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*Alfred Chamboa*  
CUYAHOGA COUNTY FISCAL OFFICE

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
MACINTOSH FARMS CONDOMINIUM NO. 3

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF  
CONDOMINIUM OWNERSHIP FOR MACINTOSH FARMS CONDOMINIUM NO. 3  
RECORDED AT VOLUME 98-10913, PAGE 59 ET SEQ. OF THE CUYAHOGA COUNTY  
RECORDS.

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
MACINTOSH FARMS CONDOMINIUM NO. 3

RECITALS

- A. The Declaration of Condominium Ownership for MacIntosh Farms Condominium No. 3 (the "Declaration") and the Bylaws of MacIntosh Farms Condominium No. 3 Owners' Association, Inc., Exhibit B of the Declaration (the "Bylaws"), were recorded at Cuyahoga County Records Volume 98-10913, Page 59 et seq.
- B. Ohio Revised Code Section 5311.05(E)(1)(c) authorizes the Board of Directors (the "Board"), without a vote of the Unit Owners, to amend the Declaration "to bring the Declaration into compliance with this Chapter."
- C. The Board approved the following matters to be modified (the "Amendments") to bring the Declaration into compliance with Ohio Revised Code Chapter 5311 ("Chapter 5311").
- D. Each of the changes set forth in these Amendments are based on or in accordance with Chapter 5311.
- E. The proceedings necessary to amend the Declaration and Bylaws as permitted by Chapter 5311 and the Declaration have in all respects been complied with.

AMENDMENTS

The Declaration of Condominium Ownership for MacIntosh Farms Condominium No. 3 is amended by the Board of Directors as follows:

- (1) INSERT a NEW PARAGRAPH to the end of DECLARATION ARTICLE XVII, SECTION (B). Said new addition to the Declaration, as recorded at the Cuyahoga County Records, Volume 98-10913, Page 59 et seq., and as amended at Instrument No. 200509210847, is:

The Board will impose the following enforcement procedure for levying enforcement assessments:

- (1) Prior to imposing a charge for damages or an enforcement assessment, the Board will give the Unit Owner a written notice, which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing, 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 Unit 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 Unit Owner must cure the violation to avoid the proposed charge or assessment.

(2) Hearing Requirements:

(i) To request a hearing, the Unit Owner must deliver a written notice to the Board not later than the tenth day after receiving the notice required above. If the Unit 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 a Unit Owner timely requests a hearing, at least seven days prior to the hearing the Board will provide the Unit 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.

(3) The Board may allow a reasonable time to cure a violation described above before imposing a charge or assessment.

(4) 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 Unit Owner.

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

(2) MODIFY THE 1st SENTENCE of the 1st PARAGRAPH of DECLARATION ARTICLE V, SECTION (D). Said modification to the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., and as amended at Instrument No. 200509210847, is: (new language is underlined)

The Association shall have the right to place a continuing lien upon the estate or interest in any Unit of the owner thereof and his percentage of interest in the Common Areas and Facilities for the payment of the portion of the Common Expenses chargeable against such Unit which remains unpaid for ten (10) days after such portion has become due and payable by filing a certificate therefor with the Recorder of Cuyahoga County, Ohio, pursuant to authorization given by the Board of Managers of the Association.

(3) INSERT a NEW PARAGRAPH to the end of BYLAWS ARTICLE V, SECTION 6. Said new addition to the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., is:

The Association, as determined by the Board, is not required to permit the examination and copying of any of the following from books, records, or minutes that contain any of the following:

(a) Information that pertains to Condominium Property-related personnel matters;

(b) Communications with legal counsel or attorney work product pertaining to pending litigation or other Condominium Property-related matters;

(c) Information that pertains 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;

(d) Information that relates to the enforcement of the Declaration, Bylaws, or Association rules against a Unit Owner;

(e) Information the disclosure of which is prohibited by state or federal law; or

(f) Records that date back more than five years prior to the date of the request.

(4) MODIFY BYLAWS ARTICLE II, SECTION 1. Said modification to the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., is: (deleted language is crossed out; new language is underlined)

Section 1. Qualifications. Except as otherwise provided herein all members of the Board of Directors therein called "Board Members" or "Board" shall be Unit Owners, spouse of Unit Owners; mortgagees of Units; partners, agents or employees of partnerships owning a Unit; officers, directors, agents or employees of corporations or associations owning a Unit; or fiduciaries, officers, agents or employees of fiduciaries owning a Unit. Board Members elected or designated by the Declarant need not fulfill the qualification imposed by the Section 1, of this Article II or any other qualification imposed on Board Members elected by Unit Owners other than the Declarant, except as otherwise provided in these Bylaws or by laws, and Board Members elected or designated by the Declarant may be removed only by the Declarant or as otherwise provided herein. If a Board Member shall cease to meet such qualifications during his term, he shall thereupon cease to be a member of the Board and his place on the Board shall be deemed vacant. ~~No single Unit may be represented on the Board by more than one (1) person at any time.~~ The majority of the Board will not consist of Unit Owners or representatives from the same Unit unless authorized by a resolution adopted by the Board of Directors prior to the Board majority being comprised of Unit Owners or representatives from the same Unit.

(5) INSERT A NEW PARAGRAPH to the end of BYLAWS ARTICLE II, SECTION 7. Said new addition to the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., and as amended at Instrument No. 200509210847, is:

Any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, as long as each Director can hear, participate and respond to every other Director. In lieu of conducting a meeting, the Board may take action with the unanimous written consent of the Directors. Those written consents will be filed with the Board meeting minutes.

(6) INSERT NEW ITEMS (9) and (10) to the end of the 1st SENTENCE of DECLARATION ARTICLE XII, SECTION (B). Said new additions to the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., are:

...(9) to delete as void, any provision within the Declaration or Bylaws, or in any applicable restriction or covenant, that prohibits, limits the conveyance, encumbrance, rental, occupancy, or use of property subject to Revised Code Chapter 5311 on the basis of race, color, national origin, sex, religion, or familial status; or (10) to permit notices to Unit Owners, as required by the Declaration or Bylaws, to be sent by electronic mail and, if returned undeliverable, by regular mail, provided the association has received the prior, written authorization from the Unit Owner...

(7) **MODIFY BYLAWS ARTICLE II, SECTION 10(i)(i).** Said modification to the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., and as amended at Instrument No. 200509210847, is: (deleted language is crossed out; new language is underlined)

(i) Commence, defend, intervene in, settle, or compromise any civil, criminal, land use planning or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Condominium Property, or that involves two or more Unit Owners, impacts zoning, or otherwise and relates to matters affecting the Condominium Property;

(8) **INSERT A NEW PARAGRAPH** to the end of **DECLARATION ARTICLE XX, SECTION (I).** Said new addition to the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., and as amended at Instrument No. 200901220060, is:

All notices required or permitted by the Declaration or Bylaws to any Unit Owner will be in writing and is deemed effectively given if it has been sent by regular U.S. mail, first-class postage prepaid, to their Unit address or to another address the Unit Owner designates in writing to the Board, or delivered using electronic mail subject to the following:

(1) The Association may use electronic mail or other transmission technology to send any required notice only to Unit Owners, individually or collectively, who have given the Association written consent to the use of electronic mail or other transmission technology. Any Unit Owner who has not given the Association written consent to use of electronic mail or other transmission technology will receive notices by either regular mail or hand delivered.

(2) An electronic mail or transmission technology to a Unit Owner is not considered delivered and effective if the Association's transmission to the Unit Owner fails, e.g. the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Unit Owner becomes known to the person responsible for sending the transmission. If the electronic mail or transmission is not delivered or effective, the Association will deliver the notice or other communication to the Unit Owner by either regular mail or hand delivered.

(9) MODIFY the 1st SENTENCE of BYLAWS ARTICLE V, SECTION 3. Said modification to the Bylaws, Exhibit B of the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., is: (new language is underlined)

The Association shall be obligated to build up and maintain a reasonable working capital reserve fund to finance the cost of repair and replacement of the components of the Common Areas and Facilities in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the Unit Owners, exercising not less than a majority of the voting power of the Association, waive the reserve requirement in writing annually.

(10) DELETE DECLARATION ARTICLE II, SECTION 13. Said deletion taken from the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq.

INSERT A NEW DECLARATION ARTICLE II, SECTION 13 entitled "Fidelity Coverage." Said new addition to the Declaration, as recorded at Cuyahoga County Records, Volume 98-10913, Page 59 et seq., is:

(13) Fidelity Coverage. The Board must maintain blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses association funds. As used in this section, "person who controls or disburses association funds" means any individual with authority or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any association account or deposit, including the following:

- (a) A management company's principals and employees;
- (b) A bookkeeper;
- (c) The president, secretary, treasurer, any other board member, or employee of the unit owners association.

All of the following apply to the insurance coverage required under this section:

(i) Coverage shall be for the maximum amount of funds that will be in the custody of the association or its designated agent at any one time plus three months of operating expenses.

(ii) The insurance shall be the property of and for the sole benefit of the association and shall protect against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of association funds.

(iii) The policy shall include in its definition of "employee" the manager and the managing agent of the association's funds or provide for this inclusion by an endorsement to the policy.

(iv) The policy shall name the association as the insured party and shall include a provision requiring the issuer of the policy to provide a ten-day written notice to the association's president or manager in the event of cancellation or substantial modification of the policy. The manager or managing agent, if any, of the association shall be the designated agent on the policy.


(v) If there is a change in the manager or the managing agent of the association, then within ten days of the effective start date, the new manager or managing agent shall notify the insurer of such change.

Any conflict between the above provisions and any other provisions of the Declaration and Bylaws will be interpreted in favor of the above amendments. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of these amendments, only Unit Owners of record at the time of the filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds. Any challenge to the validity of this amendment must be brought in the court of common pleas within one year of the recording of this amendment.



The MacIntosh Farms Condominium No. 3 Owners' Association, Inc., has caused the execution of this instrument this 12<sup>th</sup> day of July, 2023.

MACINTOSH FARMS CONDOMINIUM NO. 3 OWNERS' ASSOCIATION, INC.

By:   
ANNE MARKOWSKI, President

By:   
GEORGE NOVOTNEY, Secretary

STATE OF OHIO                     )  
  )     SS  
COUNTY OF CUYAHOGA         )

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named MacIntosh Farms Condominium No. 3 Owners' Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, and that the same is the free act and deed of said corporation and the free act and deed of them personally and as such officers.

I have set my hand and official seal this 12<sup>th</sup> day of July, 2023.

  
NOTARY PUBLIC

This instrument prepared by:  
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