

TWELFTH AMENDMENT TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
ARROWHEAD BAY CONDOMINIUMS

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Filed for Record in  
MAHONING COUNTY, OHIO  
RONALD V. GERBERRY  
03-15-2005 At 09:12 am.  
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PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF  
CONDOMINIUM OWNERSHIP FOR ARROWHEAD BAY CONDOMINIUMS  
RECORDED AT VOLUME 1898, PAGE 149 ET SEQ. OF THE MAHONING COUNTY  
RECORDS.

**TWELFTH AMENDMENT TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
ARROWHEAD BAY CONDOMINIUMS**

WHEREAS, the Declaration of Condominium Ownership for Arrowhead Bay Condominiums (the "Declaration") and the Bylaws of Homeowners Association of Arrowhead Bay (the "Bylaws"), Exhibit "A" to the Declaration, were recorded at Mahoning County Records Volume 1898, Page 149 et seq., and

WHEREAS, Section 5311.05(E)(1) of the Ohio Revised Code, as amended on July 20, 2004, authorizes the Board of Directors, without a vote of the Owners, to amend the Declaration "to bring the Declaration in compliance with this Chapter," and

WHEREAS, the Board of Directors approved the following matters to be modified (the "Amendments") in order to bring the Declaration into compliance with Ohio Revised Code Chapter 5311, and

WHEREAS, the proceedings necessary to amend the Declaration as permitted by Chapter 5311 of the Ohio Revised Code and the Declaration of Condominium Ownership for Arrowhead Bay Condominiums have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Arrowhead Bay Condominiums is hereby amended by the Board of Directors as follows:

- (1) All references in the Declaration and Bylaws to the term "Common Areas" or "Common Areas and Facilities" shall be replaced with the term "Common Elements."
- (2) All references in the Declaration and Bylaws to the term "Limited Common Areas" or "Limited Common Areas and Facilities" shall be replaced with the term "Limited Common Elements."
- (3) All references in the Declaration and Bylaws to the term "Board of Trustees" shall be replaced with the term "Board of Directors."
- (4) INSERT a new SECTION 5, entitled "**ENFORCEMENT ASSESSMENTS**," to the end of DECLARATION ARTICLE XIX. Said new addition, to be added on Page 45 of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

5. **ENFORCEMENT ASSESSMENTS:**

In accordance with Ohio Revised Code Section 5311.081(B)(12), the Board shall have the authority to impose interest and administrative

late fees for the late payment of Assessments; impose returned check charges; and, in accordance with the procedure outlined in Ohio Revised Code Section 5311.081(C)(1), impose reasonable enforcement Assessments for violations of the Declaration, the Bylaws, and the rules of the Association, and reasonable charges for damage to the Common Elements.

(5) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of DECLARATION ARTICLE X, SECTION 3, entitled "LIEN FOR ASSESSMENT." Said new addition, to be added on Page 23 of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.18(A)(1)(b), the Association has a lien upon each Unit's ownership interest for any unpaid interest, administrative late fees, enforcement Assessments, and collection costs, attorney's fees, and paralegal fees.

(6) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of DECLARATION ARTICLE XI, SECTION 12, entitled "RENTAL OF UNITS." Said new addition, to be added on Page 28 of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq. is as follows:

In accordance with Ohio Revised Code Section 5311.19(B), the Association may initiate eviction proceedings, pursuant to Chapters 5321 and 1923 of the Revised Code, to evict a tenant. The action shall be brought by the Association, as the Unit Owner's Agent, in the name of the Unit Owner. In addition to any procedures required by Chapters 5321 and 1923 of the Revised Code, the Association shall give the Unit Owner at least ten days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorney's fees, shall be charged to the Unit Owner and shall be the subject of a special Assessment against the offending Unit and made a lien against that Unit.

(7) INSERT a new 2<sup>nd</sup> PARAGRAPH to the end of DECLARATION ARTICLE X, SECTION 1, entitled "COMMON PROFITS AND COMMON EXPENSES." Said new addition, to be added on Page 21 of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.18(A)(2), the Association shall credit payments made by a Unit Owner in the following order of priority:

- (1) First, to interest owed to the Association;

- (2) Second, to administrative late fees owed to the Association;
- (3) Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- (4) Fourth, to the principal amounts the Unit Owner owes to the Association for the common expenses or enforcement Assessments chargeable against the Unit.

(8) INSERT a new SECTION 8, entitled "SPECIAL SERVICES," to DECLARATION ARTICLE XX. Said new addition, to be added on Page 47 of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

8. SPECIAL SERVICES:

In accordance with Ohio Revised Code Section 5311.081(B)(15), the Board may impose reasonable charges to the Unit Owner for providing copies of the Declaration, Bylaws or amendments thereto as well as reasonable charges for the handling of re-financing and/or resale documentation, and/or statements of unpaid Assessments.

(9) INSERT a new SECTION 13, entitled "OWNER/RESIDENT INFORMATION," to DECLARATION ARTICLE XI. Said new addition, to be added on Page 28 of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

13. OWNER/RESIDENT INFORMATION:

In accordance with Ohio Revised Code Section 5311.09(A)(2) and (3), each Unit Owner shall, within thirty (30) days of the recording of this Amendment or within thirty (30) days of title transferring to the Unit Owner, provide to the Association the Unit Owner's and/or all occupants' names, home and business mailing addresses, home and business telephone numbers, and the name, business address and business telephone number of any person who manages the Unit as an agent of that Owner. Any change in the information shall be provided to the Board, in writing, within thirty (30) days of said change.

(10) MODIFY BYLAWS ARTICLE II, SECTION 1, entitled "Number and Qualification." Said modification, to be made on Page 6 of the Bylaws, Exhibit "A" of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., as amended at Mahoning County Records, OR 5248, Page 0229, is as follows: (deleted language is crossed out; new language is underlined)

Section 1. Number and Qualification. The affairs of this Association shall be managed by a Board of not less than three (3) Trustees Directors nor more than five (5), all of whom must be members in good standing, and each of whom must be a Unit Owner or the spouse of a Unit Owner. That notwithstanding, no one (1) Unit may be represented by more than one (1) person on the Board at any one (1) time.

(11) INSERT a new 2<sup>nd</sup> SENTENCE to the end of BYLAWS ARTICLE II, SECTION 6, entitled "Regular Meeting." Said new addition, to be added on Page 7 of the Bylaws, Exhibit "A" of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.08(A)(4)(a), any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, provided that each Board member can hear, participate and respond to every other Board member.

(12) INSERT a new SENTENCE to the end of BYLAWS ARTICLE VI, SECTION 1, entitled "Preparation of Estimated Budget." Said new addition, to be added on Page 15 of the Bylaws, Exhibit "A" of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

In accordance with Ohio Revised Code Section 5311.21, in the alternative, if the Association has collected a Common Surplus at the end of any fiscal year, the Board may determine that such amount will be applied toward reserves.

(13) INSERT a new PARAGRAPH vi to BYLAWS ARTICLE II, SECTION 9A, entitled "Powers," and INSERT new SUBPARAGRAPHS (a), (b), (c), (d), (e) and (f), thereafter. Said new additions to be added on Page 8 of the Bylaws, Exhibit "A" of the Declaration, as recorded at Mahoning County Records, Volume 1898, Page 149 et seq., is as follows:

vi. In accordance with Ohio Revised Code Section 5311.081(B), in addition to all other powers enumerated herein, the Board may exercise all powers of the Association, including the power to do the following:

(a) Hire and fire attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management and/or operation of the Condominium Property and the Association;

- (b) 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 Condominium Property, or that involves two or more Unit Owners and relates to matters affecting the Condominium Property;
- (c) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;
- (d) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (e) Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;
- (f) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

Any conflict between the above provisions and any other provisions of the Declaration and Bylaws shall be interpreted in favor of the above amendments. Upon the recording of these amendments, only Unit Owners of record at the time of such filing shall have standing to contest the validity of these amendments, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendments.

IN WITNESS WHEREOF, the said Homeowners Association of Arrowhead Bay has caused the execution of this instrument this 9<sup>th</sup> day of March, 2005.

HOMEOWNERS ASSOCIATION OF ARROWHEAD BAY

By: Mary Ann Lyden, Pres.  
MARY ANN LYDEN, its President

FLORIDA  
STATE OF ~~OHIO~~ )  
LEE ) SS  
COUNTY OF ~~MAHONING~~ )  
MAR.

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Homeowners Association of Arrowhead Bay, by Mary Ann Lyden, its President, who acknowledged that she did sign the foregoing instrument, on Page 6 of 7, and that the same is the free act and deed of said corporation and the free act and deed of her personally and as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Bonita Springs, Ohio, FL, this 9th day of MARCH, 2005.

Mary L. Howard  
NOTARY PUBLIC



Mary L. Howard  
My Commission DD282824  
Expires January 20, 2008

This instrument prepared by:  
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