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Jamie Walters COND
Stark County Recorder

AMENDMENTS TO THE
DECLARATION CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM
OWNERSHIP UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO
FOR
THE PRESERVE CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO FOR THE PRESERVE CONDOMINIUM RECORDED AT VOLUME 1391, PAGE 697 ET SEQ. OF THE STARK COUNTY RECORDS.

THIS WILL CERTIFY THAT COPIES OF THESE AMENDMENTS TO THE DECLARATION CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO FOR THE PRESERVE CONDOMINIUM HAVE BEEN FILED IN THE OFFICE OF THE COUNTY AUDITOR, STARK COUNTY, OHIO.

STARK COUNTY AUDITOR

DATE: Sept 13, 2023

BY: Alan Harold

AUDITOR
ALAN HAROLD
Stark County Auditor

AMENDMENTS TO THE
DECLARATION CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM
OWNERSHIP UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO FOR
THE PRESERVE CONDOMINIUM

RECITALS

- A. The Declaration Creating and Establishing a Plan for Condominium Ownership Under Chapter 5311 of the Revised Code of Ohio for The Preserve Condominium (the "Declaration") and the Bylaws of The Preserve Condominium Unit Homeowners Association, Exhibit C of the Declaration (the "Bylaws"), were recorded at Stark County Records Volume 1391, Page 697 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. Attached as Exhibit A is a certification of the Association's President and Secretary stating that the Amendments were approved by the Board in accordance with Ohio Revised Code Section 5311.05(E)(1)(c).
- F. 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 Creating and Establishing a Plan for Condominium Ownership Under Chapter 5311 of The Preserve Condominium is amended by the Board of Directors as follows:

- (1) **MODIFY** the **LAST PARAGRAPH** of **BYLAWS ARTICLE II, SECTION 15**. Said modification of the Bylaws, Exhibit C of the Declaration, as recorded at the Stark County Records, Volume 1391, Page 697 et seq., and as amended at Instrument No. 200803280013526, is: (new language is underlined)

Within thirty (30) days following a hearing at which the Board imposes a charge or assessment, the Association shall deliver a written

notice of the charge or assessment to the Unit Owner. Such written notice shall be delivered to the Unit Owner or any occupant of the Unit by personal delivery, by certified mail, by electronic mail, return receipt requested, or by regular mail.

- (2) MODIFY THE 2nd SENTENCE of DECLARATION ARTICLE XV, SECTION 15.7(3). Said modification to the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., is: (deleted language is crossed out; new language is underlined)

The certificate shall contain a description of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessments, and shall be signed by the president or other designated representative chief officer of the Association as authorized by the Board of Directors.

- (3) INSERT ITEM vi to the end of BYLAWS ARTICLE VI, SECTION 6. Said new addition to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., and as amended at Instrument No. 200803280013526, is:

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

- (4) INSERT a NEW LAST SENTENCE to the end of BYLAWS ARTICLE II, SECTION 2. Said new addition to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., and as amended at Instrument No. 200803280013526, is:

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 ITEMS vi and vii to the end of DECLARATION ARTICLE XVIII, SECTION 18.1. Said new addition to the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., and as amended at Instrument No. 200803280013526, is:

vi. 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

vii. 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.

(6) MODIFY BYLAWS ARTICLE II, SECTION 5(b). Said modification to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., and as amended at Instrument No. 200803280013526, is: (deleted language is crossed out; new language is underlined)

(b) Litigation. 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 relates to matters affecting the Condominium Property;

(7) INSERT A NEW PARAGRAPH to the end of BYLAWS ARTICLE IX. Said new addition to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., 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:

(a) 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.

(b) 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.

(8) MODIFY the LAST PARAGRAPH of BYLAWS ARTICLE VI, SECTION 3. Said modification to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., is: (deleted language crossed out, new language is underlined)

In accordance with Ohio Revised Code Section 5311.081 (Duties and Authority of Association and Board; Enforcement of Charges for Damages), unless otherwise provided in the Declaration or Bylaws, the Unit Owners Association, through the Board of Directors, shall adopt and amend budgets for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, ~~provided that the amount set aside annually for reserve shall not be less than ten (10%) percent of the budget for that year unless the reserve requirement is waived annually~~ in writing by the Unit Owners exercising not less than a majority of the voting power of the Unit Owners Association.

(9) DELETE BYLAWS ARTICLE II, SECTION 12 entitled "Bonding and Compensation." Said deletion to the Bylaws, as recorded at Stark County Records, Exhibit C of the Declaration, Volume 1391, Page 697 et seq.

INSERT A NEW BYLAWS ARTICLE II, SECTION 12 entitled "Fidelity Coverage." Said new addition to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., is:

Section 12. 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 Association.

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

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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 Preserve Condominium Unit Homeowners Association has caused the execution of this instrument this 26th day of July, 2023.

THE PRESERVE CONDOMINIUM UNIT HOMEOWNERS ASSOCIATION

By: Kenneth M. Cleaver
KENNETH CLEAVER, President

By: Richard Moecia
RICHARD MOECIA, Secretary

STATE OF OHIO)
)
COUNTY OF Columbiana) SS

BEFORE ME, a Notary Public, in and for the County, personally appeared the above-named The Preserve Condominium Unit Homeowners Association, 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 the corporation and the free act and deed of them personally and as such officers.

I have set my hand and official seal this 26th day of July, 2023.

Donald E. Williamson
NOTARY PUBLIC

Place notary stamp/seal here:

Donald E. Williamson
Notary Public State of Ohio
Commission Exp. 12/2/2023

This instrument prepared by:
KAMAN & CUSIMANO, LLC
Attorneys at Law
50 Public Square, Suite 2000
Cleveland, Ohio 44113
(216) 696-0650
ohiocondolaw.com

EXHIBIT A

CERTIFICATION OF OFFICERS

STATE OF OHIO)
)
COUNTY OF Columbiana) SS

KENNETH CLEAVER and RICHARD MOECIA, being the duly elected and acting President and Secretary of The Preserve Condominium Unit Homeowners Association, certify that the Amendments to the Declaration Creating and Establishing a Plan for Condominium Ownership Under Chapter 5311 of The Preserve Condominium were approved by the Board in accordance with Ohio Revised Code Section 5311.05(E)(1).

Kenneth M. Cleaver
KENNETH CLEAVER, President

Richard Moecia
RICHARD MOECIA, Secretary

BEFORE ME, a Notary Public in and for the County, personally appeared the above-named KENNETH CLEAVER and RICHARD MOECIA who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

I have set my hand and official seal this 26th day of July, 2023.

Donald E. Williamson
NOTARY PUBLIC

Place notary stamp/seal here:
Donald E. Williamson
Notary Public State of Ohio
Commission Exp. 12/2/2023

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Jamie Walters COND
Stark County Recorder

AMENDMENT TO THE
DECLARATION
OF
THE PRESERVE CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF THE PRESERVE CONDOMINIUM RECORDED AT VOLUME 1391, PAGE 697 ET SEQ. OF THE STARK COUNTY RECORDS.

THIS WILL CERTIFY THAT COPIES OF THIS AMENDMENT TO THE DECLARATION OF THE PRESERVE CONDOMINIUM HAVE BEEN FILED IN THE OFFICE OF THE COUNTY AUDITOR, STARK COUNTY, OHIO.

DATE: November 28, 2022

STARK COUNTY AUDITOR

BY: Alan Harold
AUDITOR Alan Harold

**AMENDMENT TO THE
DECLARATION OF THE PRESERVE CONDOMINIUM**

RECITALS

- A.** The Declaration of The Preserve Condominium (the "Declaration") was recorded at Stark County Records Volume 1391, Page 697 et seq.
- B.** The Preserve Company (the "Declarant") as the Declarant of The Preserve Condominium ("Preserve Condominium"), caused to be filed with the Declaration, The Preserve Condominium Unit Owners' Association By-Laws ("Bylaws").
- C.** The Association's corporate name as filed with the Ohio Secretary of State is "The Preserve Condominium Unit Homeowners Association."
- D.** Section 5311.05(E)(1)(d) of the Ohio Revised Code authorizes the Board of Directors (the "Board"), without a vote of the Unit Owners, to amend the Declaration "to correct clerical or typographical errors or obvious factual errors in the declaration or an exhibit to the declaration."
- E.** The Board has determined and confirmed that the Declarant did not title the Association's Bylaws with the Association's corporate name as registered with the Ohio Secretary of State.
- F.** The Board has approved the following matter to correct the clerical and an obvious factual error.
- G.** The proceedings necessary to amend the Bylaws as permitted by Chapter 5311 and the Declaration of The Preserve Condominium have in all respects been complied with.

AMENDMENT

The Declaration of The Preserve Condominium is amended by the Board of Directors as follows:

DELETE THE TITLE OF THE BYLAWS in its entirety. Said deletion is to be taken from the Bylaws, Exhibit C to the Declaration, as recorded at Stark County Records Volume 1391, Page 751 et seq.

INSERT a NEW TITLE FOR THE BYLAWS. Said new addition to be added to the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records Volume 1391, Page 697 et seq., is as follows:

**THE PRESERVE CONDOMINIUM UNIT HOMEOWNERS ASSOCIATION
BYLAWS**

Any conflict between the above provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this amendment correcting the title of the Bylaws. 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 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 Preserve Condominium Unit Homeowners Association has caused the execution of this instrument this 14th day of November, 2022.

**THE PRESERVE CONDOMINIUM
UNIT HOMEOWNERS ASSOCIATION**

By: 
CRAIG STEVENS, Vice President

By: 
RICHARD MOECIA, Secretary

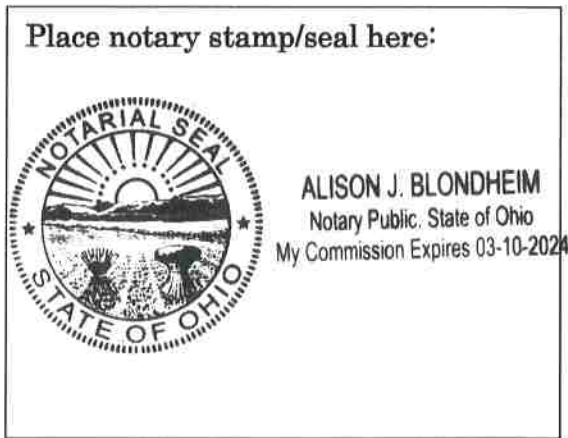
STATE OF OHIO)
)
COUNTY OF STARK) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above-named The Preserve Condominium Unit Homeowners Association, by its Vice President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 3 of 5, 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 14th day of November, 2022.

Alison J. Blondheim

NOTARY PUBLIC



This instrument prepared by:
KAMAN & CUSIMANO, LLC
Attorneys at Law
50 Public Square, Suite 2000
Cleveland, Ohio 44113
(216) 696-0650
ohiocondolaw.com

EXHIBIT A

CERTIFICATION OF VICE PRESIDENT AND TREASURER

CRAIG STEVENS and **RICHARD MOECIA** being the duly elected and acting Vice President and Secretary of The Preserve Condominium Unit Homeowners Association, certify that the Amendment was duly adopted in accordance with the provisions set forth in the Declaration and Ohio Revised Code Section 5311 for amendments in all material respects.

Craig Stevens

CRAIG STEVENS, Vice President

Richard Moecia

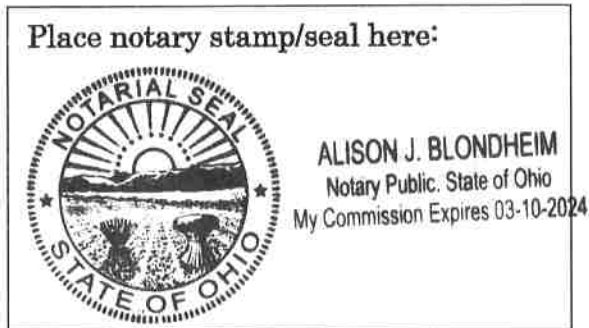
RICHARD MOECIA, Secretary

STATE OF OHIO)
)
COUNTY OF STARK) SS

BEFORE ME, a Notary Public in and for said County, personally appeared the above-named **CRAIG STEVENS** and **RICHARD MOECIA** who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

I have set my hand and official seal this 14th day of November, 2022.

Alison Blondheim
NOTARY PUBLIC



PRESERVE CONDOMINIUM
AMENDMENTS PASSED

<u>Date</u>	<u>Amendments</u>
11/29/2022	Corporate Name Amendment
03/28/2008	HB 135
02/19/1999	5 th Amendment – Expansion
10/09/1997	4 th Amendment – Expansion
12/14/1995	3 rd Amendment -- Expansion
04/13/1994	2 nd Amendment – Expansion
11/05/1993	1 st Amendment - Expansion

**LANGUAGE TO AMEND THE DECLARATION CREATING AND ESTABLISHING A
PLAN FOR CONDOMINIUM OWNERSHIP UNDER CHAPTER 5311 OF THE
REVISED CODE OF OHIO FOR THE PRESERVE CONDOMINIUM**

The Board of Directors for The Preserve Condominium Unit Homeowners Association proposes that the Declaration Creating and Establishing a Plan for Condominium Ownership Under Chapter 5311 of the Revised Code of Ohio for The Preserve Condominium ("Declaration") and The Preserve Condominium Unit Owners' Association Bylaws ("Bylaws"), Canton, Ohio, be amended as follows:

DELETE BYLAWS ARTICLE I, SECTION 4(a) entitled, "Annual Meeting," in its entirety. Said deletion to be taken from Page 2 of the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq.

INSERT a new BYLAWS ARTICLE I, SECTION 4(a) entitled, "Annual Meeting." Said new addition, to be added to Page 2 of the Bylaws, Exhibit C of the Declaration, as recorded at Stark County Records, Volume 1391, Page 697 et seq., is as follows:

(a) **Annual Meeting.** For the election of the Board of Directors, the presentation of reports, and the transaction of such other business as is set forth in the meeting notice, the Association's annual meeting will be held at a time, at a place, and on a date during the second quarter of each calendar year as the Board of Directors determines and as stated 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 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.