

CUYAHOGA COUNTY
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AMENDMENTS TO THE
MASTER DECLARATION OF EASEMENTS,
COVENANTS AND RESTRICTIONS
FOR
EMERY WOODS

PLEASE CROSS MARGINAL REFERENCE WITH THE MASTER
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR
EMERY WOODS RECORDED AT INSTRUMENT NO. 200412170227 OF THE
CUYAHOGA COUNTY RECORDS.

**AMENDMENTS TO THE
MASTER DECLARATION OF EASEMENTS, COVENANTS AND
RESTRICTIONS FOR EMERY WOODS**

WHEREAS, the Master Declaration of Easements, Covenants and Restrictions for Emery Woods (the "Declaration") and the Bylaws of Emery Woods Master Association, Inc. (the "Bylaws"), Exhibit E of the Declaration, were recorded at Cuyahoga County Records, Instrument No. 200412170227, and

WHEREAS, the Emery Woods Master Association, Inc. (the "Association") is a corporation consisting of all Owners in Emery Woods Master Association and as such is the representative of all Owners, and

WHEREAS, Declaration Article XIII, Section 13.7 authorizes amendments to the Declaration and Bylaws Article 10.01 authorizes amendments to the Bylaws, and

WHEREAS, a meeting, including any change, adjournment, or continuation of such meeting, of the Association's Owners was held on or about April 16, 2018, and, at such meeting and any adjournment, Owners representing 66 2/3% of the voting power of the Association executed, in person or by proxy, an instrument in writing setting forth specifically the matters to be modified (the "Amendments"), and

WHEREAS, the Association has in its records the signed, written consents to Amendments A and E signed by Owners representing 76.19% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 76.19% of the Association's voting power authorizing the Association's officers to execute Amendments A and E on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendments B and C signed by Owners representing 73.80% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 73.80% of the Association's voting power authorizing the Association's officers to execute Amendments B and C on their behalf, and

WHEREAS, the Association has in its records the signed, written consents to Amendment D signed by Owners representing 78.57% of the Association's voting power, together with the minutes from said meeting and any continuation thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 78.57% of the Association's voting power authorizing the Association's officers to execute Amendment D on their behalf, and

WHEREAS, the Association has complied with the proceedings necessary to amend the Declaration and Bylaws, as required by the Declaration and Bylaws, in all material respects.

NOW THEREFORE, the Master Declaration of Easements, Covenants and Restrictions for Emery Woods is amended by the following:

AMENDMENT A

INSERT a new DECLARATION ARTICLE V, SECTION 5.27 entitled, "Occupancy Restriction." Said new addition, to be added on Page 21 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227, is as follows:

5.27 Occupancy Restriction. A Person who is classified as a Tier II or Tier III sex offender/child-victim offender, or any future equivalent classification under the law, 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 Home 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.

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

AMENDMENT B

DELETE DECLARATION ARTICLE V, SECTION 5.21 entitled, "Renting or Leasing," in its entirety. Said deletion to be taken from Pages 19-20 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227.

INSERT a new DECLARATION ARTICLE V, SECTION 5.21 entitled, "Leasing of Homes." Said new addition, to be added on Page 19 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227, is as follows:

5.21 Leasing of Homes. To create a community of resident Owners, to remain within mortgagee owner-occupancy limitations, and to further protect and preserve the Declaration's fundamental purposes, including, without limitation, the preservation of property values and the well being of Owners and Occupants; no Home can be leased, let, or rented, whether for monetary compensation or not, by an Owner to others for business, speculative, investment, or any other purpose, subject to the following:

- (i) The above prohibition does not apply to:
 - (a) Homes that are occupied by the parent(s) or child(ren) of the Owner; or,

(b) any Owner leasing or renting their Home at the time of recording of this amendment with the Cuyahoga County Fiscal Office, and who has registered their Home as being leased with the Association within 90 days of the recording of this amendment ("Grandfathered Home"). The Owner of a Grandfathered Home can continue to enjoy the privilege of leasing that Home, subject to the restrictions and requirements in subparagraph (iii), until the title to said Grandfathered Home is transferred to a subsequent Owner, at which time the Home will no longer be classified as a Grandfathered Home.

(ii) To meet a special situation and to avoid a practical difficulty or other undue hardship, each Owner has the automatic right to lease their Home to a specified renter/tenant for a one-time period of no more than 24 consecutive calendar months, subject to the restrictions and requirements as identified in subparagraphs (iii) and (iv) below.

(iii) To meet a second special situation and to avoid a practical difficulty or other undue hardship, each Owner has the right to lease their Home to a specified renter/tenant for a one-time period of no more than 24 consecutive calendar months, subject to the restrictions and requirements as identified in subparagraphs (iii) and (iv) below only with prior written Board approval. To exercise these rights, the Owner:

(a) must provide the Board with prior, written notice at least 10 business days prior to the commencement of the lease;

(b) cannot be more than 30 days delinquent in any assessment or other payment due to the Association. If the Owner is more than 30 days delinquent, the Owner may request and receive a one-time hardship exception only with the Board's prior written consent.

(iv) The leasing of any Home in accordance with subparagraphs (i) or (ii) above is subject to the following conditions and restrictions:

(a) No Home can be leased, let, or rented by the Owner for transient purposes, which is defined to mean a rental for any period less than 12 full, consecutive calendar months, nor rented or leased to any business or corporate entity for the purpose of corporate housing or similar type usage. Sub-leasing of any Home and the leasing of any individual rooms in a Home, in whole or in part, is also prohibited.

(b) 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 the Association to collect the lease/rent payments directly from the delinquent Owner's tenant/renter until such delinquency is paid in full.

(c) All leases must be in writing and a copy provided to the Board prior to the beginning of the lease term. The renter/tenant must abide by the terms of the Declaration, Bylaws, and Rules. When an Owner leases their Home, the Owner relinquishes all amenity privileges, but continue(s) to be responsible for all obligations of ownership of their Home and is jointly and severally liable with the renter/tenant to the Association for the conduct of the renter/tenant and any damage to property.

(v) Any land contract for the sale of a Home 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 such recording. Any land contract not recorded is an impermissible lease.

(vi) The Board may adopt and enforce Rules and definitions in furtherance, but not in contradiction of the above

provisions, including, without limitation, Rules to address and eliminate attempts to circumvent the meaning or intent of this Section 5.21 and in furtherance of the preservation of Emery Woods as an owner-occupied community and against the leasing of Homes for investment or other purposes. The Board further has full power and authority to deny the occupancy of any Home by any person or family if the Board, in its sole discretion, determines that the Owner of such Home is intending or seeking to circumvent the meaning, purpose, or intent of this Section 5.21.

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

AMENDMENT C

DELETE BYLAWS ARTICLE III, SECTION 3.06 entitled, "Annual Members = Meetings," in its entirety. Said deletion to be taken from Page 2 of the Bylaws, Exhibit E of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227.

INSERT a new BYLAWS ARTICLE III, SECTION 3.06 entitled, "Annual Member Meeting." Said new addition, to be added on Page 2 of the Bylaws, Exhibit E of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227, is as follows:

3.06 Annual Member Meeting. The Association's annual meeting will be held at such time, at such place, and on such date during the month of April of each calendar year as the Board determines and is stated in the meeting notice, for the election of Directors, the consideration of reports to be laid before the meeting,

and the transaction of such other business as is set forth in the meeting notice.

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

AMENDMENT D

DELETE BYLAWS ARTICLE IV, SECTION 4.07 entitled, "Terms of Trustees," in its entirety. Said deletion to be taken from Page 6 of the Bylaws, Exhibit E of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227.

INSERT a new BYLAWS ARTICLE IV, SECTION 4.07 entitled, "Terms of Directors." Said new addition, to be added on Page 6 of the Bylaws, Exhibit E of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227, is as follows:

4.07 Terms of Directors. Each Director will hold office until the next annual meeting and until their successor is elected, or until their earlier resignation, removal from office or death. Any Director may resign at anytime by oral statement to that effect made at a meeting of the Board of Directors, or in writing to that effect immediately or at such other time as the resigning Director may specify. Except for a Director appointed or elected to fill a vacancy, Directors will be elected for a three-year term, however, the terms will be staggered so that at least one-third of the Board will expire annually and a 1-1-1 rotation is maintained at all times.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment providing for Board

member terms of three years each with staggered 1-1-1 elections. 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 this amendment, only Owners of record at the time of such filing will have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge will be brought within one year of the recording of this amendment.

AMENDMENT E

INSERT a new PARAGRAPH to DECLARATION ARTICLE V, SECTION 10.1(f). Said new addition, to be added on Page 31 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200412170227, is as follows:

After the recording of this Amendment with the Cuyahoga County Fiscal Office, each purchaser of a Home, regardless of how title is acquired, except as provided below, will be required to make, at the time such purchaser acquires title to a Home, a one-time capital contribution to the Association in the amount of one and one-half times the annual share of Common Expenses attributable to said Home. The capital contribution to be paid hereunder is not an escrow or advance and is not refundable. Said assessment is due and collectible from the Owner at the time of transfer of record title of the Home and will be used to fund a replacement reserve. Notwithstanding anything else contained herein, this one-time capital contribution assessment will not apply, and will not be collected, in the following limited circumstances:

(i) If there is a record title transfer between a current Owner and that Owner's family trust where the trustee or beneficiary of the trust is the Owner or where the trustee or beneficiary is an immediate family member of the Owner; or

(ii) If a Home is refinanced in the name of the current Owner; or

(iii) If a current Owner records a deed or other conveyance for the sole purpose of adding the name of a family member(s) to the legal title of the Home; or

(iv) If a current Owner directly transfers recorded title of a Home to a family member(s); or

(v) In the event of the death of an Owner, if the title of the Home is transferred to a family member(s) of the Owner through a probate estate, trust or other legal vehicle or instrumentation of inheritance; or

(vi) If the Owner records a deed for the purpose of reflecting a personal name change created by marriage or other legal means.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this creation of a one-time, flat fee to be paid by Owners upon acquisition of title to a Home. The invalidity of any part of the above provision does not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of this amendment, only Owners of record at the time of such filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of this amendment.

The Emery Woods Master Association, Inc. has caused the execution of this instrument this 30th day of May, 2018.

EMERY WOODS MASTER ASSOCIATION, INC.

By:


BRADLEY SELLERS, its President

By:

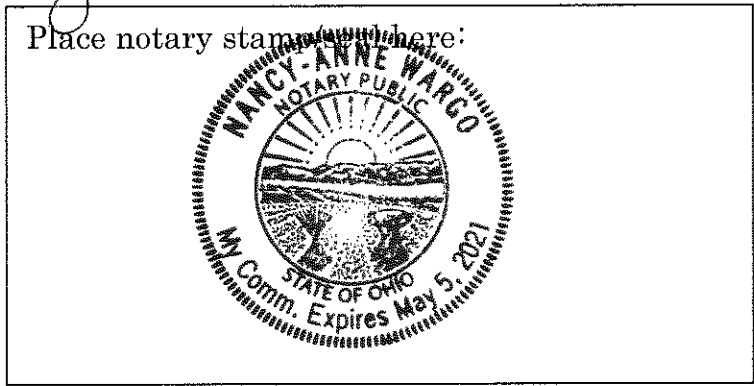

JOHNNY WILLIAMS, its Secretary

STATE OF OHIO)
)
COUNTY OF Cuyahoga) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Emery Woods Master Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 10 of 11, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

I have set my hand and official seal in Warrensville Hts Ohio, this 30th day of May, 2018.

Nancy Anne Wargo
NOTARY PUBLIC



This instrument prepared by:
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