

CUYAHOGA COUNTY  
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AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
BAYWOOD ESTATES CONDOMINIUMS

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR BAYWOOD ESTATES CONDOMINIUMS RECORDED AT VOLUME 84-4708, PAGE 30 ET SEQ. OF THE CUYAHOGA COUNTY RECORDS.

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
BAYWOOD ESTATES CONDOMINIUMS

RECITALS

A. The Declaration of Condominium Ownership for Baywood Estates Condominiums (the "Declaration") and the Bylaws of Baywood Estates Condominium Association (the "Bylaws"), Exhibit C the Declaration, were recorded at Cuyahoga County Records, Volume 84-4708 Page 30 et seq.

B. The Baywood Estates Condominium Association (the "Association") is a corporation consisting of all Unit Owners in Baywood Estates Condominium and as such is the representative of all Unit Owners.

C. Declaration Article XX, Section 20.2 authorizes amendments to the Declaration and Bylaws Article X, Section 10.12 authorizes amendments to the Bylaws.

D. Unit Owners representing at least 75% of the Association's current voting power have executed instruments in writing setting forth specifically the matter to be modified (the "Amendments").

E. As of August 28, 2018, Unit Owners representing 83% of the Association's voting power have signed and delivered to the Association written consents, along with powers of attorney, in favor of Amendment A and authorizing the Association's officers to execute Amendment A on their behalf.

F. As of August 28, 2018, Unit Owners representing 87% of the Association's voting power have signed and delivered to the Association written consents, along with powers of attorney, in favor of Amendment B and authorizing the Association's officers to execute Amendment B on their behalf.

G. As of August 28, 2018, Unit Owners representing 92% of the Association's voting power have signed and delivered to the Association written consents, along with powers of attorney, in favor of Amendment C and authorizing the Association's officers to execute Amendment C on their behalf.

H. Attached as Exhibit A is an Affidavit of the Association's President stating that copies of the Amendments will be mailed by certified mail or hand delivered or sent by telegram to all first mortgagees on the records of the Association once the Amendments are recorded with the Cuyahoga County Fiscal Office.

I. Attached as Exhibit B is a certification from the Association's Secretary as to the consenting mortgagees, on the records of the Association, to the Amendments.

J. The Association has complied with the proceedings necessary to amend the Declaration and Bylaws, as required by Chapter 5311 of the Ohio Revised Code and the Declaration and Bylaws, in all material respects.

#### AMENDMENT

The Declaration of Condominium Ownership for Baywood Estates Condominiums is amended by the following:

#### AMENDMENT A

DELETE DECLARATION ARTICLE IV, SECTION 4.2(i) in its entirety. Said deletion to be taken from Page 6 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new DECLARATION ARTICLE IV, SECTION 4.2(i). Said new addition, to be added to Page 6 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

(i) Except as provided below, all pets, including dogs, cats, birds, fish, rabbits, livestock, fowl, poultry, pigs, snakes, other small mammals primarily kept in cages, reptiles, or any other animals of any kind are prohibited from being raised, bred, or kept in any Unit or in the Common Elements at any time, except for reasonable accommodations for medical necessity granted by the Board in accordance with the Fair Housing Act ("Permitted Pet").

(i) Any Unit Owner that keeps a Permitted Pet as described

above, must comply with the restrictions contained in this Section 4.2(i) and with the Association Rules.

- (ii) If any pet, other than a Permitted Pet (“additional pet(s)”), resides in a Unit for 60 or more days prior to the date of the recording of this Amendment, and the Unit Owner registers the additional pet(s) with the Association within 90 days of the date of recording of this Amendment, the additional pet(s) is “grandfathered” and permitted to remain on the Condominium Property until its demise or relocation off the Condominium Property for a period of 30 or more consecutive days, at which time it may not be replaced.
- (iii) No Permitted Pet or grandfathered 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 or grandfathered pet from the Condominium Property that causes or creates a nuisance or unreasonable disturbance, upon 3 days written notice from the Board.
- (v) A Permitted Pet or grandfathered pet must be kept in a Unit and only those portions of the Condominium Property as the Board designates, unless the pet is on a hand-held leash, is being carried, or is otherwise transported across, to or from the Condominium Property.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this restriction on pets. 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 Unit 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 XXII, SECTION 22.2 in its entirety. Said deletion to be taken from Pages 30-31 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new DECLARATION ARTICLE XXII, SECTION 22.2. Said new addition, to be added to Page 30 of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

22.2 All notices required or permitted under the Declaration or Bylaws,

- (a) to the Association or the Board, must be made in writing and sent by regular U.S. mail, first-class postage prepaid, to the Board of Directors or the Association at the address of the Condominium Property or to such other address as the Board of Directors may designate by a notice in writing to all Unit Owners.
- (b) to any Unit Owner must be hand-delivered or sent by regular U.S. mail, first-class postage prepaid, to such Unit Owner's Unit address or to such other address designated by the Unit Owner in writing to the Board. Any notice required or permitted to be given to any occupant of a Unit other than a Unit Owner will effectively be given if hand-delivered or sent by regular U.S. mail, first-class postage prepaid, to the Unit address.
- (c) in addition to the methods described in Paragraphs (a) and (b) above, due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by Ohio and federal law, as well as by the Board, now or in the future: (1) any notice required in the Declaration or Bylaws to be sent or received; (2) any signature, vote, consent, or approval required to be obtained; or (3) any payment required to be made, under the Declaration or Bylaws, may be accomplished or required using the most advanced

technology available at that time provided such use is a generally accepted business practice. This includes, without limitation, the use of electronic mail or other electronic transmission in lieu of any Association required written notice to Unit Owners, individually or collectively, to or from any Unit Owner who has given the Association written consent to such use of electronic mail or other electronic transmission, and for the Association to properly and effectively receive any Unit Owner's signature, vote, consent, or approval the Association needs or requires, subject to the following:

- (i) For voting on the election of Board members, the Association may provide for voting by electronic transmission. However, if the Association cannot guarantee the anonymity of a Unit Owner's vote, the Association must provide the Unit Owner with the option of casting an anonymous printed ballot.
- (ii) An electronic mail or other electronic transmission to a Unit Owner is not considered delivered and effective if the Association's transmission to the Unit Owner fails two consecutive times, 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 other electronic transmission is not delivered or effective, the Association will deliver such notice or other communication to the Unit Owner in writing by regular U.S. mail to the Unit Owner's Unit or last known address, by hand delivery to the Unit Owner, or by leaving the notice under or attached to the front door of the Unit Owner's Unit.
- (iii) Any Unit Owner who has not given the Association written consent to such use of electronic mail or other electronic transmission will receive notices,

as provided in the first paragraph of this Article XXII, Section 22.2.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment permitting notices by regular U.S. mail and permits the Association to use electronic communications to the extent permitted by Ohio and federal law. 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 Unit 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 IV, SECTION 4.1 entitled, "Qualifications," in its entirety. Said deletion to be taken from Page 6 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new BYLAWS ARTICLE IV, SECTION 4.1 entitled, "Qualifications." Said new addition, to be added to Page 6 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

##### 4.1. Qualifications

(a) All members of the Board of Directors (sometimes called "Board Members") must be a Unit Owner, or the spouse of a Unit Owner; mortgagees of Units; partners, agents or employees of a partnership owning a Unit; officers, directors, agents or employees of a corporation or an association owning a Unit; or fiduciaries, officers, agents or employees of fiduciaries owning a Unit.

(b) Board members must also be in good standing. Good standing requires the Board member not be an adverse party to

the Association, or the Board or any Board member (in that member's capacity as a Board member) in any litigation involving one or more of those parties. Good standing requires that the member not be more than 60 days delinquent in the payment of any fees or Assessments owed to the Association.

(c) No Unit may be represented by more than one person on the Board at any one time.

DELETE BYLAWS ARTICLE IV, SECTION 4.2 entitled, "Number of Board Members," in its entirety. Said deletion to be taken from Page 6 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new BYLAWS ARTICLE IV, SECTION 4.2 entitled, "Number of Board Members." Said new addition, to be added to Page 6 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

4.2. Number of Board Members

All power and authority of this Association will be exercised by the Board of Directors which will consist of 5 persons.

DELETE BYLAWS ARTICLE IV, SECTION 4.3 entitled, "Election of Board Members by Declarant and Unit Owners Prior to the First Annual Meeting," in its entirety. Said deletion to be taken from Pages 6-7 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

DELETE BYLAWS ARTICLE IV, SECTION 4.4 entitled, "First Annual Meeting," in its entirety. Said deletion to be taken from Page 7 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

RENUMBER BYLAWS ARTICLE IV, SECTION 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, AND 4.19 TO READ SECTIONS 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, and 4.17, respectively. Said modifications, to be made on Pages 7-13 of the Bylaws, Exhibit C of the

Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

DELETE BYLAWS ARTICLE IV, SECTION 4.3 (FORMERLY SECTION 4.5) entitled, "Election of Board Members from and after the First Annual Meeting," in its entirety. Said deletion to be taken from Pages 7-8 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new BYLAWS ARTICLE IV, SECTION 4.3 entitled, "Election of Board Members." Said new addition, to be added to Page 7 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

#### 4.3 Election of Board Members

All five Directors will be elected for a three-year term, however, the terms will be staggered so that at least one-fifth of the members' terms will expire annually and a 2-2-1 rotation is maintained at all times.

DELETE BYLAWS ARTICLE IV, SECTION 4.4 (FORMERLY SECTION 4.6) entitled, "Removal of Board Members," in its entirety. Said deletion to be taken from Page 8 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq.

INSERT a new BYLAWS ARTICLE IV, SECTION 4.4 entitled, "Removal of Board Members." Said new addition, to be added to Page 8 of the Bylaws, Exhibit C of the Declaration, as recorded at Cuyahoga County Records, Volume 84-4708, Page 30 et seq., is as follows:

#### 4.4 Removal of Directors

Except as otherwise provided in these Bylaws, the Board may, by a majority vote, remove any individual Board member and create a vacancy on the Board if:

- (a) by order of court the member has been found to be of unsound mind;

- (b) the member files for bankruptcy or has been adjudicated bankrupt;
- (c) the member is or has been convicted of a felony for theft or other theft related crime, including larceny, forgery, false pretenses, fraud, embezzlement, conversion, or any conspiracy related to any such theft related crime, at any time in the past, or convicted of a felony for any other type of crime within the last 10 years;
- (d) the member is no longer a member in good standing as defined in Section 4.1 above;
- (e) the member is physically incapacitated;
- (f) the member fails to attend three consecutive or a total of four meetings of the Board.

Any one or more Board members may be removed with or without cause by the vote of Unit Owners entitled to exercise at least a 75% of the Association's total voting power at any Association meeting which is duly called and at which a quorum is present. Any Board member, whose removal has been proposed, will have an opportunity to speak and be heard at such meeting prior to the vote of their removal. At the same or any other Board meeting, a successor(s) to any removed Board member(s) may be elected to fill the unexpired term for the Board member(s).

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment regarding the number, qualifications, term of office, and removal of Board members. 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 Unit 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 in the court of common pleas within one year of the recording of this amendment.



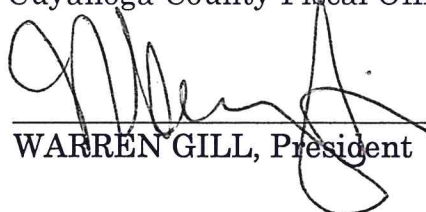
EXHIBIT A

AFFIDAVIT

STATE OF OHIO )  
 )  
COUNTY OF CUYAHOGA ) SS

WARREN GILL, being first duly sworn, states as follows:

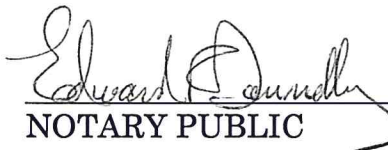
1. He is the duly elected and acting President of the Baywood Estates Condominium Association.
2. He will cause copies of the Amendments to the Declaration to be mailed by certified mail or by hand delivered or sent by telegram to all first mortgagees having bona fide liens of record against any Unit Ownerships of whose mortgage interests notice had been given to the Association once the Amendment is recorded with the Cuyahoga County Fiscal Office.



\_\_\_\_\_  
WARREN GILL, President

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named WARREN GILL who acknowledges that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and official seal in Berchard, Ohio, this 20<sup>th</sup> day of September, 2018.



\_\_\_\_\_  
NOTARY PUBLIC

**EDWARD F. DONNELLY**  
Place notary stamp/seal here:  
**NOTARY PUBLIC - STATE OF OHIO**  
**RECORDED IN LAKE COUNTY**  
**MY COMMISSION EXPIRES OCTOBER 22, 2019**

EXHIBIT B

CERTIFICATION OF SECRETARY

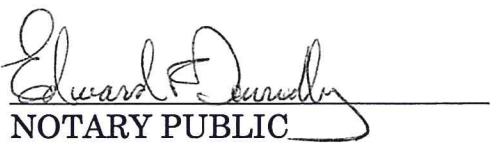
STATE OF OHIO )  
 )  
COUNTY OF Cuyahoga ) SS

JEAN E. APPLEBY, the duly elected and acting Secretary of the Baywood Estates Condominium Association, certifies there are no, as the term is used in Declaration Article XX, Section 20.2, "first mortgagees" of record on file with the Association as no holders, insurers or guarantors of a first mortgage on a Unit have given the Association a written request to receive notice of certain actions or amendments.

  
JEAN E. APPLEBY, Secretary

BEFORE ME, a Notary Public in and for said County, personally appeared the above named JEAN E. APPLEBY who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and official seal in Beachwood, Ohio, this 20<sup>th</sup> day of September, 2018.

  
NOTARY PUBLIC

Place notary stamp/seal here:  
**EDWARD F. DONNELLY**  
NOTARY PUBLIC - STATE OF OHIO  
RECORDED IN LAKE COUNTY  
MY COMMISSION EXPIRES OCTOBER 22, 2019



# KAMAN & CUSIMANO<sup>LLC</sup>

ATTORNEYS AT LAW

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Cleveland, Ohio 44113  
Fax: 216-771-8478

October 23, 2018

Baywood Estates Condominium  
c/o Becki Marcenelli, Property Manager  
1703 Brookpark Road  
Cleveland, Ohio 44109

Re: Pet Restriction, Use of New Technology, and Board  
Number Amendments

Dear Ms. Marcenelli:

Enclosed, please find the *original*, fully executed and recorded Amendments to the Declaration of Condominium Ownership for Baywood Estates Condominiums. The Amendments were filed with the Cuyahoga County Fiscal Office on October 12, 2018, at Instrument No. 201810120389. The Amendments became binding and effective on the date they were filed. Please keep the original Amendments in the Association's *permanent* file.

The Board must notify every unit owner that the Amendments have passed and been filed for record with the County. The Board's notice must, at a minimum, indicate the date the Amendments were recorded and the County's Instrument number. The Board may send the notice by regular U.S. mail, hand delivery, or, for those owners who have opted into electronic communications, any owner who has provided the Association with an email address.

I also recommend that the Board include a copy of the recorded Amendments themselves, especially when being sent by email, so that owners are more likely to pass the Amendments on to future buyers. Alternatively, the Board may indicate how owners can obtain a copy of the recorded Amendments, such as by requesting a copy from the Association, or by obtaining a copy directly from the County Fiscal Office.

Please include with the Amendments document a cover letter to each owner that advises them that the Amendments should be filed with their copy of the Declaration and Bylaws and that they must pass the documents on to any future buyer of their unit.

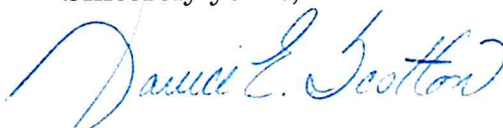
The cover letter should also advise owners that:

- (1) there are new limitations on pets. Upon the demise or removal of a "grandfathered" pet from the property, it may not be replaced.
- (2) any owner who provides the Board with the appropriate written notice may now receive any required notice, may accomplish any signature, vote, consent or approval, and may make a payment through electronic mail, electronic transmission, or any other technology so available in the future. To encourage owners to register for electronic notices, I recommend that you include a notice form that an owner may complete and return to the Association.
- (3) as of the recording of the Amendment, Board members must be members in good standing in order to serve on the Board and may be removed for various reasons by the remaining Board members

Now that the Amendments have been recorded and delivered to the Association, our work on this matter is complete and I have closed our file accordingly. It has been my pleasure to work together with the Association on this matter.

Should you or any of the Board members wish to further discuss this matter, please do not hesitate to telephone me.

Sincerely yours,



JANICE E. SCOTTON

JES:sh

Enclosure

cc: All Board Members (via electronic mail only)