

**AMENDMENTS TO THE**  
**DECLARATION OF CONDOMINIUM OWNERSHIP**  
**FOR**  
**THE MCALPIN ON FOURTH CONDOMINIUM**

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION OF  
CONDOMINIUM OWNERSHIP FOR THE MCALPIN ON FOURTH  
CONDOMINIUM RECORDED AT OFFICIAL RECORDS VOLUME 10521, PAGE  
2567 ET SEQ. OF THE HAMILTON COUNTY RECORDS.

**AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
THE MCALPIN ON FOURTH CONDOMINIUM**

**RECITALS**

- A. The Declaration of Condominium Ownership for The McAlpin on Fourth Condominium (the "Declaration") and the Bylaws of The McAlpin on Fourth Condominium Unit Owners' Association, Inc., (the "Bylaws"), were recorded at Hamilton County Records Official Records Volume 10521, Page 2567 et seq.
- B. Ohio Revised Code Section 5311.05(E)(1)(c) authorizes the Board of Directors (the "Board"), without a vote of the Unit Owners, to amend the Declaration "to bring the Declaration into compliance with this Chapter."
- C. The Board approved the following matters to be modified (the "Amendments") to bring the Declaration into compliance with Ohio Revised Code Chapter 5311 ("Chapter 5311").
- D. Each of the changes set forth in these Amendments are based on or in accordance with Chapter 5311.
- E. The proceedings necessary to amend the Declaration and Bylaws as permitted by Chapter 5311 and the Declaration have in all respects been complied with.

**AMENDMENTS**

The Declaration of Condominium Ownership for The McAlpin on Fourth Condominium is amended by the Board of Directors as follows:

- (1) **INSERT a NEW DECLARATION ARTICLE IX, SECTION 9.3(F).** Said new addition to the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

(F) Within 30 days following a hearing at which the Board imposes a charge or assessment, the Association will deliver a written notice of the charge or assessment to the Unit Owner. The Association will deliver any written notice required above to the Unit Owner or

any Occupant of the Unit by personal delivery, by certified mail, return receipt requested, or by regular mail.

- (2) MODIFY the 4<sup>th</sup> SENTENCE of BYLAWS ARTICLE IX, SECTION 9.5. Said modification to the Bylaws, Exhibit E of the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is: (deleted language is crossed out; new language is underlined)

The Association shall file a certificate for such lien with the Recorder of Hamilton County, Ohio pursuant to authorization given by the Board of Directors, which shall contain a description of the Unit, the name or names of the Unit Owner or Owners and the amount of such unpaid portions of the assessments and ~~shall~~ will be subscribed by the President or other authorized ~~officer~~ representative of the Association.

- (3) MODIFY BYLAWS ARTICLE IV, SECTION 4.1. Said modification to the Bylaws, Exhibit E of the Declaration as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is: (deleted language is crossed out; new language is underlined)

4.1. Number. The affairs of this Association shall be managed by a Board of three (3) Directors. Except for those persons elected or appointed by Declarant, each Director shall be the owner, ~~or the spouse of a Unit Owner~~, of an interest in a Unit of the Condominium Property. If a Unit Owner is not an individual, that Unit Owner may nominate for the Board of Directors any principal, member of a limited liability company, partner, director, officer, or employee of that Unit Owner. The majority of the Board will not consist of Unit Owners or representatives from the same Unit unless authorized by a resolution adopted by the Board of Directors prior to the Board majority being comprised of Unit Owners or representatives from the same Unit.

- (4) INSERT a NEW PARAGRAPH to the end of DECLARATION ARTICLE XIII, SECTION 13.4. Said new addition to the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

The Association may initiate eviction proceedings to evict any tenant, for any violation of the Declaration, Bylaws, rules and regulations, or applicable laws, by the tenant, any Occupant of the Unit, or the owner of the Unit. The Association, as the Unit Owner's agent, will bring such action in the name of the Unit Owner(s). In addition to any procedures required by State law, the Association will give the Unit Owner(s) at least 10 days written notice of the intended eviction action. The costs of any eviction action, including reasonable attorneys' fees, will be charged to the Unit Owner(s) and the subject of a special Assessment against the offending Unit Owner and made a lien against that Unit.

(5) INSERT a NEW PARAGRAPH to the end of DECLARATION ARTICLE XI, SECTION 11.3(A). Said new addition to the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

The Association will credit payments made by a Unit Owner in the following order of priority:

- (A) First, to interest owed to the Association;
- (B) Second, to administrative late fees owed to the Association;
- (C) Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- (D) Fourth, to the principal amounts the Unit Owner owes to the Association for the common expenses or enforcement Assessments chargeable against the Unit.

(6) INSERT a NEW DECLARATION ARTICLE XI, SECTION 11.7, entitled "Suspended Rights." Said new addition to the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

11.7 Suspended Rights. When a Unit Owner is delinquent in the payment of Assessments for more than 30 days, the Board may, by a majority vote, suspend the right of the Occupants to use the recreational facilities.

(7) INSERT a NEW DECLARATION ARTICLE XIII, SECTION 13.17, entitled "Owner/Resident Information." Said new addition to the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

**13.17 Owner/Resident Information.** Each Unit Owner must, within 30 days of the recording of this Amendment or within 30 days of title transferring to the Unit Owner, provide to the Association the Unit Owner's and all Occupants' names, home and business mailing addresses, home and business telephone numbers, and the name, business address and business telephone number of any person who manages the Unit as an agent of that Unit Owner. Any change in the information must be provided to the Board, in writing, within 30 days of said change.

(8) INSERT a NEW PARAGRAPH to the end of BYLAWS ARTICLE X, SECTION 10.2. Said addition to the Bylaws, Exhibit E of the Declaration as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

The Board may impose reasonable charges to the Unit Owner for providing copies of the Declaration, Bylaws, or amendments thereto as well as reasonable charges for the handling of re-financing or resale documentation, and statements of unpaid Assessments. The Association, as determined by the Board, is not required to permit the examination and copying of any of the following from books, records, and minutes:

- (A) Information that pertains to Condominium Property-related personnel matters;
- (B) Communications with legal counsel or attorney work product pertaining to pending litigation or other Condominium Property-related matters;
- (C) Information that pertains to contracts or transactions currently under 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, Bylaws, or Association rules against Unit Owners;
- (E) Information the disclosure of which is prohibited by state or federal law.
- (F) Records that date back more than five years prior to the date of the request.

(9) INSERT a NEW PARAGRAPH to the end of BYLAWS ARTICLE V, SECTION 5.3. Said new addition to the Bylaws, Exhibit E of the Declaration as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

Any Board meeting may be held in person or by any method of communication, including electronic or telephonic communication, as long as each Director can hear, participate and respond to every other Director. In lieu of conducting a meeting, the Board may take action with the unanimous written consent of the Directors. Those written consents will be filed with the Board meeting minutes.

(10) INSERT a NEW SENTENCE to the end of DECLARATION ARTICLE XI, SECTION 11.2. Said new addition to the Declaration as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

If the Association has collected a Common Surplus at the end of any fiscal year, the Board may determine that such amount will be applied toward reserves.

(11) INSERT a NEW BYLAWS ARTICLE VI, SECTION 6.1(F). Said new addition to the Bylaws, Exhibit E of the Declaration as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is:

(F) In addition to all other powers enumerated herein, the Board may exercise all powers of the Association, including the power to do the following:

(i) Hire and fire managing agents, attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management and operation of the Condominium Property and the Association;

(ii) Commence, defend, intervene in, settle, or compromise any civil, criminal, land use planning, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Condominium Property, or that involves two or more Unit Owners, impacts zoning, or otherwise relates to matters affecting the Condominium Property;

(iii) Enter into contracts and incur liabilities relating to the operation of the Condominium Property;

(iv) Adopt rules that regulate the use or occupancy of Units, the maintenance, repair, replacement, modification, and appearance of Units, Common Elements, and Limited Common Elements when the actions regulated by those rules affect Common Elements or other Units;

(v) Grant easements, leases, licenses, and concessions through or over the Common Elements;

(vi) Impose and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Unit Owners;

(vii) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law.

(12) INSERT A NEW DECLARATION ARTICLE XIV, SECTION 14.10 entitled "Notices to Unit Owners." Said new addition to the Declaration, as recorded at Hamilton County Records Official Records Volume 10521, Page 2567 et seq., is:

14.10 Notices to Unit Owners. All notices required or permitted by the Declaration or Bylaws to any Unit Owner will be in writing and is deemed effectively given if it has been sent by regular U.S. mail, first-class postage prepaid, to their Unit address or to another address the Unit Owner designates in writing to the Board, or delivered using electronic mail subject to the following:

(1) The Association may use electronic mail or other transmission technology to send any required notice only to Unit Owners, individually or collectively, who have given the Association written consent to the use of electronic mail or other transmission technology. Any Unit Owner who has not given the Association written consent to use of electronic mail or other transmission technology will receive notices by either regular mail or hand delivered.

(2) An electronic mail or transmission technology to a Unit Owner is not considered delivered and effective if the Association's transmission to the Unit Owner fails, e.g. the Association receives an "undeliverable" or similar message, or the inability to deliver the transmission to the Unit Owner becomes known to the person responsible for sending the transmission. If the electronic mail or transmission is not delivered or effective, the Association will deliver the notice or other communication to the Unit Owner by either regular mail or hand delivered.

(13) MODIFY BYLAWS ARTICLE IX, SECTION 9.2(A). Said modification to the Bylaws, Exhibit E of the Declaration, as recorded at Hamilton County Records, Official Records Volume 10521, Page 2567 et seq., is: (deleted language is crossed out; new language is underlined)

(A) For the twelve-month period immediately following the conveyance of the first Unit to an Owner Unit, the Board of Directors shall fix the annual assessment, including reserve funds, in an



amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the Unit Owners, exercising not less than a majority of the voting power of the Association, waive the reserve requirement in writing annually, payable in equal monthly installments.

Any conflict between the above provisions and any other provisions of the Declaration and Bylaws will be interpreted in favor of the above amendments. The invalidity of any part of the above provision will not impair or affect in any manner the validity or enforceability of the remainder of the provision. Upon the recording of these amendments, only Unit Owners of record at the time of such filing have standing to contest the validity of these amendments, whether on procedural, substantive or any other grounds, provided further that any such challenge must be brought in the court of common pleas within one year of the recording of the amendments.

The McAlpin on Fourth Condominium Unit Owners' Association, Inc. has caused the execution of this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

THE MCALPIN ON FOURTH CONDOMINIUM UNIT OWNERS'  
ASSOCIATION, INC.

By: \_\_\_\_\_  
CLAIRE LONG, President

By: \_\_\_\_\_  
TRACY CAVENDER, Secretary

STATE OF OHIO                    )  
  )       SS  
COUNTY OF HAMILTON        )

**BEFORE ME**, a Notary Public, in and for said County, personally appeared the above named The McAlpin on Fourth Condominium Unit Owners' Association, Inc., by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on page 9 of 10, and that the same is the free act and deed of said corporation and the free act and deed of them personally and as such officers.

I have set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
**NOTARY PUBLIC**

**This instrument prepared by:  
KAMAN & CUSIMANO, LLC  
Attorneys at Law  
11311 Cornell Park Drive  
Cincinnati, Ohio 45242  
(513) 878-1771  
ohiocondolaw.com**

**Place notary stamp/seal here:**

## LEGAL DESCRIPTION

Situated in the City of Cincinnati, Hamilton County, Ohio and being Unit 101, 102, 103, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 601, 602, 604, and 605 Of the McAlpin on Fourth Condominium (the "Condominium") as shown in The Declaration of Condominium Ownership as shown in Official Record Book 10521 Page 2567 et seq. and as shown on the Drawings filed at Plat Book 409, Pages 3-13.

| Parcel Number    | Unit Number |
|------------------|-------------|
| 083-0001-0324-00 | 101         |
| 083-0001-0325-00 | 102         |
| 083-0001-0326-00 | 103         |
| 083-0001-0327-00 | 104         |
| 083-0001-0328-00 | 105         |
| 083-0001-0329-00 | 106         |
| 083-0001-0330-00 | 201         |
| 083-0001-0331-00 | 202         |
| 083-0001-0332-00 | 203         |
| 083-0001-0333-00 | 204         |
| 083-0001-0334-00 | 205         |
| 083-0001-0336-00 | 207         |
| 083-0001-0337-00 | 208         |
| 083-0001-0338-00 | 209         |
| 083-0001-0339-00 | 210         |
| 083-0001-0340-00 | 211         |
| 083-0001-0341-00 | 212         |
| 083-0001-0342-00 | 213         |
| 083-0001-0343-00 | 214         |
| 083-0001-0344-00 | 215         |
| 083-0001-0345-00 | 301         |
| 083-0001-0346-00 | 302         |
| 083-0001-0347-00 | 303         |
| 083-0001-0348-00 | 304         |
| 083-0001-0349-00 | 305         |
| 083-0001-0350-00 | 306         |
| 083-0001-0351-00 | 307         |
| 083-0001-0352-00 | 308         |
| 083-0001-0353-00 | 309         |
| 083-0001-0354-00 | 310         |
| 083-0001-0355-00 | 311         |

| Parcel Number    | Unit Number |
|------------------|-------------|
| 083-0001-0356-00 | 312         |
| 083-0001-0357-00 | 313         |
| 083-0001-0358-00 | 314         |
| 083-0001-0358-00 | 314         |
| 083-0001-0359-00 | 315         |
| 083-0001-0360-00 | 401         |
| 083-0001-0361-00 | 402         |
| 083-0001-0362-00 | 403         |
| 083-0001-0363-00 | 404         |
| 083-0001-0364-00 | 405         |
| 083-0001-0365-00 | 406         |
| 083-0001-0366-00 | 407         |
| 083-0001-0367-00 | 408         |
| 083-0001-0368-00 | 409         |
| 083-0001-0369-00 | 410         |
| 083-0001-0370-00 | 411         |
| 083-0001-0371-00 | 412         |
| 083-0001-0372-00 | 413         |
| 083-0001-0373-00 | 414         |
| 083-0001-0374-00 | 415         |
| 083-0001-0375-00 | 501         |
| 083-0001-0376-00 | 502         |
| 083-0001-0377-00 | 503         |
| 083-0001-0378-00 | 504         |
| 083-0001-0379-00 | 505         |
| 083-0001-0380-00 | 506         |
| 083-0001-0381-00 | 507         |
| 083-0001-0382-00 | 508         |
| 083-0001-0383-00 | 509         |
| 083-0001-0384-00 | 510         |
| 083-0001-0385-00 | 601         |
| 083-0001-0386-00 | 602         |
| 083-0001-0387-00 | 604         |
| 083-0001-0388-00 | 605         |