



54434851  
Page: 1 of 25  
08/22/2000 02:03P  
DE 108.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

Whitlatch & Co.  
P.O. Box 363  
Twinsburg, 44087  
Attn. Joan Kristine

## FIRST AMENDMENT

To The

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

DARROW LAKE HOMEOWNERS ASSOCIATION

Stow, Ohio

This First Amendment to the Declaration of Covenants and Restrictions for Darrow Lake Homeowners Association (hereinafter the "First Amendment") is made and entered into this 2ND day of MARCH, 2000 by and between the DARROW LAKE HOMEOWNERS ASSOCIATION, an Ohio Nonprofit Corporation (hereinafter referred to as the "Association"), and the BAY SIDE LAKES COMMUNITY HOMEOWNERS ASSOCIATION, an Ohio Nonprofit Corporation (hereinafter referred to as the "Bay Side Association"), and the ROCKPORT COLONY CONDOMINIUM OWNERS ASSOCIATION, INC., an Ohio Nonprofit Corporation (hereinafter referred to as the "Rockport Colony Association").

### WITNESSETH:

WHEREAS, the Declaration of Covenants and Restrictions for Darrow Lake Homeowners Association was filed for record on April 24, 1998 as Instrument Number 54131812, Summit County Records (hereinafter referred to as the "Declaration"); and

WHEREAS, the Declaration submitted Blocks "A", "B", "C", and "D" of The Westport Village / Bridgeport Commons Subdivision to the provisions of the Declaration; and

WHEREAS, the Darrow Lake Homeowners Association joined in the Declaration thereby accepting the duties of administering the covenants and restrictions contained therein; and

WHEREAS, the Declaration transferred ownership of Block "D" of the Westport Village / Bridgeport Commons Subdivision to the owners of Blocks "A", "B", and "C" of the Westport Village / Bridgeport Commons Subdivision; and

WHEREAS, Block "A" of the Westport Village / Bridgeport Commons Subdivision has been submitted to the provisions of Chapter 5311 of the Ohio Revised Code by a Declaration of Condominium Ownership for Bridgeport Commons Condominium filed for record May 7, 1998 as Instrument No. 54136734, Summit County Records (the "Bridgeport Commons Declaration"); and

WHEREAS, Block "B" of the Westport Village / Bridgeport Commons Subdivision has been submitted to the provisions of Chapter 5311 of the Ohio Revised Code by a Declaration of Condominium Ownership for Westport Village Condominium filed for record April 24, 1998 as Instrument No. 54131813, Summit County Records (the "Westport Village Declaration"); and

APPROVED AS TO FORM  
Assistant Prosecuting Attorney  
Summit County, Ohio

TRANSFER NOT NECESSARY  
6-19-00  
James B. McCarthy County Auditor

WHEREAS, a Declaration of Covenants and Restrictions for the Bayside Lakes Subdivisions dated April 15, 1997 has been filed as 54008684, Summit County Records (the "Bayside Lakes Declaration"); and

WHEREAS, a Declaration of Condominium Ownership for Rockport Colony Condominium has been filed as Vol. 1244, Page 861, Summit County Records (the "Rockport Colony Declaration"); and

WHEREAS, the Declaration provided that both the Bay Side Association and the Rockport Colony Association may join the Association and thereupon shall be transferred a proportionate ownership interest in Block D of the Westport Village / Bridgeport Commons Subdivision; and

WHEREAS, the Members of the Bay Side Association, upon considering the matter and reaching an affirmative decision in accordance with the procedures as set forth in the governing documents of the Bay Side Association hereby declare their intention to join the Association; and

WHEREAS, the Members of the Rockport Colony Association, upon considering the matter and reaching an affirmative decision in accordance with the procedures as set forth in the governing documents of the Rockport Colony Association hereby declare their intention to join the Association.

NOW THEREFORE, the Association, in order to facilitate the acceptance of the members of the Bay Side Association and the Rockport Colony Association as members of the Association, whose interests shall be represented in the Association by said Community Associations, hereby amends the terms and conditions of the Declaration as set forth herein, and the Bay Side Association and the Rockport Colony Association hereby assent to the terms, conditions, covenants, and restrictions as set forth in the Declaration, as amended herein.

1. All references to the "Bayside Lakes Homeowners Association" or the "Bayside Lakes Association" within the Declaration shall mean and refer to the BAY SIDE LAKE COMMUNITY HOMEOWNERS ASSOCIATION, an Ohio Nonprofit Corporation, also known herein and in the Declaration as "Bay Side Association."
2. All references to the "Rockport Colony Condominium Association" or the "Rockport Colony Association" within the Declaration shall mean and refer to the ROCKPORT COLONY CONDOMINIUM OWNERS ASSOCIATION, INC. an Ohio Nonprofit Corporation, also known herein and in the Declaration as "Rockport Colony Association."
3. In Article I, Section 1(e), the definition of "Common Properties," add the words "and/or licenses to use" after the phrase "easements over" in the second to last line.
4. Pursuant to Article II, Section 1 of the Declaration, the real property of the Bay Side Association, as described in the Bayside Lakes Declaration, and the real property of the Rockport Colony Association, as described in the Rockport Colony Declaration, shall hereby be added to the definition of "Community" and shall hereafter be a part of said Community and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, licenses, charges and liens contained in the Declaration, and the Declaration shall constitute covenants to run with the land and shall be binding upon the Bay Side Association and the Rockport Colony Association, and their members, successors and

assigns, together with their grantees, and their successors, heirs, executors, administrators, or assigns.

5. Pursuant to Article II, Section 3 of the Declaration, the owners of Block "A" of the Westport Village/Bridgeport Commons Subdivision (the Bridgeport Commons Condominium Unit Owners), who hold an undivided 30/195 interest in Block "D" of the Westport Village / Bridgeport Commons Subdivision ("Block "D") as tenants-in-common as an interest in the Common Areas and Facilities of the Bridgeport Commons Condominium in proportion to their Percentage of Ownership Interest in said Common Areas and Facilities; the owners of Block "B" of the Westport Village/Bridgeport Commons Subdivision (the Westport Village Condominium Unit Owners) who hold an undivided 67/195 interest in Block "D" as tenants-in-common as an interest in the Common Areas and Facilities of the Westport Village Condominium in proportion to their Percentage of Ownership Interest in said Common Areas and Facilities; and Whitlatch & Co., an Ohio Corporation, as the owner of Block "C" of the Westport Village/Bridgeport Commons Subdivision, who holds an undivided 98/195 interest in Block "D" as a tenant-in-common, hereby transfer an undivided 118/467 interest in Block "D" to the Bay Side Association as a tenant-in-common, and hereby transfer an undivided 154/467 interest in Block "D" to the Rockport Colony Association as a tenant-in-common, and the aforementioned owners of Blocks "A", "B", and "C" of the Westport Village/Bridgeport Commons Subdivision hereby reduce their existing ownership interests by substituting the denominator of "467" for the previous denominator of "195" in the fraction representing their previous proportionate interest.
6. Article III, Section 1, "Membership" is hereby deleted in its entirety and replaced with the following:

Section 1. Membership. Each Community Association shall be a direct Member ("Member") of the Association, and each Lot and/or Living Unit Owner within the Community shall derive his or her indirect membership interest in the Association only through such Member Community Association, and shall be represented entirely by such Community Association in the affairs of the Association. Each such Member Community Association shall be liable for the payment of the Assessments hereinafter provided with respect to all such Lots and/or Living Units represented by said Community Association.

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot and/or Living Unit within the Community shall be an indirect member ("member") of the Association and entitled to one vote, pursuant to Article III, Section 2 herein, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be an indirect member. When more than one (1) person holds such interest or interests in any Lot and/or Living Unit, all such persons shall be indirect members - but for quorum, voting, consenting, and all other rights of indirect membership, such person shall collectively be counted as a single indirect member and entitled to one (1) vote for each such Lot and/or Living Unit, which vote for such Lot and/or Living Unit shall be

exercised as such persons deem among themselves.

7. Article III, Section 2, "Voting Rights" is hereby deleted in its entirety and replaced with the following:

Section 2 Voting Rights. Only Member Community Associations shall directly vote in the affairs of the Association. The Voting Rights of each Community Association Member shall be based upon the number of votes held by the members of each Community Association, which shall be based upon the number of existing and/or proposed Lots and/or Living Units represented by the each such Community Association, which shall be as follows:

- ▶ Westport Village Condominium Association: 67 Votes
- ▶ Bridgeport Commons Condominium Association: 30 Votes
- ▶ Community Association(s) to govern Block "C"  
of the Westport Village / Bridgeport  
Commons Subdivision: 98 Votes
- ▶ Rockport Colony Condominium Association: 154 Votes
- ▶ Bayside Lakes Homeowners Association: 118 Votes

Community Association Members shall cast all of their votes as a block for the person or issue receiving a majority of the votes of the Community Association's members (the indirect members of the Association) voting on said issue.

Should Block "C" of the Westport Village / Bridgeport Commons Subdivision be represented by two or more Community Associations, voting rights within said Block "C" shall be apportioned in proportion to the number of Lots and/or Living Units represented by each such Community Association. Should less than 98 Lots and / or Living Units be constructed within said Block "C", the total number of votes allocated to Block "C" shall be adjusted to reflect the final number of actual Lots and/or Living Units therein constructed.

8. Article IV, Section 1, paragraph part (c), is hereby deleted in its entirety.
9. In Article IV, Section 1, paragraph part (d), the words "Owner of a Lot and/or Living Unit" are hereby deleted and the words "Community Association Members" shall be substituted in their place.
10. Article IV, Section 2, is hereby deleted in its entirety and replaced with the following:

Article IV, Section 2: Obligation of Assessment. The Declarant, from and after the



54434851

Page: 5 of 25  
06/22/2000 02:03P  
DE 108.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

execution of this Declaration, and each Community Association Member shall be deemed to covenant and agree to pay the Association, and the Association shall levy and collect: (a) reasonable General Assessments or charges; and (b) reasonable Special Assessments for capital improvements and other expenditures approved by the Association; such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Association shall levy and collect Assessments in such amounts as shall be sufficient to enable the Association to discharge its duties as provided in this Declaration.

11. The last sentence of Article IV, Section 6, which reads "All Assessments shall be apportioned by dividing the total sum thereof by the number of Lots or Living Units within the Community." is hereby deleted and replaced with the following:

Member Community Associations shall be liable for all Assessments in the following proportions:

Westport Village Condominium Assn:	15.46% of total Assessments
Bridgeport Commons Condominium Assn:	6.92% of total Assessments
Community Association(s) created to govern Block "C" of the Westport Village / Bridgeport Commons Subdivision :	22.62% of total Assessments
Rockport Colony Condominium Assn:	15.00% of total Assessments
Bayside Lakes Homeowners Assn:	40.00% of total Assessments

Should Block "C" of the Westport Village / Bridgeport Commons Subdivision be represented by two or more Community Associations, assessments apportioned to said Block "C" shall be apportioned among each such Community Association in proportion to the number of Lots and/or Living Units represented by each such Community Association.

12. Article IV, Section 7, is hereby deleted in its entirety and replaced with the following:

Article IV, Section 7. Certain Duties of the Board of Trustees Regarding Assessments. The Board of Trustees of the Association shall fix the date of commencement and the amount of the Assessment against each Community Association Member for each Assessment period at least thirty (30) days in advance of such date or period and shall at that time prepare a roster of the Community Association Members and of all Assessments applicable thereto, which shall be kept in the records of the Association and shall be open to inspection by any Owner or Member. Written notice of the Assessment shall thereupon be sent to every Community Association Member. The Association shall upon demand at any time furnish to any Member, or any Owner of a Lot or Living Unit represented by such Member, a certificate in writing signed by an officer of the Association, setting forth whether any and/or all Assessments have been paid. Such certificate shall be conclusive evidence of any Assessment therein

stated to have been paid.

13. Article IV, Section 8, "Assessments a Lien; Effect of Non-Payment of Assessment; Personal Obligation of the Owner; the Lien Remedies of the Association" is hereby deleted in its entirety.
14. Article IV, Section 9, "Subordination of the Lien to Primary Mortgagee" is hereby deleted in its entirety.
15. Article IV, Section 10, "Exempt Property" is hereby deleted in its entirety.
16. Article V, Section 1, "Prohibited Uses" is hereby deleted in its entirety and replaced with the following:

Section 1. Prohibited Uses.

- (a) Use of any motorized watercraft throughout the entirety of the Lake is prohibited.
- (b) Recreational scuba diving and ice fishing on the Lake is prohibited, except for the Owners of lots within Bay Side Lakes Association that include a portion of the Lake, and their guests, who may do so within their respective Lots, but in no event greater than a distance of twenty five feet (25'-0") from the shoreline.
- (c) Dumping of refuse or any other form of pollution into the Lake or the Common Properties is prohibited.
- (d) Fertilizing of lawn areas within fifty feet (50'-0") of the Lake shoreline is prohibited.
- (e) The construction, extension, or placement of any permanent or temporary dock, pier, or other structure into, onto, or within Darrow Lake, or within ten feet (10'-0") of the Lake shoreline is prohibited unless expressly approved in writing by the Board of Trustees, and unless compatible in design, style, materials, and color with existing structures located within the Lake or within ten feet (10'-0") of the Lake shoreline, as such compatibility is determined by the Board of Trustees in its sole discretion. (Excepted, however, are such structures which are currently existing within those portions of Darrow Lake not within Blocks C or D of the Westport Village / Bridgeport Commons Subdivision.)
- (f) Swimming in or on the Lake is prohibited except for emergencies and except for the Owners of lots within Bay Side Lakes Association that include a portion of the Lake, and their guests, who may swim within their respective Lots, but in no event greater than a distance of twenty five feet (25'-0") from the shoreline.



54434851  
Page: 7 of 25  
06/22/2000 02:03P  
DE 108.00

17. Article VI, Section 1, "Members' Easement of Enjoyment" is hereby deleted in its entirety and replaced with the following:

Section 1. Members' Easement of Enjoyment Subject to the provisions of Section 2 below, every Member, Owner, and their tenants or lessees who are in residence within the Community shall have for themselves and their immediate household and guests, as permitted by the Rules and Regulations, a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit.

18. In the last sentence of the first paragraph of Article VII, Section 2, "Breach of Covenants and Restrictions - Remedy" the words "and shall become a lien upon such Lot, Living Unit, Condominium or other Homeowners Association," are hereby deleted.
19. In Article VII, Section 2, "Breach of Covenants and Restrictions - Remedy" the second paragraph beginning "Any Owner of a Lot, . . .", the third paragraph beginning "If a Notice of Appeal . . .", and the fourth paragraph beginning "In the event that . . ." are hereby deleted in their entirety.
20. Article IX, Section 1 is hereby deleted and replaced with the following:

Section 1. Membership. The Board of Trustees shall be made up of nine (9) representatives from the Community Association Members, each representing their constituent Community Association as follows: the President of the Westport Village Condominium Association, the President of the Bridgeport Colony Condominium Association, the President and Vice President of the Condominium or Homeowners Association(s) to be formed in conjunction with the development of Block "C" (until such time as a Community Association(s) is formed in conjunction with the development of Block "C", representatives of the Declarant shall serve in these two Trustee positions, and if more than one Community Association is formed to govern Block "C", the President only shall be appointed from each such Community Association), the President, Vice President, and Secretary or Treasurer of the Rockport Colony Association, and the President and Vice President of the Bay Side Association. The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The President, Vice President, Secretary and Treasurer shall be elected by the Board of Trustees from among the Trustees. All Trustees shall be appointed in conformance with the procedures required by the appointing constituent Community Association.

21. Article X, Section 1 "Duration and Provision for Periodic Modification" is hereby deleted in its entirety and of no further effect.

22. Article X, Section 2 “Other Modifications” is hereby deleted and replaced with the following:

This Declaration may be modified or amended by the affirmative vote of the Members, as evidenced by the affirmative vote of the indirect members exercising not less than seventy-five percent (75%) of the total voting power of the Association, cast in person or by proxy at meetings duly called and held in accordance with the By-Laws attached hereto as Exhibit "A". No such amendment shall be effective until recorded in the office of the Summit County Auditor.

23. Article XI, Section 5 “Amendment of Certain Restrictions and Covenants” is hereby deleted and of no further effect.

24. Article XI, Section 7 is hereby added as follows:

Section 7. Indemnification and Hold Harmless. The parties hereto shall indemnify and hold each other harmless from and against any and all claims, actions, lawsuits, damages, liability and expense (including, but not limited to, attorney’s fees) arising from loss, damage, or injury to persons or property occurring in, on or about the Common Properties or arising out of this Declaration.

25. Article XI, Section 8 is hereby added as follows:

Section 8. Community Associations’ Grant of Access License to Association. The Rockport Colony Condominium Owner’s Association, Inc., the Bay Side Lakes Community Homeowners Association, and Whitlatch & Co., (as owner of Block “C” of the Westport Village / Bridgeport Commons Subdivision and on behalf of any Community Association hereafter created on said property) (“Grantors”) hereby grant to the Darrow Lake Homeowners Association (“Grantee”), its contractors, agents, and employees, the right of ingress and egress across the Common Areas within, or to be created within, the Community as herein defined for the purpose of gaining access to Darrow Lake and the Common Properties of Grantee as required for Grantee to carry out all duties imposed herein and Grantee shall indemnify and hold Grantors harmless from and against any and all claims, actions, lawsuits, damages, liability and expense (including, but not limited to, attorney’s fees) arising from loss, damage, or injury to persons or property arising out of the exercise of this Grant of Access License.

26. The parties hereto, as successors in interest to the Grantor and Grantee of the Lake Access Agreement filed for record as Instrument O.R. 1143, Page 963 - 978, Summit County Records, agree that in furtherance and modification of the rights, duties, and obligations contained in the Lake Access Agreement, the Declaration and this First Amendment are hereby deemed to supplant and replace the Lake Access Agreement in full, so that all easements, rights, and duties created thereunder, and not expressly provided for in the Declaration, or any amendment to the Declaration, are hereby extinguished, relinquished, and of no further effect.

27. Pursuant to Article IX, Section 2 of the Declaration, the Trustees of the Darrow Lake Homeowners Association hereby adopt the By-Laws of the Darrow Lake Homeowners






54434851  
Page: 9 of 25  
06/22/2000 02:03P  
DE 108.00

Association as attached hereto as Exhibit A.


IN WITNESS WHEREOF, the said undersigned Trustees of the Darrow Lake Homeowners Association have hereunto set their names on the date shown, and hereby affirm that this First Amendment to the Declaration of Covenants and Restrictions of the Darrow Lake Homeowners Association has been adopted pursuant to the requirements of said Declaration, that written notice of the meeting held 3-3-00 to consider this First Amendment was sent via U.S. mail on \_\_\_\_\_, that a meeting of the membership of the Association was held on 3-3-00, and that at said meeting this First Amendment was approved by the affirmative vote of Members entitled to not less than seventy-five percent (75%) of the voting power of the Association.

SIGNED AND ACKNOWLEDGED  
IN THE PRESENCE OF:

DARROW LAKE HOMEOWNERS  
ASSOCIATION

  
PRINT: MARK J. STOCKMAN

BY:  3-3-00  
LYNN T. HARLAN, Trustee Date

  
PRINT: BRIAN KUHN

BY:   
MIKE FORTUNA, Trustee Date

STATE OF OHIO            )  
                                  )    SS.  
COUNTY OF SUMMIT    )

Before me, a Notary Public in and for said county and state, personally appeared the above-named DARROW LAKE HOMEOWNERS ASSOCIATION, by LYNN T. HARLAN, and MIKE FORTUNA, Trustees, who acknowledged before me that they did sign the foregoing instrument and that the same is their free act and deed, personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at Twin Bluffs, Ohio, this 3<sup>rd</sup> day of March, 2000.

**Mark J. Stockman, Attorney**  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Section 147.03 O.R.C.

  
Notary Public

IN WITNESS WHEREOF, the said undersigned Trustees of the Bay Side Lakes Community Homeowners Association have hereunto set their names on the date shown, and hereby affirm that its members hereby assent to the terms, conditions, covenants, and restrictions as set forth in the Declaration of Covenants and Restrictions for the Darrow Lake Homeowners Association as recorded as Instrument No. 54131812, Summit County Records, and as modified herein, and the Members of the Bay Side Lakes Community Homeowners Association, upon considering the matter and reaching an affirmative decision in accordance with the procedures as set forth in the governing documents of the Bay Side Lakes Community Homeowners Association, have affirmed their intention to join the

Darrow Lake Homeowners Association, and hereby declare that the real property of the Bay Side Lake Community Homeowners Association shall be added to the definition of "Community" within said Declaration, that said real property shall hereafter be a part of said Community and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, licenses, charges and liens contained in the Declaration, and that the Declaration shall constitute covenants to run with the land and shall be binding upon the Bay Side Lake Community Homeowners Association and its successors and assigns, together with its grantees, and its successors, heirs, executors, administrators, or assigns.

SIGNED AND ACKNOWLEDGED  
IN THE PRESENCE OF:

Mark J. Stockman  
PRINT: MARK J. STOCKMAN  
Lynn T. Harlan  
PRINT: LYNN T. HARLAN

BAY SIDE LAKES COMMUNITY  
HOMEOWNERS ASSOCIATION

BY: Brad R. Kuhns  
BRAD R. KUHN

BY: \_\_\_\_\_

BY: \_\_\_\_\_

STATE OF OHIO )  
COUNTY OF SUMMIT ) SS.

Before me, a Notary Public in and for said county and state, personally appeared the above-named BAY SIDE LAKES COMMUNITY HOMEOWNERS ASSOCIATION, by BRAD R. KUHN, and \_\_\_\_\_ Trustees, who acknowledged before me that they did sign the foregoing instrument and that the same is their free act and deed, personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at Townsville, Ohio, this 3RD day of MAY, 2000.

Mark J. Stockman  
Notary Public

Mark J. Stockman, Attorney  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Section 147.03 O.R.C.

IN WITNESS WHEREOF, the said undersigned Board members of the Rockport Condominium Owners Association, Inc. have hereunto set their names on the date shown, and hereby affirm that the Association hereby assents to the terms, conditions, covenants, and restrictions as set forth in the Declaration of Covenants and Restrictions for the Darrow Lake Homeowners Association as recorded as Instrument No. 54131812, Summit County Records, and as modified herein, and the



54434851  
Page: 11 of 25  
06/22/2000 02:03P  
DE 108.00

Board members of the Rockport Condominium Owners Association, Inc., upon considering the matter and reaching an affirmative decision in accordance with the procedures as set forth in the governing documents of the Rockport Condominium Owners Association, Inc., have affirmed the intent of the Association to join the Darrow Lake Homeowners Association, and hereby declare that the real property of the Rockport Condominium shall be added to the definition of "Community" within said Declaration, that said real property shall hereafter be a part of said Community and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, licenses, charges and liens contained in the Declaration, and that the Declaration shall constitute covenants to run with the land and shall be binding upon the Rockport Condominium Owners Association, Inc. and its successors and assigns, together with its grantees, and its successors, heirs, executors, administrators, or assigns.

SIGNED AND ACKNOWLEDGED  
IN THE PRESENCE OF:

ROCKPORT CONDOMINIUM OWNERS  
ASSOCIATION, INC.

Kristi Phillips  
PRINT: KRISTI PHILLIPS  
Tracy E. Reed  
PRINT: TRACY E. REED

BY:

Warren J. Wilson  
PRESIDENT WARREN J. WILSON

BY:

John P. Wolfe  
SECRETARY JOHN P. WOLFE

BY:

Donna Lee Cardemone  
TREASURER DONNA LEE CARDEMONE

STATE OF OHIO )  
COUNTY OF SUMMIT ) SS.

Before me, a Notary Public in and for said county and state, personally appeared the above-named ROCKPORT CONDOMINIUM OWNERS ASSOCIATION, INC., by Warren Wilson, John Wolfe, and Lee Cardemone, Trustees, who acknowledged before me that they did sign the foregoing instrument and that the same is their free act and deed, personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at Charter One Bank  
1652 Norton Rd  
Ohio, this 3rd day of March, 2000.

Kristi Phillips  
Notary Public

THIS INSTRUMENT WAS PREPARED BY:  
Mark J. Stockman, Attorney-at-Law  
10800 Ravenna Road  
Twinsburg, Ohio 44087  
(330) 425-3500

KRISTI A. PHILLIPS  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES SEPTEMBER 14, 2001



## INDEX

### THE DARROW LAKE HOMEOWNERS ASSOCIATION

#### BY-LAWS

<b>ITEM</b>		<b>PAGE</b>
<b>ARTICLE I</b>	<b>- THE ASSOCIATION</b>	<b>3</b>
Section 1	- Name and Purpose of the Association	3
Section 2	- Membership	3
Section 3	- Voting	4
Section 4	- Organization	4
Section 5	- Meetings	4
<b>ARTICLE II</b>	<b>- BOARD OF TRUSTEES</b>	<b>4</b>
Section 1	- Number and Qualifications	4
Section 2	- Election of Board	4
Section 3	- Term of Office; Compensation	4
Section 4	- Vacancies and Resignations	4
Section 5	- Powers and Duties	5
Section 6	- Annual Organizational Meeting	5
Section 7	- Regular Meetings	5
Section 8	- Special Meetings	5
Section 9	- Actions Without a Meeting	5
Section 10	- Quorum	5
Section 11	- Removal Procedure	6
Section 12	- Bond and Insurance Required	6
Section 13	- Indemnification of Board Members and Officers	6
<b>ARTICLE III</b>	<b>- OFFICERS</b>	<b>7</b>
Section 1	- Election of Officers; Appointments	7
Section 2	- Term of Office, Removal, Vacancies	7
Section 3	- Powers and Duties	8
<b>ARTICLE IV</b>	<b>- MAINTENANCE AND PERMANENT IMPROVEMENTS</b>	<b>8</b>
Section 1	- Expenditures Paid from Maintenance Funds	8
Section 2	- Limitation on Contracts	9
<b>ARTICLE V</b>	<b>- GENERAL POWERS OF THE ASSOCIATION</b>	<b>9</b>
Section 1	- Rules and Regulations	9
Section 2	- No Business to be Conducted for Profit	10
Section 3	- Applicable Laws	10
Section 5	- Association's Right to Enter Real Property of Members	10
<b>ARTICLE VI</b>	<b>- ADMINISTRATIVE RULES AND REGULATIONS</b>	<b>10</b>
Section 1	- Adoption	10
Section 2	- Amendments	10

<b>ARTICLE VII</b>	<b>- DETERMINATION AND PAYMENT OF ASSESSMENTS</b>	<b>11</b>
Section 1	- Obligation of Owners to Pay Assessments	11
Section 2	- Preparation of Estimated Budget	11
Section 3	- Reserve for Contingencies and Replacements	11
Section 4	- First Year Budget	12
Section 5	- Failure to Prepare an Annual Budget	12
Section 6	- Books and Records of the Association	12
Section 7	- Status of Funds Collected by Association	12
Section 8	- Bank Accounts and Developer's Obligation to Pay Assessments	12
Section 9	- Annual Audit	12
Section 10	- Remedies for Failure to Pay Assessments	13
<b>ARTICLE VII</b>	<b>- GENERAL PROVISIONS</b>	<b>13</b>
Section 1	- Non-Waiver of Covenants	13
Section 2	- Severability	13
<b>ARTICLE IX</b>	<b>- NOTICES AND DEMANDS</b>	<b>13</b>
<b>ARTICLE X</b>	<b>- DEFINITIONS</b>	<b>14</b>
<b>ARTICLE XI</b>	<b>- AMENDMENTS</b>	<b>14</b>





**THE DARROW LAKE HOMEOWNERS ASSOCIATION  
BY-LAWS**

These By-Laws are executed and attached as Exhibit "A" to the Declaration of Covenants and Restrictions for The Darrow Lake Homeowners Association (the "Declaration"). Their purpose is to provide for the establishment of a Homeowners Association for the government of the Common Properties in the manner provided for by the Declaration and these By-Laws. All present and future Lot and Living Unit Owners, tenants, their employees, or any other person who might use the facilities of the Common Properties in any manner shall be subject to the covenants, provisions, or regulations as contained in the Declaration and these By-Laws, and such persons shall be subject to any restriction, condition, or regulations hereafter adopted by the Board of Trustees of the Association. The mere acquisition or rental of any of the Lots, Homes, or condominium Living Units located within the Community described in the Declaration, or the mere act of occupancy of any of the Lots, Homes, or Living Units will constitute acceptance and ratification of the Declaration and these By-Laws and the rules and regulations adopted pursuant thereto.

**ARTICLE I  
THE ASSOCIATION**

**Section 1. Name and Purpose of the Association.**

The name of this Association shall be The Darrow Lake Homeowners Association and its sole purpose shall be to manage, govern and control the Property known in the Declaration as the Common Properties in accordance with the Declaration of Covenants and Restrictions for The Darrow Lake Homeowners Association and in accordance with these By-Laws. The Darrow Lake Homeowners Association has been incorporated under the laws of the State of Ohio as a Nonprofit Corporation.

**Section 2. Membership.**

Each Community Association shall be a direct Member ("Member") of the Association, and each Lot and/or Living Unit Owner within the Community shall derive his or her indirect membership interest in the Association only through such Member Community Association, and shall be represented entirely by such Community Association in the affairs of the Association. Each such Member Community Association shall be liable for the payment of the Assessments hereinafter provided with respect to all such Lots and/or Living Units represented by said Community Association.

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot and/or Living Unit within the Community shall be an indirect member ("member") of the Association and entitled to one vote, pursuant to Article III, Section 2 herein, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be an indirect member. When more than one (1) person holds such interest or interests in any Lot and/or Living Unit, all such persons shall be indirect members - but for quorum, voting, consenting, and all other rights of indirect membership, such person shall collectively be counted as a single indirect member and entitled to one (1) vote for each such Lot and/or Living Unit, which vote for such Lot and/or Living Unit shall be exercised as such persons deem among themselves.

**Section 3. Voting.**



**54434851**  
Page: 15 of 25  
05/22/2000 02:03P  
DE 108.00

Each Community Association Member shall have voting power as set forth in Article III, Section 2 of the Declaration. The voting power of the indirect members can be exercised by the Owner or Owners of a Lot and/or Living Unit, his or her heirs, assigns, devisees, or personal representatives.

**Section 4. Organization.**

Within thirty (30) days after the First Amendment to the Declaration becomes effective pursuant to original Article X, Section 2 of the Declaration, the Association shall meet and elect all Members of the Board and all Officers of the Association. This election meeting shall be the first Annual Organizational Meeting of the Association.

**Section 5. Meetings.**

Meetings of the indirect member shall not be required. Any matters concerning the welfare of the members may be discussed at meetings of the constituent Community Association and referred to the Board of Trustees for proper action.

**ARTICLE II  
BOARD OF TRUSTEES**

**Section 1. Number and Qualifications.**

The Board shall consist of that number of Trustees as set forth in Article IX, Section 1 of the Declaration, all of whom must be Owners of a Lot and/or Living Unit and an Officer of the constituent Community Association said Trustee is representing.

**Section 2. Election of the Board.**

The Members of the Board of Trustees shall be as elected at each Annual Meeting of the constituent Community Associations in accordance with each respective Community Associations' procedures therefor.

**Section 3. Term of Office; Compensation.**

Trustees shall serve for so long as they hold the qualifying office of the constituent Community Association Member that they represent. Members of the Board of Trustees shall serve without compensation.

**Section 4. Vacancies and Resignations.**

In the event of the occurrence of any vacancy or vacancies in the Board of Trustees, the person succeeding to the qualifying office within the constituent Member Community Association shall fill such vacancy. If such vacancy removes an officer of the Association, the Board of Trustees shall reelect such officer at the next meeting of the Board. Any Board Member may resign at any time by written statement to that effect delivered to the Secretary-Treasurer of the Association, such resignation to take effect immediately or at such other time as the Board Member may specify.

**Section 5. Powers and Duties.**



**54434851**  
Page: 16 of 25  
06/22/2000 02:03P  
DE 108.00

The Board shall have the duty to direct the management of the operation of the Common Properties and exercise the powers of the Association, except as otherwise provided in these By-Laws or in the Declaration, and shall also have such other powers as shall be delegated to it by the Association.

**Section 6. Annual Organizational Meeting.**

The Board Members shall hold an Annual Organizational Meeting for the purposes of electing Officers and transacting any other business.

**Section 7. Regular Meetings.**

Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board Members, but at least two (2) such meetings shall be held during each fiscal year. Such meetings shall be held within Summit County, Ohio and not elsewhere.

**Section 8. Special Meetings.**

Special Meetings of the Board may be held at any time upon call by the President or any two (2) Board Members. Notice of the time and place of each meeting shall be given to each Board Member, either by personal delivery, or by mail, facsimile, telegram, or telephone at least two (2) days before the meeting. If two day notice is given by telephone, a written follow-up notice should subsequently also be given, but said follow-up written notice may be within two days of the meeting. Said notice need not specify the purpose of the meeting; provided, however, that attendance of any Board Member at any such meeting without protesting prior to or at the commencement of the meeting, shall be deemed to be waiver of notice by him. Such notice may be waived in writing, either before or after such meeting, by any Board Member, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting.

**Section 9. Actions Without a Meeting.**

All actions which must be taken at a meeting of the Board (except removal of an Officer) may be taken without a meeting with the unanimous consent in writing of all the Members of the Board. Such writing, signed by each Member of the Board, shall be filed with the minutes and proceedings of the Board.

**Section 10. Quorum.**

A quorum of the Board shall consist of a majority of all the Members of the Board being present at any meeting duly held. Whether or not a quorum is present, any meeting may be adjourned from time to time; if any meeting is adjourned, notice of such adjournment is fixed and announced at such meeting. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration and these By-Laws.



## Section 11. Removal Procedure.



Members of the Board of Trustees may be removed pursuant to the procedure set forth for removal of a board member in the governing documents of the constituent Community Association Member that said Board Member represents.

## Section 12. Bond and Insurance Required.

The Board shall require that all Officers and employees of the Association handling or responsible for Association funds furnish adequate Financial Responsibility Bonds. The Association shall also provide Officers and Directors insurance for all Board Members. Premiums on such bonds or insurance shall be paid by the Association and shall be a common expense.

## Section 13. Indemnification of Board Members and Officers

(A) **In General.** The Association shall indemnify any Board Member or Officer of the Association, or any former Board Member or Officer of the Association, and/or their respective heirs, executors, and administrators against all reasonable expenses, including attorney's fees, judgments, decrees, fines, penalties, or amounts paid in settlement, actually and necessarily incurred by him or her in connection with the defense of any pending or threatened action, suit, criminal proceeding, or civil proceeding to which he or she is or may be made a party by reason of being, or having been, such Board Member or Officer of the Association; provided it is determined in the manner hereinafter set forth that:

- (1) Such Board Member or Officer of the Association was not, and is not, adjudicated to have been grossly negligent or guilty of misconduct in the performance of his or her duty to the Association; and,
- (2) Such Board Member acted in good faith in what he or she reasonably believed to be in, or not opposed to, the best interest of the Association; and,
- (3) In any criminal action, suit, or proceeding, such Board Member had no reasonable cause to believe that his or her conduct was unlawful; and,
- (4) In case of settlement, the amount paid in the settlement was reasonable.

The determinations hereinabove required shall be made by written opinion of independent legal counsel chosen by the Board. Notwithstanding the opinion of this legal counsel, to the extent that a Board Member or Officer has been successful in defense of any action, suit, proceeding, claim, issue, or matter, he or she shall, in that event, be indemnified as set forth above herein.

- (B) **Advance of Expenses.** Funds to cover expenses, including attorneys' fees, with respect to any pending or threatened action, suit, or proceeding may be advanced by the Association prior to the final disposition thereof upon receipt of a request to repay such amounts.
- (C) **Indemnification Not Exclusive.** The indemnification provided for in this Section shall not be exclusive, but shall be in addition to any other rights to which any person may be entitled under the Articles of Incorporation, Declaration, or By-Laws of the Association, any other



54434851

Page: 18 of 25  
08/22/2000 02:03P  
DE 108.00

rules and regulations of the Association, any agreement with or insurance provided by the Association, the provisions of Section 1702.12(e) of the Ohio Revised Code, or otherwise.

- (D) **Insurance.** The Association shall purchase and maintain insurance on behalf of any person who is or was a Board Member or Officer of the Association against any liability asserted against him or her or incurred by him or her in such capacity or arising out of his or her status as a Board Member or Officer of the Association as provided in Article IV, Section 1(b)(4) below.
- (E) **Indemnification by Lot and/or Living Unit Owner and Member Community Associations.** The Board Members and Officers of the Association shall not be personally liable to the Lot and/or Living Unit Owners and Community Association Members for any mistake of judgment, negligence, or otherwise, except for their own individual wilful misconduct or bad faith. The Lot and/or Living Unit Owners and Community Association Members shall indemnify, defend, and hold harmless each of the Board Members and Officers of the Association against all contractual liabilities to third parties arising out of contracts made on behalf of the Association except with respect to any such contracts made in bad faith or contrary to the provisions of the Declaration or these By-Laws. Every agreement made by any Board Member or Officer of the Association shall provide that such Board Member or Officer of the Association is acting only as a representative of the Association and shall have no personal liability thereunder, except as a Lot and/or Living Unit Owner and member of a constituent Community Association.
- (F) **Cost of Indemnification.** Any sum paid or advanced by the Association under this Section shall constitute a Common Expense. The Board shall have the power and responsibility to raise, by Special Assessment or otherwise, any sums required to discharge the Association's obligations under this Section; provided, however, that the liability of any Member arising out of the contract made by any Board Member or Officer of the Association, or out of the aforesaid indemnity in favor of such Board Member or Officer of the Association shall be limited to said Member's apportionment of Association expenses as set forth in Article IV, Section 6 of the Declaration.

### **ARTICLE III OFFICERS**

#### **Section 1. Election of Officers; Appointments.**

At the Annual **Organizational** Meeting of the Board, if a quorum shall be present, the Board shall elect Officers and employees as it shall determine. The Board may also appoint an executive committee or any special committees. The Officers of the Association shall be a President, Vice President and Secretary-Treasurer, all of whom shall be Members of the Board.

#### **Section 2. Term of Office, Removal, Vacancies.**

The Officers of the Association shall be elected for a term of one (1) year by the Board and shall serve until their successors are elected and qualified. Any Officer or employee elected or appointed by the Board may be removed at any time upon a vote of a majority of the Board. Any vacancy in any office may be filled by the Board upon a vote of a majority of the Board then remaining.

**Section 3. Powers and Duties.**



**54434851**  
Page: 19 of 25  
06/22/2000 02:03P  
DE 108.00

The President shall conduct all meetings of the Association and of the Board; the Vice President or the Secretary-Treasurer, in that order, shall act in the absence of the President. The Secretary-Treasurer shall keep the minutes of the Association and the Board meetings, shall handle the financial affairs of the Association, including the deposit of funds, shall write and sign checks for the legitimate expenses of the Association as authorized by the Board, and shall prepare and maintain all records .

**ARTICLE IV  
MAINTENANCE AND PERMANENT IMPROVEMENTS**

**Section I. Expenditures Paid from Maintenance Funds.**

The Association shall acquire and shall pay out of the maintenance fund hereinafter provided the following for the benefit of all Owners:

- (A) **Utility Service - Common Properties.** Water, waste removal, electricity, telephone, heat, power, or any other necessary utility service for the Common Properties, if any, but not for an individual Lot and/or Living Unit.
- (B) **Insurance.**
  - (1) **Casualty and Liability Insurance.** To be carried by the constituent Community Associations as set forth in Article VIII, Section 1 of the Declaration.
  - (2) **Workers' Compensation.** Workers' Compensation insurance to the extent necessary to comply with any applicable law.
  - (3) **Board Member and Officer Liability Insurance.** The Association shall purchase and maintain insurance on behalf of any person who is or was a Board Member or Officer of the Association against any liability asserted against him or her or incurred by him or her in such capacity or arising out of his or her status as a Board Member or Officer of the Association, the limits of which policy shall be reviewed annually.
- (C) **Wages and Fees for Services.** The services of any person or firm employed by the Association, including the services of any person or persons required for the maintenance of or operation of the Common Properties, and legal and accounting services as necessary or proper for the operation or enforcement of the Declaration and these By-Laws and for the organization, operation, and enforcement of the rights of the Association.
- (D) **Care of Common Properties.** Care and maintenance of the Common Properties as follows:
  - (1) installation, maintenance, alteration, replacement, and removal of any landscaping within the Common Properties including, but not limited to, the cutting of lawn areas, the fertilization of all lawn and other plantings, the mulching, watering, weeding, and maintenance of planting beds, and the pruning of trees, plantings, and hedges; and



JAMES B MCCARTHY SUMMIT CO AUDITOR

- (2) maintenance of Darrow Lake as determined to be required; and
- (3) maintenance of any private walkway pavement within the Common Properties; and
- (4) maintenance of all other improvements, structures, and or buildings, if any, existing within the Common Properties.

The Association shall have the exclusive right and duty to acquire any recreational facilities for the Common Properties.

- (E) **Capital Additions and Improvements.** The Association's powers hereby enumerated shall be limited in that the Association shall have no authority to acquire and pay out of the maintenance fund for any capital additions and improvements (other than for purposes of replacing or restoring portions of the Common Properties, subject to all the provisions of the Declaration and these By-Laws) having an annual total cost of in excess of Fifteen Hundred Dollars (\$1,500.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of, the Common Properties requiring an expenditure in excess of Fifteen Hundred Dollars (\$1,500.00) without in each case having the prior approval of the Members of the Association entitled to exercise a majority of the voting power of the Association.
- (F) **Discharge of Mechanic's Lien.** Any amount necessary to discharge any mechanic's lien or other encumbrances levied against the Common Properties, it being understood, however, that the foregoing authority shall not be in limitation of any statutory provision relating to the same subject matter.
- (G) **Additional Expenses.** Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws, or which in its opinion shall be necessary or proper for the maintenance and operation of the Common Properties as a "first class" development, or for the enforcement of the Declaration and these By-Laws.

## **Section 2. Limitations on Contracts.**

Neither the Association nor the Board shall enter into a contract for professional management of the affairs of the Association for a period exceeding three (3) years, and such a contract must provide for termination by either party, without cause and without termination fee, on ninety (90) days notice.

## **ARTICLE V GENERAL POWERS OF THE ASSOCIATION**

### **Section 1. Rules and Regulations.**

The Association, by vote of the Members entitled to exercise a majority of the voting power of the Association, may adopt such reasonable rules and regulations, and from time to time amend the



54434851  
Page: 21 of 25  
06/22/2000 02:03P  
DE 108.00

same, such rules and regulations supplementing the rules and regulations as set forth in the Declaration and these By-Laws, as it may deem advisable for the maintenance, conservation, and beautification of the Common Properties, and for the health, comfort, safety, and general welfare of the Owners and occupants of the Community. Written notice of such rules and regulations shall be given to all Owners and occupants, and the Common Properties shall at all times be maintained subject to such rules and regulations. In the event that such supplemental rules and regulations shall conflict with any provisions of the Declaration or of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

**Section 2. No Business to be Conducted for Profit.**

Nothing herein contained shall be construed to give the Association authority to conduct a business for profit on behalf of the Members, all the Lot and/or Living Unit Owners, or any of them.

**Section 3. Applicable Laws.**

The Association shall be subject to, and governed by, the provisions of any statute adopted at any time and applicable to the Common Properties and/or the Association; provided, however, that all inconsistencies between or among the permissive provisions of any statute and any provision of the Declaration and these By-Laws shall be resolved in favor of the Declaration and By-Laws. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or By-Laws of the Association, the terms and provisions of the Declaration shall prevail, and the Owners and all persons claiming under them covenant to vote in favor of such amendments to the Articles or By-Laws as will remove such conflicts or inconsistencies.

**Section 5. Association's Right to Enter Real Property of Members.**

The Association or its agents may enter onto the exterior property of any Lot and/or Living Unit when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners and occupants as practicable, and any damage caused thereby shall be repaired by the Association, at the expense of the maintenance fund.

**ARTICLE VI  
ADMINISTRATIVE RULES AND REGULATIONS**

**Section 1. Adoption.**

The Board may adopt rules and regulations governing the operation and use of the Common Properties not in conflict with the Declaration or these By-Laws, or those adopted by the Members pursuant to Article V, Section 1 above, by a vote of a majority of the Members of the Board.

**Section 2. Amendments.**

Such rules and regulations may be amended from time to time by a majority vote of the Members of the Board, or by a vote of more than fifty percent (50%) of the voting power of the Association at its Annual Organizational Meeting or at any Special Meeting.



54434851  
Page: 22 of 25  
06/22/2000 02:03P  
DE 108.00

## **ARTICLE VII DETERMINATION AND PAYMENT OF ASSESSMENTS**

### **Section 1.     Obligation of Owners to Pay Assessments.**

It shall be the duty of every Community Association Member to pay its proportionate share of the expenses of administration, maintenance, and repair of the Common Properties, and of the other expenses provided for herein. Such proportionate share shall be as set forth in Article IV, Section 6 of the Declaration. Payment thereof shall be in such amount, and at such times, as may be determined by the Board of the Association, as hereinafter provided.

### **Section 2.     Preparation of Estimated Budget.**

Each year on or before December 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services, and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, and shall, on or before December 15th, notify each Member in writing as to the amount of such estimate, with reasonable itemization thereof.

Said "estimated cash requirement" shall be assessed to the Members as set forth in Article IV, Section 6 of the Declaration. On or before January 1st of the year, and the 1st of each and every month of said year, each Member shall be obligated to pay the Association, or other party as the Association may direct, such amount of the assessment made pursuant to this paragraph as the Board may direct. On or before the date of the Annual Organizational Meeting of the Board of each calendar year, the Association shall supply to all Members an itemized accounting of the maintenance expense for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves.

Any amount accumulated in excess of the amount required for actual reserves and expenses shall be credited according to each Member, as set forth in Article IV, Section 6 of the Declaration, to the next monthly installment due from Members under the current year's estimate, until exhausted, and any net shortage shall be added according to each Member's apportionment of Assessments as set forth in Article IV, Section 6 of the Declaration. to the installments due in the succeeding six (6) months after rendering the accounting.

### **Section 3.     Reserve for Contingencies and Replacements.**

The Association may build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any Member's assessment, the Board shall prepare an estimate of the additional cash requirements then necessary or necessary for the balance of the year, which additional amount shall be assessed to the Member's according to each Member as set forth in Article IV, Section 6 of the Declaration.. The Board shall serve notice of such further assessment on all Members by a statement in writing giving the amount and reasons therefore, and such further assessments shall become effective with the monthly maintenance payment which is

due not more than ten (10) days after the delivery or mailing of such notice of further assessments. All Members shall be obligated to pay the adjusted monthly payment.

#### **Section 4. First Year Budget.**

When the first Board elected hereunder takes office, the Board shall determine the "estimated cash requirement", as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which the said election occurs. Assessments shall be levied against Members during said period as provided in Section 2 of this Article.

#### **Section 5. Failure to Prepare an Annual Budget.**

The failure or delay of the Board to prepare or serve the annual or adjusted estimate on Members shall not constitute a waiver or release in any manner of such Member's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined. In the absence of any annual or adjusted estimate, Members shall continue to pay the monthly maintenance charge at the existing monthly rates established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall be mailed or delivered.

#### **Section 6. Books and Records of the Association.**

The Board shall keep full and correct books of account and the same shall be open for inspection by any Member, Owner, or any representative of a Member or Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Member or Owner. Upon ten (10) days notice to the Board any Member or Lot and/or Living Unit Owner shall be furnished with a statement of the applicable Member Community Association's account setting forth the amount of any unpaid assessments or other charges due and owing from such Member.

#### **Section 7. Status of Funds Collected by the Association.**

All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all of the Members, and for adjustments as may be required to reflect delinquent or unpaid assessments), shall be deemed to be held for the use, benefit, and account of all of the Members in such proportions as set forth in Article IV, Section 6 of the Declaration.

#### **Section 8. Bank Accounts and Developers' Obligation to Pay Assessments.**

Monthly assessments shall be deposited with a bank or savings and loan Association having its principal offices in Northeastern Ohio. Any Developer shall pay his proportionate share of the monthly assessments to the Association for each Lot and/or Living Unit which the Developer then owns until such time as the Developer sells such Lot and/or Living Unit.

#### **Section 9. Annual Audit.**

The books of the Association shall be audited once a year by the Board, and such audit shall be completed prior to each Annual Organizational meeting of the Board. If requested by two (2) Members of the Board, such audit shall be made by a Certified Public Accountant. In addition, and

at any time requested by the Owners of at least fifty percent (50%) of the Lot and/or Living Units, including any Developer which may be an Owner, the Board shall cause an additional review or audit to be made at the Association's expense.

#### **Section 10. Remedies for Failure to Pay Assessments.**

If any Member is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the Association may bring suit to enforce collection thereof, as provided in the Declaration, and there shall be added to the amount due the cost of said suit, together with legal interest, reasonable attorney's fees, and other costs of collection. To the extent permitted by the Declaration, any decision or any statute or law now or hereafter effective, the amount of any delinquent or unpaid charges or assessments, and interest, costs, and fees, as above provided, shall be and become a lien or charge against the Member involved when payable, and may be foreclosed by an action brought in the name of the Association as provided in the Declaration.

### **ARTICLE VIII GENERAL PROVISIONS**

#### **Section 1. Non-Waiver of Covenants.**

No covenants, restrictions, conditions, obligations, or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

#### **Section 2. Severability.**

The invalidity of any covenant, restriction, condition, limitation, or any other provision of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of these By-Laws.

### **ARTICLE IX NOTICES AND DEMANDS**

Any notice by the Board to a Member or Lot and/or Living Unit Owner shall be deemed to be given, and any demand upon him shall be deemed by him to have been duly made, if delivered in writing to an officer of said Member or to such Owner personally, or if mailed by ordinary mail postage prepaid, addressed to said person at the address of said Community Association or Owner. Any notice by a Member or a Lot and/or Living Unit Owner to the Board shall be deemed to be duly given, and any demand upon the Board shall be deemed to have been duly made, if in writing, and delivered to an Officer of the Association.





## **ARTICLE X** **DEFINITIONS**

The Definitions contained in the Declarations of Covenants and Restrictions of The Darrow Lake Homeowners Association are hereby incorporated by reference and apply to these By-Laws as if fully rewritten herein.

## **ARTICLE XI** **AMENDMENTS**

These By-Laws may be amended from time to time at an Annual Organizational Meeting or Special Meeting of the Association by an affirmative vote of not less than seventy five percent (75%) of the Members.

