

CUYAHOGA COUNTY RECORDER  
PATRICK J. O'MALLEY - 4  
DECL 11/21/2006 10:38:52 AM  
200611210152

AMENDMENT TO THE  
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS  
OF  
THE VILLAS AT MacINTOSH FARMS CLUSTER DEVELOPMENTS  
PHASES ONE - SEVEN

PLEASE CROSS MARGINAL REFERENCE WITH THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF THE VILLAS AT MacINTOSH FARMS CLUSTER DEVELOPMENTS RECORDED AT INSTRUMENT NO. 200204260544, OF THE CUYAHOGA COUNTY RECORDS.

AMENDMENT TO THE  
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,  
EASEMENTS AND RESTRICTIONS OF THE VILLAS AT MacINTOSH FARMS  
CLUSTER DEVELOPMENTS

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions of The Villas at MacIntosh Farms Cluster Developments (the "Declaration") and the Code of Regulations of The Villas at MacIntosh Farms Cluster Association, Inc. (the "Code"), attached to and made a part of the Declaration, were recorded at Cuyahoga County Records Instrument No. 200204260544, and

WHEREAS, The Villas at MacIntosh Farms Cluster Association, Inc. (the "Association") is a corporation consisting of all Owners in the Villas at MacIntosh Farms Cluster and as such is the representative of all Owners, and

WHEREAS, Article XV, Section 15.12(d) of said Declaration authorizes amendments to the Declaration and Code Article VII, Section 6 authorizes amendments to the Code, and

WHEREAS, a meeting of the Association's Owners was held on or about October 19, 2006, and, at such meeting and any adjournment thereof, Owners representing at least 50% of the voting power of the Association executed, in person or by proxy, an instrument in writing setting forth specifically the matters to be added (the "Amendment"), and

WHEREAS, the Association has in its records the signed, written consents to the Amendment signed by Owners representing 59.52% of the Association's voting power, together with the minutes from said meeting and any adjournment thereof, and

WHEREAS, the Association has in its records the power of attorney signed by Owners representing 59.52% of the Association's voting power authorizing the Association's officers to execute the Amendment on their behalf, and

WHEREAS, the proceedings necessary to amend the Declaration as required by the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions of The Villas at MacIntosh Farms Cluster Developments have in all respects been complied with.

NOW THEREFORE, the Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions of The Villas at MacIntosh Farms Cluster Developments is hereby amended by the following:

INSERT a new DECLARATION ARTICLE VII, SECTION 7.23 entitled, "Occupancy Restriction." Said new addition, to be added on Page 31 of the Declaration, as recorded at Cuyahoga County Records, Instrument No. 200204260544, is as follows:

Section 7.23 - Occupancy Restriction.

No person who is adjudicated to be a sexual predator or a habitual sex offender and required to register with a designated registering agency, thereby requiring notice to be given pursuant to the Ohio Sex Offenders Act or similar statute from another jurisdiction, as the same may from time to time be amended, may reside in or occupy a Living Unit for any length of time. Any violation of this restriction shall subject the Owner and/or any Occupant of the Living Unit to any and all remedies provided for by law as well as this Declaration. The Association shall not, however, be liable to any Owner or Occupant, or anyone visiting any Owner or the Association, as a result of the Association's alleged failure, whether negligent, intentional or otherwise, to enforce the provisions of this restriction.

Any conflict between this provision and any other provisions of the Declaration and Code of Regulations shall be interpreted in favor of this restriction on the occupancy of Living Units. Upon the recording of this amendment, only Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

IN WITNESS WHEREOF, the said The Villas at MacIntosh Farms Cluster Association, Inc. has caused the execution of this instrument this 16<sup>th</sup> day of November, 2006.

THE VILLAS AT MacINTOSH FARMS CLUSTER ASSOCIATION, INC.

By: Mike Niemczura  
MIKE NIEMCZURA, its President

By: Bonnie Senger Karberg  
BONNIE SENGER KARBERG, its Secretary

STATE OF OHIO )  
 )  
COUNTY OF Summit ) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named The Villas at MacIntosh Farms Cluster Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 3 of 4, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in Sagamore Hills, Ohio, this 16<sup>th</sup> day of November, 2006.

Nancy Anne Wargo  
NOTARY PUBLIC  
NANCY-ANNE WARGO  
Notary Public, State of Ohio  
My Commission Expires May 5, 2011  
Recorded in Summit County

This instrument prepared by:  
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