

2024-0020486

DECLARATION Fee: \$302.00 Page 1 of 35

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Lorain County Recorder Mike Doran



BYLAWS

FOR

MALLARDS EDGE HOA

PLEASE CROSS MARGINAL REFERENCE WITH THE MALLARD'S EDGE  
DECLARATION OF RESTRICTIONS, RESERVATIONS, AND COVENANTS  
RECORDED AT INSTRUMENT #2012-0429633 OF THE LORAIN COUNTY  
RECORDS ON SEPTEMBER 24, 2012.

**BYLAWS**  
**FOR**  
**MALLARDS EDGE HOA**

**RECITALS**

- A. On or about September 24, 2012, Mallard's Edge, Ltd, an Ohio limited liability company ("Developer"), recorded the Mallard's Edge Declaration of Restrictions, Reservations, and Covenants ("Declaration"), at Lorain County Records, Instrument #2012-0429633.
- B. The Declaration subjected the real estate described in Exhibit "A" of the Declaration to the covenants, easements, and restrictions contained in the Declaration.
- C. The Mallards Edge ("Association") is a corporation consisting of all Owners in Mallards Edge and as such is the representative of all Owners.
- D. Ohio Revised Code Section 1702.10 requires a set of Bylaws to be drafted, voted on, and adopted by a majority of the Owners at a meeting.
- E. A meeting of the Association's Owners, including any change, adjournment or continuation of the meeting, was held on or about June 13, 2024, and, at the meeting and any adjournment, Owners representing at least a majority of the Association's voting power voted on and adopted the Bylaws.
- F. Owners representing 56.92 percent of the Association's voting power have affirmatively voted in favor of the adoption of a set of Bylaws and have signed powers of attorney authorizing the Association's officers to execute the Bylaws on the Owners' behalf.
- G. The voting records, together with the minutes from said meeting and any continuation thereof, are maintained with the books of the Association.
- H. The Association has complied with the proceedings necessary to adopt the Bylaws as required by Ohio Revised Code Section 1702.10 in all material respects.

**AMENDMENT**


The Bylaws for Mallards Edge HOA are adopted as follows:

**ADOPT BYLAWS PAGES** 1 through 31 as attached.

The Mallards Edge HOA has caused the execution of this instrument this  
11 day of July, 2024.

**MALLARDS EDGE HOA**

By:   
TIMOTHY B. KNOTEK, its President

By:   
SUSAN D. KIRBY, its Secretary

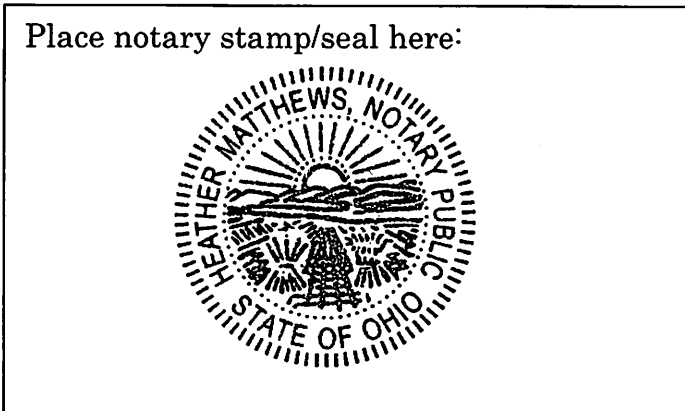
STATE OF OHIO )  
COUNTY OF Lorain ) SS

BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Mallards Edge HOA, 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.

I have hereunto set my hand and official seal in Grafton, Ohio, this 11 day of July, 2024.

Heather Matthews  
NOTARY PUBLIC

Heather Matthews  
Notary Public, State of Ohio  
My Commission Expires:  
May 20, 2028



This instrument prepared by:  
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**BYLAWS  
OF  
MALLARDS EDGE HOA**

BYLAWS OF MALLARDS EDGE HOA

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## BYLAWS OF MALLARDS EDGE HOA

### ARTICLE I

#### DEFINITIONS

Any capitalized term used in these Bylaws has the meaning ascribed to the term in the Declaration and, if not defined in the Declaration, the meaning ascribed to the term below.

(A) **Authorized Communications Equipment** means and refers to any communications equipment that is selected by the Board, in its sole discretion, that provides an electronic communication transmission, including but not limited to, by telephone, video conference, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention and participation of the Member.

(B) **Electronic Voting Technology** means and refers to an electronic voting system that accurately and securely records the voting Member's intent to cast a ballot on a matter in the way identified by the Member, and provides for the counting of electronic votes submitted, including by means of internet, application, web, virtual, or other electronic technology.

### ARTICLE II

#### GENERAL

(A) **Preliminary Statement of Scope and Effect.** These Bylaws of the Mallards Edge HOA, are attached to and made part of the Mallard's Edge Declaration of Restrictions, Reservations and Covenants. The purpose of these Bylaws is to provide for corporate procedures of a homeowners' association for the government of a non-profit corporation that administers the covenants and restrictions applicable to the Mallard's Edge Development, in the manner provided by the Declaration and by these Bylaws. All present or future Owners, tenants, occupants, or anyone else who might use facilities of the Common Elements in any manner, are subject to the covenants, restrictions, provisions, and regulations contained in the Declaration and these Bylaws and are also subject to any restriction, condition, or rule adopted by the Association's Board of Directors. The mere acquisition of any Lot within the Association as described in the Declaration, or the mere act of occupancy of any of the Lots will constitute acceptance and ratification of the Declaration and these Bylaws.

(B) **Association Name.** The Association governed by these Bylaws is an Ohio nonprofit corporation named the Mallards Edge HOA.

(C) **Principal Office and Permanent Files.** The Board will designate the place or location for the Association's principal office to keep and hold the Association's permanent files. The permanent files may be retained in hard copy or electronic formats. Copies of all official books and records must be kept in the Association's permanent files. If the permanent files are in physical format and located at a Director's Residence or electronically by that Director, upon the Director's term's expiration, whether by resignation, removal, or otherwise, the Director has the duty and responsibility to contact the succeeding Director or community association manager, if any, to arrange for the delivery of and access to all Association permanent files within ten business days of the change of Board position.

### ARTICLE III

#### THE ASSOCIATION

(A) **Membership.** Upon acquisition of title to a Lot, each Owner automatically becomes an Association Member. Membership terminates upon the sale or other disposition of the Member's Lot; at which time the successor Owner automatically becomes an Association Member. Any person or entity who holds interest in a Residence or Lot merely as security for the payment of money or performance of an obligation is not a Member. There is one membership per Lot, regardless of the number of Owners of said Lot; collectively all the Owners of a Lot are the "Member."

(B) **Voting Rights.** The Association has one class of voting membership. Each Member is entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, no more than one vote for such Lot is exercised, and such vote may not be divided.

(C) **Voting Methods.** Voting Methods. Depending on the conduct of the meeting, as determined by the Board in accordance with Bylaws Article III, Section (D)(5) voting will be conducted via one of the following methods:

(1) **Voting in Person or by Proxy.** For meetings that are held in person and provide for physical attendance, Members may vote in person or by proxy. The person appointed as proxy need not be a Member of the Association. Each proxy will be executed in writing by the Member entitled to vote and must be returned to the Association by regular mail, hand delivery, electronic mail, or other method of delivery provided for or permitted by the Board. Every proxy will automatically cease upon conveyance of the Lot by the Member.

(2) **Voting by Mail and Electronic Voting Technology.** For meetings that are held via Authorized Communications Equipment, voting will be conducted by mail, through the use of Electronic Voting Technology that is approved by the Board, or both. All matters to be voted on at a meeting utilizing Authorized Communications Equipment must be sent to the Members no later than the date the meeting notice is sent to the Members in accordance with Bylaws Article III, Section (D)(2) and Section (D)(3). Voting via mail or by use of Electronic Voting Technology is considered to be voting at the meeting, as if the Member were physically present.

(3) **Voting in Person, by Proxy, by Mail, and by Electronic Voting Technology.** For meetings that are held in person and provide for physical attendance, the Board may decide that voting will be conducted either in person or by proxy, by mail or Electronic Voting Technology, or any combination of all voting methods permitted in this Section.

Any ballots, regardless of method, received subsequent to the date and time the Board sets for ballots to be turned in will be held invalid. Any costs associated with voting, including mailing costs, printing, Authorized Communications Equipment and Electronic Voting Technology costs and subscriptions, are Association Expenses. The Board may adopt any additional regulations, procedures, or rules as may be necessary to effectuate the intent and purpose of this voting provision to provide for the use of the desired voting method.

**(D) Association Meetings.**

(1) **Annual Meeting.** For the election of the Board of Directors, the presentation of reports, and the transaction of any other business as is set forth in the meeting notice, the Association's annual meeting will be held at a time, at a place, and on a date no later than thirty (30) days prior to the end of the Association's fiscal year as the Board of Directors determines and as stated in the meeting notice; provided that no less than six (6) and no more than 14 months elapses between annual meetings.

(2) **Special Meetings.** Special Meetings may be held on any day when called by: (i) the president, (ii) a majority of the Board acting with or without a meeting, or (iii) Members entitled to exercise at least 25 percent of the Association's voting power that have requested a special meeting, in writing. Upon written request delivered either in person or by certified mail to the president or the secretary by any person(s) entitled to call a special meeting, the officer must set the date, time, and place for the special meeting and cause notice of the meeting to be given to all Members in accordance with Bylaws Article III, Section (D)(3). If the notice is not given within 30 days after the receipt of the request, the person(s) requesting the special meeting may fix the time of the meeting and give notice of

the meeting to all Members in accordance with Bylaws Article III, Section (D)(3). No business other than that specified in the call and as set forth in the notice will be considered at any special meeting. The order of business at each special meeting will be as specified in the notice or agenda for the special meeting.

(3) **Notice of Meetings.** Written notice of each meeting of the Members will be given by, or at the direction of, the secretary or person authorized to call the meeting, delivered in accordance with the methods of delivery permitted in accordance with the Declaration and these Bylaws at least fifteen days before the meeting, to each Member entitled to vote at the meeting. The notice will specify the place, day and hour of the meeting, the specific motion or motions (other than procedural) to be voted upon.

If the meeting is held via Authorized Communications Equipment, the meeting notice must include any pertinent information that is necessary to allow the Member to participate at the meeting via the Authorized Communications Equipment.

(4) **Quorum and Adjournment.** Except as otherwise provided in the Declaration or these Bylaws, the presence at a meeting of Members either in person or by proxy at a physical meeting providing for in person attendance or that attend by using the method of Authorized Communications Equipment, approved by the Board for meetings that are held via Authorized Communications Equipment, constitutes a quorum for any action. Ballots submitted via mail or by Electronic Voting Technology, also will count that Lot towards the quorum. The Board of Directors may adopt procedures and guidelines to permit the Association to verify that the person attending, either in person or by Authorized Communications Equipment, is eligible to vote and to maintain a record of any vote.

(5) **Conduct and Order of Business at Meetings.** Prior to the meeting notice being sent to the Owners in accordance with Bylaws Article III, Section (D)(3), the Board will determine whether the meeting will be conducted physically so that the Owners may attend in person, if the meeting will be conducted by the use of Authorized Communications Equipment, or a combination of both methods.

If Authorized Communications Equipment is employed, the attendees must have the ability to communicate with the other participants to indicate their motion, vote, or statement, provided that the chair or moderator moderating the meeting may silence or mute the Authorized Communications Equipment unless the Owner is voting or has been recognized by the meeting chair or moderator to participate in the meeting. The meeting chair or moderator has the authority to decide and determine all procedural motions or other procedural matters to be decided at the meeting, including points of order and adjournment. The Board must document in the Board's meeting minutes the reason or purpose for

conducting the meeting using Authorized Communications Equipment when meetings are not conducted in person.

(6) **Meeting Minutes.** Minutes must be taken at all Association meetings and will be approved at the following meeting of Members. Copies of the approved minutes will be available for inspection by Members upon reasonable request to the Association.

(7) **Actions Without a Meeting.** Any action which may be authorized or taken at a meeting of the Members, (except the election or removal of Directors, which must be taken at an Association meeting), may be authorized or taken without a meeting in accordance with the voting methods in Article III, Section (C). All voting records will be filed with the Association.

## **ARTICLE IV**

### **BOARD OF DIRECTORS**

(A) **Board of Directors.** The Board constitutes for all purposes the Board of Directors, as provided for by Ohio Revised Code Chapter 5312 and Chapter 1702.

(B) **Number.** The Board of Directors will consist of three or five persons, as further determined by the Members as provided for in this Article.

(C) **Qualifications.** Each Director must be an Owner or the spouse of an Owner, provided that if an Owner is not an individual, that Owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Owner to serve on the Board of Directors. In addition, a trustee or a qualified beneficiary of a trust which owns the Lot is also eligible to serve as a Director. Every Director, for as long as they remain a Director, must also agree to, sign, and abide by any code of conduct or code of ethics (or both) that the Board may adopt.

Directors must be in good standing. "Good standing" means the Director is not an adverse party in any litigation involving one or more of the following parties: the Association, the Board or any Director (in that member's capacity as a Director). Good standing also requires that the Director not be more than 60 days delinquent in the payment of any fees or assessments owed to the Association, and have no current violations of the Declaration or Rules as determined by the Board.

(D) **Modification of Number of Directors.**

(1) Directors will be elected at each Association annual meeting or at a special meeting called for the purpose of election. At the annual or special meeting, only persons nominated as candidates are eligible for election as Directors.

(2) A majority of the Members present in person or by proxy at any Association meeting held for the purpose of electing Directors may approve of a motion, made prior to the election of Directors, to either increase or reduce the number of Directors to five or three persons (the number always being an odd number), as the case may be. In the alternative, the Board may submit a written ballot to Members to vote on the proposed increase or reduction in the number of Directors, in which case a majority of the Association's total voting power must affirmatively consent to approve the proposal. The approval of a motion or consent to the proposal to change the number of Directors will in no event act to decrease the length of the term of any Director whose term is not expiring as of the meeting date at which the motion is approved, or approval of the proposal is reached.

(3) In the event of any vacancy or vacancies on the Board, the remaining Director(s), by a majority vote of their number, may appoint an Association member(s) in good standing until the next annual meeting of the Owners.

(E) **Nominations.** For meetings that allow for voting by mail and Electronic Voting Technology, nominations for the election of Directors to be elected by the Members will be made by a nominating committee appointed by the Board or, if a committee is not appointed, by the Board itself; there will be no nominations from the floor if voting is permitted by mail and Electronic Voting Technology. For meetings that occur in person and voting is only permitted in person or by proxy, nominations will only be accepted from the floor of the meeting. The nominating committee, or Board, will make as many nominations for election to the Board as it, in its discretion, determines, but no fewer than the number of vacancies that are to be filled and will verify that the nominees satisfy all qualification requirements of Bylaws Article IV, Section (C). Any qualified candidate may submit their name to the nominating committee, or Board, as a candidate, and the nominating committee, or Board, must nominate that person if that person satisfies all the qualification. If there are fewer nominees than vacancies, the nominating committee, or Board, must nominate additional person(s) to be elected prior to the ballots being sent to the Members so that there are, at all times, a sufficient number of nominees to fill all Board vacancies that are up for election.

Prior to sending the meeting notice, the nominating committee, or Board, will establish deadlines for when a request for nominations is sent to all Members and when receipt of nominations must be obtained. Nominations must be made and received within a reasonable time period prior to the notice of any meeting where Directors are to be elected is sent in accordance with Bylaws Article III, Section (D)(3), so that the voting information containing all the candidates' names and an informational sheet, within size limitations determined by the Board, containing their biographical information and affirming their candidacy, can be transmitted to the Members no later than the sending of the meeting notice. The Board may adopt any additional regulations, procedures, or rules necessary to establish processes and deadlines in accordance with this nominations provision.

(F) **Election of Directors.** Unless there are no more nominees than vacancies, election to the Board by the Owners is by secret ballot, submitted either in person, by proxy, by mail, or by Electronic Voting Technology. The Association is not required to distribute ballots to the Owners via any method if there are an equal number of nominations as there are candidates, in which case the nominated candidates will automatically be elected to the Board of Directors at the election meeting.

Regardless of the voting method, the Board must adopt rules and safeguards to determine a method by which the secrecy of the ballots is maintained for those Members while also maintaining the integrity of the voting process to ensure each Member has only exercised their allotted vote once so that any other individuals can only identify that a Lot has voted, and not how a Lot has voted. The ballots, whether electronic or written, will list the number of open seats for Directors up for election and list the names of all of the nominated candidates, except for meetings that occur in person and voting is only permitted in person or by proxy.

If voting by mail, ballots must be submitted within dual envelopes. One of the two envelopes must contain the ballot itself, the "Ballot Envelope." The Ballot Envelope need not be signed. The second envelope must contain the Ballot Envelope and the ballot, the "Signature Envelope." The Signature Envelope must be signed by the Member(s) voting, and will be used as a record of receipt of the Member's ballot as well as to determine quorum. If the Signature Envelope is not signed by the Member(s), the ballot in the Ballot Envelope will not be counted.

For the election of Directors, the Members, or their proxies, may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these Bylaws. The persons receiving the largest number of votes will be elected. Unless the nominated candidates who have received the largest number of votes agree otherwise, ties, including if there are an equal number of nominees as there are positions with different terms, will be determined by lot or flip of a coin by the chair or moderator of the meeting. Cumulative voting is not permitted.

The nominating committee, or if a nominating committee is not appointed, the Board itself (excluding any incumbent Directors who are running for re-election), is responsible for (i) confirming all nominated candidates meet the qualifications to serve as a Director, (ii) receiving and verifying any ballots that are cast in person or by mail, (iii) receiving and verifying any ballots cast using Electronic Voting Technology, (iv) counting each ballot submitted through any voting method, and (v) verifying the results of the election by providing the ballots and results to the chair or moderator of the meeting.

The chair or moderator will announce the election results at the meeting to be reflected in the meeting minutes and the Board will ensure the election results are provided to all Members within a reasonable time after the meeting.

**(G) Term of Office; Resignations.**

(1) **Term of Office.** Each Director will hold office until the expiration of their designated term and until their successor is elected, or until the earlier resignation, removal from office or death. All Directors will be elected for a three-year term with staggered elections to facilitate a 1-1-1 or a 2-2-1 rotation, depending on the number of Directors as provided in Section (B) of this Article.

(2) **Resignations.** Any Director may resign at any time by oral statement to that effect made at a Board meeting or in writing to that effect delivered to the Association secretary or president, with the resignation taking effect immediately or at another time as the resigning Director may specify.

**(H) Board Meetings.**

(1) **Organizational Meeting.** Immediately after each annual meeting, the newly elected Directors, and those Directors whose terms hold over will hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of the organizational meeting need not be given.

(2) **Regular Meetings.** Regular Board meetings may be held at the times and places as is determined, from time to time, by a majority of the Board, but at least one meeting will be held per quarter each year. Notice of each regular Board meeting will be given to the Directors in accordance with Bylaws Article IV, Section (H)(5). No Member other than a Director may attend or participate in any discussion or deliberation at a Board meeting unless the Board expressly authorizes Members to attend or participate. Members do not have the right to vote on any issue at Board meetings. If the Board permits Members to attend meetings, nothing herein requires that meetings be held in a place large enough to accommodate all the Members. Members will be granted the right to be heard at any Board meeting, subject to rules established by the Board for the hearings.

(3) **Special Meetings.** Special Board meetings may be held at any time, after notice in accordance with Bylaws Article IV, Section (H)(5), upon call by the president or a majority of the Directors.

(4) **Executive Sessions.** At any regular or special Board meeting, the Board may, by the majority vote of the Directors, adjourn to an executive session for purposes of discussing and/or taking action on matters of confidentiality, including, but not limited to personnel issues/discipline, open contract bid solicitation, pending litigation, or other matters protected by attorney-client privilege or enforcement of the Declaration, these Bylaws, or rules against any Member. Executive session minutes are not available for inspection and/or copying.



(5) **Notice of Meetings.** Notice of the date, time, place, and purpose(s) of each Board meeting will be given to each Director by or at the secretary's direction or by the person(s) calling the meeting. The notice may be given in any manner or method as permitted by Ohio law and these Bylaws and at a time so that the Director receiving it may have a reasonable opportunity to attend the meeting. The notice will, in all events, be deemed to have been proper if given to each Director at least 7 days prior to the meeting. The giving of notice is deemed to be waived by any Director who attends and participates in the meeting and may also be waived in writing or by electronic mail by any Director either before or after the meeting. Unless otherwise indicated in the notice for the meeting, any business may be transacted at any organizational, regular, or special Board meeting.

(6) **Types of Meetings.** Any Board meeting may be held in person or by any method of communication, including by electronic or telephonic means, so long as each Director can hear (or simultaneously read if in electronic format, e.g., internet chat room), participate, and respond to every other Director in real time.

(7) **Voting Power of Board.** Each Director has one vote. The affirmative vote of a majority of the Directors on any matter at a duly called meeting at which a quorum is present will be sufficient to determine any matter. In the event of a tie, the matter does not pass.

(8) **Quorum; Adjournment.** A majority of the Directors will constitute a quorum for the transaction of business, except that a majority of the Directors then in office will constitute a quorum for filling a Board vacancy. Whenever less than a quorum is present at the time and place appointed for any Board meeting, a majority of those present may adjourn the meeting from time to time until a quorum will be present.

(9) **Meeting Minutes.** Minutes will be taken at and for all Board meetings and must be approved by the Board. Copies of the Board-approved minutes, except for those taken during executive sessions, will be available for inspection by Members, upon reasonable request.

(10) **Actions Without a Meeting.** In lieu of conducting a meeting, the Board may take action with the unanimous written consent of the Directors, which written consent may be in electronic form, including by electronic mail or similar mode of communication. Those written consents will be filed with the minutes of the Board meetings.

(I) **Removal of Directors.** The Board, by a majority vote, may remove any individual Board member and create a vacancy on the Board, if:

(1) by order of court the Director has been found to be of unsound mind;

- (2) the Director files for bankruptcy or has been adjudicated bankrupt;
- (3) the Director is or has been convicted of a felony for theft or other theft related crime, including larceny, forgery, false pretenses, fraud, embezzlement, conversion, or any conspiracy related to any such theft related crime, at any time in the past, or convicted of a felony for any other type of crime within the last 10 years;
- (4) the Director is no longer a Member in good standing,
- (5) the Director fails to agree to, sign, or abide by the code of conduct or code of ethics, or
- (6) the Director fails to attend a total of two Board meetings during a calendar year without an excuse acceptable to the Board.

In addition, at any Association meeting duly called at which a quorum is present, any one or more of the Directors may be removed with or without cause by the vote of Members entitled to exercise at least 75 percent of the total voting power, and a successor(s) to such Director(s) so removed by the Members may be elected at the same meeting for the unexpired term for each such removed Board member. Any Director, whose removal has been proposed, will have an opportunity to speak and be heard at such meeting prior to the vote of their removal.

**(J) Compensation.** While serving on the Board, the Directors cannot receive any salary or compensation for their services as a Director. Any Director, however, may be reimbursed for their actual expenses incurred in the performance of their duties, as solely determined by the remaining Directors. If any Director, Director's spouse, immediate family member (defined as any parent, child, or sibling of the Director), employer or company, or any occupant of the Director's Lot, seeks to be retained to perform services for the Association for compensation, the respective Director must disclose the conflict of interest and completely abstain from the Board's decision-making process. If a majority of the Directors have a financial interest in the particular matter, the Board must submit the matter to the Members for approval by a majority of the disinterested Members.

**(K) Powers and Duties.** Except as otherwise provided by law, the Declaration, or these Bylaws, the Board will exercise all the Association's powers and authorities. The Board is responsible for the maintenance, repair, and replacement of the Common Elements. In carrying out the purposes of the Mallards Edge community and subject to the limitations prescribed by law, the Declaration or these Bylaws, the Board, for and on behalf of the Association, may:

(1) exercise for the Association all powers, duties, and authority vested in, or delegated to, this Association pursuant to the Declaration, Articles of Incorporation, these Bylaws, and Ohio Revised Code 5312, unless expressly reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

(2) take all actions deemed necessary or desirable to comply with all requirements in the Declaration, these Bylaws and/or the law;

(3) enforce the covenants and restrictions set forth in the Declaration and these Bylaws;

(4) repair, maintain, and replace the Common Elements and improvements thereon;

(5) establish, enforce, levy, and collect Assessments subject to the provisions of the Declaration and these Bylaws;

(6) adopt and promulgate rules as the Board deems advisable for the maintenance, conservation, and beautification of the Common Elements, and/or for the health, comfort, safety, and general welfare of the Owners and occupants, and/or to govern the operation and use of Mallards Edge or any portion thereof, and to establish a procedure for levying and collecting reasonable enforcement Assessments for any infractions of the rules, these Bylaws, or the Declaration. In the event such rules conflict with any provisions of the Declaration or these Bylaws, the provisions of the Declaration and these Bylaws will govern;

(7) purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, encumber, exchange, transfer, and dispose of any real or personal property as the Board may from time to time reasonably determine is in the Association's best interests;

(8) establish in the Board's sole determination, standards, and/or procedures for the automatic and without notice suspension of the voting rights of the Owner(s) and/or right of the Owner(s) and/or occupant(s) to use amenities during any period in which such Owner(s) is in default. Default means the Owner(s) is more than thirty days delinquent in the payment of any Assessment levied by the Association;

(9) adopt and amend rules that regulate the collection of delinquent Assessments and the application of payments of delinquent Assessments;

(10) impose reasonable charges to the Owner for preparing, recording, or copying of the Declaration, these Bylaws or amendments, or meeting minutes as well as reasonable charges for the handling of re-financing and/or resale certificates, documentation, and/or statements of unpaid Assessments;

(11) authorize the officers to enter into one or more management agreements in order to facilitate the efficient operation of the Mallard's Edge Development;

(12) hire and fire managing agents, attorneys, accountants, and other independent contractors and employees that the Board determines necessary or desirable in the management and/or operation of the Common Elements, and the Association;

(13) make contracts;

(14) grant easements, leases, licenses, and concessions through or over the Common Elements;

(15) impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Members;

(16) impose interest and administrative late fees for the late payment of Assessments, impose returned check charges, and, pursuant to the requirements of the Declaration and Ohio law, impose reasonable enforcement Assessments for violations of the Declaration, these Bylaws, and the rules, and reasonable charges for damage to the Common Elements or other property;

(17) establish operating, escrow, reserve, and other accounts in the Association's name as the Board may deem appropriate from time to time as may be consistent with generally accepted accounting practices;

(18) borrow money, assign, without limitation, the Association's right to future income, including the right to receive Assessments and insurance proceeds, and issue, sell, or pledge notes, bonds, or other evidences of indebtedness of the Association as collateral for any monies borrowed, and execute related documents, provided that any such borrowing will be limited to the purpose of acquiring funds to be used for the management, insurance, maintenance, repair, and/or replacement of the Common Elements, and/or for such capital additions, alterations, and improvements as may be approved by the Members in accordance with the Declaration;

(19) commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, the Mallard's Edge Development, or that involves two or more Members and related to matters affecting the Mallard's Edge Development;

(20) pay the taxes and Assessments levied against the property owned by the Association before they become delinquent;

(21) may, at its sole discretion remove or repurpose improvements located the Common Elements, with majority approval of the Owners;

(22) invest excess funds in investments that meet the standards for fiduciary investments under Ohio law; and

(23) procure and maintain insurance as required by law, the Declaration, these Bylaws, or as the Board deems advisable.

(L) **Fidelity Coverage.** The Board must maintain blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses Association funds. As used in this Section, "person who controls or disburses Association funds" means any individual with authority or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any Association account or deposit, including the following:

(1) A management company's principals and employees;

(2) A bookkeeper;

(3) The Association's president, secretary, treasurer, any other board member, or employee.

All of the following apply to the insurance coverage required by this Section:

(a) Coverage will be for the maximum amount of funds that will be in the Association's custody or its designated agent at any one time plus three months of operating expenses.

(b) The insurance is the Association's property and sole benefit and must protect against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of Association funds.

(c) The policy must include in its definition of “employee” the Association’s manager and the managing agent or provide for this inclusion by an endorsement to the policy.

(d) The policy will name the Association as the insured party and include a provision requiring the policy issuer to provide a ten-day written notice to the Association's president or manager in the event of cancellation or substantial modification of the policy. The Association’s manager or managing agent, if any, will be the designated agent on the policy.

(e) If there is a change in the Association’s manager or the managing agent, then within ten days of the effective start date, the new manager or managing agent must notify the insurer of such change.

**(M) Agreements Binding.** All agreements and determinations lawfully made by the Association, through the Board, in accordance with procedures established in the Declaration and these Bylaws are binding on all Members, their successors, heirs, and assigns.

## ARTICLE V

### OFFICERS

**(A) Election and Designation of Officers.** The Board will elect a president, secretary, and treasurer, each of whom must also be a Director. The Board from time to time may also create other offices and appoint other officers and assistant officers as in its judgment may be necessary who are not Directors, but who are Association Members. Additionally, appointed officers or assistant officers need not be a Director. Any two offices, other than that of president and secretary, may be held by the same person, but no officer can execute, acknowledge, or verify any instrument in more than one capacity.

**(B) Term of Office.** The Association’s officers hold office at the Board’s pleasure, and unless sooner removed by the Board, until the Board’s organizational meeting following the date of their election and until their successors are chosen and qualified. The Board may remove any officer at any time, with or without cause, by a majority vote. A vacancy in any office, however created, will be filled by the Board.

**(C) No Compensation to Officers.** The Association’s officers will not receive compensation for their services. Any officer, however, may be reimbursed for their actual expenses incurred in the performance of their duties, as solely determined by the Board.

(D) **President.** The president is the Association's chief officer and will exercise general executive supervision over the Association's business and affairs and over its officers, subject, however, to the Board's control. The president will preside at all Association and Board meetings unless otherwise assigned by the Board or delegated by the president. The president may execute all authorized deeds, contracts, and other Association obligations. The president has all the powers and duties prescribed by Chapter 5312. The president also has other authority and will perform other duties as the Board may assign to the president or otherwise provided for in the Declaration or these Bylaws.

(E) **Secretary.** The secretary will keep all Association minutes and will attest to the meetings and minutes. The secretary has the authority to execute all deeds, contracts, and other Association obligations approved by the Board and requiring the Secretary's signature; will keep the records as may be required by the Board; and will perform other duties as may be assigned by the Board.

(F) **Treasurer.** The treasurer has general supervision of all finances. The treasurer will receive and have charge of all money, bills, notes, documents, and similar property belonging to the Association, and will do with the same as the Board may require. The treasurer will keep or cause to be kept adequate and correct financial accounts of the Association's business transactions, including accounts of its assets, liabilities, receipts, expenditures, profits, and losses, together with other accounts as may be required, and hold the same open for the Board's inspection and examination. The treasurer will, with the assistance of professionals as needed, have the Association in compliance with all Internal Revenue regulations including but not limited to taxes, issuance of IRS 1099 forms, etc. The treasurer will perform other duties as may be assigned by the Board.

(G) **Delegation of Authority and Duties.** In the absence of any Association officer, or for any other reason the Board may desire, the Board may delegate the powers or duties, of any of the officers as set forth in these Bylaws, to any other officer or to any Director or the Association's managing agent, attorney, accountant, or other professional as the Board may decide. In addition, the Board is generally authorized to control the action of the officers and to require the performance of duties in addition to those mentioned above.

(H) **Committees.** The Board may, by resolution, provide for standing or special committees, as it deems desirable, and discontinue the same at its discretion. Each committee consisting of not less than three members will have such powers and perform such duties, not inconsistent with law, as may be delegated to it by the Board. Each committee will keep full records and accounts of its proceedings and transactions. All action by any committee will be reported to the Board at its meeting succeeding such action and will be subject to control, revision, and alteration by the Board, provided that no rights of third persons will be prejudicially affected. Each committee will fix its own rules of procedure and will meet as provided by such rules as determined by the Board,

and it will also meet at the call of the committee chair or of any two members of the committee. Unless otherwise provided by such rules or by resolutions, the provisions of Article III, Section (D)(3) relating to the notice required to be given of special meetings of the Board will also apply to meetings of each committee. A majority of committee members constitutes a quorum. Each committee may act in writing or by telephone with written confirmation, without a meeting, but no such action will be effective unless concurred in by all committee members. Vacancies in a committee will be filled by the Board, or by the committee chair if so, authorized by the Board.

## ARTICLE VI

### INDEMNIFICATION

(A) **Indemnification of Directors, Officers, and Committee Members.** The Association must indemnify and defend (as provided below): (1) any current or former Association Director, (2) any current or former Association officer, (3) any current or former Association committee member, or (4) any of the Director's, officer's, or committee member's respective heirs, executors, and administrators: against reasonable expenses, including attorney fees, judgments, decrees, fines, penalties, or amounts paid in settlement, actually and necessarily incurred by them in connection with the defense of any pending or threatened action, suit, or proceeding, criminal or civil, derivative or third party, to which they are or may be made a party by reason of being or having been a Director, officer, or committee member provided it is determined, in the manner set forth below, that (i) the Director, officer, or committee member was not and is not adjudicated to have been grossly negligent or guilty of misconduct in the performance of their duty(ies) to the Association; (ii) the Director, officer, or committee member acted in good faith in what they reasonably believed to be in, or not opposed to, the Association's best interest; (iii) in any criminal action, suit, or proceeding, the Director, officer, or committee member had no reasonable cause to believe that their conduct was unlawful and is not convicted of theft or other theft-related crime including but not limited to larceny, forgery, false pretenses, fraud, embezzlement, conversion, or any conspiracy related to any theft-related crime; and (iv) in case of settlement, the amount paid in the settlement was reasonable.



The above determination required will be made by written opinion of legal counsel whom the Board will choose. Until a determination is made, the Director(s), officer(s), or committee member(s) is or are entitled to a defense of the claims by the Association. Notwithstanding the opinion of independent legal counsel, to the extent that a Director, officer, or committee member is successful in defense of any action, suit, or proceeding, or in the defense of any claim, issue, or matter, as the Board so verifies, they must, in that event, be indemnified and reimbursed for any costs and expenses, including legal fees, incurred in the defense. Any defense the Association provides will be by legal counsel the Association's insurance carrier selects or, if not selected by the Association's insurance carrier, a majority of the Directors excluding the accused or threatened Director(s). If a majority of the Directors cannot agree on legal counsel or if all the Directors are accused or threatened in any action, the Board will appoint a special committee of three Owners to select legal counsel to defend the Directors.

**(B) Advance of Expenses.** The Association may advance funds to cover expenses, including attorney fees, with respect to any pending or threatened action, suit, or proceeding prior to the final disposition upon receipt of a request to repay the amounts.

**(C) Indemnification Not Exclusive; Insurance.** The indemnification provided for in this Article is not exclusive but is in addition to any other rights to which any person may be entitled under the Articles of Incorporation, the Declaration, these Bylaws, or rules and regulations of the Association, any agreement, any insurance provided by the Association, the provisions of Ohio Revised Code Chapter 1702.12(E) and its successor statutes, or otherwise. The Association must purchase and maintain insurance on behalf of any person who is or was a Director, officer, or committee member against any liability asserted against them or incurred by them in the capacity or arising out of their status as a Director, officer, or committee member.

**(D) Directors, Officers, and Committee Members Liability.** The Association's Directors, officers, and committee members are not personally liable to the Owners for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith. The Association's and Owners' indemnification includes, but is not limited to, all contractual liabilities to third parties arising out of contracts made on the Association's behalf, except with respect to any contracts made in bad faith or contrary to the provisions of the Declaration or these Bylaws. Every contract or agreement approved by the Board and made by any Director, officer, or committee member is made only in the Director's, officer's, or committee member's capacity as a representative of the Association and has no personal liability under the contract or agreement (except as an Association Member).

**(E) Cost of Indemnification.** Any sum paid or advanced by the Association under this Article constitutes an Association Expense. The Board has the power and the responsibility to raise, by special assessment or otherwise, any sums required to discharge the Association's obligations under this Article; provided, however, that the liability of any Owners arising out of the contract made by any Director, officer or committee member, or out of the aforesaid indemnity in favor of the Director, officer, or committee member is limited to the proportion of the total liability as the Owner's pro rata share bears to the total percentage interest of all the Owners as Association Members.

## ARTICLE VII

### ASSESSMENTS

**(A) Financial Classifications.** The Board will create and charge the Association's receipts and expenditures to accounts according to the following classification as is appropriate, all of which expenditures are Association Expenses:

**(1) Operating Expenses.** Operating expenses include all receipts and expenditures within the year for which the budget is made, including a reasonable allowance for contingencies, and working funds to provide for sufficient cash flow for operating expenses, except expenditures for reserves accordingly to (2) below, for additional improvements or to operations.

**(2) Reserves for Replacement.** Reserves for replacement include funds for major repairs or replacements of the Common Elements required because of damage, depreciation, or obsolescence in the normal course of operations without the necessity of special assessments, unless the Owners, exercising not less than a majority of the voting power of the Association, waive the reserve requirement in writing annually.

**(B) Determination of Assessments.** The Board will fix and determine from time to time the sum(s) necessary and adequate for the Association Expenses. Association Expenses include the expenses described in the Declaration, in Bylaws Article VII, Section (A) above, the carrying out of the Association's powers and duties enumerated in Article VIII below, and any other expenses designated from time to time by the Board.

**(C) Notice and Payment of Assessments.** When the Board determines the amount of any Assessment, the Board will notify each Member of the Assessment. All Assessments are payable to the Association. The Association may provide Members the opportunity for electronic, automatic payments of their Assessment if the Board determines it is in the Association's best interests. Assessments will be levied against Lots and their corresponding Member in an amount not less than required to provide funds in advance for payment of all of the anticipated current Association Expenses and for all of the unpaid Association Expenses previously incurred.

**(D) Obligation to Pay Assessments.** Each Member must pay their proportionate share of the Association Expenses as assessed against their Lot(s). Payment of Assessments will be made in amounts and at times as the Board may determine. The obligation to pay any Assessment is a separate and independent covenant on the part of each Member. No diminution or abatement of Assessments or set-off can be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board according to the Declaration or these Bylaws, or for inconvenience, discomfort, or dislocation arising from the making of repairs or improvements that are the Association's responsibility, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

**(E) Preparation of Budget, Annual Assessments.** The Board will prepare a budget, which will be based on its estimate of the total amount (the "estimated cash requirement") that will be required during the ensuing calendar year to pay the Association Expenses, including a reserve for contingencies and replacements adequate to repair or replace major capital items in the normal course of operations without the need for special assessments. The aggregate amount of the estimated cash requirement will become an Assessment against the Members, with the share of Assessment against each Lot being equal. The Assessment will be due and payable by each Member as the Board may stipulate.

**(1) Budget Shortfall.** If the amount of the annual budget proves to be inadequate for any reason, including non-payment of any Member's Assessment, the Board may assess the deficiency against the Lots and Members and the Board will give notice of the additional Assessment to all Members, indicating the reasons for the additional Assessment, the amounts payable, and the adjusted amount reflecting the additional Assessment thereafter payable by each Member.

**(2) Budget Surplus.** If, at any time, the Board determines that the Association has collected a surplus at the end of any fiscal year, the amount must, at the Board's sole discretion, be either credited promptly after the same has been determined to the installments next due in the current year's Assessment until exhausted or applied toward reserves. Any and all interest earned on any reserves, savings, Assessments, or other fees or monies held by the Association must be first charged against the Association expenses as the Board determines is in the Association's best interest, and then to other purposes as the Board so determines.

**(F) Year End Financial Summary.** On or before the date of the annual meeting, the Board will supply all Members with an itemized accounting of the Association Expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected in accordance with the budget estimate(s) provided, by special Assessments, or otherwise, and showing the net amount over or short of the actual expenditures plus reserves.

**(G) Capital Additions, Alterations, and Improvements.** Notwithstanding anything in these Bylaws or in the Declaration that authorizes expenditures, no single expenditure exceeding 20 percent of that year's estimated budget, as determined in accordance with Bylaws Article VII, Section (E) above, will be made by the Board for any Common Element additions or improvements (as distinguished from maintenance, repair, or replacement), without the prior approval of Association Members entitled to exercise a majority of the voting power of all Association Members present in person or by proxy at a meeting. If the approval is obtained, the Board will proceed with the additions, alterations or improvements and will assess all Lots for the cost as an Association Expense. The limitations on expenditures by the Board contained in this Section will not apply to Mallard's Edge Development repairs due to casualty loss; emergency repairs immediately necessary for the preservation and safety of the Mallard's Edge Development; for the safety of persons; to maintain compliance with any applicable local, state, or federal codes, ordinances, laws, rules or regulations, or to avoid suspension of any necessary services.

**(H) Failure to Prepare Annual Budget or Make Current Assessments.** In the absence of any annual estimated cash requirement of Association Expenses, including required reserves, or of any budget or Assessments based thereon, Members will continue to pay the Assessments for their Lots at the existing rate established for each Member then in effect, until the first maintenance payment becomes due, pursuant to a new Assessment covering the current period duly made by the Board.

**(I) Status of Funds Collected by Association.** All funds collected will be held and expended solely for the purposes designated herein, and, except for the special assessments as may be levied against less than all the Members and the Lots and for such adjustments as may be required to reflect delinquent or prepaid Assessments, will be deemed to be held for the use, benefit, and account of all the Members. All sums the Association collects from Assessments may be commingled in a single fund, or divided into more than one fund, as determined by the Board. All Assessment payments by a Member will be applied as provided in these Bylaws and in the Declaration.

**(J) Annual Review.** The Association's books will be reviewed once a year by the Board and the review of the prior year will be completed prior to the end of the second quarter. In the event a majority of the Directors or a sixty percent vote of all the Members request a review of the books be made by a certified public accountant, the review will be conducted as an Association Expense.

**(K) Cost of Collection.** Members who fail to pay any assessment(s) within 15 days after the same have become due and payable, are liable for any late charges as established by the Board and for any and all costs and expenses the Association incurs, including attorneys' fees, recording costs, title reports, and court costs, in connection with the collection of said assessment(s) and any other charges or monies the Member owes to the Association. A Member is further liable for all costs and expenses the Association

incurs in any action in which the Association is named as a party by any mortgagee or other creditor of the Member.

## ARTICLE VIII

### GENERAL POWERS

(A) **Payments as Association Expenses.** The Association, through its Board of Directors, for the benefit of all the Members, will acquire and will pay for, out of the Association's funds, all Association Expenses arising with respect to, or in connection with, the Mallard's Edge Development and the Association. In addition to the provisions in the Declaration and these Bylaws, the Association's expenses may include the following:

(1) **Utilities and Related Facilities.** The cost of water, waste removal, electricity, gas, telephone, cable television, heat, power, or any other necessary utility service, if any, to the Common Elements.

(2) **Insurance.** Premiums upon a policy(ies) of fire insurance, with extended coverage, vandalism, and malicious mischief endorsements, covering the Common Elements and excluding the Lots; the limits of the insurance policy(ies) will be reviewed annually.

(3) **Liability Insurance.** Premiums upon a policy(ies) insuring the Association, the Directors, the manager or managing agent (if any), and the Members and occupants against any liability to the public or to the Members, their tenants, invitees, and licensees, incident to the use of the Common Elements as provided in the Declaration, the limits of which policy(ies) will be reviewed annually.

(4) **Other Insurance.** Premiums for other insurance, including fidelity bonds or insurance, effected in accordance with the provisions of the Declaration or these Bylaws.

(5) **Workers' Compensation.** The cost(s) of workers' compensation insurance to the extent necessary to comply with any applicable laws.

(6) **Wages and Fees for Services.** The wages and fees for services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a manager or managing agent for the Association (if any), the services of any person(s) required for the Mallard's Edge Development's maintenance or the Association's operations, and legal and/or accounting services necessary or proper in the Association's operation or the enforcement or interpretation of the Declaration, these Bylaws, and rules, and for the organization, operation, and enforcement of the Association's rights.

(7) **Reasonable Care of Common Elements.** The cost of reasonable Common Element landscaping, gardening, snow removal, cleaning, maintenance, decorating, repair, and replacements that the Association is responsible for, as provided for in the Declaration, and the furnishings and equipment for the portions of the Common Elements, all as the Board determines are reasonably necessary and proper.

(8) **Additional Expenses.** The cost and expense of any other materials, supplies, furniture, labor, services, maintenance, repairs, insurance, or Assessments that the Association is required or permitted to secure or pay for pursuant to the terms of the Declaration and these Bylaws, or by law, or which, in the Board's opinion, are necessary or proper for the Mallard's Edge Development's maintenance and the Association's operation as a first class community association, or for the enforcement or interpretation of the Declaration, these Bylaws, or the rules.

(B) **No Active Business to be Conducted for Profit.** Nothing will be construed to give the Association authority to conduct an active business for profit, but this will not preclude the Association from entering into contracts, licenses, and/or concession agreements, affecting parts or uses of the Common Elements that result in the production of income for the Association.

(C) **Acquisition, Lease, Sale, or Exchange of Real Property.** Whenever the Board determines to acquire, sell, or exchange real property, the Board will submit the acquisition, sale, or exchange to a Membership vote, and, upon the affirmative vote of Members entitled to exercise not less than a majority of the Association's voting power present in person or by proxy at an annual meeting or a special meeting duly held for the purpose, the Board may proceed with the acquisition, sale, or exchange, in the Association's name and on behalf of all Members, and the costs and expenses incident thereto will constitute an Association Expenses.

(D) **Utility Contracts.** The Board, on the Association's and Members' behalf, individually or collectively, may negotiate and enter into contracts or other agreements with any utility service provider to provide for the services and service rates to the Common Elements or optional services and rates to the Members, as the Board determines is in the Association's best interests.

Additionally, the Board may arrange for the provision of any special services, including cable, internet, telephone, maintenance, cleaning, or other concessions and services for a Lot ("Special Services"). The Board may contract for Special Services to all Lots for the benefit of all the Owners and occupants, as the Board in its business judgment discretion desires. The Board will determine whether the cost of any Special Service(s) is to be included and assessed to every Lot as an equal, proportionate share of the bulk rate cost of the Special Service(s) or as an Association Expense assessed against all Lots as

part of the annual operating assessment. If the Board enters into a contract for Special Services that applies to all Lots, the Board may restrict an Owner from separately contracting for similar services from another provider or contractor. In addition, the Board may also arrange for Special Services for only individual Lots that an Owner may elect to participate in, and the Board will determine the cost and fees for the Special Services, which will be charged directly to only the participating Owners as a special individual assessment.

## ARTICLE IX

### BOOKS AND RECORDS

The Board may adopt rules and regulations establishing reasonable standards for the examination and copying Association's records, which may include standards and limitations governing the type of documents that are subject to examination or copying, limitations on the use and distribution of the records, the times and locations at which the documents may be examined or copied, and a reasonable fee for the examination or copying of the documents. In the absence of any rules and regulations and subject to the limitations of Chapter 5312, any Member, or their mortgagee, may, for reasonable identified purpose, during normal business hours and following a reasonable, prior written request to the Board, examine or copy the Association's records. The reasonable fee can include copying, handling, transmitting, mailing, labor, and inspection oversight costs. Any questions or concerns about an account, the Association's records, including any aspect of the Association's income, expenses, or other financial matter, or the administration, maintenance, or operation of the Association or the community must be submitted to the Association in writing.

The Association will not permit examining or copying of any of the following from books, records, or minutes, or any other documents pertaining to the following, unless expressly approved by the Board:

- (A) information that pertains to property-related personnel matters;
- (B) communications with legal counsel or attorney work product pertaining to potential, threatened, or pending litigation or other property-related matters by attorney-client privilege;
- (C) information pertaining to contracts or transactions currently in negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- (D) information that relates to the enforcement of the Declaration, these Bylaws, or rules and regulations against an Member;

- (E) the disclosure of information prohibited by state or federal law; or
- (F) records that date back more than five years prior to the date of the request.

## ARTICLE X

### NOTICES AND OTHER ACTIONS AND COMMUNICATIONS

Notices and Other Actions and Communications: For all notices to be sent to the Association, the Board, or the Owners, the following provisions apply:

(A) **Service of Notices on the Association and Board.** All notices required or permitted by the Declaration or Bylaws, to the Association or the Board, must be made in writing and sent either:

- (1) by regular U.S. mail, first-class postage prepaid, or
- (2) delivered in accordance with Section (C) below, to the Board President, to any two other Directors, to the Association at the address of the Mallard's Edge Development, to the Association's manager or management company, if any, the Association's statutory agent registered with the Ohio Secretary of State, or to any other address as the Board may designate by written notice to all Owners.

(B) **Service of Notices on Owners.** All notices required or permitted by the Declaration or Bylaws to any Owner will be in writing and is deemed effectively given if it has been sent by one of the following methods:

- (1) personally delivered to the Owner,
- (2) placed under or attached to the front or main entry door of the Owner's Residence,
- (3) sent by regular U.S. mail, first-class postage prepaid, to the Owner's Lot address or to another address the Owner designates in writing to the Board, or
- (4) delivered in accordance with Section (C) below.

If there is more than one person owning a single Lot, a notice given to any one of those several persons is deemed to have been given personally to all of the persons owning an interest in the Lot.



**(C) New Communication Technologies.**

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

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

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

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

(2) The use of electronic mail or other transmission technology is subject to the following:

(a) The Association may use electronic mail or other transmission technology to send any required notice only to Owners, individually or collectively, who have given the Association written consent to the use of electronic mail or other transmission technology. Any Owner who has not given the Association written consent to use of electronic mail or other transmission technology will receive notices, including any notice of delinquency of any payment due, by either of the methods identified in Section (B)(1)-(3), above.

(b) For voting on matters, the Association may provide for voting by electronic mail or other electronic voting technology. However, voting for the election of Directors can be conducted by electronic mail or other electronic voting technology only to the extent, if any, as explicitly permitted and provided for in the Bylaws.

(c) An electronic mail or transmission technology to an Owner is not considered delivered and effective if the Association's transmission to the Owner fails, e.g. the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Owner becomes known to the person responsible for sending the transmission. If the electronic mail or transmission is not delivered or effective, the Association will deliver the notice or other communication to the Owner by either of the methods identified in Section (B)(1)-(3), above.

(D) **Copies of Notice to Mortgagees.** Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Lot will be given a copy of any and all notices permitted or required by the Declaration or these Bylaws. Any mortgagee may from time to time, request in writing, a written statement from the Board setting forth any and all unpaid Assessments due and owing from its mortgagor Member with respect to the Lot subject to the lien of its mortgage and the request will be complied with within twenty (20) days from receipt of the request.

## ARTICLE XI

### AMENDMENTS

These Bylaws may be amended by the affirmative written vote of the Members, exercised at a meeting or without a meeting by signed, written consent, entitled to exercise not less than the 75 percent of the Association's voting power. Upon the adoption of any amendment, the president and secretary will file with the Recorder of Lorain County an instrument executed with the same formalities, containing the amendment being made, the volume and pages of the original being amended, and a certification that the amendment was duly adopted in accordance with all required provisions.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

(A) **Non-Waiver of Covenants.** No covenants, restrictions, conditions, obligations, or provisions contained in these Bylaws are abrogated or waived by reason of any failure to enforce them, irrespective of the number of violations or breaches that may occur.

(B) **Agreements Binding.** All agreements and determinations lawfully made by the Association, through the Board, in accordance with procedures established in the Declaration and these Bylaws are binding on all Members, their successors, heirs, and assigns.

(C) **Severability.** The invalidity of any covenant, restriction, condition, limitation, or any other provision of these Bylaws, or of any part of the same, will not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws.

(D) **Construction.** Wherever the plural form of a pronoun is used in this Declaration or the attached Bylaws, it will be construed to mean the masculine, feminine, or neuter, singular or plural, as the context so requires. As used in this Declaration and the Bylaws, the following applies:

(1) The word “will” indicates a mandatory obligation to do or not do a given action; the word “will” meaning the same as “must,” “shall,” or “is required to,” unless specifically provided for otherwise in the context it is used.

(2) The words “they,” “their” “them,” and the like are used as both plural and singular pronouns, which include and encompass the singular “he,” “she,” “his,” “her,” “him,” and the like.

(3) The words “include,” “includes,” and “including” mean “including, but not limited to,” “including, without limitation,” and any other variation of those phrases.

**(E) Captions.** The captions used in these Bylaws are inserted solely as a matter of convenience and will not be relied upon and/or used in construing the effect or meaning of any of the text.

**(F) Interpretation.** These Bylaws will be construed according to the fair meaning of the language used and not strictly construed against the Association, the Board, or any Member.

**(G) Scrivener Errors.** Scrivener reserves the right to make corrections or changes in these Bylaws that arise due to typographical mistakes or scrivener errors. The changes may be made by scrivener despite the fact it does not have a voting power but will only be done if the changes do not materially affect the rights or interest of anyone else.

**(H) Perpetuities and Restraints on Alienation.** If any options, privileges, covenants, or rights created by this Declaration are unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law imposing time limits, then the provision will continue only until twenty-one years after the death of the survivor of the now living descendants of Governor of the State of Ohio, Mike DeWine.