

**AMENDMENTS TO THE**  
**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**OF**  
**BRITTANY POINTE ATTACHED CLUSTER UNITS**

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF BRITTANY POINTE ATTACHED CLUSTER UNITS RECORDED AT INSTRUMENT NO. 54070309 AND THE CODE OF REGULATIONS OF BRITTANY POINTE ATTACHED CLUSTER UNITS ASSOCIATION, INC. RECORDED AT INSTRUMENT NO. 54070310 OF THE SUMMIT COUNTY RECORDS.

THIS WILL CERTIFY THAT A COPY OF THESE AMENDMENTS TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF BRITTANY POINTE ATTACHED CLUSTER UNITS AND THE CODE OF REGULATIONS OF BRITTANY POINTE ATTACHED CLUSTER UNITS ASSOCIATION, INC. WERE FILED IN THE OFFICE OF THE FISCAL OFFICER OF SUMMIT COUNTY, OHIO.

DATED: 4-19-2022

BY: **KRISTEN M. SCALISE CPA, CFE**  
**FISCAL OFFICER**

*By: Beverly Coble*  
*Beverly Coble*

DOC # 56733307



**AMENDMENTS TO THE  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
BRITTANY POINTE ATTACHED CLUSTER UNITS**

**RECITALS**

- A.** The Declaration of Covenants, Conditions, and Restrictions of Brittany Pointe Attached Cluster Units (the “Covenants”) was recorded at Summit County Records, Instrument No. 54070309, and the Code of Regulations of Brittany Pointe Attached Cluster Units Association, Inc. (the “Code of Regulations”), were recorded at Summit County Records, Instrument No. 54070310.
- B.** The Brittany Pointe Attached Homeowners Association, Inc. (the “Association”) is a corporation consisting of all Owners in Brittany Pointe Attached Cluster Homes and as such is the representative of all Owners.
- C.** Covenants Article XI, Section 11.1 authorizes amendments to the Covenants and Code of Regulations Article XII authorizes amendments to the Code of Regulations.
- D.** A meeting, including any change, adjournment, or continuation of the meeting, of the Association’s Owners was held on or about March 24, 2022, and, at that meeting and any adjournment, Owners representing at least 67 percent 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 in the Covenants and Owners representing at least 75 percent of the Association’s current voting power have executed instruments in writing setting forth specifically the matters to be modified in the Code of Regulations (the “Amendments”).
- E.** Owners representing 82.93 percent of the Association’s voting power have affirmatively consented to or voted in favor of Amendments A, E, and F and signed powers of attorney authorizing the Association’s officers to execute Amendments A, E, and F on the Owners’ behalf, as documented in the Association’s records.
- F.** Owners representing 75.61 percent of the Association’s voting power have affirmatively consented to or voted in favor of Amendment B and signed powers of attorney authorizing the Association’s officers to execute Amendment B on the Owners’ behalf, as documented in the Association’s records.



G. Owners representing 70.73 percent of the Association's voting power have affirmatively consented to or voted in favor of Amendment C and signed powers of attorney authorizing the Association's officers to execute Amendment C on the Owners' behalf, as documented in the Association's records.

H. Owners representing 78.05 percent of the Association's voting power have affirmatively consented to or voted in favor of Amendment D and signed powers of attorney authorizing the Association's officers to execute Amendment D on the Owners' behalf, as documented in the Association's records.

I. The Association has complied with the proceedings necessary to amend the Covenants and Code of Regulations, as required by the Covenants and Code of Regulations, in all material respects.

### **AMENDMENTS**

The Declaration of Covenants, Conditions, and Restrictions of Brittany Pointe Attached Cluster Units and the Code of Regulations of The Brittany Pointe Attached Cluster Units Association, Inc. are amended by the following:

### **AMENDMENT A**

**INSERT a new COVENANTS ARTICLE III, SECTION 3.24 entitled, "Occupancy Restriction."** Said new addition, to be added to the Covenants, as recorded at Summit County Records, Instrument No. 54070309, is as follows:

**Section 3.24. 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 Lot, including the Residential Unit on the Lot, 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 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 Covenants and Code of Regulations will be interpreted in favor of this restriction on the occupancy of Lots. 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 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.

### AMENDMENT B

**DELETE COVENANTS ARTICLE III, SECTION 3.19** entitled, "Minimum Rental Period," in its entirety. Said deletion to be taken from the Covenants, as recorded at Summit County Records, Instrument No. 54070309.

**INSERT a new COVENANTS ARTICLE III, SECTION 3.19** entitled, "Leasing of Lots." Said new addition, to be added to the Covenants, as recorded at Summit County Records, Instrument No. 54070309, is as follows:

**Section 3.19. Leasing of Lots.** To create a community of resident Owners and to remain within mortgagee owner-occupancy limitations, no Lot, including the Residential Unit located on the Lot, 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:

- (a) The above prohibition does not apply to:
  - (1) Lots that are occupied by the parent(s) or child(ren) of the Owner; or,
  - (2) Lots that are leased or rented to a third party by the Owner of the Lot as of the date this amendment is recorded with the Summit County Fiscal Office, and which the Owner has registered with the Association as a "leased lot" (referred to as "Grandfathered Lots") within 90 days of the recording of this amendment; a Grandfathered Lot may continue to be leased until



titled ownership of the Lot is transferred to a subsequent Owner; upon the date of title transfer, the Lot is no longer a Grandfathered Lot and is no longer excepted from this lease prohibition; or,

(3) Lots that meet a special situation and to avoid a practical difficulty or other undue hardship, each Owner has the right to lease their Lot 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 sub-sections (b), (c), (d), and (e) below (referred to as "Hardship Lots"). To exercise this right:

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

(B) The Owner may not be more than 60 days delinquent in payment of any assessment or other amount due to the Association. If the Owner is more than 60 days past due in any payment, the Owner will request from the Board a one-time hardship exception and will not lease the Lot until the Board approves the request.

(b) Grandfathered Lots or Hardship Lots are subject to the following conditions and restrictions:

(1) Lease terms must be for 12 full, consecutive calendar months;

(2) Leases must be provided to the Board at least 10 days prior to the commencement of the lease term;

(3) No Lot may be leased, let, or rented to any business or corporate entity for the purpose of corporate housing or similar use;

(4) No Lot may be sub-leased, sublet, or rented by a tenant;



(5) No individual room, part, or sub-part of any Lot may be leased, let, or rented;

(6) The Association has at all times a limited power-of-attorney from and on behalf of any Owner who is more than 60 days past due in the payment of any Assessment or other amounts due to the Association. The limited power-of-attorney permits the Association to collect the lease or rent payments directly from the lessee, tenant, or renter until the amount owed to the Association is paid in full;

(7) The lessee, tenant, or renter must abide by the terms of the Covenants, Code of Regulations, and rules and regulations;

(8) When an Owner leases their Lot, the Owner relinquishes access to all amenity privileges, but continues to be responsible for all obligations of ownership of their Lot and is jointly and severally liable with the lessee, tenant, or renter to the Association for the conduct of the lessee, tenant, or renter and any damage to Association property;

(9) In accordance with Ohio law, the Association may initiate eviction proceedings to evict any lessee, tenant, or renter for violation of the Covenants, Code of Regulations, rules, or applicable laws, by any occupant of the Lot, or the Owner of the Lot. The action will be brought by the Association, as the Owner's agent, in the name of the Owner. In addition to any procedures required by State law, the Association will give the Owner at least 10 days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorneys' fees, will be assessed to the Owner and the Lot's account and is a lien against that Lot.

(c) Any land contract must be recorded with the Summit County Fiscal Office and a recorded copy of the land contract must be delivered to the Board within 30 days of the recording. Any land contract not meeting the requirements of this sub-section (c) is an impermissible lease. The buyer of a Lot on a land contract meeting the requirements of this sub-section (c) is considered the Owner of the Lot



for all purposes and obligations under this Covenants, the Code of Regulations, and the Rules, except only and specifically to the extent otherwise provided in the land contract between the buyer and seller.

(d) Whenever any Lot is owned by a corporation, partnership, trust, or other entity, the Owner, through its officers or agents, (i.e. president or chief executive officer, partner, or trustee), must designate in writing one particular person or family that is entitled to occupy the Lot. The designated person or family must be an employee of or have an ownership or legal interest, (e.g. by being a named beneficiary of the trust), in the entity owning the Lot. Only the designated person or family, its care-givers, co-habitants, and guests may use the Lot. To the extent permitted by law, this requirement is also intended to prevent the purchase and use of any Lot for corporate housing, or as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care, or treatment facility.

(e) The Board may adopt and enforce rules and definitions in furtherance, but not in contradiction of the above provisions, including, rules to address and eliminate attempts to circumvent the meaning or intent of this Covenants Article III, Section 3.19 and in furtherance of the preservation of the Brittany Pointe as an owner-occupied community and against the leasing of Lots for investment or other purposes. The Board has full power and authority to deny the occupancy of any Lot by any person or family if the Board, in its sole discretion, determines that the Owner of the Lot is intending or seeking to circumvent the meaning, purpose, or intent of this Covenants Article III, Section 3.19.

Any conflict between this provision and any other provisions of the Covenants and Code of Regulations will be interpreted in favor of this restriction on the leasing of Lots. 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 the filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds. Any contest or other legal 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.



**AMENDMENT C**

**INSERT a new PARAGRAPH to the end of COVENANTS ARTICLE VIII, SECTION 8.2. Said new addition, to be added to the Covenants, as recorded at Summit County Records, Instrument No. 54070309, is as follows:**

**The Association's insurance policy will include a reasonable deductible as determined by the Board. The Owner is responsible for any repairs or expenses up to the amount of any applicable deductible for loss or damage to their Residential Unit and the Association is responsible for all costs and other expenses pertaining to the Common Elements. If a single loss affects multiple portions of the Property, for example, one or more Residential Units and the Common Elements, the repair costs and expenses not paid for by the insurance proceeds are to be proportionately allocated in relation to the amount each party's claim bears to the total amount of the claim, with the party incurring the larger share of the loss responsible for the larger share of the deductible. The Association may assess the amount of any deductible expense attributable to any Residential Unit(s) to the Owner(s) of the affected Residential Unit(s).**

**Any conflict between the above provision and any other provisions of the Covenants and Code of Regulations will be interpreted in favor of this provision modifying the deductible requirements for the Association's insurance coverage. 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 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.**





**AMENDMENT D**

**DELETE CODE OF REGULATIONS ARTICLE III, SECTION 3.8 entitled, "QUORUM AND VOTES REQUIRED," in its entirety. Said deletion to be taken from the Code of Regulations, as recorded at Summit County Records, Instrument No. 54070310.**

**INSERT a new CODE OF REGULATIONS ARTICLE III, SECTION 3.8 entitled, "QUORUM, VOTES REQUIRED, AND ADJOURNMENT." Said new addition, to be added to the Code of Regulations, as recorded at Summit County Records, Instrument No. 5407010, is as follows:**

**Section 3.8. QUORUM, VOTES REQUIRED, AND ADJOURNMENT.**

**The members who are present, in person or by proxy, constitute a quorum for any Association meeting. The vote of a majority of the votes cast by members present at any meeting at which there is a quorum will be the act of the full membership except as may be otherwise specifically provided by law, by the Association's Articles of Incorporation or by this Code of Regulations. Members entitled to exercise a majority of the voting power at a meeting may adjourn the meeting to another date; if the date, time, and place to which the meeting is adjourned to are fixed and announced at the meeting, no additional notice to the owners is needed.**

**Any conflict between this provision and any other provisions of the Covenants and Code of Regulations will be interpreted in favor of this amendment regarding quorum at Association meetings. 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 the filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds. Any contest or other legal 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.**



**AMENDMENT E**

**DELETE ' CODE OF REGULATIONS ARTICLE IV, SECTION 4.2 entitled, "NUMBER AND QUALIFICATIONS," in its entirety. Said deletion to be taken from the Code of Regulations, as recorded at Summit County Records, Instrument No. 54070310.**

**INSERT a new CODE OF REGULATIONS ARTICLE IV, SECTION 4.2 entitled, "NUMBER AND QUALIFICATIONS." Said new addition, to be added to the Code of Regulations, as recorded at Summit County Records, Instrument No. 54070310, is as follows:**

**Section 4.2. NUMBER AND QUALIFICATIONS.**

**The Board of Trustees consists of three persons. Each Trustee must be an Owner or the spouse of an Owner. If an Owner is not an individual, that Owner may nominate for the Board of Trustees any principal, member of a limited liability company, partner, director, officer, or employee of that Owner. In addition, a trustee or a qualified beneficiary of a trust which owns the Lot is also eligible to serve as a Trustee. No Lot may be represented by more than one person on the Board at any one time.**

**Trustees must be in good standing. "Good standing" means the Trustee is not an adverse party in any litigation involving one or more of the following parties: the Association, the Board or any Trustee (in that member's capacity as a Trustee). Good standing also requires that the Trustee be current in the payment of any fees or assessments owed to the Association. Any current Trustee not in good standing, as defined in this Section 4.2, at the time this amendment is recorded with the Summit County Fiscal Office has 30 days to become in good standing, otherwise they may be removed by a majority vote of the remaining Trustees.**

**INSERT a new PARAGRAPH at the end of CODE OF REGULATIONS ARTICLE III, SECTION 3.12. Said new addition, to be added to the Code, as recorded at Summit County Records, Instrument No. 54070310, is as follows:**



In addition, the Board, by a majority vote, may remove any individual Trustee and create a vacancy on the Board, if: (i) by order of court, the Trustee has been found to be of unsound mind; (ii) the Trustee files for bankruptcy or has been adjudicated bankrupt; (iii) the Trustee 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 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; (iv) the Trustee is no longer a member in good standing as defined in Code Article IV, Section 4.2, as amended; (v) the Trustee is physically incapacitated in a manner that prohibits the Trustee from voting or participating in Board meetings; or (vi) the Trustee fails to attend three consecutive meetings.

Any conflict between these provisions and any other provisions of the Declaration and Code of Regulations will be interpreted in favor of this amendment regarding the qualifications and removal of Trustees. 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 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.

#### AMENDMENT F

**DELETE CODE OF REGULATIONS ARTICLE IV, SECTION 4.3** entitled, "RESIGNATIONS," in its entirety. Said deletion to be taken from the Code of Regulations, as recorded at Summit County Records, Instrument No. 54070310.

**INSERT a new CODE OF REGULATIONS ARTICLE IV, SECTION 4.3** entitled, "BOARD TERM AND RESIGNATIONS." Said new addition, to be added to the Code of Regulations, as recorded at Summit County Records, Instrument No. 54070310, is as follows:

#### **Section 4.3. BOARD TERM AND RESIGNATIONS.**

(a) Each Trustee will hold office until the expiration of their designated term and until their successor is elected, or until their



earlier resignation, removal from office, or death.

(b) At the annual meeting following the passage of this amendment, the Owners will elect three Trustees. The candidate receiving the greatest number of votes will be elected to serve a three-year term. The candidate receiving the 2<sup>nd</sup> greatest number of votes will be elected to serve a two-year term. The candidate receiving the 3<sup>rd</sup> greatest number of votes will be elected to serve a one-year term. This is to establish staggered elections with a 1-1-1 rotation.

(c) Upon the expiration of the terms of each Trustee as elected above, a successor, and all future Trustees, will be elected to serve a term of three years. The terms will be staggered so that at least 1/3<sup>rd</sup> of the Board terms will expire annually and a staggered rotation is maintained at all times.

(d) Any Trustee may resign at any time by oral statement to that effect made at a Board meeting or in a writing to that effect delivered to the Association secretary or president, with the resignation taking effect immediately or at another time as the resigning Trustee may specify.

Any conflict between this provision and any other provisions of the Declaration and Code of Regulations will be interpreted in favor of this amendment providing for Trustee terms of three years each with staggered 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 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 Brittany Pointe Attached Homeowners Association, Inc. has caused the execution of this instrument this 11<sup>th</sup> day of APRIL, 2022.

**BRITTANY POINTE ATTACHED HOMEOWNERS ASSOCIATION, INC.**

By: *Franklin D. Schimberg*  
**FRANKLIN D. SCHIMBERG, President**

By: *Nina L. Hillery*  
**NINA L. HILLERY, Secretary**

STATE OF OHIO )  
COUNTY OF *Stark* ) SS

**BEFORE ME**, a Notary Public, in and for said County, personally appeared the above-named Brittany Pointe Attached Homeowners 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 each of them personally and as such officers.

I have set my hand and official seal this 11 day of April, 2022.

*Darlad Pryor*  
NOTARY PUBLIC

This instrument prepared by:  
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