

**RESTATED ARTICLES OF INCORPORATION  
OF CARLETON PLACE SUBDIVISION ASSOCIATION**

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**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU**

Date Received

(FOR BUREAU USE ONLY)

This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document

Name

Richard L. Wagner, Jr., Esq.

Address

75 N. Main Street, Suite 300

City

Mt. Clemens

State

Michigan

ZIP Code

48043

EFFECTIVE DATE:

Pursuant to the provisions of the Michigan Nonprofit Corporation Act,  
being Act 162, Public Acts of 1982, as amended,  
the undersigned executes the following  
Restated Articles of Incorporation:

1. The present name of the Corporation is: The Carleton Place Subdivision Association.
2. The Old ID# was 775883 and the New ID# assigned by the Department is 800888411.
3. All former names of the Corporation are: Not applicable.
4. The filing date of the original Articles of Incorporation was: October 22, 2001.

*The following Restated Articles of Incorporation supersede the Articles of Incorporation as amended and shall be the Articles of Incorporation for the corporation:*

These Restated Articles of Incorporation were duly adopted on the 21<sup>st</sup> day of May, 2019 in accordance with the provisions of 641 of the Act:

- a. By the Members of the Association. The necessary number of votes were cast in favor of these Restated Articles of Incorporation.

**ARTICLE I**

**Name of Corporation**

The name of the Corporation is The Carleton Place Subdivision Association  
(hereinafter referred to as the "Corporation").

## **ARTICLE II**

### **Purpose of Corporation**

The purposes for which the Corporation is formed (and which are not intended to create a profit for the Members of the Association) are as follows:

- (a) To manage and administer the affairs of and to maintain and preserve the Common Areas of The Carleton Place Subdivision pursuant to the Plat thereof recorded in Liber 151 of Plats, Pages 44 through 53, Macomb County Records, governed according to the Declaration of Restrictions recorded in Liber 10814, Pages 147 through 166, Macomb County Records, and as Amended and in accordance with the Community Documents and any Amendments;
- (b) To administer and operate the Association in such a manner as may be applicable local, State and Federal laws, including, but not limited to, the National Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended), and the Michigan Civil Rights Act and in accordance with the Community Documents and any Amendments;
- (c) To levy and collect Maintenance Assessments against and from the Members of the Association and to use the proceeds for the purposes set forth in the Declaration of Covenants, Easements and Restrictions for The Carleton Place Subdivision recorded on October 4, 2001, in Liber 10814, Page 147, et seq., Macomb County Records, as amended by First Amendment to The Carleton Place Declaration of Covenants, Easements and Restrictions recorded on October 4, 2001, in Liber 10814, Page 147, et seq., Macomb County Records and as Amended and in accordance with the Community Documents and any Amendments;

For purposes of these Articles, the "Declaration of Restrictions" shall also mean any Amended and Restated Declaration of Restrictions for The Carleton Place Subdivision;

- (d) To obtain and otherwise carry and maintain insurance, collect insurance proceeds and to allocate any insurance proceeds to the persons/entities, entitled, and purposes set forth in the Declaration of Covenants, Easements and Restrictions and Bylaws as amended;
- (e) To reconstruct, repair, maintain and remediate, perform extraction and desiccation in the Subdivision in accordance with its Declaration of Covenants, Easements and Restrictions and Bylaws as amended;
- (f) To contract for and employ persons, firms, or corporations to assist in management, operation, maintenance and administration of the Subdivision and the Corporation;
- (g) To acquire, redeem, own, maintain, improve, buy, operate, sell, convey, assign, mortgage, hypothecate, or lease, rent or otherwise acquire and

dispose of any real or personal property including any Lots in the Subdivision and any easements, rights-of-way and licenses, either contiguous or not to the Subdivision, on behalf of the Corporation in furtherance of any of the purposes of the Corporation;

- (h) To grant and accept any easements, rights-of-entry, rights-of-way, and licenses to, through, over and with respect to the Common areas and Lots of the Subdivision on behalf of the Members of the Corporation and to dedicate to the public any portion of the Common Areas of the Subdivision;
- (i) To borrow money and issue evidences of indebtedness in furtherance of any and all of the purposes of the Corporation and to secure the same by mortgage, pledge, or other lien or security instrument or asset;
- (j) To make and enforce reasonable Rules, Regulations, Resolutions, policies and procedures concerning obligations, responsibilities, and the conduct of all entering in, or upon, the premises and the use and enjoyment of the Subdivision Community by its Members and others;
- (k) To enforce and amend the provisions (including without limitation maintaining any architectural control) of the Declaration of Covenants, Easements and Restrictions and Bylaws, any policies and procedures that have been adopted or established to implement the Declaration of Covenants, Easements and Restrictions and Bylaws of the Subdivision, and the Restated Articles of Incorporation for the Corporation and any amendments to the foregoing;
- (l) To sue in all Courts, tribunals, forums, prosecute any claim and defend any and all actions brought against the Corporation, its Board Members, Officers, and Volunteers in all Courts, tribunals and forums and to participate in all civil and criminal actions and proceedings or investigations whether judicial, administrative, arbitative, facilitation, mediation or otherwise;
- (m) To enter into agreements with any Member or public agencies or governmental entities concerning the nature and extent of administration, maintenance, use and occupancy of the Subdivision;
- (n) To take any action required or permitted as the Administrator of the Subdivision pursuant to the Declaration of Covenants, Easements and Restrictions and Bylaws, its Restated Corporate Articles, including any amendments to the foregoing and the Michigan Nonprofit Corporations Act MCL 450.2101 et seq. as amended;
- (o) To assign its rights to future income, including without limitation, Member Assessments or assigned or diversion of rentals of Members;
- (p) In general, to enter into any kind of activity; to make and perform any contract or agreement and to exercise all powers necessary, incidental or convenient to the administration, management, maintenance, repair,

replacement, remediation perform extraction and desiccation and operation of the Subdivision.

### **ARTICLE III**

#### **Basis of Formation**

1. The corporation is formed on a NON-STOCK basis.
2. The corporation is not formed on a Stock Basis. There are no Shares.
  - a. The corporation is formed on a MEMBERSHIP basis.

### **ARTICLE IV**

#### **Financing**

1. The Corporation is financed under the following General Plans:
  - a. Assessments levied by the Board of Directors of The Carleton Place Subdivision.

### **ARTICLE V**

#### **Registered Agent and Address**

The address of the registered office is:

47767 Kelston Dr.  
Macomb, MI 48044

The mailing address of the registered office is:

P.O. Box 46098  
Mt. Clemens, MI 48046

The name of the Resident Agent at the registered office is:

Alfred Gunther

### **ARTICLE VI**

#### **Terms of Corporation Existence**

The term of the Corporate existence is perpetual.

### **ARTICLE VII**

#### **Membership**

The qualifications of Members, the manner of their admission to the Corporation, the termination of membership, and voting by such Members will be as follows:

- (a) Each Lot Owner of a Lot shall be a Member of the Corporation and no other person or entity will be entitled to membership.
- (b) Membership in the Corporation will be established by the acquisition of title to a Lot in the Subdivision (preferably by recording with the Register of Deeds in the County of Macomb, where the Subdivision is located), by a deed or other instrument establishing a change of record title to such Lot (such as land contract) and the furnishing of evidence of same satisfactory to the Corporation, the new Lot Owner thereby becoming a Member of the Corporation, and the membership of the prior Lot Owner thereby being terminated if absolute fee Title is conveyed, but any and all obligations or indebtedness shall survive.
- (c) The share of a Member in the funds and assets of the Corporation cannot be assigned, pledged, encumbered or transferred in any manner except as an appurtenance to the Member's Lot in the Subdivision.
- (d) The rights, obligations, restrictions, qualifications, eligibility and voting by Members will be in accordance with the Bylaws including any amendments. Notwithstanding the above, a Member qualified and eligible to vote at an election for Directors may vote, in person, by proxy, by absentee ballot, or by electronic transmission as defined by MCL 450.2106(6) or any other applicable section of the Michigan Nonprofit Corporation Act, being Act 162, Public Acts of 1982, MCL 450.2101, et al., as amended as may be established and provided by the Board of Directors for any matter.
- (e) Except as otherwise determined by the Board of Directors, a Member is not entitled to vote unless:
  - (i) The Member has timely submitted evidence of ownership and a duly executed Designated Voting Representative (D.V.R.) Form;
  - (ii) The Member is not delinquent or otherwise in default of any provisions of the Community Documents, directives or requirements of the Board of Directors;
  - (iii) The Member is a qualified and eligible Member as of any record date established by Board of Directors;
  - (iv) The ballot is cast by the Designated Voting Representative of Record with the Association (or valid proxy thereof);
- (f) A Member may vote at a polling place designated by the Board of Directors;
- (g) Inspection of records by a Member shall be in accordance with the provisions of the Bylaws and any applicable Rules and Regulations and procedures established by the Board of Directors and any amendment to the foregoing;
- (h) Meetings of Members or Board members and participation shall be in accordance with the provisions of the Bylaws and as amended and as determined by the Board of Directors.

## ARTICLE VIII

### Director/Officer/Volunteer Liability

**Section 1. Claims Against Volunteers.** A Volunteer Director, as defined in MCL 450.2110(2), as amended, or a Volunteer Officer are not personally liable to the Corporation or its Members for monetary damages for any action taken or any failure to take action as a Volunteer Director or Volunteer Officer. Unless expressly provided below, no person or entity may bring or maintain a claim for monetary damages and any such claim must be brought and maintained against the Corporation pursuant to MCL 450.2209(1)(c). This Section does not eliminate or limit the liability of a Volunteer Director or Volunteer Officer for any of the following:

- (a) The amount of a financial or other benefit received by a Director or Volunteer Officer which was not entitled or approved by the Board of Directors.
- (b) Intentional infliction of harm on the Corporation, or its Members.
- (c) A violation of MCL 450.2551. (Liability for certain Corporate actions)
- (d) An intentional criminal act.
- (e) Any liability imposed by MCL 450.2497(a) or any claim, suit, investigation, or proceeding asserted by the Corporation against the Volunteer Director and/or Volunteer Officer unless otherwise determined by the Board of Directors.
- (f) An act or omission occurring before the date these Restated Corporate Articles are filed unless otherwise determined by the Board of Directors.
- (g) An act or omission that is grossly negligent or an intentional tort.

Nothing contained in this Section 1 will be construed to extend the periods for the bringing of an action under any existing statutes of limitation, nor as a waiver of any defense which may be asserted on behalf of any Volunteer.

**Section 2. Assumption of Volunteer Liability. Pursuant to MCL 450.2209 (1)(e)** the Corporation assumes the liability for all acts or omissions of a Volunteer Director, Volunteer Officer or Non-Director Volunteer who is acting with the authority of the Board of Directors, occurring on or after the date of filing of these Restated Articles of Incorporation, if all of the following are met:

- (a) The Volunteer was acting, or reasonably believed, was acting within the scope of their authority.
- (b) The Volunteer was acting in good faith.
- (c) The Volunteer's conduct did not amount to gross negligence or willful and wanton misconduct, or an intentional criminal act.
- (d) The Volunteer's conduct was not an intentional tort.



- (e) The Volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in Section 3135 of the Insurance Code of 1956, Act 218 of the Public Acts of 1956, MCL 500.3135, et seq.
- (f) The Volunteer's conduct has not resulted in a claim, suit or proceeding asserted by the Corporation against the Volunteer and the Board of Directors has determined that the Corporation should assume such liability and indemnity pursuant to the provisions of MCL 450.2562 and MCL 450.2564.
- (g) If any of the above requirements (a) through (f) is not met, then the Corporation may choose not to assume liability for any of the acts or omission of the Volunteer, regardless of whether the claim, suit or proceeding is asserted by the Corporation and/or any other party or parties.
- (h) In addition to the foregoing requirements and conditions, said assumption of liability for other Non-Director and Non-Officer Volunteer will only occur if the Corporation has insurance coverage for said Non-Director or Non-Officer Volunteer and the Board otherwise expressly agrees to assume the liability for a Non-Director or Non-Officer Volunteer.
- (i) Nothing contained in the Section 2 will be construed to extend the periods for the bringing of an action under any existing statutes of limitation, nor as a waiver of any defense which may be asserted on behalf of any Volunteer.

**Section 3. Amendments to Michigan Nonprofit Corporation Act.** If, after the adoption of these Restated Articles of Incorporation, the Michigan Nonprofit Corporation Act is amended to further limit or eliminate the liability of a Volunteer Director, Volunteer Officer, or other Non-Director and Non-Officer Volunteer, then a Volunteer Director, Volunteer Officer, or other Non-Director Volunteer will not be liable to the Corporation or its Members as provided in the Michigan Nonprofit Corporation Act, as amended.

**Section 4. Volunteer Liability in the Event of Amendment or Repeal of this Article.** No amendment, alteration, modification or repeal of this Article VIII will have any effect on the liability of any Volunteer Director, Volunteer Officer, or other Volunteer of the Corporation with respect to any act or omission of such Volunteer Director, Volunteer Officer or other Volunteer occurring prior to such amendment, alteration, modification or repeal.

**Section 5. Definition of Volunteer.** For purposes of this Article, "Volunteer Director" means a Director who does not receive anything of more than nominal value from the Corporation for serving as a Director other than reasonable per diem compensation and reimbursement for actual, reasonable and necessary expenses incurred by the Director in their capacity as a Director. For purposes of the Article, "Non-Director Volunteer" or "Volunteer Officer" means an individual, other than a Volunteer Director, performing services for a nonprofit corporation at the request or appointment of the Board of Directors who does not receive compensation or any other type of consideration for the services other than reimbursement for reasonable and necessary expenses actually incurred.

## **ARTICLE IX**

### **Indemnification**

In addition to the provisions of Article VIII, the Corporation may indemnify its Volunteer Directors, Volunteer Officers, Non-Director Volunteers or agents in the following manner:

**Section 1. Individuals.** The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal including all appeals (including an action, suit, investigation or proceeding by or in the right of the Corporation), by reason of the fact that such person is or was a Director, Officer, Non-Director Volunteer, or other Volunteer employee or agent of the Corporation, against expenses including actual and reasonable Attorneys' or other professionals' fees, judgments, decrees, fines, penalties, costs and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, investigation or proceeding. Notwithstanding the above, a Volunteer Director, Volunteer Officer, Non-Director Volunteer, or other Volunteer, employee or agent of the Corporation will not be entitled to indemnification for any claims that were brought by the Corporation, against a Volunteer Director, Volunteer Officer, Non-Director Volunteer, except pursuant to MCL 450.2564a.

**Section 2. Determination of Right to Indemnification.** Any indemnification under Section 1 will be made by the Corporation upon the determination that indemnification of the Volunteer Director, Volunteer Officer, Non-Director Volunteer, employee or agent is proper under the circumstances. Such determination must be made in at least one of the following manners:

- (a) By a majority vote of Directors acting at a meeting at which a quorum consisting of Directors who were not parties or threatened to be parties to such action, suit, investigation or proceeding is present;
- (b) If the Board is unable to obtain a quorum under subdivision (a), then by majority vote of a Committee that is duly designated by the Board and that consists solely of 2 or more Directors who are not at the time parties or threatened to be made parties to the action, suit, investigation or proceeding.
- (c) By independent legal Counsel in a written Opinion. The Corporation must select Counsel to prepare the Opinion in 1 of the following ways
  - (i) By the Board or a Committee of Directors in the manner described in subdivision (a) or (b).
  - (ii) If the Board is unable to obtain a quorum under subdivision (a) and the Board is unable to designate a Committee under subdivision (b), by the Board.
- (d) By the Members, except those that are parties or threatened to be made parties to the action, suit, investigation or proceeding.

- (e) All Directors may participate in designating a Committee under subsection (1)(b) or in selecting independent legal Counsel under subsection (1)(c)(ii).
- (f) If a person is entitled to indemnification under MCL 450.2562 or a portion of expenses, including reasonable Attorneys' and other professional fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount, the corporation may indemnify the person for the portion of the expenses, including reasonable attorneys' and other professional fees, judgments, penalties, fines, or amounts paid in the settlement for which the person is entitled to be indemnified.
- (g) The Corporation shall authorize payment of indemnification under this section in any of the following ways:
  - (i) By the Board in 1 of the following ways:
    1. If there are 2 or more Directors who are not parties or threatened to be made parties to the action, suit, investigation, or proceeding, by a majority vote of all Directors who are not parties or threatened to be made parties, a majority of whom shall constitute a quorum for this purpose.
    2. By a majority of the members of a Committee of 2 or more Directors who are not parties or threatened to be made parties to the action, suit, investigation, or proceedings.
    3. If there are fewer than 2 Directors who are not parties or threatened to be made parties to the action, suit, or proceeding, by the vote necessary for action by the Board under MCL 450.2523. All Directors may participate in authorization under this subparagraph.
  - (ii) By the Members, except those that are parties or threatened to be made parties to the action, suit, investigation, or proceeding may not vote on the authorization.

### **Section 3. Expenses.**

- (a) Expenses of each person indemnified hereunder incurred in defending civil, criminal, administrative, or investigative action, suit, investigation, or proceeding including all appeals, or threat thereof, may be paid by the Corporation in advance of the final disposition of such action, suit, investigation, or proceeding as authorized by the Board of Directors, notwithstanding whether a disinterested quorum exists, upon receipt of an undertaking by or on behalf of the Director, Officer, or Volunteer to repay such amount unless it will be determined that such person is not entitled to be indemnified by the Corporation. The undertaking will be an unlimited general obligation of the person on whose behalf advances are made, but need not be secured.

- (b) All such assumption of liability, indemnity and payment of all expenses for any person shall be to the extent authorized in MCL 450.2564 (a)(b)(c) unless such person:
  - (i) received a benefit to which they were not entitled;
  - (ii) intentionally inflicted harm on the corporation or its members;
  - (iii) violated MCL 450.2551;
  - (iv) intentionally committed a criminal act.

**Section 4. Advance Payment of Expenses.**

- (a) The assumption of liability under Article VIII or the indemnification or advancement of expenses provided by this Article IX will not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses might be entitled as a matter of law or under the Restated Articles of Incorporation, the Bylaws and any amendments to the foregoing or any contractual agreement.
- (b) The total amount of expenses for indemnification from all sources combined will not exceed the amount of actual reasonable and necessary expenses incurred by the person seeking indemnification or advancement of expenses.
- (c) The indemnification provided for in this Article will continue as to any person who has ceased to be a Director, Officer, or Volunteer and will inure to the benefit of heirs, executors, and administrators but not assigns of such a person.
- (d) All persons/entities for whom liability was assumed or expenses, costs, Attorneys' or other professional fees were advanced for purposes of assumption of liability pursuant to Article VIII or paid for purposes of indemnification pursuant to Article IX, shall furnish the corporation a written agreement, executed personally or on the person's behalf, to repay any and all advances or expenses or fees if it is ultimately determined that the person did not meet the standard of conduct required under the Community Documents.

**Section 5. Directors and Officers Liability Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is, or was, a Director, Officer, or Volunteer of the Corporation, or is, or was, serving at the request of the Corporation as an unpaid, Volunteer Director, Officer, or Volunteer of another Corporation whether nonprofit or for profit, partnership, joint venture, trust, or other enterprise against any liability asserted against said person and incurred by said person in any such capacity or arising out of their status as such, regardless of whether the Corporation would have the power to indemnify them against such liability under the provisions of this Article or the Michigan Nonprofit Corporation Act, Act 162 of 1982, MCL 450.2101, et al., as amended.

## **ARTICLE X**

### **Action without Meeting**

Section 1. **Action without Meeting – Association Meetings.** Any action which may be taken at a meeting of the Members of the Corporation, except for the election or removal of Directors, may be taken without a meeting, with or without prior notice, by written vote of the qualified and eligible Members or the proxies of the Designated Voting Representatives. With respect to notice, written votes must be solicited in the same manner as provided in the Bylaws and any amendments. Any such solicitation must specify:

- (a) Set forth, attach or enclose the proposed action; and
- (b) The percentage of consents necessary to approve the action; and
- (c) The time by which consents must be received in order to be counted which shall be not less than 20 or more than 90 days after the date of the Notice and a Ballot is provided.

The form of written votes must provide the opportunity to vote in writing on each matter. Approval by written vote must occur by receipt, within the time period specified in the solicitation, of a number of written votes that equals or exceeds the minimum number of votes that would be required for approval if the action were taken at a meeting at which all Members qualified, eligible and entitled to vote were present and voted. Votes may be cast in accordance with this paragraph by mail, hand delivery, electronic transmission or by facsimile or any other method, as directed by the Board of Directors.

Section 2. **Action without Meeting – Meetings of the Board of Directors.** Any action required or permitted to be taken under authorization voted at a meeting of the Board of Directors or a Committee of the Board may be taken without meeting if, before or after the action, all qualified and eligible Members of the Board then in office or of the Committee consent to the action in writing or by electronic transmission. The written consents or electronic transmissions will be filed with the minutes of the proceedings of the Board or Committee. The consent has the same effect as a vote of the Board or Committee for all purposes.

Section 3. **Notice and Conduct of Meetings.** Association meetings or Board Meetings can be noticed in person, by mail, or electronic media, remote communications or as permitted in the Bylaws and as amended and conducted as permitted in the Bylaws and as amended or the Restated Articles of Incorporation.

## **ARTICLE XI**

### **Compromise, Arrangement or Reorganization**

When a compromise or arrangement or a plan of reorganization of the Corporation is proposed between the Corporation and its creditors or any class of them, or between the Corporation and its Members, a Court of equity jurisdiction in Michigan, on application of the Corporation or of a creditor or Member, or on application of a receiver appointed for the Corporation, may order a meeting of the creditors or class of creditors or of the Members to be affected by the proposed compromise or arrangement or reorganization, to be summoned in any manner as the court directs. If a majority in number represent  $\frac{3}{4}$  in value of the creditors

or class of creditors, or of the Members to be affected by the proposed compromise or arrangement or reorganization, agree to a compromise or arrangement, the compromise or arrangement or reorganization, if sanctioned by the Court to which the application has been made, will be binding on all creditors or class of creditors, or on all the Members and also on the Corporation.

## **ARTICLE XII**

### **Amendments to Articles of Incorporation**

These Restated Articles of Incorporation may be amended by the affirmative vote of a majority of the Members of the Corporation qualified, eligible and entitled to vote.

## **ARTICLE XIII**

### **Enforceability**

The invalidity or unenforceability of any provision of these Articles will not affect the validity or enforceability of the remaining provisions of these Restated Articles of Incorporation.

By: \_\_\_\_\_

Its: President

On behalf of The Carleton Place Subdivision  
Association

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU**  
**CORPORATIONS DIVISION**  
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**Comments:**