (c) of this Declaration Article XIV requires, an Owner must notify the Association, in writing, of the change. When the Board requests, an Owner must verify or update the information. Contact information provided by Owners to the Association is confidential and the Association will not distribute or otherwise share any of the contact information received from Owners to any Person, except as needed in accordance with the Association's maintenance, operation, and administration of the Property or the Association itself, and as required by law.

ARTICLE XV

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 under this Declaration or the Bylaws, to the Association or the Board, must be made in writing and sent either:

- (1) by regular U.S. mail, first-class postage prepaid, or
- (2) delivered in accordance with Declaration Article XV, Section (C) below, to the Board President, to any two other Directors, to the Association at the address of the Association Property, to the Association's manager or management company, if any, the Association's statutory agent registered with the Ohio

Secretary of State, or to any other address as the Board of Directors may designate by a notice in writing to all Owners or Members.

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

- (1) personally delivered to the Owner or Member;
- (2) placed under or attached to the front or main entry door of the Owner's Living Unit;
- (3) sent by regular U.S. mail, first-class postage prepaid, to the Owner or Member's address or to another address designated by the Owner or Member in writing to the Board; or
- (4) delivered in accordance with Declaration Article XV, Section (C) below. If there is more than one person owning a single Living 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 Living Unit;
- (5) Any notice required or permitted to be given to any Occupant of a Living Unit, Owner or Member other than a Living Unit Owner or Member will effectively be given if hand-delivered or sent by regular U.S. mail, first-class postage prepaid, to the Owner or Member address;

(C) New Communication Technologies.

(1) 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 Declaration Article XV, Sections (A) and (B) above, the following may be accomplished using electronic mail or other transmission technology available at that time that is a generally accepted business practice:

- (a) any notice required in the Declaration or Bylaws to be sent or received;
- (b) any signature, vote, consent, or approval required to be obtained; or
- (c) any payment required to be made by the Declaration or Bylaws;

(2) 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 written notice to Owners, or Members, individually or collectively, who have given the Association written consent to the use of electronic mail or other transmission technology. Any Owner or Member who has not given the Association written consent to use of electronic mail or other transmission technology will receive notices, including any notice of delinquency of any payment due, be either of the methods in Declaration Article XV, Section B(1)-(3) above.

(b) for voting on matters, including the election of Board members, the process for which is outlined separately in Bylaws Article III, Section 4, the Association may provide for voting by electronic mail or other transmission technology.

(c) an electronic mail or transmission technology to an Owner or Member is not considered delivered and effective if the Association's transmission to the Owner or Member fails two consecutive times, e.g. the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Owner or Member becomes known to the Person responsible for sending the transmission. If the electronic mail or transmission technology is not delivered or effective, the Association will deliver the notice or other communication to the Owner or Member by either of the methods identified in Declaration Article XV, Section (B)(1)-(3) above.

ARTICLE XVI

GENERAL PROVISIONS

(A) **Enforcement.** In addition to the provisions of Declaration Article XII above, the Association and any Owner have the right to enforce, by any proceeding at law or in equity, the restrictions, conditions, covenants, reservations, liens, and charges now or in the future imposed by the provisions of this Declaration and the Bylaws. All remedies specified in this Declaration and the Bylaws are non-exclusive and in addition to any other remedies available in law or equity.

(B) **Enforcement by County or City.** The City of Cleveland and the County of Cuyahoga have the right to go into any court of equity with jurisdiction over the Property and, in addition to any claim for Assessments established herein, require the correction or performance of any duty set forth in this Declaration.

(C) **Document Conflicts.** In the event of any conflict or inconsistency between the provisions of this Declaration and the attached Bylaws, the terms and provisions of this Declaration prevail, and the Owners and all Persons claiming under them covenant to vote in favor of the amendments to this Declaration or the Bylaws as will remove the conflicts or inconsistencies.

(D) **Headings.** The heading to each article and each section is inserted only as a matter of convenience and reference and in no way defines, limits, or describes the scope of intent of this Declaration or the Bylaws, nor in any way affects this Declaration or the Bylaws.

(E) **Plural Owners.** In the event that any Owner holds title to a Lot as a joint tenant, tenant in common, tenant by the entirety, or in any other manner with one or more other Persons (referred to as a "co-Owner"), the signature of any one of the co-Owners is binding upon and is effective as an authorization from all of the other Owners of the Lot. In addition, the vote cast at any Association meeting by one co-Owner is binding upon and is effective as an authorized vote from all of the co-Owners of the Lot, unless another co-Owner objects at the meeting in which event the majority of the ownership interest of said Lot prevails. If co-Owners own 50 percent of the ownership interest, then no vote will be counted for the ownership interest.

(F) **Use of Singular or Plural, Gender.** References to the masculine in this Declaration and the Bylaws are deemed to include the feminine or the neuter, references to the feminine are deemed to include the masculine or neuter and references in the neuter are deemed to include the masculine or feminine. Plural references are deemed to include singular where the context so requires and vice versa.

(G) **Waiver of Damages.** Neither Association, nor any Board member, officer, employee, agent, or successor or assign of Association, is liable for any claim or damage whatsoever arising out of or by reason of any actions performed in accordance with or in accordance with any authority granted or delegated to them or any of them by or under this Declaration, except in the case of willful misconduct or gross negligence. This waiver includes all claims for or arising by reason of the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of the Board or the Association itself, the Board, or their respective agents, employees, guests, invitees, and servants, or by reason of any neighboring property or personal property located on or about the Property.

(H) **Signature Requirements.** In accordance with the Board's decision, any requirement for a signature under this Declaration or Bylaws may be satisfied by a digital signature meeting the requirements of Ohio and Federal law when applicable.

(I) **Provisions Run with Beacon Place at Church Square Land; Binding Effect.** All of the easements, covenants, and restrictions that are imposed upon, granted, or reserved in this Declaration (including payment of Assessments) constitute easements, covenants, and restrictions running with the land and inure to the benefit of and are binding upon the parties hereto and every subsequent transferee of all or any part thereof, including grantees and Owners and their respective heirs, executors, administrators, personal representatives, successors and assigns. Each grantee accepting a deed or tenant accepting a lease (whether oral or written) who conveys any interest in any portion of a Lot, whether or not the same incorporates or refers to this Declaration, covenants for themselves, their heirs, personal representatives, successors and assigns to observe, perform, and be bound by the provisions of this Declaration.

(J) **Waiver.** No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration, the Bylaws, or Rules are deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

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

(L) **Duration.** The easements, covenants, conditions, and restrictions created by this Declaration or Bylaws are and will be perpetual, unless amended in accordance with the provisions of Declaration Article XIII above.

(M) **Agreements Binding.** All agreements and determinations lawfully made by the Association, through the Board, in accordance with the procedures established in this Declaration and the attached Bylaws are binding on all Owners and Occupants, and their respective heirs, executors, administrators, successors, and assigns.

(N) **Construction.** The following applies to this Declaration and the attached Bylaws:

(1) wherever the masculine singular form of the pronoun is used, it will be construed to mean the masculine, feminine, or neuter, singular or plural, as the context so requires;

(2) the word "will" indicates a mandatory obligation to do or not do a given action; the word "will" meaning the same as "must," "shall," or "is required to," unless specifically provided for otherwise in the context it is used;

(3) the words "they," "their," "them," and the like are used as both plural and singular pronouns, which include and encompass the singular "he," "she," "his," "her," "him," and the like; and,

(4) the words "include," "includes," and "including" mean "including but not limited to," "including, without limitation," and any other similar variation of the phrases.

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

(P) **Interpretation.** The provisions of this Declaration, and the attached Exhibits, including the Bylaws, must be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first class community. However, the language used will not be strictly construed against the Association, the Board, or any Owner.

(Q) **Rule against Perpetuities.** If any options, privileges, covenants, or rights created by this Declaration or Bylaws are unlawful or void for violation of A) the rule against perpetuities or some analogous statutory provision, B) the rule restricting restraints on alienation, or C) any other statutory or common law imposing time limits, then the provision will continue only until 21 years after the death of the survivor of the now living descendants of Governor of the State of Ohio, Mike Dewine.

EXHIBIT A

AMENDED AND RESTATED

BYLAWS

OF

BEACON PLACE AT CHURCH SQUARE HOMEOWNERS ASSOCIATION, INC.

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EXHIBIT A
AMENDED AND RESTATED BYLAWS
OF
BEACON PLACE AT CHURCH SQUARE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

GENERAL

Section 1. Preliminary Statement of Scope and Effect. These Amended and Restated Bylaws (“Bylaws”) are made part of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Beacon Place at Church Square (“Declaration”). The Bylaws provide for and establish an association to govern, manage, operate, and administer Beacon Place at Church Square in the manner provided by the Declaration and Bylaws. All present or future Owners, or any other person who might use the Property in any manner, are subject to the covenants, restrictions, conditions, provisions, and regulations contained in these Bylaws, and any rules or restrictions, adopted by the Board of Directors. Acquisition, rental or occupancy of any of Living Unit or Lot located constitutes acceptance and ratification of the Declaration and Bylaws.

Section 2. Name of the Association. The Association subject to these Bylaws is an Ohio nonprofit corporation commonly referred to as Beacon Place at Church Square.

Section 3. Principal Office and Permanent Records. The Board will designate a method, whether electronic or hard copy, and a location for the storage of the Association’s permanent files, including the Association’s books and records. Upon the expiration of any Director’s term, the outgoing Director has an affirmative duty to contact either the succeeding Director or the community association manager to arrange for the delivery of the Association’s permanent files to the incoming or succeeding Director or to the management company within ten business days of the change of Director position.

ARTICLE II

THE ASSOCIATION

Section 1. Membership. Upon the acquisition of title to a Living Unit or Lot, the Owner automatically becomes an Association member. Membership terminates upon the sale or other disposition the Unit, at which time the successor Owner automatically becomes the Association member.

Section 2. Voting Rights.

(A) **One Vote Per Lot / Good Standing.** There is one voting Member for each of the Lots comprising the Property. The Member is entitled to cast one vote per Lot. However, the Member must be in "Good Standing" to vote on any Association issue or matter other than proposed amendments to the Declaration or Bylaws. 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" unless specifically stated otherwise.

(B) **Multiple Owners of a Lot.** If more than one person owns a Lot, (plural ownership) they are collectively entitled to cast only one vote exercising the voting power of the Lot; the voting power may not be divided. The maximum number of votes is 92. In the case of plural ownership, or in the case of a Lot owned or held in the name of a corporation, partnership, fiduciary, trust, or nominee, the Board may request a signed certificate naming the person authorized to cast the vote for the Lot 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 Unit is owned by a husband and wife, or other familial relationship, the 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.

Section 3. Voting Methods. Prior to sending the notice for any meeting, and depending on the conduct of the meeting as determined by the Board, voting will be conducted using one of the following methods:

(A) **Voting in Person or by Proxy.** Members may vote in person or by proxy. The person appointed as proxy need not be a member of the Association. Each proxy will be executed in writing by the Member entitled to vote and must be returned to the Association by any method of delivery permitted by the Board. Every proxy will automatically cease upon conveyance of the Lot by the Owner, and is not valid 12 months after the date it is made, unless the proxy states its expiration date or provides for an additional length of time for the proxy to continue in force.

(B) **Voting by Mail and Electronic Voting Technology.** For meetings that are held via Authorized Communications Equipment, voting will be conducted by mail, through the use of Electronic Voting Technology, or both. All matters to be voted on at a meeting utilizing Authorized Communications Equipment must be sent to the Members no later than the date the meeting notice is sent to the Members in accordance with Bylaws Article II, Section 4(A) and 4(B). Voting via mail or by use of Electronic Voting Technology is considered to be voting at the meeting, as if the Member were physically present.

(C) **Voting in Person, by Proxy, by Mail, and by Electronic Voting Technology.** For meetings that are held in person and provide for physical attendance, voting may be conducted in person or by proxy. In addition, the Board may authorize the Members to vote by mail or Electronic Voting Technology.

Any ballots, regardless of voting method that are received after the date and time the Board sets for ballots to be turned in will be held invalid. Any costs associated with voting, regardless of method are Common Expenses. The Board may adopt any additional regulations, procedures, or rules as may be necessary to effectuate the intent and purpose of providing voting method options to the membership.

Section 4. Meetings of the Association.

(A) **Annual Meeting.** The annual Association meeting will be held during the first quarter of each calendar year, unless the Board otherwise reasonably determines, at a time and place established by the Board. Notice of the annual meeting will include the purpose of the annual meeting to elect Directors to the Board, to consider any reports put before the Unit Owners and to transact other business as determined by the Board.

(B) Special Meetings. Special Association meetings may be held on any business day when called by the President, by a majority of the Directors, or by Unit Owners entitled to exercise at least 25 percent 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 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 Unit Owners in accordance with these Bylaws. If notice is not given within 30 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 Unit Owners 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. The order of business at any special meeting will be specified in the special meeting notice or agenda.

(C) 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 Declaration Article XV, at least 15 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 purpose 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.

If the meeting is held via Authorized Communications Equipment, the meeting notice must include any applicable links, access codes, password, telephone numbers, or other pertinent information that is necessary to allow the Member to participate at the meeting via the Authorized Communications Equipment.

(D) Quorum and Adjournment. One third of the Members in good standing, who are present either in person or by proxy at or who attend by approved Authorized Communications Equipment, constitute a quorum for the transaction of business at any Association meeting. Ballots submitted via mail or by Electronic Voting Technology will also be counted to establish the quorum. The Board of Directors may adopt procedures and guidelines to permit the Association to verify that the person attending, either in person or by Authorized Communications Equipment, is a Member that is eligible to vote and to maintain a record of any vote. A majority of the Members in person or by proxy may, at any time, adjourn the meeting. If any meeting is so adjourned,

notice of adjournment need not be given if the time and place to which the meeting is adjourned are announced at the meeting.

(E) Conduct of Meetings. The Board may adopt Rules for the conduct of all Association meetings.

(1) Prior to the meeting notice being sent to the Members in accordance with Bylaws Article II, Section 4(C), the Board will determine whether the meeting will be conducted physically so that the Members may attend in person, or by the use of Authorized Communications Equipment. If it is determined that the meeting will be held via Authorized Communications Equipment, the Board will decide if the Members have the option to attend in person or via Authorized Communications Equipment or both.

(2) If Authorized Communications Equipment is used, Members must have the ability to communicate with the other participants to indicate their motion, vote, or statement, provided that the meeting moderator, may silence or mute the Authorized Communications Equipment unless the Member is voting or has been recognized by the moderator to participate. The moderator has the authority to determine all procedural motions or other procedural matters to be decided at the meeting, including points of order and adjournment. The Board's purpose or reason for not conducting an in person meeting and instead having a meeting via Authorized Communications Equipment must be documented in the Board's meeting minutes.

(F) Order of Business at Annual Meetings. The order of business at all Association annual meetings must be as follows:

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

(G) **Minutes of the Meetings.** Minutes will be taken at all Association meetings. At the first regular Board meeting after any Association meeting, the Board will review and approve the Association meeting minutes. Upon reasonable request, copies of approved minutes will be made available for Owner inspection at the principal office, electronically or as the Board determines.

Section 5. Actions Without A Meeting. Any actions, except an action for the election or removal of a Director, which may be taken at an Association meeting, may be taken without a meeting in accordance with the voting methods in Bylaws Article II, Section 3. The voting records will be filed with the Association.

ARTICLE III

BOARD OF DIRECTORS

Section 1. Board of Directors. The Board constitutes for all purposes the Board of Directors as provided for under Ohio Revised Code Chapter 5312.

Section 2. Number and Qualification. The Board will consist of five Persons each of whom must be an Owner, or the spouse of an Owner, and a Member in Good Standing. If an Owner is not an individual, that Owner may nominate for the Board any principal, member of a limited liability company, partner, trustee, officer, or current employee of that Owner who occupies the Lot. No more than one Owner, spouse of the Owner, or representative of the Owner, of the same Living Unit or Lot may serve as a Director at the same time.

(A) **Code of Ethics.** Every Director, for as long as they remain a Director, must agree to sign and abide by any code of conduct or code of ethics (or both) that the Board may adopt from time to time. All Directors are at all times bound by the code of ethics, even if not signed by a given Director. The Code of Ethics adopted and in effect as of the date of the adoption of these Bylaws is attached to these Bylaws as Exhibit "1."

Section 3. 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 nominating committee is not appointed, by the Board itself. 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 2. Any Member may submit their name to the nominating committee, or Board, as a candidate, and the nominating committee, or Board, must nominate that

Member if that Member satisfies all the qualifications to be a Director as further provided for in Bylaws Article III, Section 2. If there are fewer nominees than vacancies, the nominating committee, or Board, must nominate additional Member(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 4(B) and 4(C), 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.

Section 4. Election of Directors.

(A) Unless there are no more nominees than vacancies, election to the Board by the Members is by secret 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 3. The Association is not required to send ballots to the Members via any method if there are an equal number of nominations as there are candidates, which case the nominated candidates will automatically be elected to the Board of Directors at the election meeting.

(B) Regardless of the voting method, the Board must adopt rules and safeguards to determine a method by which the secrecy of the ballots are maintained for those Members while also maintaining the integrity of the voting process to ensure each Member has only exercised their allotted vote once so that any other individuals can only identify that a Lot has voted, and not how a Lot has voted. 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.

(C) If voting by mail, ballots must be submitted within dual envelopes. One of the two envelopes must contain the ballot itself, the "Ballot Envelope." The Ballot Envelope need not be signed. The second envelope must contain the Ballot

Envelope and the ballot, the "Signature Envelope." The Signature Envelope must be signed by the Member(s) voting, and will be used as a record of receipt of the Member's ballot as well as to determine quorum. If the Signature Envelope is not signed by the Member(s), the ballot in the Ballot Envelope will not be counted.

(D) 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 whom 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.

(E) 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.

(F) The chair or moderator will announce the election results at the meeting to be reflected in the meeting minutes and ensuring the election results are provided to all Members no later than 15 days after the meeting.

Section 5. Term of Office; Resignations; Vacancies. Directors will be elected to serve two-year staggered terms, so that no less than two of the Directors will be up for election each year, maintaining a 3-2 rotation, unless elected to fill a Board vacancy. Each Director holds office until the expiration of their designated term and until their successor is elected, or until their earlier resignation, removal from office, or death. Any Director may resign at any time by oral statement to that effect made at a Board meeting or in writing to that effect delivered to the Secretary; the resignation will take effect immediately or at any other time as the resigning Director may specify. The office of a Director who resigns or who ceases to be qualified to serve, automatically and immediately becomes vacant. The remaining Directors, though less than a majority, may, by a vote of a majority of their number, fill any vacancy for the remaining unexpired term.

Section 6. Board Meetings.

(A) **Organizational Meetings.** Immediately after each annual meeting, or any special Association meeting for the election of Directors, the newly elected Directors and those Directors whose terms hold over, must hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of the meeting need not be given.

(B) **Regular Meetings.** Regular meetings of the Board may be held at times and places as determined, from time to time, by a majority of the Board, but at least six regular meetings must be held during each fiscal year, with no more than one regular meeting held per calendar month. Notice of each meeting will be given in accordance with Bylaws Article III, Section 6(D) below. Unless the Board authorizes the attendance of Members at a Board meeting, no Member other than a Director may attend or participate in any discussion or deliberation of a Board meeting. Association Members do not have the right to vote on any issue. If the Board permits Members to attend Board meetings, nothing 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.

(C) **Special Meetings.** Special meetings of the Board may be held at any time, after notice in accordance with Bylaws Article III, Section 6(D), upon call by the President or a majority of the other Directors.

(D) **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 Secretary or by the Person(s) calling the meeting. Notice may be given in any manner or method permitted by Ohio law, the Declaration, and these Bylaws, and at with sufficient time to allow the Director receiving it 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 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.

(E) **Meeting Agenda.** The President will establish the agenda for each Board meeting. The agenda may be modified, in whole or in part, by a majority vote of the Directors present at the Board meeting.

(F) **Conduct of Board Meetings.** Any Board meeting may be held in person or by any method of communication, including electronic or telephonically, 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.

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

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

(I) **Actions Without a Meeting.** Except for removal of officers, in lieu of conducting a meeting, the Directors may take action with the unanimous written consent of the Directors. The written consents must be reflected in or filed with the Board's meeting minutes.

Section 7. Removal of Directors.

(A) **By the Board.** The Board may remove any Director and create a vacancy in the Board, if the Director has been found to be of unsound mind by order of court, files for bankruptcy or has been adjudicated bankrupt, is physically incapacitated, fails to attend three consecutive regular Board meetings, is no longer in good standing, or no longer meets any other qualification requirement set forth in Bylaws Article III, Section 2. The Board may appoint any qualified (as defined in Bylaws Article III, Section 2) Owner to fill the vacated Board position for the remainder of the unexpired term.

(B) **By the Association.** 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 two-

thirds of the Association's total voting power, and a successor(s) to the Director(s) so removed may be elected at the same meeting for the unexpired term for each removed Director. Any Director, whose removal has been proposed, has an opportunity to speak and be heard at the meeting prior to the vote of their removal.

Section 8. Regulations. The Board may adopt regulations consistent with the Declaration and these Bylaws, for the government of its actions, including the process for nomination and election of Directors.

Section 9. Powers. The Board will exercise all power and authority of the Association except as otherwise provided by law, the Declaration or these Bylaws. The Board is responsible for the reasonable maintenance, repair, and replacement of the Common Elements. To carry out the purposes of the Property, subject to the limitations prescribed by law, the Declaration, or these Bylaws, the Board, for and on behalf of the Association, may:

(A) Take all actions deemed necessary or desirable to comply with all requirements of law, the Articles of Incorporation, the Declaration, and these Bylaws;

(B) Hire and fire managing agents, attorneys, accountants, and other independent professionals and employees to perform the duties and services the Board may authorize;

(C) Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Property, or that involves two or more Owners, Living Units, or Lots and relates to matters affecting the Association;

(D) Enter into contracts and incur liabilities relating to the operation of the Property;

(E) Enforce all provisions of the Declaration, these Bylaws, covenants, conditions, restrictions, Rules, and Articles of Incorporation governing the Lots, Living Units, Common Elements, and Property;

(F) Adopt and promulgate Rules, with due notice to the Owners, as the Board deems advisable, for:

(1) the maintenance, conservation, and beautification of the Property;

(2) the health, comfort, conduct, safety, and general welfare of the Owners and Occupants; and,

(3) the operation and use of the Property, Common Elements, Living Units or Lots in whole or in part.

In the event the Rules conflict with any provisions of the Declaration or these Bylaws, the provisions of the Declaration and these Bylaws govern:

(A) Grant easements, leases, licenses, and concessions through, under, or over the Common Elements;

(B) Purchase or otherwise acquire, lease as lessee, invest in, hold, use, encumber, sell, exchange, transfer, and dispose of real or personal property of any description or any interest therein subject to Bylaws Article VIII, Section 4 below;

(C) Establish, enforce, levy and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Owners;

(D) Impose reasonable charges to the Owner for preparing, recording, or copying the Declaration, these Bylaws, or amendments, as well as reasonable charges for the handling of refinancing or resale certificates, documentation, or statements of unpaid Assessments;

(E) Authorize entry to any portion of the Property by designated individuals when conditions exist that involve an imminent risk of damage or harm to Common Elements, Living Units, Lots, or to the health or safety of the Owners or Occupants of the Living Units or other Living Units;

(F) Establish, in the Board's sole determination, standards, or procedures for the suspension of the voting rights of an Owner, or right of the Owner or the Owner's Occupant to use any amenities, when the Owner is more than 30 days delinquent in the payment of any Assessment or other charges to the Association or has caused an infraction of the published Rules or any provisions of the Declaration, these Bylaws, or the Articles of Incorporation;

(G) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;

(H) Pay the taxes and assessments levied against the Property the Association owns; and,

(I) Exercise on behalf of the Association all other powers, duties, and authority vested in or delegated to the Association pursuant to the Declaration, these Bylaws, and Ohio Revised Code 5312, unless expressly reserved to the Members by other provisions of these Bylaws or the Declaration.

Section 10. Committees. The Board may, by resolution, provide for any standing or special committees as it deems desirable, and discontinue them at its discretion. All committee members must be Members in good standing as defined in Bylaws Article III, Section 2 above. Each committee only has the powers and may perform duties consistent with law, as the Board may delegate to the committee. Each committee must keep full records and accounts of its proceedings and transactions. Each committee must report to the Board on any action taken at the Board's next meeting succeeding that action and subject to the Board's control, revision, and alteration; however, no rights of third persons will be prejudicially affected. Each committee will fix its own Rules of procedure and will meet as provided by those Rules as determined by the Board, and the committee must also meet at the call of the President or of any two members of the committee. The provisions of Bylaws Article III, Section 6(D) above relating to the notice required to be given of Board meetings, also applies to meetings of each committee. A majority of the members of a committee constitutes a quorum. The Board may add any person to a committee and remove any committee member as the Board so determines. The Board will fill vacancies on a committee.

Section 11. Fidelity Coverage. All officers and employees and managing agents of the Association handling or responsible for Association funds, must furnish or otherwise be covered by reasonable fidelity bonds or dishonesty insurance. The Association will pay the premiums on the bonds/insurance as a Common Expense. The Board will determine the appropriate amount of the bonds/insurance taking into account the cost of the bond/insurance, the maximum amount of funds held by the Association during the fiscal year, and the requirements of the federal national mortgage association, the federal home loan mortgage corporation, the federal housing administration, the veterans administration, and similar institutions.

Section 12. Compensation. The Directors will not receive any salary or compensation for their services; provided that nothing will be construed to preclude any Director from having dealings with the Association in any other capacity and receiving

compensation subject to complete disclosure by the respective Director of the conflict of interest, complete abstention the respective Director from the Board's decision making process, and approval by a majority vote of the Board, excluding the vote of the Director receiving any compensation.

ARTICLE IV

OFFICERS

Section 1. Election and Designation of Officers. At the first meeting of the Board held after the annual meeting of the Members, the Board will elect a President, Vice President, Secretary, and Treasurer, and other officers as the Board determines, each of whom must be a member of the Board. An officer must be an Owner, or the spouse of an Owner. Any two officers, other than that of the President and Vice President, may be held by the same Person, but no officer may execute, acknowledge, or verify any instrument in more than one capacity. The Board may also appoint an executive committee as it determines

Section 2. Term of Office. The Association's officers hold office at the pleasure of the Board, and unless sooner removed by the Board, until the organizational meeting of the Board following the next annual meeting of the Association and until their successors are chosen and qualified. The Board may fill a vacancy in any office, however created.

Section 3. Removal and Resignation. The Board may remove any officer at any time, with or without cause, by a majority vote of the Directors then in office. Any officer may resign at any time by giving written notice to the President or the Secretary. Resignation automatically takes effect on the date of receipt of the notice or at any later time specified.

Section 4. Duties. Unless the Board otherwise determines, the duties of the officers are as follows:

(A) **President.** The President is the chief executive officer of the Association. The President will preside at all Association and Board meetings, which power the President may assign or delegate as the President so decides. Subject to the Board's direction, the President has general executive supervision over the business and affairs of the Association. The President may execute all authorized deeds, contracts, and other obligations of the Association and has all the powers and duties prescribed by law. The President also has other authority and will perform other duties as the Board may, from time to

time, assign to the President or as otherwise provided for in the Declaration or these Bylaws.

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

(C) **Secretary.** The Secretary will record votes and keep minutes of all the proceedings of the Members of the Association and the Board and will make proper record of the same, which will be attested by the Secretary; has authority to execute all deeds, contracts, and other obligations of the Association requiring the Secretary's signature; will keep the books as may be required by the Board, including current records of the Owners and addresses; and will perform other further duties as may from time to time be assigned by the Board.

(D) **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, from time to time, 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; and will perform other duties as from time to time may be assigned by the Board.

Section 5. Assistants and Other Officers. The Board may, from time to time, create offices and appoint other officers and assistant officers necessary. These officers and assistant officers are not members of the Board but are Members in good standing of the Association. Each officer(s) assistant(s) holds office at the pleasure of the Board and will perform duties as the Board may prescribe; however, they will not have any voting power unless they are a Director.

Section 6. Delegation of Duties. In the absence of any officer of the Association, or for any other reason as the Board may desire, the Board may delegate the powers or duties, or any of them, of the officers as set forth in this Bylaws Article IV, to any other officer or to any Director or to the Association's managing agent, lawyer,

accountant, or other professional as the Board so decides. In addition, the Board is generally authorized to control the action of the officers and to require the performance of duties in addition to those mentioned above.

ARTICLE V

INDEMNIFICATION

Section 1. Indemnification of Directors, Officers, and Committee Members.

The Association must indemnify and defend (as provided below): (1) any current or former Director, (2) any current or former Association officer or assistant officer, (3) any current or former Association committee member, or (4) any of said Director's, officer's, or committee member's respective heirs, executors, and administrators, assistant officer against reasonable expenses, including attorneys' 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 the Director, officer, assistant officer or committee member provided it is determined, in the manner set forth below, that (i) the Director, officer, assistant 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 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 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 an independent legal counsel the Board chooses. Notwithstanding the opinion of 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 will, 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 Owners to select legal counsel to defend the Directors.

Section 2. Advance of Expenses. The Association may advance funds to cover expenses, including attorneys' 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.

Section 3. Indemnification Not Exclusive; Insurance. The indemnification provided for in this Bylaws Article V 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, any agreement, any insurance provided by the Association, the provisions of Chapter 1702 of the Ohio Revised Code Section 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, assistant 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, assistant officer or committee member.

Section 4. Directors, Officers, and Committee Members Liability. The Association's Directors, officers, assistant officers and committee members are not personally liable to the Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association's and Owners' indemnification include 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, assistant officer, or committee member is made only in the Director, officer, assistant officer, or committee member's capacity as a representative of the Association and has no personal liability under the contract or agreement (except as an Owner).

Section 5. Cost of Indemnification. Any sum paid or advanced by the Association under this Bylaws Article V 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 Bylaws Article V. However, the liability of any Owner arising out of the contract made by a Director, officer, assistant officer, or committee member, or out of the aforesaid indemnity in favor of the Director, officer, assistant officer, or committee member, is limited to the proportion of the total liability as said Owner's pro rata share bears to the total interest all the Owners as Association Members.

ARTICLE VI

FISCAL YEAR

The Fiscal Year of the Association ends on the 31st day of December of each year or on another day as may be fixed from time to time by the Board.

ARTICLE VII

ASSESSMENTS

Section 1. Accounts. The Board will create and charge the Association's receipts and expenditures to accounts under the following classification as is appropriate, all of which expenditures are Common Expenses:

(A) **Current Expenses.** Current expenses include all receipts and expenditures within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, for additional improvements or to operations.

(B) **Reserves for Replacement.** Reserves for replacement include funds for major repairs or replacements of the Common Elements required because of damage, depreciation, or obsolescence.

Section 2. Determination of Assessments. The Board will fix and determine from time to time the sum(s) necessary and adequate for the Common Expenses. Common Expenses include the expenses described in the Declaration and this Bylaws Article VII, Section 1 above, the carrying out of the powers and duties of the Association enumerated in Bylaws Article VIII below, and any other expenses designated from time to time by the Board

Section 3. Notice and Payment of Assessments. When the Board determines the amount of any Assessment, the Board will notify each of the affected Owners of the Assessment. All Assessments are payable to the Association. The Association may provide Owners the opportunity for electronic, automatic monthly payments of their Assessment if the Board determines it is in the best interest of the Association. Common Assessments will be levied against Owners in an amount not less than required to provide funds in advance for payment of all of the anticipated current Common Expenses and for all of the unpaid Common Expenses previously incurred.

Section 4. Obligation to Pay Assessments. Each Owner must pay their proportionate share of the Common Expenses as assessed against the Owners, the share of which must be allocated equally among all the Living Units and Lots. Payment of any other Assessment will be made in amounts and at times as the Board may determine. The obligation to pay any Assessment is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off can be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under the Declaration or these Bylaws, or for inconvenience, discomfort, or dislocation arising from the making of repairs or improvements that are the Association's responsibility, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 5. Preparation of Budget; Annual Assessments. Prior to November 1st, the Board will adopt and prepare a "budget" that is based on its estimate of the total amount that will be required during the ensuing fiscal year to pay the Common Expenses, including a reasonable reserve for contingencies and replacements.. On or before the 1st day of December each year, the Board will notify each Owner of the amount of the budget together with a reasonable itemization. Promptly after the notice, the aggregate amount of the budget will become an Assessment (the "Annual Assessment") against the Lot. The Annual Assessment is due and payable by each Owner during the ensuing fiscal year in annual, semi-annual, quarterly, or monthly installments as the Board stipulates.

(A) Budget Shortfall. If the amount of the annual budget proves to be inadequate for any reason, including non-payment of any Owner's Assessment, the Board may assess the deficiency against the Owners and the Board will give notice of the additional Assessment to all Owners indicating the reasons for the additional Assessment, the amounts payable by each Owner, and the adjusted monthly amounts reflecting the additional Assessment thereafter payable by each Owner.

(B) Budget Surplus. If, at any time, the Board determines that the Association has collected a common surplus at the end of any fiscal year, the amount must, at the Board's sole discretion, be either credited promptly after the same has been determined to the installments next due from Owners under the current year's Assessment until exhausted or applied toward reserves. Any and all interest earned on any reserves, savings, Assessments, or other fees or monies held by the Association must be first charged against the Association's expenses

as the Board determines is in the Association's best interest, and then to other purposes as the Board so determines.

Section 6. Year End Financial Summary. On or before the date of the annual meeting, the Board will supply all Owners with an itemized accounting of the Common Expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected in accordance with the budget estimate(s) provided, by special Assessments, or otherwise, and showing the net amount over or short of the actual expenditures plus reserves.

Section 7. Reserve for Contingencies and Replacements. On the Association's behalf and in the exercise of its sole business judgment, the Board will build up and maintain a reasonable reserve for contingencies and to finance the cost of major repair or replacement of the components of the Property the Association is to maintain. The reserve is to be funded by the portion of the annual Assessment earmarked in the annual budget for the reserve, provided that the amount set aside annually for reserve must not be less than the amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special Assessments, unless the reserve requirement is waived annually by the Owners exercising not less than a majority of the Association's voting power. Any interest earned on the reserve fund accounts will be accumulated in the reserve account. Extraordinary expenditures not originally included in the budget, which may be necessary for the year, may, at the Board's discretion, be charged first against the reserve or paid for, in whole or in part, by a special Assessment. Upon the sale of a Living Unit or Lot by any Owner, that Owner has no right to any portion of the funds in the reserve account; nor does any Owner have any claim against the Association with respect thereto. The Board may allocate a portion of the reserve to a particular item by a duly made, seconded, and approved motion that explicitly uses the word "allocate." Allocated reserves accumulated from prior years may only be expended for the allocated item unless there is an excess of allocated funds for any given item as evidenced by a professional reserve study or approved by a majority vote of the entire Association. If any funds remain after the expenditure of allocated funds on the specified allocated item, the excess funds will become part of the general reserve.

Section 8. Failure to Prepare Annual Budget or Make Current Assessments. The failure or delay of the Board in the preparation of any annual budget or in the giving of notice to Owners, or any delay in the making of Assessments against Owners, or any of them, does not constitute a waiver or release in any manner of the Owner to pay their proportionate share of the Common Expenses, including reserves, whenever the same is determined and assessed. In the absence of any annual estimate of Common Expenses, including required reserves, or of any Assessments for the Common Expenses, Owners

will continue to pay the Assessments at the existing rate established for each Owner then in effect, until the first payment becomes due, in accordance with a new Assessment covering the current period duly made by the Board in the manner above provided in this Bylaws Article VII.

Section 9. Books and Records.

(A) The Association will maintain correct and complete books and records of account that specify the receipts and expenditures relating to the Common Elements and other common receipts and expenses, records showing the allocation, distribution, and collection of the profits, losses, and expenses among and from the Owners, minutes of the Association and Board meetings, and records of names and addresses of the Owners and Occupants (the "Association's Records").

(B) The Board may adopt Rules establishing reasonable standards for the examination and copying of the 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, any Owner or their mortgagee, or by any representative of an Owner duly authorized, may, for reasonable purposes, during normal business hours and following a reasonable, prior written request to the Board, examine or copy the Association's records, subject to a reasonable fee and the provisions of Chapter 5312. The reasonable fee can include copying, handling, mailing, labor, and inspection oversight costs. Within 10 days of a written request to the Board and upon payment of a reasonable fee, any Owner will be furnished a statement of their account setting forth the amount of any unpaid Assessments or other charges due and owing from the Owner. Any questions or concerns about an Owner's 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 Board in writing, or through the Association's community association manager or its management company, if any.

(C) 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:

- (1) information that pertains to property-related personnel matters;
- (2) communications with legal counsel or attorney work product pertaining to potential, threatened, or pending litigation or other property-related matters under attorney-client privilege;
- (3) 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;
- (4) information that relates to the enforcement of the Declaration, these Bylaws, or Rules against an Owner; or
- (5) the disclosure of information prohibited by state or federal law.

Section 10. Status of Funds Collected by Association. All funds collected are to be held and expended solely for the purposes designated in the Declaration, these Bylaws, or Ohio law, and, except for Assessments as may be levied against less than all of the Owners and for adjustments as may be required to reflect delinquent or prepaid Assessments, are deemed to be held for the use, benefit, and account of all of the Owners. All sums collected by the Association from Assessments may be commingled in a single fund or divided into more than one fund, bank, or investment accounts as determined by the Board.

Section 11. Financial Review or Annual Audit. The Board will review the Association's records on an annual basis. The Board will determine when a formal review or audit will be performed by a certified public accountant. Each review or audit is to be completed within 180 days following the end of the fiscal year. Within 30 days of the Board's completed review, or upon receipt of the review or audit report, the Board will notify all Owners of the completion of the review or audit and instructions on how each Owner may request and receive a copy of the review or audit report at no charge to the Owner. An audit by a certified public accountant must take place at the request of a majority of the Board or by a majority vote of the Owners.

ARTICLE VIII

GENERAL POWERS OF ASSOCIATION

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

(A) **Utilities and Related Facilities.** The cost of water, waste removal, electricity, gas, heat, or any other utility service for the Common Elements, Living Units, and Lots that are not separately metered or otherwise directly charged. In the event any utility or related service of any kind or nature that is not furnished to all Owners, Lots, or Living Units, is paid by the Association, the Association will charge monthly to the Owner of the Living Unit or Lot, an estimated cost for the usage. However, the Board may discontinue payments of the utility service at any time, in which case each Owner is responsible for direct payment of their share of the expense as the Board so determines. The Board has the further right and authority to set standards as to the reasonable amount of use of any utility service assessed as a Common Expense or other charge, which may be applied equally to all Owners as set forth in the Declaration, and to then levy additional Assessments against any Owner to reimburse the Association for excessive use of any utility service by the Owner in amounts as determined by the Board.

(B) **Casualty Insurance.** Premiums upon a policy(ies) of hazard and fire insurance, with extended coverage, vandalism, and malicious mischief endorsements, as provided in the Declaration. The Board will review the amount of the insurance annually.

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

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

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

(F) **Wages and Fees for Services.** The wages and fees for services of any Person the Association employs, including the services of any Person to act as a community association manager or managing agent for the Property, the services of any Person required for the maintenance or operation of the Property, and legal and accounting services necessary or proper in the operation of the Property or the enforcement or interpretation of the Declaration, these Bylaws, and Rules, and for the organization, operation, and enforcement of the rights of the Association.

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

(H) **Certain Maintenance of Living Units or Lots.** In addition to the provisions and requirements contained in the Declaration, the cost of the maintenance, repair, or replacement of any Lot or Living Unit or other item of Owner responsibility as defined in the Declaration, including the costs of correction for any violation of the Declaration or Rules, if the maintenance, repair, or replacement is necessary, in the Board's sole discretion, for safety, aesthetics, uniformity, or to protect the Common Elements or any Lot or Living Unit, and the Owner so responsible has failed or refused to perform the maintenance, repair, or replacement within a reasonable amount of time, as determined by the Board, after written notice of the necessity has been given to the Owner. The Board will levy a special Assessment against the Owner for the cost of the maintenance, repair, or replacement.

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

Association by reason of said lien(s) will be specially assessed against the Owner(s).

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

Section 2. Capital Additions, Alterations, and Improvements.

Notwithstanding anything in these Bylaws or in the Declaration that authorizes expenditures, no single expenditure may be made by the Board for any additions, alterations, or improvements (as distinguished from maintenance, repair, or replacement), or for the purchase or lease of any Living Unit or Lot by the Association, exceeding in total cost 5 percent of that fiscal year's annual budget (including reserve contributions), nor can annual expenditures aggregating in excess of 10 percent of that year's annual budget (including reserve contributions) be made in any 12-month period without, in each case, having the prior approval of the Owners entitled to exercise at least a majority of the Association's total voting power. If approval is obtained, the Board may proceed with the additions, alterations, or improvements, or purchase or lease of a Living Unit or Lot, and may assess all Owners for the cost thereof as a Common Expense. The limitations on expenditures by the Association contained in this Bylaws Article VIII, Section 2 do not apply to repair or replacement of the Property due to casualty loss, to emergency repairs immediately necessary for the preservation and safety of the Property, to maintain compliance with any applicable local, state, or federal codes, ordinances, laws, rules, or regulations, or to avoid suspension of any necessary services for the safety of Persons. Any single capital addition, alteration, or improvement described above that costs 5 percent or less of that fiscal year's annual budget, or aggregating 10 percent or less of that year's annual budget, may be made by the Board without approval of the Owners, and the cost thereof constitutes a part of the Common Expenses.

Section 3. Special Services. The Board may arrange for the provision of any special services and facilities for the benefit of the Owners and Occupants as may desire to pay for same, including cleaning, maintenance, repair, and replacement of Living Units or Lots, or any part or component of the Living Units or Lots and provision of other special services, or recreational, educational, medical, or maintenance facilities and any concessions. The Board will determine the cost and fees for any special services and facilities, which may be charged directly to participating Owners or Occupants, or paid

from the maintenance fund and levied as a special Assessment against the participating Owners or Occupants. The services and facilities may be furnished on a concession basis or other basis in accordance with a fee a contractee or licensee pays to the Association for the right to maintain certain facilities upon the Common Elements and charge the users of the services or facilities a fee for their use. User charges may be billed separately to each Owner benefited thereby, or may be added to the Owner's share of the Common Expenses, or as otherwise determined, and collected as a part thereof. Nothing in these Bylaws requires the establishment of user charges under this Bylaws Article VIII, Section 3 and the Board may elect to treat all or any portion thereof as Common Expenses. In the event any special services and facilities create a surplus, these funds will be added to the maintenance or reserve funds as the Board so determines.

Section 4. Acquisition, Sale, or Exchange of Real Property. Whenever the Board determines to acquire, lease, sell, or exchange real property, or any interest in real property, located outside of the Property, the Board must submit the acquisition, lease, or exchange to a vote of the Owners and, upon the affirmative vote of the Owners entitled to exercise not less than 2/3rds of the Association's total voting power, the Board may proceed with the acquisition, lease, sale, or exchange, in the Association's name and on behalf of all Owners, and the costs and expenses incident to the acquisition, lease, sale, or exchange constitute part of the Common Expenses.

Section 5. No Active Business to be Conducted for Profit. The Association does not have the authority to conduct an active business for profit on behalf of all the Owners or any of them; but, this does not preclude the Association from entering into contracts, licenses, concession agreements, and the like, affecting parts or uses of the Common Elements, which result in the production of income for the Association, or from making arrangements of the types described in this Bylaws Article VIII, Section 5.

Section 6. Utility Contracts. The Board, on behalf of the Association and the Owners, individually and collectively, may negotiate and enter into contracts or other agreements with any utility service provider to provide for the services and service rates to and for the Property, including the Living Units and Lots, as the Board determines is in the best interest of the Association or Owners, whether or not the services are included or paid for as a Common Expense, or paid directly by the Owners.

Section 7. Insured Contractors. For any work or services to be performed on the Property, the Association will only retain and contract with licensed (as required by the State of Ohio or any other government entity having jurisdiction over the Property) contractors, firms, and other Persons that maintain and keep workers' compensation and

liability insurance in the minimum amounts as may be required by the State of Ohio, any other government entity having jurisdiction over the Property, and the Board.

Section 8. Applicable Laws.

- (A) Chapter 5312 of the Ohio Revised Code;
- (B) Chapter 1702 of the Ohio Revised Code;
- (C) The Declaration;
- (D) These Bylaws;
- (E) The Articles of Incorporation; and,
- (F) The Rules.

Each applicable law must be attempted to be interpreted as a harmonious whole, and the Association is subject to and governed by all of the laws, documents, and Rules. In the event of any direct inconsistency in any provisions in any of the foregoing, the provisions, in the law, or document first above listed must be given priority. However, all inconsistencies between or among the permissive provisions of Chapter 5312 and Chapter 1702 of the Ohio Revised Code, and any provisions of any documentation or Rules listed later, must be resolved in favor of the documents or Rules listed later.

ARTICLE IX

AMENDMENTS

These Bylaws may be amended as set forth in Declaration Article XIV.

ARTICLE X

NOTICES AND OTHER ACTIONS AND COMMUNICATIONS

All notices required or permitted under the Declaration or these Bylaws, to the Association, the Board, or Owners must be delivered in accordance with Declaration Article XVI.

ARTICLE XI

GENERAL PROVISIONS

Section 1. 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 the same, irrespective of the number of violations or breaches that may occur.

Section 2. Agreements Binding. All agreements and determinations lawfully made by the Association, through the Board, in accordance with the procedure established in the Declaration and these Bylaws are binding on all Owners, their successors, heirs, and assigns.

Section 3. 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 any and all notices permitted or required by the Declaration or these Bylaws to be given to the Owner 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 any and all unpaid Assessments due and owing from its mortgagor Owner with respect to the Lot subject to the lien of its mortgage and the request will be complied with within 20 days from receipt of the request.

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

Section 5. Perpetuities and Restraints on Alienation. If any options, privileges, covenants, or rights created by these Bylaws are unlawful or void for violation of A) the rule against perpetuities or some analogous statutory provision, B) the rule restricting restraints on alienation, or C) any other statutory or common law imposing time limits, then such provision shall continue only until 21 years after the death of the survivor of the now living descendants of Governor of the State of Ohio, Mike DeWine.

Lot Address _____
Owner(s) _____
(Please Print) _____

**CONSENT BALLOT TO AMEND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BEACON PLACE AT CHURCH SQUARE AND
THE BYLAWS OF BEACON PLACE AT CHURCH SQUARE HOMEOWNERS ASSOCIATION, INC.**

To the Beacon Place at Church Square Homeowners Association, Inc., Board of Directors:

I/We, the Owner(s) of the Beacon Place at Church Square Unit identified above, indicate(s) below my/our vote in favor of or against, as signified by my/our signature below, that the Declaration of Covenants, Conditions and Restrictions for Beacon Place at Church Square ("Declaration") and Bylaws of Beacon Place at Church Square Homeowners Association, Inc. ("Bylaws"), Cuyahoga, Ohio, be amended as follows (**Instructions:** After reading the attached Pages, please mark your vote in favor of *or* against the Amendment, then sign, date, and return this Consent Ballot to the Association, c/o Reserve Realty Management at 480 West Aurora Road Sagamore Hills, Ohio 44067.):

A) DELETE Declaration of Covenants, Conditions, and Restrictions for Beacon Place at Church Square Pages 1 through 24 as recorded at Cuyahoga County Records, Volume 96-10152, Page 14 et seq., as well as all Exhibits ("Declaration") (except to the extent, if any, that any Exhibit is made part of the Amended and Restated Declaration) and any subsequent amendments to the Declaration.

B) DELETE By-Laws (sic) of Beacon Place at Church Square Homeowners' (sic) Association, Inc. Pages 1 through 16 as recorded at Cuyahoga County Records, Instrument No. 200112060320, as well as all Exhibits ("Bylaws")(except to the extent, if any, that any Exhibit is made part of the Amended and Restated Declaration or Amended and Restated Bylaws) and any subsequent amendments to the Bylaws.

C) INSERT the new Amended and Restated Declaration of Covenants, Conditions and Restrictions for Beacon Place at Church Square pages 1 through 50, along with Exhibits "B," and "C," as attached hereto and as if fully rewritten herein.

INSERT the new Amended and Restated Bylaws of Beacon Place at Church Square Homeowners Association, Inc. pages 1 through 32, as Exhibit "A" to the Amended and Restated Declaration, as attached hereto and as if fully rewritten herein.

Any conflict between the provisions of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Beacon Place at Church Square and the Amended and Restated Bylaws of Beacon Place at Church Square Homeowners Association ("Amended and Restated Declaration and Bylaws") as contained in the attached documents and the Declaration previously recorded in Cuyahoga County Records Volume 96-10152, Page 14 et seq., and the Bylaws recorded at Cuyahoga County Records Instrument No. 200112060320, is to be interpreted in favor of the provisions of this amendment. The invalidity of any part of any provision in the Amended and Restated Declaration and Bylaws does not impair or affect in any manner the validity or enforceability of the remainder of the Amended and Restated Declaration and Bylaws. Upon the recording of this amendment, only Owners of record at the time of such filing have standing to contest the validity of the amendment, whether on procedural, substantive, or any other grounds. Any legal challenge must be brought in the Cuyahoga County Court of Common Pleas within one year of the recording of the amendment.

The undersigned Owner(s) further grant(s) a power of attorney to the Board of Directors of the Beacon Place at Church Square Homeowners Association, Inc. to execute the necessary documents to be filed with the Cuyahoga County Fiscal Office evidencing my/our consent, if given, by this Consent Ballot.

I CONSENT AND AGREE TO THE AMENDMENT.

Signature

Date

Signature (If co-owned, both Unit Owners should sign. If only one signs, they state that they represent the entire vote of the Unit.)

Date

I REJECT THE AMENDMENT.

Signature

Date

Signature (If co-owned, both Unit Owners should sign. If only one signs, they state that they represent the entire vote of the Unit.)

Date