

## EXHIBIT D

### CODE OF REGULATIONS

#### OF

### MARIVAL AT WEATHERSTONE CONDOMINIUM OWNERS' ASSOCIATION, INC.

#### INTRODUCTION

Marival at Weatherstone Condominium Owners' Association, Inc. ("Association") is to govern and manage the Condominium Property. These Code of Regulations of Marival at Weatherstone Condominium Owners' Association, Inc. ("Code of Regulations") supplement the Declaration of Condominium Ownership for Marival at Weatherstone Condominium as amended, ("Declaration") by providing the Association with procedures to use in governing and managing the Condominium Property. Anyone who owns, rents, occupies, or uses any Condominium Unit or facility is subject to the Declaration, the Code of Regulations, and any rules and regulations ("Rules and Regulations") which may be adopted by the Association's Board of Managers. As required by Section 5311.06 of the Ohio Revised Code, a true copy of the Code of Regulations has been or will be attached as an Exhibit to the Declaration which has been or will be filed with the Warren County Recorder and the Warren County Auditor. Terms used in these Code of Regulations which begin with capital letters and are not otherwise defined shall have the meaning set forth in the Declaration.

#### SECTION 1

##### ASSOCIATION NAME AND NATURE

The name of the association shall be Marival at Weatherstone Condominium Owners' Association, Inc. The Association shall be an Ohio not-for-profit corporation.

#### SECTION 2

##### UNIT OWNERS (MEMBERS)

Section 2.1 Composition. Each person owning a fee or undivided fee-simple interest in a Unit ("Unit Owner") will automatically become a Member of this Association, and no other parties may become members. When a Unit Owner transfers his ownership of a Unit to another party, his membership automatically terminates, and the other party then becomes a Member of the Association.

Section 2.2 Place of Meetings. Meetings of the Members shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Managers (hereinafter referred to as "Board" or "Managers") either in the City of Mason, Ohio or as convenient thereto as possible and practical.

Section 2.3 Annual Meetings. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, on such date as the initial Board shall determine. Each subsequent Annual Meeting of the Members shall be held within the third quarter of each calendar year, upon proper notice, at a date, time and place as may be reasonably set by the Board. The purpose of the Annual Meeting shall be to elect the Board of Managers, to consider reports to be presented before the Members, and to transact any other business which may properly be brought before the meeting. If the day for the Annual Meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. Each Annual Meeting shall be open to all Members.

Section 2.4 Special Meetings. Special meetings of the Members may be called at any time by the President or by a majority of the Board of Managers. Special meetings shall be called by the President upon written request, delivered to the President in person or by certified mail, of Members having at least thirty percent (30%) of the voting power of all Members. Upon receipt of this request, the President shall immediately cause written notice to be given of the special meeting to be held on a date not less than ten (10) days nor more than thirty (30) days after receipt of this request. If written notice is not given to the Members within ten (10) days after the delivery of the request, the Members making the request may call the special meeting and give written notice of it.

Section 2.5 Notice of Meetings. Written notice of each meeting of the Members shall be given by or at the direction of the President, Secretary or person authorized to call the meeting, by (a) personal delivery, or (b) mailing a copy of such notice, postage prepaid, at least ten (10) days, but no more than thirty (30) days before such meeting to each Member entitled to vote thereat. The notice shall be addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and the purpose of the meeting. Notice of the date, time and place, and purpose(s) of any meeting of Members may be waived by any Member, before or after the meeting, by a writing filed with the records of the Association. The attendance of any Member at any meeting without protesting, before or at the beginning of the meeting, the lack of proper notice, shall be deemed a waiver by the Member of notice of the meeting.

Section 2.6 Quorum; Adjournment. A vote submitted by mail shall not be counted in establishing a quorum for any meeting or for any vote. Except as may be otherwise provided by law, the Articles of Incorporation, the Declaration, or these Code of Regulations, there shall be a quorum at any meeting of Members where Members who hold at least forty percent (40%) of the total voting power of Members in good standing are present, in person or by proxy. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called. If a meeting of the Members is adjourned because a quorum was not present, the quorum requirement shall be reduced to thirty percent (30%) of the total voting power of Members in good standing. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place of the adjourned meeting is not

fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings. For a vote on any matter to be valid, the quorum requirement must be met at the time of completion of that vote.

Those present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken shall be approved by at least a majority of Member required to constitute a quorum.

Section 2.7 Proxies. At all meetings of Members, each Member may vote in person or by proxy. The person designated a proxy need not be a Unit Owner. All proxies shall be in writing and filed with the Secretary at least twenty-four (24) hours prior to the meeting. An Owner may revoke a proxy only by written notice of revocation to the Board of Managers. A proxy is void if it is not dated or purports to be revocable without notice. Except as hereinafter provided, a proxy shall terminate one year after its date, unless it specifies a shorter time. Every proxy shall automatically cease upon conveyance by the Member of his/her Unit, except as otherwise provided in the Declaration or the Articles of Incorporation, about the proxy given to the Declarant. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering a Unit, the presentation to the Board of Managers of a copy of the mortgage containing the proxy designation shall be notice of that designation, and, if the mortgage so states, of the irrevocability of that designation. Written notice to the Board of a revocation of a proxy designation shall not affect any vote or any act previously taken.

Section 2.8 Voting by Mail by Association Members. Any Member may cast his/her written vote on any proposal to be voted upon at any meeting of the Members of the Association by mailing or personally delivering such written vote to the Secretary of the Association within the period seven (7) days before the date of the meeting. Such written votes shall be filed with the records of the Association and, in no event, shall any action be taken or approved by the Association with the approval of any less than the percentage of voting power required by the provisions of the Declaration or without the consent of any party that is required by any of said provisions. Members who have voted by mail shall not be counted in determining whether the quorum has been met at a meeting of the Members.

Section 2.9 Voting. Each Member shall be entitled to one (1) vote for each residential Unit owned by such Member; provided that any Member (a) with respect to whom a notice of Default has been issued by the Board pursuant to the Declaration, or (b) who has had his right or privilege of use and enjoyment of the Common Areas and Facilities suspended pursuant to the Declaration, shall not be entitled to vote during any period in which any such Default or suspension continues; and further provided that if a Unit shall be owned by more than one (1) Unit Owner, such Unit Owners shall be deemed to constitute a single Member as to such Unit for purposes of this Section. Unit Owners of garage Units shall not be entitled to a vote for any garage Unit to which he or she may hold title.

Unless otherwise expressly set forth by law, the Declaration, the Articles of Incorporation or these Code of Regulations, the affirmative vote of fifty-one percent (51%) of the voting power of the Members voting on any matter at a meeting of Members shall be sufficient to determine that matter, provided that any quorum requirement is met at the time of completion of that vote. The "voting power of the Members" at any given time shall be the total number of votes for all residential Units other than residential Units to which the Association or the Association's agent, designee, or nominee then holds title.

Section 2.10 Order of Business. The order of business at all meetings of Members shall be as follows: (1) calling of meeting to order; (2) roll call; determination of whether there is a quorum; (3) proof of notice of meeting or waiver of notice; (4) reading of minutes of previous meeting; (5) reports of Manager; (6) report of committees; (7) election of the Board of Managers (when appropriate); (8) unfinished and/or old business; (9) new business; (10) adjournment.

Section 2.11 Conduct of Meetings. The President shall preside over all meetings of the Members, and the Secretary shall keep the minutes of the meeting and record in the minute book all resolutions adopted, as well as a record of all transactions occurring thereat.

Section 2.12 Action by Association Members Without a Meeting. Any action which may be authorized or taken at a meeting of the Members, except the election of Board Members, may be authorized or taken without a meeting in a writing or writings signed by Members having a simple majority of the total voting power of all Members in good standing which writing(s) shall be filed with the records of the Association. Written notice of any action proposed to be taken by such written consent of Members shall be sent to all parties who are entitled to notices under the Declaration not less than ten (10) days prior to commencing the circulation of the action for written consent among the Members.

### **SECTION 3** **BOARD OF MANAGERS-TERM OF OFFICE - MEETING**

Section 3.1 Number; Qualification; Compensation. There shall be initially three (3) members ("Managers") of the Board of Managers. A Manager appointed by the Declarant need not be a Unit Owner. A Manager elected by Unit Owners shall be a Unit Owner or a spouse of a Unit Owner except that if a Unit Owner is a corporation, partnership, joint venturer, or other entity, the Unit Owners may elect as a Manager an officer, partner, joint venturer, or like individual affiliated with this Unit Owner. Managers shall serve without compensation. However, any Manager may be reimbursed for his/her out of pocket expenses incurred in the performance of his/her duty.

Section 3.2 Authority to Appoint and to Elect Managers.

3.2.1 Development Period.

3.2.1.1 Initially, the Managers shall be the three (3) persons appointed by the Declarant from time to time. None of the Declarant's appointees need be owners or occupiers of Units.

3.2.1.2 As soon as possible after the time that the Declarant has conveyed Units to which twenty-five percent (25%) of the undivided interests in the Common Areas and Facilities that would exist if the maximum number of Units that could be submitted to the Declaration were so submitted appertain, the President of the Association shall call a special membership meeting and from and after that date there shall be five (5) Managers. At such meeting the Unit Owners other than the Declarant shall elect two (2) of the five (5) Managers who shall be a Unit Owner or who shall otherwise meet the qualifications outlined in Section 3.1 hereinabove.

3.2.1.3 Within thirty (30) days after the earlier of (a) the date which is five (5) years from the date of incorporation of the Association, or (b) the date which is thirty (30) days after the Declarant's conveyance of Units to persons which hold seventy-five percent (75%) of the total undivided interests in the Common Areas and Facilities that would exist if the maximum number of Units that could be submitted to the Declaration were so submitted, the President of the Association shall call a special membership meeting ("Development Period Special Meeting"). At that meeting the Unit Owners (including the Declarant) shall elect a new Board consisting of five (5) Managers who all shall be Unit Owners or who shall otherwise be qualified pursuant to Section 3.1 hereinabove to be a Manager. The persons so elected shall take office immediately upon election and the five (5) Managers previously appointed or elected shall step down from their positions.

Notwithstanding anything herein to the contrary, for purposes of determining the total number of Units to be conveyed by the Declarant in order to constitute the sale and conveyance of twenty-five percent (25%) or seventy-five percent (75%) of all Unit ownerships, said percentage shall be computed on the entire number of Units anticipated to be added to the Condominium Property, as provided in O.R.C. Section 5311.08(C). The Declarant anticipates that the total number of Units to be submitted to the Condominium will be two hundred (200) residential Units and two hundred (200) garage Units for a total of four hundred (400) Units.

3.2.2 Post-Development Period. After the Development Period Special Meeting, the Unit Owners shall elect the Managers at the Annual Meeting of Unit Owners.

Section 3.3 Term. A Manager appointed by the Declarant shall serve until the Declarant removes the Manager, the Manager dies or resigns, or a successor is elected by the Unit Owners as provided in Section 3.2.1. A Manager elected by the Unit Owners prior to the Development Period Special Meeting as provided in Section 3.2.1 shall serve a one-year term until the earlier of

(a) the next Annual Meeting of Unit Owners and until a successor is elected; (b) the Development Period Special Meeting and until a successor is elected; or (c) until the Manager's earlier resignation, removal from office or death.

Because the terms of not less than one-third of the Managers must expire annually, the Managers elected by the Unit Owners at the Development Period Special Meeting shall be elected to staggered terms of the following lengths: two (2) Managers shall be elected to a one-year term and three (3) Managers shall be elected to a two-year term. The three (3) Managers with the most votes shall be the Managers who shall serve the two-year term. A Manager elected by the Unit Owners at the Development Period Special Meeting shall serve for the term which he/she has been elected and shall remain a Manager until the earlier of: (a) the next Annual Meeting of Unit Owners and until a successor is elected, or (b) until the Manager's earlier resignation, removal from office or death.

Each Manager elected by the Unit Owners after the Development Period Special Meeting shall serve for a two-year term and shall remain a Manager until the earlier of (a) the next Annual Meeting of Unit Owners and until a successor is elected; or (b) until the Manager's earlier resignation, removal from office, or death.

A Manager may be reelected or reappointed for additional terms.

Section 3.4 Nominations; Election Procedure. Only persons nominated as candidates shall be eligible for election as Managers. Nominations shall be made from the floor at any meeting of Unit Owners under Section 3.2.1 or at an Annual Meeting of Unit Owners.

Election shall be by written ballot. The Unit Owner of each Unit may cast, in respect to each vacancy, the vote to which that Unit is entitled under the Declaration and the Code of Regulations. The person receiving the largest number of votes for each vacancy shall be elected to fill that vacancy. Cumulative voting shall not be permitted.

Section 3.5 Resignation; Removal; Vacancies. A Manager may resign at any time by oral statement made at a meeting of the Board or by written notice to the Secretary. The resignation shall take effect immediately or at the time specified by the resigning Manager.

A Manager appointed by the Declarant may be removed by the Declarant at any time, with or without cause. An elected Manager whose removal has been proposed by a Unit Owner shall be given an opportunity to speak at an Annual Meeting or special meeting of Unit Owners, after which that Manager may be removed, with or without cause, by the vote of Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of all Unit Owners in good standing.

For any Manager appointed by the Declarant, if a vacancy is created because of resignation, removal, or death, the Declarant shall appoint a successor. For any Manager elected by the Unit Owners, if a vacancy is created because of resignation, removal, or death, the remaining Managers

may, by the vote of a majority of their number, fill any vacancy in the Board for the unexpired term.

Section 3.6 Organizational Meeting. Promptly after the Development Period Special Meeting and each Annual Meeting of Unit Owners thereafter, the Board shall hold a meeting to elect the Officers and transact any other business which may properly be brought before the meeting.

Section 3.7 Regular Meetings. Regular meetings of the Board shall be held no less often than quarterly, on the date and at the time and place fixed from time to time by the Board.

Section 3.8 Special Meetings. Special meetings of the Board may be held at any time when called by the President or any two (2) Managers.

Section 3.9 Notice of Meetings; Attendance by Unit Owners. Notice of the date, time, and place of organizational, regular, and special meetings of the Board shall be given to each Manager by personal delivery, mail, telegram, facsimile or telephone at least two (2) days before the meeting. The notice need not specify the purpose(s) of any meeting. Notice of the date, time, and place of any meeting may be waived by a Manager, before or after the meeting, by a writing filed with or entered upon the records of the meeting. Attendance of a Manager at any meeting without protesting, before or at the beginning of the meeting, the lack of proper notice shall be deemed a waiver by the Manager of notice of the meeting.

No notice need be given to non-Manager Unit Owners of organizational, regular, or special meetings of the Board, however, a non-Manager Unit Owner may attend any organizational, regular, or special meeting of the Board, but may not participate in any such meeting unless given permission to do so by the President or other Officer (as hereinafter defined) of the Association who is presiding at the meeting. A non-Manager Unit Owner may not vote at a meeting of the Board.

Section 3.10 Quorum; Adjournment. A simple majority of the Managers then in office shall constitute a quorum for any meeting, provided that the quorum requirement must be met at the time of completion of a vote on any matter for that vote to be valid. Whether or not a quorum is present, a majority of the Managers present at a meeting may adjourn that meeting. Notice of the adjournment need not be given if the time and place to which the meeting is adjourned are fixed and announced at the meeting.

Section 3.11 Voting Power. At any meeting of the Board at which a quorum is present, all matters shall be determined by a majority vote of those voting on the matter, except as may be otherwise expressly provided in the Declaration or these Code of Regulations. The President may cast an additional vote to break a tie vote on any matter.

Section 3.12 Conduct of Meetings. The President shall preside over all meetings of the Board of Managers, and the Secretary shall keep the minutes of the meeting and record in the minute book all resolutions adopted, as well as a record of all transactions occurring thereat.

Section 3.13 Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in Executive Session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, or orders of business of similar nature. The nature of any and all business to be considered in Executive Session shall first be announced in an open session.

Section 3.14 Action by Board Without a Meeting. Any action which may be taken at a meeting of the Board may be taken without a meeting in a writing or writings signed by all the Managers, which writing(s) shall be filed with Board records. Any action so approved shall have the same effect as though taken at a meeting of the Managers.

#### **ARTICLE 4** **POWERS AND DUTIES OF THE BOARD OF MANAGERS**

Section 4.1 Powers. The Board shall exercise all powers and authority, under law, and under the provisions of the Declaration, that are not specifically and exclusively reserved to the Members by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

4.1.1 Adopt and publish Rules and Regulations governing the use of the Common Areas and Facilities and the personal conduct of the Members, occupants and their guests thereon, and to establish penalties for the infraction thereof;

4.1.2 Declare the office of a Member of the Board of Managers to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Managers or five (5) regular meetings of the Board of Managers within the fiscal year;

4.1.3 Obtain insurance coverage not less than that required pursuant to the Declaration;

4.1.4 Enforce the covenants, conditions and restrictions set forth in the Declaration;

4.1.5 Repair, maintain, and improve the Common Areas and Facilities, if required under the Declaration;

4.1.6 Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, as more fully provided in the Declaration;



4.1.7 Employ a manager, an independent contractor and/or such other employees as it deems necessary, and to prescribe their duties; and

4.1.8 Exercise for the Association all powers, duties and authority vested in or delegated to the Association by provisions of these Code of Regulations, the Articles of Incorporation, or the Declaration not specifically reserved thereby to others, including any powers necessary or convenient to carry out its duties and authority. The powers of the Board shall be construed to be as broad as possible.

Section 4.2 Duties. It shall be the duty of the Board of Managers to:

4.2.1 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any special meeting when such statement is requested in writing by Members who together can cast thirty percent (30%) of the votes of the Association;

4.2.2 Supervise all Officers, agents and employees of the Association, and to see that their duties are properly performed, with the Board having full power to hire and fire;

4.2.3 As more fully provided in the Declaration, to:

4.2.3.1 Establish, enforce, levy and collect Assessments as provided in the Declaration;

4.2.3.2 Give written notice of each Assessment to every Member subject thereto within the time limits set forth therein;

4.2.3.3 Foreclose the lien against any property for which Assessments are not paid within a reasonable time after they are authorized by the Declaration to do so, or bring an action at law against the Member(s) personally obligated to pay the same, or both;

4.2.4 Issue, or to cause an appropriate Officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

4.2.5 Procure and maintain insurance as provided in the Declaration, and as the Board deems advisable;

4.2.6 Cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration;

4.2.7 Cause the restrictions created by the Declaration to be enforced; and

4.2.8 Take all actions deemed necessary or desirable to comply with all requirements of law and the Declaration.

Section 4.3 Payment of Common Expenses. The Board shall pay the Association's common expenses; provided, however, that except as otherwise expressly stated in the Association's annual budget, the Board shall not without the prior written consent of a majority of the voting power represented at a meeting of Unit Owners duly called for that purpose: (a) borrow funds in excess of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) for any one item, or more than Fifty Thousand and 00/100 Dollars (\$50,000.00) in the aggregate in any one calendar year; or (b) commence any litigation (except filing certificates of liens or actions to foreclose thereon in the case of a Unit Owner who is delinquent in his Assessments or has otherwise defaulted in his obligations to the Association), the cost of which is reasonably estimated to exceed Five Thousand and 00/100 Dollars (\$5,000.00), including attorneys' fees and court costs.

Section 4.4 Payment of Obligations of Unit Owners.

4.4.1 Taxes. During the first years of the Condominium's existence and until the Units are separately listed for real estate taxes and assessments, the Board may pay real estate taxes and assessments for the Condominium Property when due, calculate each Unit's prorated share thereof based upon percentage of interest, assess the prorated share against each Unit, and bill the Unit Owner(s) and require payment at any time prior to the last day for payment of real estate tax bills as designated by the County Auditor.

4.4.2 Discharge of Mechanic's Liens. If the Board determines that a mechanic's lien or other encumbrance levied or filed against all or part of the Condominium Property may be or become a lien against the Condominium Property or against the Common Areas and Facilities, rather than a lien solely against the interests therein of particular Unit Owner(s), the Board may pay any amount necessary to discharge this mechanic's lien or other encumbrance. This authority shall not limit any statutory provisions relating to the same subject matter.

4.4.3 Maintenance or Repair of Units. If the Board determines that maintenance or repair of any Unit or of any Limited Common Areas and Facilities, which is the responsibility of any individual Unit Owner(s), is necessary to protect or maintain the structural integrity or aesthetic and/or market value of the Common Areas and Facilities or any other portion of a building on the Condominium Property, or to maintain an aesthetically pleasing uniformity in the exterior of any buildings or other structures on the Condominium Property, then the Board shall give the responsible Unit Owner(s) written notice of the Board's determination that this maintenance or repair is necessary, and is to be commenced within ten (10) days of the giving of this notice. If the responsible Unit Owner(s) have not begun this maintenance or repair within ten (10) days, the Board, its employees, agents or contractors, shall have the right and easement to enter said Unit(s) at all reasonable times thereafter in order to make the necessary maintenance or repair, without the Board or its employees, agents or contractors being deemed to have committed a trespass or wrongful act solely by reason of each entry or such action or actions as are carried out in accordance with the provisions of this Section 4.4.3, and the cost of incurred by the Board in

making the necessary maintenance or repair may be assessed to the respective Unit Owner(s) as an Individual Unit Assessment in accordance with Section 7.4 below.

4.4.4 Damage to a Building or other Improvements by a Unit Owner. If a Unit Owner is responsible for any damage or destruction to a building or other improvement now or at any time hereinafter constituting a part of the Condominium Property which is covered under the Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of: (a) the insurance deductible due under the Association's insurance policy; or (b) the cost to repair and/or replace any damage to a building or other improvements, which amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs by the responsible Unit Owner(s) or twenty (20) days after mailing of such notice by certified mail, whichever occurs first.

4.4.5 Default Under Mortgage or Trust Deed. If a Unit Owner defaults in the payment of any moneys required to be paid under any mortgage or trust deed against his or her Unit the Board may cure this default by paying the amount owed to the party entitled to payment.

4.4.6 Discharge of Miscellaneous Obligations. The Board may pay for other obligations properly chargeable against a particular Unit(s), including, but not limited to, payment for special services.

4.4.7 Individual Unit Assessments. The Board shall assess the responsible Unit Owner(s) of any Unit for any costs expended by the Board under this Section 4.4 as an Individual Unit Assessment in accordance with Section 7.4 below. The responsible Unit Owner(s) shall be jointly and severally liable to the Association for any such costs.

Section 4.5 Right to Enter Units. The Board or its agents may enter a Unit, whether or not a Unit Owner is present, (i) after giving notice as required by Section 4.4.3 in connection with maintenance or repair which is the responsibility of the Unit Owner(s), or (ii) without notice, in the event of an emergency.

Section 4.6 Rules and Regulations. The Board may adopt and amend Rules and Regulations for the maintenance, use, conservation, and beautification of the Condominium Property and for the health, comfort, safety, and general welfare of Unit Owners and their families, tenants, and invitees. The Board, or any committee created by the Board, may impose fines on a Unit Owner who violates, or whose family members, tenants or invitees violate the Rules and Regulations. The Board may establish a schedule of fines for particular violations of the Rules and Regulations to be paid by any Unit Owner who violates such Rules and Regulations. Any fines assessed by the Board shall be due and payable on the date the next installment of the Assessment is due. The levying of a fine against a defaulting or delinquent Unit Owner shall not operate as a waiver of any other rights that the Board may have against such Unit Owner pursuant to the Declaration, these Code of Regulations or Chapter 5311 of the Ohio Revised Code.

Furthermore, the Board may adopt and amend Rules and Regulations for the administration of the Association and maintenance of the Condominium Property in order to comply with the underwriting requirements of any institutional lender, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Veterans' Administration, F.H.A., or any other agency which insures loans on condominium units.

Section 4.7 Books and Records. The Board shall keep complete and accurate books and records of account for the Association. The Board shall make the Association's books available for inspection, at any reasonable time for any reasonable and proper purpose when requested by a Unit Owner, Manager, or the agent or attorney of either, or a first mortgagee of a Unit.

The Board shall mail a statement of the amount of any delinquent Assessment or other outstanding charge to a Unit Owner within ten (10) days of receipt by the Board of a written request from the Unit Owner for such a statement. The Board reserves the right to assess a reasonable fee to any Unit Owner for such a statement.

Section 4.8 Annual Review. The Board shall arrange annually for a certified public accountant to review or perform a certified audit of the Association's books. The review, if reasonably possible, shall be completed prior to each Annual Meeting of the Unit Owners. Upon written request, the Board shall provide a first mortgagee with a copy of any annual review report.

Section 4.9 Delegation. The Board may delegate duties and powers to persons or firms of its choice, including a Manager or managing agent. The Board shall supervise any such person or firm in the performance of delegated duties and powers.

Section 4.10 Changes in Exterior Appearance and Maintenance Standards. Before the date when Declarant's control of the Board ends, the Board shall not take any action which would directly or indirectly alter the exterior appearance of any part of the Condominium Property or reduce or discontinue any maintenance standard or practice in effect on the date Declarant's control of the Board ends, without Declarant's prior written consent.

## **SECTION 5** **OFFICERS AND THEIR DUTIES**

Section 5.1 Offices; Qualification. The Association shall have a President, Secretary, and Treasurer (collectively, hereinafter "Officer"). The Board may create and elect or appoint other offices from time to time. The President, Secretary, and Treasurer shall be Managers; any other Officer need not be a Manager but shall be a Unit Owner. The same person may hold two or more offices, excepting the offices of President and Secretary, but no Officer shall execute an instrument in more than one capacity if the signatures of two or more Officers is required by law, the Association's Articles of Incorporation, the Declaration, or the Code of Regulations.

Section 5.2 Election. Prior to the Development Period Special Meeting, the Officers of the Association will be elected by the Board of Managers at the Annual Organizational Board Meetings. Thereafter, the Officers of the Association will be elected by the Board of Managers promptly after the Development Period Special Meeting and at each Annual Organizational Meeting and the persons so elected shall take office immediately upon election.

Section 5.3 Term. An Officer shall serve for a one-year term and until a successor is elected, or until the Officer's earlier resignation, removal from office, or death. An Officer may be reelected for additional terms.

Section 5.4 Special Appointments. The Board may elect or appoint such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5.5 Resignation and Removal. The Board may remove any Officer at any time, with or without cause, by a majority vote of the Managers. Any Officer may resign at any time by an oral statement made at a meeting of the Board or by written notice to the Secretary. Such resignation shall take effect immediately or at the time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

Section 5.6 Vacancies. A vacancy in any office may be filled by appointment of the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he or she replaces.

Section 5.7 Powers and Duties. The powers and duties of Manager shall be as the Board may determine from time to time. Unless the Board determines otherwise, the following Manager shall have the powers and duties set forth below.

5.7.1 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of Unit Owners and at all meetings of the Board. The President may sign all legal instruments authorized by and on behalf of the Association. The President shall see that orders and resolutions of the board are carried out.

5.7.2 Secretary. The Secretary shall record the votes and keep the minutes of all meetings of Unit Owners and of the Board, shall give notice of meetings of Unit Owners and of the Board, shall keep current records showing the names and addresses of Unit Owners and their respective percentages of interest in the Common Areas and Facilities, and shall give each Unit Owner a copy of any Rules and Regulations or amendments thereto, and shall act in the place of the President in the event of his/her absence, inability or refusal to act.

5.7.3 Treasurer. The Treasurer shall receive and be responsible for all money, bills, notes, and similar property of the Association; shall keep correct and complete books and records of account, specifying the receipts and expenditures relating to the Common Areas and Facilities and other common receipts and expenses, together with records showing the allocation, distribu-

tion, and collection of the common profits, losses, and expenses among and from the Unit Owners; and shall prepare an annual budget and annual statement of income and expenditures to be presented to the Unit Owners at the Annual Meeting, with a copy to be mailed or delivered in person to each Unit Owner.

Section 5.8 Reliance on Professional Advice. As long as the Managers and the Officers are acting in good faith, the Managers and Officers may rely upon the advice of professionals hired or retained to advise the Association. It is understood that the Managers and Officers will, likely as not, be unpaid volunteers and will have full-time employment elsewhere.

## **SECTION 6 COMMITTEES**

Committees shall perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Managers present at a meeting at which a quorum is present. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and operate in accordance with the terms of the resolution of the Board designating such committee or with rules adopted by the Board and to the full extent permitted by law.

## **SECTION 7 ASSESSMENTS**

Section 7.1 Types; Duty to Pay. "Common Assessments" shall be assessments charged proportionately against all Units (both residential and garage) for common purposes. A unit's "proportionate share" of a Common Assessment shall be that Unit's percentage of ownership of the Common Areas and Facilities as set forth in the Declaration. At each closing, every purchaser will pay a "Working Capital Assessment" as his/her initial contribution to the working capital of the Association. "Individual Unit Assessments" which are not for common purposes shall be assessments which are properly chargeable to less than all of the Units. A "Special Assessment" may be levied to satisfy an operating deficit or for capital improvements.

The Unit Owner(s) of a Unit shall timely pay any Assessment chargeable to that Unit in accordance with the policy as set by the Board of Managers.

### Section 7.2 Common Assessments.

7.2.1 Annual Estimated Budget. By December 1st of each succeeding year, the Board shall estimate the cost for the next year of all of the common expenses, including, without limitation, the following:

(a) Utility and other services for the Common Areas and Facilities, including, but not limited to, sewer assessments, waste removal, electricity, telephone, heat, power and water;

(b) That portion of the expenses of operating, maintaining, and repairing all portions of the Condominium Property which are the Association's responsibility;

(c) Casualty insurance, as provided in the Declaration, with extended coverage on all of the Condominium Property (the Board shall review the amount of casualty insurance annually);

(d) Liability insurance, as provided in the Declaration, insuring the Association, the Managers, and the Unit Owners against any liability to the public, to Unit Owners, or to Unit Owners' families, tenants, or invitees, incident to the ownership and/or use of the Common Areas and Facilities (the Board shall review the amount of liability insurance annually);

(e) Insurance premiums, if any, to be paid by the Association;

(f) Wages and/or fees of anyone employed by the Board, including, but not limited to, a Manager for the Condominium Property, maintenance and operations personnel, lawyers, accountants, and other professionals;

(g) Postage, materials, supplies, and other expenses of administering the Association;

(h) Any other common expenses designated as such in Chapter 5311 of the Ohio Revised Code or in accordance with the Declaration or the Code of Regulations, or which the Board may determine are necessary and/or desirable to maintain the Condominium Property in first-class condition; and

(i) An amount, to be determined by the Board, to be deposited in a reserve for contingencies and replacements, deferred maintenance, and unexpected and extraordinary expenses ("Reserve Fund").

7.2.2 Proportionate Share; Notice. The Board shall calculate each Unit's proportionate share of the estimated annual budget, thereby establishing the annual Common Assessment for each Unit.

By December 15th of each year the Board shall give the Unit Owner(s) notice of the annual estimated budget and of that Unit's annual Common Assessment, which is to be itemized to show the amount allocated to the Reserve Fund as well as the amount allocated for all other purposes.

7.2.3 Monthly Payments. A Unit's annual Common Assessment shall be payable in equal monthly installments due in advance on the first day of each month. The Board may increase or decrease any monthly Common Assessment amounts for all Unit Owners by not more than fifty percent (50%) to adjust for seasonal changes in the Association's cash flow requirements provided that increases in any month shall be balanced by decreases in other months and vice versa so that the total amount to be paid for the remainder of the year is unchanged.

Section 7.3 Working Capital Assessment. At the closing on the purchase of a residential Unit, the purchaser is required to pay a sum equal to one and one-half (1.5) full months of the initial monthly Common Assessment due on his or her Unit as his or her initial contribution to the working capital of the Association. This amount will be used by the Association for its operating expenses. It is not an advance payment of assessments and will not be held in any sort of trust or reserve account.

Section 7.4 Individual Unit Assessments. The Board of Managers may levy an assessment against an individual Unit, or Units, for any of the following reasons, which shall become due and payable on such date as the Board determines and gives written notice to the Unit Owner subject thereto:

7.4.1 Destruction. Any costs incurred for maintenance or repair caused through the willful or negligent act of a Unit Owner or occupant or their family, tenants, guests or invitees, including attorney fees, court costs and other expenses incurred; and

7.4.2 Violation. Any costs associated with the enforcement of these Code of Regulations, the Declaration or the Rules and Regulations, if any, of the Association, including, but not limited to attorneys fees, witness fees and costs, and court costs.

Section 7.5 Special Assessments. In addition to levying other Assessments authorized herein, and to the extent that the Reserve Fund is insufficient, the Board may levy "Special Assessments" for the following reasons:

7.5.1 Operating Deficit. The amount of any operating deficit incurred in any calendar year may be paid by means of a Special Assessment sufficient in an amount so as to allow the Association to satisfy such deficit in part or in whole provided that any such Special Assessment shall have been authorized by the Board of Managers. So long as the total amount allocable to each Unit does not exceed one hundred twenty percent (120%) of one twelfth (1/12) of the annual Common Assessment for that fiscal year the Board may impose this Special Assessment. If the amount allocable to any Unit should exceed this limitation, the Special Assessment shall then be effective only if approved by a majority vote of the Members present and voting at a meeting duly called for such purpose. Special Assessments shall be paid as determined by the Board and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.



7.5.2 Capital Improvements. To the extent that the reserve fund is insufficient, the Board may levy Special Assessments to construct, structurally alter, or replace capital improvements which are a part of the Common Areas and Facilities, provided that funds shall not be assessed for any capital expenditure in excess of Twenty-Five Thousand Dollars (\$25,000.00) for any one item or in excess of Fifty Thousand Dollars (\$50,000.00) in the aggregate in any one calendar year ("Capital Expenditure Limit") without the prior written consent of Unit Owners having at least seventy-five percent (75%) of the voting power of all Unit Owners and the consent of a majority of all Eligible Mortgagees (as defined in Section 9.1 hereof) or unless expressly stated in the annual budget. The Board shall have the authority to adjust the Capital Expenditure Limit annually to account for inflation, which adjustment shall be effective as of each January (hereinafter referred to as the "Adjustment Date") commencing with January 1, 2002, the Capital Expenditure Limit shall be increased from the Capital Expenditure Limit on the date of the Declaration ("Effective Date") by a percentage equal to the percentage increase, if any, in the Consumer Price Index, All Urban Consumers (CPI-U), (1982-1984=100), All Items, as compiled and published by the Bureau of Labor Statistics, U.S. Department of Labor ("CPI") Date. If after the date of these Code of Regulations, the CPI is converted to a different standard reference base or otherwise revised or ceases to be available, the determination of any new amount shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by any other nationally recognized publisher of similar statistical information selected by the Board. However, the Board of Managers is not limited by these provisions in any way in restoring or replacing damaged or obsolete portions of the Common Areas and Facilities. Until the expiration of the Development Period (as defined in the Declaration) or the date on which Declarant no longer owns a Unit, whichever is earlier, Declarant shall be one (1) of the consenting Unit Owners, or the capital expenditure shall not be made.

The Board shall calculate each Unit's proportionate share of the Special Assessment for capital improvements, and shall give the Unit Owner(s) written notice of the proportionate share and of the date(s) which the Special Assessment is due and payable.

7.6 Status of Amounts Collected. The amounts collected through Common Assessments shall be held and expended for the purposes designated in the Declaration and the Code of Regulations. Except for adjustments reflecting prepaid or delinquent Assessments, the amounts collected shall be deemed held for the Unit Owners in the proportion of their share of Common Areas and Facilities.

Any amount assessed against a Unit which is allocated to the Reserve Fund shall be a contribution to capital, and shall be designated for that purpose on the Association's books and on any Assessment notice. Amounts allocated to the Reserve Fund shall be kept in a separate account. The Board may collect, hold, disburse, or categorize the amounts allocated to the Reserve Fund in any manner necessary to ensure their noninclusion in the Association's taxable income under the Internal Revenue Code, Treasury Regulations and/or rulings of the Internal Revenue Service.

7.7 Common Surplus. If Common Assessments collected in any given year are in excess of the actual common expenses for that year, the Board may (a) return each Unit's proportionate share of the Common Surplus; (b) credit each Unit's proportionate share of the

Common Surplus to each Unit's monthly payment(s) for the annual Common Assessment for the following year; or (c) apply the Common Surplus to the Reserve Fund.

Section 7.8 Common Losses. If, at any time, the Association has insufficient funds to meet its obligations, the Board may (a) return charge unexpected or extraordinary expenses in a given year against the Reserve Fund; and/or (b) levy a Special Assessment to satisfy the deficit in part or in whole.

Section 7.9 Effective Date of Assessment. If notice of an Assessment is sent ten (10) days before the Assessment's due date, the Assessment shall be effective on its due date or on the due date of the first installment if the Assessment is payable in installments.

Section 7.10 Default; Remedies; Association's Lien. The Association shall have a lien upon the estate or interest in any Unit of the Owner thereof and upon his or her percentage of interest in the Common Areas and Facilities for the payment of the portion of the common expenses, attorney's fees and late charges as described in the Declaration chargeable against such Unit which remain unpaid for ten (10) days after the same have become due and payable from the time a certificate therefor, subscribed by the President of the Association, is filed with the Recorder of Warren County, Ohio pursuant to authorization given by the Board of Managers of the Association. Such certificate shall contain a description of the Unit, the name or names of the record Owner or Owners thereof and the amount of such unpaid portion of the common expenses, attorneys' fees and late charges. Such lien shall remain valid for a period of five (5) years from the time of filing thereof and shall not be affected by the sale or transfer of the Unit, unless sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgagees on real property or discharged by the final judgment or order of the Court in an action brought to discharge such lien as hereinafter provided. In addition, each Unit Owner shall be personally liable for all Assessments levied by the Association against his or her Unit while he or she is a Unit Owner.

Any holder of a mortgage or other lien on a Unit may request in writing a written statement from the Board setting forth the unpaid common expenses with respect to the encumbered Unit and, unless the request is complied with within thirty (30) days, the lien for unpaid common expenses which become due prior to the date of the request shall be subordinate to the lien of the encumbrance. Any encumbrancer may pay any unpaid common expense payable with respect to an encumbered Unit and upon that payment the encumbrancer shall have a lien on the encumbered Unit for the amount paid at the priority of the lien of the encumbrance.

In addition to and not in lieu of the other remedies for default provided in this Section 7.10 and elsewhere in the Declaration and Code of Regulations, the Board may restrict or terminate the right to the use of any Recreational Facilities by any Unit Owner in default under this Section 7.10, or by any family member, tenant, or invitee of the defaulting Unit Owner.

Section 7.11 Board Inaction. The Board's failure to prepare an annual estimated budget or to give timely notice of any Assessment shall not release the Unit Owner(s) from the obligation

to pay the Assessment whenever the amount of the Assessment has been determined and written notice has been given.

If the Board's inaction relates to the annual Common Assessment, the Unit Owners shall make monthly payments of the amount previously due until ten (10) days after receipt of written notice of the actual Assessment.

## **SECTION 8** **INDEMNIFICATION OF MANAGERS AND OFFICERS**

A Manager or an Officer shall not be liable to the Unit Owners for any mistake of judgment, or negligent act, except there shall be liability for a Manager's or Officer's individual willful misconduct or bad faith. The Association shall indemnify Managers and Manager, their heirs, executors and administrators, against all losses, costs and expenses, including attorney fees, reasonably incurred by any such person in connection with any action, suit or proceeding to which such person may be made a party by reason of being or having been or being a representative of a Manager or Officer, except as to matters as to which the Manager or Officer shall be finally adjudged in this action, suit or proceeding to be liable for willful misconduct or bad faith. The Board may purchase insurance in the amount it deems appropriate to provide this indemnification, and the cost of this insurance shall be a common expense. In the event of a settlement, indemnification shall be provided only in connection with those matters covered by the settlement as to which the Association is advised by counsel that the Manager or Officer has not been guilty of willful misconduct or bad faith as a Manager or Officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which a Manager or Officer may be entitled. All liability, loss, damage, cost and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated by the Association as common expenses. Nothing in this Section shall be deemed to obligate the Association to indemnify any Unit Owner, who is or has been a Manager or Officer, with respect to any duties or obligations assumed or liabilities incurred by the Unit Owner as a Unit Owner rather than as a Manager or Officer.

## **SECTION 9** **GENERAL PROVISIONS**

Section 9.1 Copies of Notice to Mortgage Lenders and Their Insurers and Guarantors.  
An "Eligible Mortgagee," is any holder, insurer or guarantor of a first mortgage on any Unit who has made written request to the Association listing its name and address and the Unit number and address for timely written notice of all notices permitted or required by the Declaration or these Code of Regulations to be given to the Unit Owners, even if such Unit Owner has waived the right to receive such notice. Eligible Mortgagees shall, pursuant to the terms and provisions of the Declaration, have the right to vote on certain amendments to the Declaration and the Code of Regulations.

Section 9.2 Service of Notices on the Board of Managers. Notice required to be given to the Board of Managers or to the Association may be delivered to any member of the Board of Managers or Officer of the Association either personally or by certified mail addressed to such member or Officer at his residence address.

Section 9.3 Service of Notices on Devisees and Personal Representatives. Notice required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by certified mail to such party at his, her or its address appearing on the records of the Court wherein the estate of such deceased Owner is being administered.

Section 9.4 Nondiscrimination. No Unit Owner (including the Declarant) and no employee, agent, or representative of a Unit Owner shall discriminate on the basis of sex, race, color, creed, or national origin in the sale or lease of any Unit or in the use of Common Areas and Facilities.

Section 9.5 Non-Waiver of Covenants. No delay or failure on the part of the Board and/or on the part of any Officer in exercising any right, power, or privilege or in failing to enforce a covenant, condition, obligation, or provision contained in the Declaration, Articles of Incorporation, Code of Regulations, or Rules and Regulations shall be or be deemed to be a waiver thereof, or be or be deemed to be a waiver of any subsequent exercise of such a right, power, or privilege, or be or be deemed to be a waiver of any subsequent violation or breach of such a covenant, condition, obligation, or provision, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise thereof or preclude the exercise of any other right, power, or privilege. All rights, powers, and privileges given hereunder or at law or in equity are cumulative, and any one or more or all of such rights, owners, and privileges may be exercised simultaneously or consecutively.

Section 9.6 Heirs, Successors and Assigns. These Code of Regulations shall be binding upon and shall inure to the benefit of the Association, the Declarant, the Unit Owners, and the Declarant's and Unit Owners' heirs, successors, and assigns.

Section 9.7 Board's Power to Bind. A lawful agreement or determination made by the Board or an Officer, in accordance with the procedures established in the Declaration and Code of Regulations, shall bind all Unit Owners, their successors, and their assigns.

Section 9.8 Interpretation of Code of Regulations. The Section headings are for convenience only and shall not affect the meaning or construction of the Code of Regulations. A reference to a specific Section without further identification of the document containing that Section is a reference to a Section in the Code of Regulations. Where the context requires, masculine, feminine, and/or neuter terminology shall include the neuter, feminine, and/or masculine.

Section 9.9 Severability. The invalidity of part or all of any provision of the Code of Regulations shall neither impair the validity of nor affect in any manner the Declaration or the rest of the Code of Regulations.

Section 9.10 No Active Business for Profit. These Code of Regulations shall not be construed to give the Association authority to conduct an active business for profit on behalf of one or more Unit Owners.

Section 9.11 Governing Law. The Code of Regulations shall be interpreted and enforced under the laws of the state of Ohio, including, without limitation, Ohio Revised Code Chapter 5311.

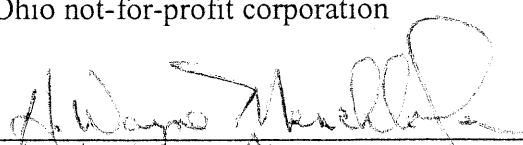
Section 9.12 Perpetuities; Restraints on Alienation. If an option, privilege, covenant, or right created by the Code of Regulations shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rule imposing time limits, then that provision shall continue only until 21 years after the death of the last survivor of the now living descendants of George W. Bush.

Section 9.13 Amendment. These Code of Regulations may be amended from time to time in accordance with the provisions set forth in the Declaration for amendment thereto.

Section 9.14 Conflict. In the case of any conflict between the Articles of Incorporation and these Code of Regulations, the Articles of Incorporation shall control; and in the case of a conflict between the Declaration and these Code of Regulations; the Declaration shall control.

ADOPTED this 7<sup>th</sup> day of August, 2001.

MARIVAL AT WEATHERSTONE CONDOMINIUM  
OWNERS' ASSOCIATION, INC.,  
an Ohio not-for-profit corporation

By:   
Name: H. WAYNE MENCHHOFER  
Title: PRESIDENT