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Lorain County, Ohio  
Judith M Nedwick County Recorder  
File **2019-0705482**

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP  
OF  
LEGACY POINTE NO. 5 CONDOMINIUM

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF  
CONDOMINIUM OWNERSHIP OF LEGACY POINTE NO. 5 CONDOMINIUM  
RECORDED AT INSTRUMENT NO. 2007-0228072 OF THE LORAIN COUNTY  
RECORDS OCTOBER 25, 2007.

AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP OF  
LEGACY POINTE NO. 5 CONDOMINIUM

RECITALS

A. The Declaration of Condominium Ownership of Legacy Pointe No. 5 Condominium (the "Declaration") and the Bylaws of Legacy Pointe Condominium Association No. 5, Inc. (the "Bylaws"), Exhibit C of the Declaration, were recorded at Lorain County Records, Instrument No. 2007-0228072.

B. The Legacy Pointe Condominium Association No. 5, Inc. (the "Association") is a corporation consisting of all Owners in Legacy Pointe Condominium No. 5 and as such is the representative of all Owners.

C. Declaration Article XX, 20.02 authorizes amendments to the Declaration and Bylaws Article VIII authorizes amendments to the Bylaws.

D. Owners representing at least 75 percent of the Association's current voting power, based on ownership interests, have executed instruments in writing setting forth specifically the matters to be modified (the "Amendments").

E. As of January 14, 2019, Owners representing 81 percent of the Association's voting power have signed and delivered to the Association written consents, along with powers of attorney, in favor of Amendments A, C, and F and authorizing the Association's officers to execute Amendments A, C, and F on their behalf.

F. As of January 14, 2019, Owners representing 85 percent of the Association's voting power have signed and delivered to the Association written consents, along with powers of attorney, in favor of Amendments B and E and authorizing the Association's officers to execute Amendments B and E on their behalf.

G. As of January 14, 2019, Owners representing 77 percent of the Association's voting power have signed and delivered to the Association written consents, along with powers of attorney, in favor of Amendment D and authorizing the Association's officers to execute Amendment D on their behalf.

H. Attached as Exhibit A is an Affidavit of the Association's President stating that copies of the Amendment 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 Lorain County Recorder's 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.

#### AMENDMENTS

The Declaration of Condominium Ownership of Legacy Pointe No. 5 Condominium is amended by the following:

#### AMENDMENT A

INSERT a new DECLARATION ARTICLE IV, SECTION 4.02(aa) entitled, "Flags." Said new addition, to be added to Page 12 of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

(aa) Flags. Any flag holders affixed to the exterior walls of the Unit or placed within a Unit's Limited Common Elements are subject to the Rules prescribed by the Association's Board of Directors, Ohio and federal law. Only one flag holder is permitted. Standard-sized flag(s) (not to exceed 3' x 5') of the United States of America, or other flag(s) which Ohio law determines may not be prohibited from being displayed will be made of nylon, polyester, or cotton. The location of the flag(s) must not interfere with the use of any walkways or obstruct the view of any driveways for motorists or pedestrians. The flag must immediately be removed or replaced once it is worn, faded, or tattered.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this restriction on the display of flags.

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

INSERT a new DECLARATION ARTICLE IV, SECTION 4.02(bb) entitled, "Fireworks." Said new addition, to be added to Page 12 of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

(bb) Fireworks. The discharge of fireworks within Legacy Pointe No. 5 Condominium is prohibited.

Any conflict between this provision and any other provisions of the Declaration and Bylaws will be interpreted in favor of this restriction on the discharge of fireworks. 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 DECLARATION ARTICLE XXIII, SECTION 23.02 in its entirety. Said deletion to be taken from Page 34 of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072.

INSERT a new DECLARATION ARTICLE XXIII, SECTION 23.02 entitled, "Notices and Other Actions and Communications." Said new addition, to be added to Page 34 of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

23.02 Notices and Other Actions and Communications.

(a) Service of Notices on the Association and Board. All notices required or permitted by the Declaration or Bylaws, 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 President, to any two other Board members, to the Association at the address of the Condominium Property, to the Association's manager or management company, if any, or to any other address as the Board may designate by written notice to all Unit Owners.

(b) Service of Notices on Unit Owners. 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 (1) personally delivered to the Unit Owner, (2) placed under or attached to the front or main entry door of the Unit Owner's Unit, (3) sent by regular U.S. mail, first-class postage prepaid, to the Unit Owner's Unit address or to another address the Unit Owner designates in writing to the Board, or (4) delivered in accordance with Paragraph (c) below. If there is more than one person owning a single Unit, a notice given to any one of those several persons is deemed to have been given personally to all of the persons owning an interest in the Unit.

(c) New Communication Technologies.

(1) Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted or approved by the Board, as well as by Ohio and federal law, now or in the future, in addition to the methods described in Paragraphs (a) and (b) above, the following may be accomplished using electronic mail or other transmission technology available at that time that is a generally accepted business practice:

(a) any notice required in the Declaration or Bylaws to be sent or received;

(b) any signature, vote, consent, or approval required to be obtained; and

(c) any payment required to be made by the Declaration or Bylaws.

(2) The use of electronic mail or other transmission technology is 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, including any notice of delinquency of any payment due, in accordance with Section 23.02(b) above.

(b) For voting on matters other than the election of Board members, the Association may provide for voting by electronic mail or other transmission technology.

(c) 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 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 transmission is not delivered or effective, the

Association will deliver the notice or other communication to the Unit Owner in accordance with Section 23.02(b) above.

MODIFY BYLAWS ARTICLE VI, SECTION 6.03 entitled, "Service of Notices on the Board of Directors." Said modification, to be made on Page 20 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows (deleted language is crossed-out; new language is underlined):

6.03 Service of Notices on the Board of Directors, Association and Unit Owners. Notices to the Board of Directors, ~~or to the Association, or the Unit Owners~~ may be delivered to ~~any member of the Board of Directors or officer of the Association either personally or by mail addressed to such member or officer at such person's Unit~~ as provided in Declaration Article XXIII, Section 23.02.

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. or electronic mail and permitting 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 the filing have standing to contest the validity of this amendment, whether on procedural, substantive, or any other grounds, and any challenge must be brought in the court of common pleas within one year of the recording of this amendment.

#### AMENDMENT D

DELETE BYLAWS ARTICLE I, SECTION 1.05, PARAGRAPH D entitled, "Quorum - Adjournment." in its entirety. Said deletion to be taken from Pages 3-4 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072.

INSERT a new BYLAWS ARTICLE I, SECTION 1.05, PARAGRAPH D entitled, "Quorum - Adjournment." Said new addition, to be added to Page 3 of the Bylaws,

Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

- D. Quorum - Adjournment. Except as otherwise provided by law or by the Declaration, at any meeting of the members of the Association, at least 1/3<sup>rd</sup> of the Unit Owners of the Association present in person or by proxy will constitute a quorum. A majority of the Unit Owners present in person or by proxy may, at any time, adjourn such meeting. If any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are announced at such meeting.

Any conflict between this provision and any other provisions of the Declaration and Bylaws 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 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 E

DELETE BYLAWS ARTICLE II, SECTION 2.01 entitled, "Number and Qualification," in its entirety. Said deletion to be taken from Page 5 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072.

INSERT a new BYLAWS ARTICLE II, SECTION 2.01 entitled, "Number and Qualification." Said new addition, to be added to Page 5 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

##### 2.01 Number and Qualification.

- A. The Board of Directors will consist of three persons.

- B. Each Director must be a Unit Owner, or the spouse of a Unit Owner.
- C. Directors must also be in good standing. Good standing requires the Director not be an adverse party in any litigation involving one or more of the following parties: the Association, the Board or any Director (in that member's capacity as a Board member). Good standing requires that the Director not be more than 60 days delinquent in the payment of any fees or Assessments owed to the Association.
- D. No Unit may be represented by more than one person on the Board at any one time.
- E. If a Unit Owner is not an individual, that Unit Owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Unit Owner.
- F. Directors serve without compensation.

DELETE BYLAWS ARTICLE II, SECTION 2.10 entitled, "Removal of Directors," in its entirety. Said deletion to be taken from Page 9 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072.

INSERT a new BYLAWS ARTICLE II, SECTION 2.10 entitled, "Removal of Directors." Said new addition, to be added to Page 9 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

- 2.10 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. the Director files for bankruptcy or has been adjudicated bankrupt;
  - B. the Director is or has been convicted of a felony for theft

or other theft related crime, including larceny, forgery, false pretense, 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;

- C. the Director is no longer a member in good standing as defined in Bylaws Article II, Section 2.01, as amended;
- D. the Director is physically or mentally incapacitated;
- E. by order of court the Director has been found to be of unsound mind;
- F. the Director fails to attend three consecutive or a total of four meetings of the Board.

Any one or more Directors may be removed with or without cause by the vote of Unit Owners entitled to exercise at least a 75 percent of the Association's total voting power at any Association meeting which is duly called and at which a quorum is present. Any Director, 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 meeting, a successor(s) to any removed Board member(s) may be elected to fill the unexpired term for the Director(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 qualifications 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.

#### AMENDMENT F

INSERT a new PARAGRAPH V to BYLAWS ARTICLE II, SECTION 2.02, entitled, "Powers, Authorities and Duties." Said new addition, to be added to

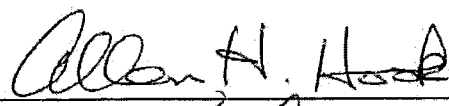
Page 8 of the Bylaws, Exhibit C of the Declaration, as recorded at Lorain County Records, Instrument No. 2007-0228072, is as follows:

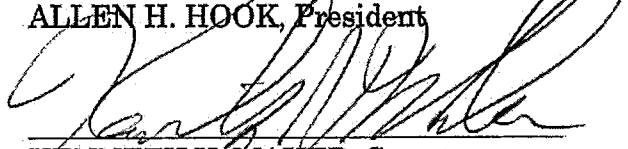
- V. Borrow money, issue, sell, or pledge notes, bonds, or other evidences of indebtedness of the Association, assign, without limitation, the Association's right to present or future income, including the right to receive insurance proceeds, and other income or compensation, as collateral for any monies borrowed, and assign the Association's lien rights, and execute related documents, with the prior approval of a majority of the Association's voting power that is present, in person or by proxy, at an Association meeting or with the written consent of at least a majority of the Association's total voting power outside of a meeting.

Any conflict between this provision and any other provision in the Declaration and Bylaws will be interpreted in favor of this provision giving the Board, on behalf of the Association, the authority to borrow funds and assign future income as collateral. 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 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 Legacy Pointe Condominium Association No. 5, Inc. has caused the execution of this instrument this 15<sup>TH</sup> day of FEBRUARY, 2019.

LEGACY POINTE CONDOMINIUM ASSOCIATION NO. 5, INC.

By:   
ALLEN H. HOOK, President

By:   
KENNETH V. MAHER, Secretary

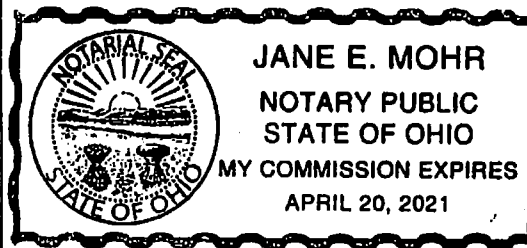
STATE OF OHIO )  
 )  
COUNTY OF LORAIN ) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Legacy Pointe Condominium Association No. 5, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 11 of 14, 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 15TH day of FEBRUARY, 2019.

Jane E. Mohr  
NOTARY PUBLIC

Place notary stamp/seal here:



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

AFFIDAVIT

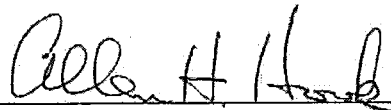
STATE OF OHIO )

COUNTY OF LORAIN )

SS

ALLEN H. HOOK, being first duly sworn, states as follows:

1. He is the duly elected and acting President of the Legacy Pointe Condominium Association No. 5, Inc.
2. He will cause copies of the Amendments to the Declaration to be mailed by certified mail or 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 Amendments are recorded with the Lorain County Recorder's Office.



ALLEN H. HOOK, President

BEFORE ME, a Notary Public, in and for said County, personally appeared the above-named ALLEN H. HOOK 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 this 15<sup>th</sup> day of FEBRUARY, 2019.

  
NOTARY PUBLIC

Place notary stamp/seal here:

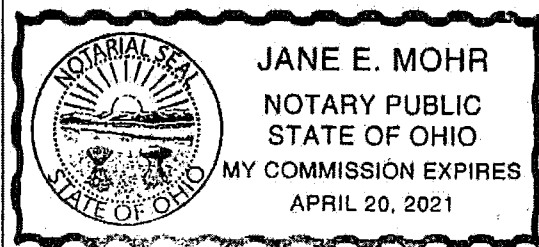
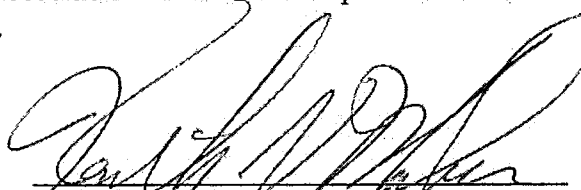


EXHIBIT B

CERTIFICATION OF SECRETARY

STATE OF OHIO )  
COUNTY OF LORAIN ) SS

KENNETH V. MAHER, the duly elected and acting Secretary of the Legacy Pointe Condominium Association No. 5, Inc., certifies there are no, as the term is used in Declaration Article XX, Section 20.02, "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.

  
KENNETH V. MAHER, Secretary

BEFORE ME, a Notary Public in and for said County, personally appeared the above-named KENNETH V. MAHER who acknowledged 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 this 15TH day of FEBRUARY, 2019.

  
NOTARY PUBLIC

