

**BYLAWS**  
**of the**  
**TOWNHOUSE VILLAGE CONDOMINIUM HOMEOWNERS' ASSOCIATION**  
  
**MADE PURSUANT TO THE OREGON CONDOMINIUM ACT**

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**BYLAWS**  
**OF THE**  
**TOWNHOUSE VILLAGE CONDOMINIUM HOMEOWNERS' ASSOCIATION**

THESE BYLAWS shall be effective upon their recording in Yamhill County, Oregon, pursuant to the provisions of the Oregon Condominium Act, and are made and executed this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by Townhouse Village Condominium Homeowners' Association, a nonprofit mutual benefit corporation organized under the laws of the State of Oregon (hereinafter "Association").

**1. GENERAL PROVISIONS**

**1.1 Identity.**

Due to the fact that there is no evidence of incorporation of the entity referred to as the Association of Unit Owners of Townhouse Village Condominiums, and no evidence that the Bylaws for such association were ever recorded, these Bylaws apply to the newly incorporated Association, and completely supersede any bylaws previously associated with the Association of Unit Owners of Townhouse Village Condominiums. The Articles of Incorporation for the Association (the "Articles") were filed with the Oregon Secretary of State on April 11, 2006. The Association has been organized for the purpose of administering the operation and management of Townhouse Village Condominium (the "Condominium"). The Condominium was established by Townhouse Village, LLC, an Oregon limited liability company (the "Declarant") in accordance with the provisions of ORS Chapter 100 (the "Act"). The Condominium is located upon property in Yamhill County, Oregon, the location of which is described in the Declaration of Condominium Ownership for Townhouse Village Condominium (the "Declaration") to which these Bylaws are attached as Exhibit B.

**1.2 Bylaws Subject to Other Documents.**

The provisions of these Bylaws are applicable to said Condominium, and are expressly subject to the terms, provisions and conditions contained in the Articles, and subject to the terms, provisions and conditions contained in the Declaration, which is being recorded simultaneously herewith in the records of Yamhill County, Oregon.

**1.3 Applicability.**

Declarant, its successors and assigns, all Owners, tenants and occupants, their agents, invitees, licensees and employees that use the Condominium, or any part thereof, are subject to these Bylaws, and all Association Rules and Regulations as promulgated from time to time.

#### **1.4 Office.**

The initial principal office of the Association shall be at the offices of the Declarant, 10637 NE Coxley Drive, #201, Vancouver, WA 98662 and the mailing address is P O Box 288, Washougal, WA 98671, or at any other place designated by the Association.

#### **1.5 Definitions.**

Unless otherwise specified, all terms shall have the same meaning in these Bylaws as such terms have in the Declaration.

### **2. MEETINGS OF OWNERS**

#### **2.1 Initial Meeting.**

The initial meeting of the Association shall be held within one hundred and eighty (180) days after the recording of these Bylaws. The Declarant shall call the meeting by written notice to each of the Owners stating the exact time and place of the initial meeting and the purpose thereof. The notice shall be in accordance with the requirements of Section 2.7 of these Bylaws, except that the Declarant shall fulfill the role of President or Secretary.

#### **2.2 Transitional Committee.**

Unless the Turnover Meeting (see Section 2.3) has been held, the Declarant shall call a meeting of the Owners within sixty (60) days of the conveyance to persons other than the Declarant of fifty percent (50%) of all Units. Notice of the meeting shall be given (as provided in Section 2.7) to each Owner at least seven (7) but not more than fifty (50) days prior to the meeting. The notice shall state the purpose of the meeting and the time and place where it is to be held. If the meeting is not called by the Declarant within the time specified, the meeting may be called and notice given by any Owner. If at the meeting the Owners, other than the Declarant, fail to select a transitional committee, the Declarant shall have no further responsibility to form such a committee. The committee shall be advisory only and shall consist of two (2) or more members selected by Owners other than Declarant and shall not include more than one representative of Declarant. The committee members shall serve until the Turnover Meeting, and the committee shall function to ease the transition from control of the administration of the Association by the Declarant to control by the Owners. The requirement for a transitional committee shall not apply once the Turnover Meeting has been held.

#### **2.3 Turnover Meeting.**

A meeting shall be called by the Declarant within ninety (90) days from the earlier of (a) three (3) years from the date of conveyance of the first Unit; (b) the date of conveyance to persons other than Declarant of 75% of the Units in the Condominium; or (c) the date on which Declarant elects to relinquish permanently its control, whichever date first occurs ("Turnover Meeting"). The Declarant shall give notice (as provided in Section 2.7) of the Turnover Meeting to each Owner at least seven (7) but not more than fifty (50) days prior to the Turnover Meeting. The notice shall state the purpose of the Turnover Meeting and the time and place where it is to

be held. If the Turnover Meeting is not called by Declarant, the Turnover Meeting may be called and notice given by any Owner or by any first Mortgagee of a Unit. At the Turnover Meeting, the Declarant shall relinquish control of the Association to the Owners and the latter shall assume control. The Owners shall elect a Board of Directors as set forth in these Bylaws and Declarant shall deliver to the Association the items specified in ORS 100.210. During the three (3) month period following the Turnover Meeting, a representative of the Declarant shall be available to meet with the Board on at least three mutually acceptable dates to review the documents delivered, pursuant to ORS 100.210.

#### **2.4 Annual Meetings.**

The first annual meeting of Owners shall be held in the first quarter of the calendar year following the calendar year in which the Turnover Meeting is held. At such meeting, the incumbent Directors elected at the Turnover Meeting to serve until the first annual meeting shall resign and new Directors shall be elected by the Owners as provided herein. Thereafter, annual meetings shall be held in same month as the first annual meeting or in the month next following, at such hour and on such date as the Board may designate, or if the Board should fail to designate such date by the last day of the first month in which the meeting may be held, then the meeting shall be held on the second Wednesday of the second month in which the meeting may be held, unless such day shall be a legal holiday, in which event the meeting shall be held on the next succeeding business day. At such meetings, the Owners shall elect Directors to fill vacancies or to succeed retiring Directors as provided in Section 3 of these Bylaws and shall also transact such other business of the Association as may properly come before the meeting.

#### **2.5 Place of Meetings.**

Meetings of the Owners shall be held at one of the Units in the Condominium, or at such other suitable place within Oregon, convenient to the Owners, as may be designated by the Board.

#### **2.6 Special Meetings.**

Special meetings of the Association may be called at any time for the purpose of considering matters which, by the terms of the Act, the Declaration or these Bylaws, require the approval of all or some of the Owners, or for any other reasonable purpose. Such meetings shall be called by written notice of the President, by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by the Owners of not less than thirty percent (30%) of the Units stating the purpose of the meeting. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof.

#### **2.7 Notice.**

The President or Secretary shall give written notice of each Owners' meeting at least seven (7) days but not more than fifty (50) days prior to the date set for such meeting. The notice shall state the purpose thereof and the time and place where it is to be held. Notice shall be given to each Owner of record, and to any first Mortgagee of record requesting such notice, by first class mail to each Owner or first Mortgagee at the home or business address listed on the

books of the Association, by electronic mail sent to the electronic mail address of such Owner as listed on the books of the Association, by facsimile sent to the facsimile home or business phone number listed on the books of the Association, or at such other address as such Owner shall have designated by notice in writing to the President or Secretary, at least ten (10) days prior to the giving of such notice of meeting. The giving of a notice in the manner provided in these Bylaws shall be considered notice properly served. Proof of the giving of such notice, whether by mail or personal delivery, shall be given by the affidavit of the person giving the notice. Notice of a meeting may be waived by any Owner before or after the meeting. When a meeting is adjourned for less than thirty (30) days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

## **2.8 Voting.**

**2.8.1** The total voting power of all Owners is one hundred percent (100%). Each Owner is entitled to one (1) vote per Unit owned. An Owner's votes must be voted in single block and may not be split.

**2.8.2** In accordance with ORS 100.525(b), co-Owners of a Unit will have only one vote per Unit owned. In the absence of protest by a co-Owner, the vote may be exercised by any one of the co-Owners present at a meeting. In the event of a disagreement among co-Owners, the vote of the Unit or Units owned will be disregarded completely in determining the proportion of votes given with respect to the matter at issue, unless a valid court order establishes the authority of a co-Owner to vote.

**2.8.3** The designation of a voting representative may be revoked and changed at any time by actual written notice to the Board from a party having an ownership interest in a Unit, or by actual written notice of the death or judicially-declared incompetence of any party with an ownership interest in the Unit.

**2.8.4** The power of designation and revocation may be exercised by the trustee, receiver, guardian, or conservator of an Owner and the administrator or executor of an Owner's estate.

**2.8.5** The Declarant is entitled to vote as the Owner of any Units it owns at the time of the election, and the Board is entitled to vote on behalf of any Unit which has been acquired by or on behalf of the Association; provided, however, that the Board may not vote such Units in any election of Directors.

**2.8.6** Any person, on becoming an Owner, must furnish to the managing agent or Board a photocopy of the certified copy of the recorded instrument by which ownership of the Unit was obtained, which instrument will remain in the files of the Association. An Owner will not be deemed to be in good standing nor will an Owner be entitled to vote at any annual or special meeting of Owners unless this requirement is first met.

## **2.9 Proxies.**

A vote may be cast in person or by proxy. A proxy given by an Owner to any person who represents such Owner at meetings of the Association shall be in writing, signed by such Owner, shall run to a person or persons of legal age, and shall be filed with the Secretary 24 hours prior to the applicable meeting(s). No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy, and every proxy shall automatically cease upon sale of the Unit by its Owner. An Owner may pledge or assign voting rights to a Mortgagee. In such case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled and to exercise the Owner's voting rights from and after the time that the Mortgagee shall give written notice of such pledge or assignment to the Board. Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

## **2.10 Fiduciary and Corporate Owners.**

An executor, administrator, conservator, guardian, LLC member, partner, or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Unit owned or held in such capacity, whether or not the same has been transferred to such person's name; provided, however, that such person must provide the Secretary with written evidence satisfactory to the Secretary that the person is the executor, administrator, conservator, guardian or trustee, holding such Unit in such capacity, if so requested. Any person voting on behalf of a Unit owned by a corporation or other entity must provide the Secretary with written evidence, satisfactory to the Secretary, that such person is the duly constituted representative thereof.

## **2.11 Voting by Mail or Electronic Mail.**

The Board may elect to hold any election or vote by mail or electronic mail, to the extent permitted by Oregon law, in accordance with the procedure outlined below. For purposes of this section, "written ballot" shall include any ballot distributed in electronic mail format.

**2.11.1** In the case of an election of Board members by written ballot, then in addition to the other requirements set forth in this Section 2.11, the following procedures must be followed:

2.11.1.1 the existing Board members must advise the Secretary in writing of the names of proposed Board members sufficient to constitute a full board and of a date at least fifty (50) days after such advice is given by which all votes are to be received;

2.11.1.2 the Secretary, within five (5) days after such advice is given, must give written notice of the number of Board members to be elected and of the names of the nominees to all Owners;

2.11.1.3 the notice must state that any such Owner may nominate an additional candidate or candidates, not to exceed the number of Board members to be elected, by giving written notice of such nomination to the Secretary on or before a

specified date which must be fifteen (15) days from the date after the notice was given by the Secretary; and

2.11.1.4 five (5) days after such specified date, the Secretary must give written notice to all Owners, stating the number of Board members to be elected, stating the names of all persons nominated by the Board and by the Owners on or before the deadline, stating that each Owner may cast a vote by mail and stating the deadline established by the Board by which such votes must be received by the Secretary at the address of the principal office of the Association (which must be specified in the notice) and that votes received after that date will not be effective.

**2.11.2** Any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Association member that is entitled to vote on the matter.

2.11.2.1 A written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

2.11.2.2 The Board must provide owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered.

2.11.2.3 If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board requesting secrecy procedures, a written paper ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the owner and instructions for marking and returning the paper ballot. In this instance, no electronic mail voting will be accepted. Written paper ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

**2.11.3** Matters that may be voted on by written ballot will be deemed approved or rejected as follows:

2.11.3.1 If approval of a proposed action otherwise would require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be approved when the date for return of ballots has passed, a quorum of Unit Owners has voted, and the required percentage of approving votes has been received. Otherwise, the proposal will be deemed to be rejected.

2.11.3.2 If approval of a proposed action otherwise would require a meeting at which a specified percentage of Owners must authorize the action, the proposal will be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage.

**2.11.4** All solicitations for votes by written ballot must state the following:

2.11.4.1 If approval of the proposal by written ballot requires that the total number of votes cast equal or exceed a certain quorum requirement, the number of responses needed to meet such quorum requirement;

2.11.4.2 If approval of a proposal by written ballot requires that a certain percentage of total votes cast approve the proposal, the required percentage of total votes needed for approval; and

2.11.4.3 If the matter being voted on is the election of Directors to the Board, the additional items set forth in Section 2.11.1.4.

**2.11.5** All solicitations for votes by written ballot must specify the period during which the Association will accept written ballots for counting, and a date certain on which all ballots must be returned to be counted.

## **2.12 Quorum.**

At any meeting of the Association, the presence, in person or by proxy, of Owners representing 33% of the votes shall constitute a quorum. The subsequent (joinder) of an Owner in the action taken at a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of an Owner or Owners. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided, however, that a quorum shall not be necessary to provide with and hold a binding Turnover Meeting.

## **2.13 Binding Vote.**

The vote of more than fifty percent (50%) of the total votes of the Owners present, in person or by proxy, at a meeting at which a quorum is constituted shall be binding upon all Owners for all purposes except where a higher percentage vote is required by law, the Declaration or these Bylaws.

## **2.14 Order of Business.**

The order of business at annual meetings of the Association shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Reports of committees, if any;

- (f) Election of Directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

### **3. BOARD OF DIRECTORS**

#### **3.1 Number, Term and Qualification.**

The affairs of the Association shall be governed by the Board, which shall consist of either three (3) or five (5) persons as determined from time to time by the Owners. Until the Turnover Meeting (as provided for in Section 2.3 of these Bylaws) shall have been held, the Board shall consist of the Directors named in the Articles of the Association; provided, however, that after the selection of the Transitional Committee pursuant to Section 2.2, one of the pre-turnover Directors shall be a member of the Transitional Committee (as the members of the Transitional Committee shall determine). The Declarant shall have the power to remove and replace Directors until the Turnover Meeting. At the Turnover Meeting, if three (3) directors are elected, one (1) Director shall be elected for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years. If five (5) directors are elected, one director shall be elected for a term of one (1) year, two (2) directors shall be elected to serve for a term of (2) years and two (2) directors shall be elected to serve for a term of three (3) years. At the expiration of the initial term of office of each Director, the successor shall be elected to serve for a term of three (3) years. The Director shall hold office for the term herein fixed and until the Director's successors have been qualified and elected. There shall be no limit on the number of successive terms a Director may serve on the Board, if elected as herein provided. Subsequent to the Turnover Meeting, no Director shall continue to serve on the Board after ceasing to be an Owner. For purposes of this Section 3.1, the officers of any corporation, the trustees of any trust, the members of a LLC, or the partners of any partnership that owns a Unit shall be considered co-Owners of any such Unit.

#### **3.2 Powers and Duties.**

The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts except such acts which by law, the Declaration, or these Bylaws may not be delegated to the Board by the Owners. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein) the following.

**3.2.1** Operation, care, inspection, upkeep, repair, replacement and maintenance of the portions of the Condominium that are the responsibility of the Association such as all the Common Elements.

**3.2.2** Determine amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

**3.2.3** Annually conduct a reserve study and maintenance plan, or review and update any existing study or plan, of the Common Elements to determine the Reserve Fund and maintenance requirements in accordance with ORS 100.175(4).

**3.2.4** Collect Common Expenses from Owners.

**3.2.5** Provide for the designation, hiring and removal of employees and other personnel, including lawyers and accountants, to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Condominium and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be employees of the managing agent); provided, however, that any management agreement, service contract, or employee contract entered into before the Turnover Meeting shall not be in excess of three (3) years, and shall be terminable by the Association without penalty upon not less than thirty (30) days' written notice to the other party, given not later than sixty (60) days after the Turnover Meeting; and provided further, that any agreement for management services entered into after the Turnover Meeting on behalf of the Association must be terminable by the Association for cause upon not more than thirty (30) days' notice, must have a reasonable term not exceeding two (2) years, and must be renewable with the consent of the Board of Directors and the managing agent.

**3.2.6** Adoption and amendment of reasonable Association Rules and Regulations pursuant to Section 7.17 of these Bylaws.

**3.2.7** Maintain all Association funds in bank accounts within the State of Oregon or Washington on behalf of the Association and designate required signatories.

**3.2.8** The acquisition of any and all goods and services necessary for the operation of the Condominium or for enforcement of the Declaration and these Bylaws consistent with Board-approved budgets or specially approved by the Board.

**3.2.9** Maintenance and repair of any Unit, its appurtenances, and its appliances only if such maintenance or repair is reasonably necessary, in the discretion of the Board, to protect the Condominium Common Elements or preserve the appearance and value of the Condominium development and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board to the Owner or Owners; provided, that the Board shall levy a special assessment against the Unit and Owner or Owners of such Unit for the cost of such maintenance or repair.

**3.2.10** Pay any amount necessary to discharge any lien or encumbrance which is claimed to or may, in the opinion of the Board, constitute a lien or encumbrance against the Common Elements as opposed to a particular Owner's Unit. Where one or more Owners are responsible for the existence of such a lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses (including court costs and attorneys' fees, both at trial and on appeal) be specially assessed against the Owners and the Units responsible, to the extent of their responsibility.

**3.2.11** Subject to Board approval, obtain and review bonds and insurance the Board deems necessary such as liability for personal injury and property damage, fidelity of Association officers' and other employees, and Directors' and Officer's liability, for the Association and the Condominium, including the Units, pursuant to the provisions of the Declaration or Bylaws.

**3.2.12** Subject to the limitations set forth in Section 3.4, make repairs, replacements, additions and improvements to, or alterations of, the Common Elements and repairs to and restoration of the Common Elements in accordance with the Declaration or Bylaws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or settlement under the threat thereof; provided, that if for any reasons such repairs or restorations are provided for the Limited Common Elements appurtenant to any particular Unit, or otherwise for the benefit of particular Units or their Owners, the cost thereof shall be specially assessed against the Owners of such Units.

**3.2.13** Subject to the limitations set forth in Section 3.4, borrow money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the Common Elements; provided, however, that no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the Owner of such Unit. The Association shall have no power to encumber the Common Elements to secure repayment of borrowed funds without the written consent of all the Owners.

**3.2.14** Subject to the limitations contained in Section 9.3 of these Bylaws, adjust and settle claims under insurance policies and execute and deliver releases on settlement of such claims on behalf of all Owners, all holders of Mortgages or other liens on the Units and all Owners of any other interest in the Condominium.

**3.2.15** File all appropriate income tax returns and the Annual Report with the Oregon Real Estate Agency.

**3.2.16** Enforcement by legal means of the provisions of the Act, the Declaration, these Bylaws and any Association Rules and Regulations adopted hereunder.

### **3.3 Activities for Profit Prohibited.**

Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

### **3.4 Limitation.**

The Board's powers enumerated in these Bylaws shall be limited in that the Board shall have no authority to: (1) acquire and pay for out of the maintenance fund any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of repairing, replacing or restoring portions of the Common Elements, subject to all the provisions of these Bylaws) requiring an expenditure in excess of an amount or amounts, aggregated for the calendar year in question, exceeding ten percent (10%) of the estimated total

budget of the Association for such calendar year, or (2) subject to the provisions of Section 3.2.5, enter into agreements not to be performed within two (2) years, except agreements specifically authorized in these Bylaws, without in each case the prior approval of Owners representing more than fifty percent (50%) of the votes of the Owners, present in person or by proxy at a duly called meeting for such purpose at which a quorum is constituted.

### **3.5 Organizational Meeting.**

Within fourteen (14) days following the annual meeting of the Association, or following any meeting at which an election of Directors has been held, the Board shall hold an organizational meeting at such place and time as shall have been fixed by the Directors at the meeting at which the election was held.

### **3.6 Regular and Special Meetings.**

Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Special meetings of the Board may be called by the President and must be called by the Secretary at the written request of at least one Director. Notice of any special meeting shall be given to each Director, personally or by mail, telephone, electronic mail or other generally accepted means of communication at least seven (7) days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. All meetings of the Board shall be open to Owners. Such meetings may be conducted by telephonic communication, except that if a majority of the Units are principal residences of the occupants, then: (a) for other than emergency meetings, notice of each Board meeting shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Owners of such meeting; and (b) only emergency meetings of the Board may be conducted by telephonic communication. Although all meetings of the Board of Directors of the Association shall be open to Unit Owners, in the discretion of the Board the following matters may be considered in executive session: (i) consultation with legal counsel concerning the rights and duties of the association regarding existing or potential litigation, or criminal matters; (ii) personnel matters, including salary negotiations and employee discipline; and (iii) the negotiation of contracts with third parties. Except in cases of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer of the Board of Directors shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The meeting and notice requirements hereof may not be circumvented by chance or social meetings or by any other means.

### **3.7 Waiver of Notice.**

Any Board member may at any time waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice of the time and place thereof, except where a Director attends the meeting for the sole purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all the

members of the Board are present at any Board meeting, however, no notice to Directors shall be required and any business may be transacted at such meeting.

### **3.8 Quorum and Act of Board.**

At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board present at a meeting at which a quorum is present shall constitute the act of the Board. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

### **3.9 Removal.**

At any regular or special meeting of Owners where a quorum of owners is present, any one or more of the Board members may be removed with or without cause by a majority of the votes present and a successor may then and there or thereafter be elected to fill the vacancy thus created. The notice of any such meeting shall state that such removal is to be considered, and any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

### **3.10 Resignation.**

Any Director may resign at any time by sending a written notice of such resignation to the office of the Association, addressed to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary.

### **3.11 Vacancies.**

Vacancies in the Board caused by any reason other than the removal of a member thereof by a vote of the Owners shall be filled by vote of a majority of the remaining members at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board for the remainder of the term of the member creating such vacancy and until a successor shall be elected at the next annual meeting of the Owners.

### **3.12 Compensation.**

No Director shall receive any compensation from the Association for acting as such, but shall be reimbursed for reasonable out-of-pocket expenses. A Director may be compensated for other tasks and labor not related to their duties as Director.

### **3.13 Liability and Indemnification of Directors, Officers, Manager or Managing Agent.**

The Directors and officers shall not be liable to the Association or the Owners for any mistake of judgment, negligence, or otherwise except for their own willful misconduct or bad faith. The Association shall indemnify and hold harmless each Director and officer and the manager or managing agent on behalf of the Association unless such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these Bylaws. Each Director and officer and the manager or managing agent, if any, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed upon them in connection with any proceeding to which they may be a party, or which they may become involved by reason of being or having been a Director, officer, manager or managing agent and shall be indemnified upon any reasonable settlement thereof; provided, however, there shall be no indemnity if the Director, officer, manager or managing agent is adjudged guilty of willful nonfeasance, misfeasance or malfeasance in the performance of their duties. As to any manager or managing agent this Section shall only be applicable to third party tort claims up to the amount of the Association's liability insurance coverage and shall not in any way apply to contractual liability or obligations under the management contract.

### **3.14 Fidelity Bonds.**

The Board may require that any person or entity, including, but not limited to, employees of any professional manager, who handles or is responsible for Association funds, shall furnish a fidelity bond as the Board deems adequate. The premiums on such bonds shall be paid by the Association.

### **3.15 Insurance.**

The Board of Directors shall comply with the insurance requirements in Section 9 of these Bylaws. In addition, the Board, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association, Board or Owners. Not less frequently than once every three (3) years, the Board must cause the managing agent to conduct a full insurance review, estimate the full replacement value of the improvements contained in the Condominium, and modify the insurance coverage, as needed, if it has been more than twelve (12) months since the last such review.

### **3.16 Special Committees.**

The Board by resolution may designate one or more special committees, each committee to consist of two (2) or more Owners which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Board. Such special committees must keep regular minutes of their proceedings and report the same to the Board when required. The members of such special committee or committees designated shall be appointed by the Board or the President. The Board or the President may appoint Owners to fill vacancies on each of said special committees occasioned by death, resignation, removal, or inability to act for any extended period of time. The decision and actions of any special

committee must be formally approved and ratified by the Board prior to commencement of said action unless prior consent or authorization has been granted by the Board.

#### **4. OFFICERS**

##### **4.1 Designation.**

The principal officers of the Association shall be the President, Secretary, and Treasurer, each of whom shall be elected by the Board. The Board of Directors may appoint other officers as in its judgment may be desirable. Multiple offices may be held by one individual. All officers must be Owners, or members of their family, fiduciaries, beneficiaries or Mortgagees (and in the case of Units owned by corporations, LLCs, or partnerships, the offices may be held by Directors, officers, shareholders, partners, members, or employees of such organizations).

##### **4.2 Election.**

The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board and until their successors are elected and qualified. If any office shall become vacant, the Board shall elect a successor to fill the unexpired term at any regular Board meeting, or at any special meeting of the Board called for such purpose.

##### **4.3 Removal.**

Upon the affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and a successor may be elected at any regular Board meeting or at any special Board meeting called for such purpose.

##### **4.4 President.**

The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Owners and of the Board and shall have all of the general powers and duties which are usually incident to the office of the chief executive officer of an association, including, but not limited to, the power to appoint committees from time to time as may, in the President's discretion, be appropriate to assist in the conduct of the affairs of the Association.

##### **4.5 Secretary.**

The Secretary shall keep minutes of all proceedings of the Board and minutes of all Association meetings. The Secretary shall attend to the giving and serving of all notices to the Owners and Directors and other notices required by law. Association records shall be kept by the Secretary, except for those of the Treasurer. The Secretary shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President. In addition, the Secretary shall act as Vice President, taking the place of the President and performing such duties whenever the President is absent or unable to act, unless the Directors have appointed a Vice President.

#### **4.6 Treasurer.**

The Treasurer shall be responsible for Association funds and securities and shall be responsible for supervising the managing agent and causing the same to keep full and accurate financial records and books of account showing all receipts and disbursements necessary for the preparation of all required financial statements. The Treasurer shall review the reports and statements provided by the managing agent with respect to the deposit of all funds and other valuable effects in such depositories as may from time to time be designated by the Board, and the disbursement of Association funds in accordance with the approved Association budget and any special authorizations from the Board for unbudgeted items. The Treasurer shall in general perform all other duties incident to the office of treasurer of an association and such other duties as may be assigned by the Board. The Treasurer shall cause all assessments to be deposited in a separate bank account in the name of the Association and all expenses of the Association to be paid from that account.

#### **4.7 Execution of Instruments.**

All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the Board and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the President. All checks for less than Two Thousand Four Hundred Ninety-Nine Dollars (\$2,499.00) may be signed by the managing agent or any duly elected officer of the Association. All checks of Two Thousand Five Hundred (\$2,500.00) or more shall require the signatures of at least two (2) authorized signatories.

#### **4.8 Compensation of Officers.**

No officer who is a member of the Board, other than the Secretary and Treasurer, shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the Owners. The Board may fix any reasonable compensation to be paid to the Secretary, Treasurer and any officers who are not also Directors.

### **5. BUDGET, EXPENSES AND ASSESSMENTS**

#### **5.1 Budget.**

The Board shall from time to time, but in no event less frequently than once every twelve (12) months, prepare a budget for the Association, estimate the Common Expenses expected to be incurred, less any previous over-assessment, and assess the Common Expenses to each Owner in the method as set forth below. The budget shall reflect comparable figures for the prior year as to all items therein. Except as otherwise provided herein, the Board shall advise each Owner in writing of the amount of Common Expenses payable by that Owner, and furnish copies of each budget and amended budget on which such Common Expenses are based to all Owners and, if requested, to their Mortgagees, at least fourteen (14) days prior to the annual meeting of the Association. Failure to deliver a copy of any budget or amended budget to each Owner shall not affect the liability of any Owner for any such assessment. Nothing herein contained shall be

construed as restricting the right of the Board to, at any time, in their sole discretion, levy any additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

## **5.2 Reserve Fund.**

**5.2.1** Declarant shall establish, in the name of the Association, a Reserve Fund and maintenance plan for maintenance, major repairs and replacements of Common Elements and the portions of the Units which the Association is responsible to maintain, repair or replace. As required by ORS 100.175, a Reserve Fund shall be established for the replacement of any Common Elements, all or part of which will normally require replacement in more than three (3) and less than thirty (30) years. References in this Section 5.2 to the Common Elements shall be deemed to also refer to such portions of the Units for which the Association is responsible to provide for in the Reserve Fund pursuant to this paragraph.

**5.2.2** The determination of Common Expenses under Section 5.3 will be calculated on the basis of expected repair and replacement costs and the life expectancy of the items comprising the Common Elements of the Association such that the amount of the Reserve Fund is reasonably calculated to provide sufficient funds for major repair and replacement of the Common Elements of the Association. The Association must administer the Reserve Fund and the amount of the payments in the Reserve Fund must be adjusted at regular intervals, but in no event less frequently than annually to recognize changes in current repair and replacement costs over time.

**5.2.3** The Board must conduct a reserve study and maintenance plan, or review and update an existing study of, and maintenance plan for, the Common Elements at regular intervals, but in no event less frequently than annually to determine the Reserve Fund requirements. The reserve study must include: (a) identification of all items for which reserves are to be established; (b) the estimated remaining useful life of each item as of the date of the reserve study; (c) an estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and (d) a 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

**5.2.4** From the date of conveyance of the first unit in the Condominium, the Declarant shall pay Reserve Fund assessments due on all unsold Units. The Declarant shall be allowed to accrue the portion of any assessments for the Reserve Fund until the earlier of (a) the date the Unit is conveyed, (b) the date of the Turnover Meeting, or (c) the date when the Owners other than the Declarant assume administrative control of the Association. The Declarant shall maintain a record of the amount Declarant owes for such accrued Reserve Fund assessments as a part of the financial books and records of the Association. At the time of closing of the initial sale of each Unit, the purchaser shall make the initial contribution to the Reserve Fund equal to two (2) months of Association Reserve Fund assessments for the Unit. In addition, the Declarant shall pay all accrued assessments for the Reserve Fund, if any. At or prior to the Turnover Meeting, the Declarant shall transfer the amount of the Reserve Fund to the Association for deposit in a segregated fund.

**5.2.5** Assessments paid into the Reserve Fund are the property of the Association and are not refundable to the Owner or Owners of a Unit upon the sale of any Unit owned by them.

**5.2.6** Following the second year after the Turnover Meeting, the Association may, on an annual basis, elect not to fund the Reserve Fund by unanimous vote of the Owners, or elect to reduce or increase future assessments for the Reserve Fund by an affirmative vote of at least 75% of the Owners.

**5.2.7** Any funds set up for any of the purposes mentioned in this Section will be deemed to be a Reserve Fund notwithstanding that which may not be so designated by the Board. The amount of the Reserve Fund must be distributed to the Owners on termination of the Condominium and the Association.

**5.2.8** The Reserve Fund is to be used only for maintenance, repair and replacement of Common Elements for which reserves have been established and is to be kept separate from other funds. However, after the Turnover Meeting, the Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary expenses that will later be paid from special assessments or maintenance fees.

### **5.3 Determination of Common Expenses.**

Except as otherwise provided herein, Common Expenses shall include but not be limited to.

**5.3.1** Expenses of administration.

**5.3.2** Cost of insurance or bonds obtained in accordance with these Bylaws.

**5.3.3** A general operating fund (“Operating Fund”).

**5.3.4** A Reserve Fund for replacement of General Common Elements as required by the Oregon Condominium Act and as more fully described in Section 5.2 of these Bylaws.

**5.3.5** Any deficit in Common Expenses for any prior period, and any accrued interest or late charges thereon.

**5.3.6** Utilities for the Common Elements and other utilities not separately metered or charged.

**5.3.7** Expenses, if any, of any services of any person or firm to act on behalf of the Owners in connection with any matter where the respective interests of the Owners are deemed by the Board to be similar and non-adverse to each other.

**5.3.8** Fees for professional management services.

**5.3.9** Cost of maintenance, repair and replacement of all the Common Elements, provided that if such repairs, maintenance, or replacement are for the benefit of particular Units or their Owners, the cost thereof shall be specially assessed against the Owners of such benefited Units as reasonably and uniformly determined by the Board.

**5.3.10** Any other materials, supplies, labor, services, maintenance, repairs, alterations or assessments which the Board is required to secure or pay for, pursuant to the terms of the Declaration or these Bylaws or that in its opinion are necessary or proper for the maintenance and operation of the Condominium or for the enforcement of these restrictions, and which the Board determines should be assessed to the Owners under Section 5.3.

**5.3.11** The discharge of any lien or encumbrance against the Common Elements, as opposed to a particular Owner's Unit. Where one or more Owners are responsible for the existence of such lien or encumbrance, they shall be jointly and severally liable for the cost of discharging it, which cost shall be specifically assessed to the responsible Owners.

**5.3.12** Any other items properly chargeable as an expense of the Association.

**5.3.13** Maintenance and repair of any Unit if the Board of Directors determines that the Owner of a Unit has failed or refused to perform such maintenance or repair in accordance with Section 16.2 of the Declaration within a reasonable time after written notice of the necessity of such maintenance or repair delivered by the Board of Directors to such Owner, provided that the Board of Directors may levy a special assessment against such Owner for the cost of such maintenance or repair.

**5.3.14** Any other items properly chargeable as an expense of the Association, including, without limitation, maintenance expenses due under that certain a) Reciprocal Utility Easement Agreement recorded in the deed records of Clackamas County, Oregon as Document No. 98-110909, as amended by Document No. 99-09771; b) Roadway Easement Agreement recorded in the deed records of Clackamas County, Oregon as Document No. 98-110910; c) Reciprocal Recreation Easement Agreement recorded in the deed records of Yamhill County, Oregon as Document No. 2001-055949; d) Clubhouse Access Easement recorded in the deed records of Yamhill County, Oregon as Document No. 2001-0055950; and e) Reciprocal Utility Easement Agreement recorded in the deed records of Yamhill County, Oregon as Document No. 2003-156601 and any other easements encumbering the Condominium.

#### **5.4 Assessment of Common Expenses.**

**5.4.1** All Owners shall be obliged to pay on a monthly basis in advance Common Expenses assessed to them by the Board of Directors on behalf of the Association pursuant to these Bylaws and the Declaration, including amounts applicable to the Reserve Fund described in Section 5.2 of these Bylaws. Assessments may not be waived due to limited use or nonuse of Common Elements and no Owner may claim an offset against assessments for failure of the Board of Directors to perform its obligations. The Declarant shall be assessed as the Owner of any unsold Unit from the date of conveyance of the first Unit. The Declarant's assessment obligations shall be prorated to the date of sale of each Unit. Assessments shall commence in accordance with Sections 5.2.4 and 5.5 of these Bylaws. At the time of closing of

the initial sale of each Unit, the purchaser shall make the contribution described in Section 5.5 to the Operating Fund. The Board of Directors, on behalf of the Association, shall assess the Common Expenses against the Owners from time to time, and at least annually, and shall take prompt action to collect from an Owner any Common Expense due which remains unpaid by him for more than thirty (30) days from the due date for its payment (except as provided above for the Declarant).

### **5.5 Operating Fund.**

The Declarant shall establish in the name of the Association an Operating Fund for the Association. At the time of closing of the initial sale of each Unit, the purchaser shall make an initial contribution to the Operating Fund equal to two (2) months of Association assessments for the Unit. As provided in the Act, the Declarant may elect to defer commencement of all or part of the Common Expense assessments for the Operating Fund as to all Units and pay the Common Expenses directly as they accrue to the Condominium until the date of the Turnover Meeting or ten (10) days after notice from the Declarant that assessments will commence, whichever is first to occur. During the period of administrative control described in Section 22 of the Declaration, the Declarant shall not use any funds contained in the Operating Fund to defray the Declarant's expenses, contributions to reserves, or construction costs, or to compensate for any deficits in the operating budget of the Condominium.

### **5.6 Contingency Fund.**

The Board may also build up and maintain a reasonable reserve for contingencies and replacements not covered by subparagraph 5.4.2 above. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year may be charged against such reserve. If the estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a further assessment of common expenses. The Board shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefore, and such further assessments shall be effective with the first quarterly assessment of Common expenses which is due more than ten (10) days after the delivery or mailing of such notice of further assessment.

### **5.7 Special Assessments.**

The expense of any action by the Association to enforce and fulfill the requirements of these Bylaws or the Declaration with respect to any Unit and its associated Limited Common Elements shall be charged to said Owner as a special assessment. Any such special assessment shall be a lien against the Owner's Unit with the same force and effect as if the charge were a part of the ordinary assessments of Common Expenses attributable to the Owner's Unit.

### **5.8 Statement of Common Expenses.**

In accordance with ORS 100.480(4), the Board must within ten (10) days of an Owner's written request provide any Owner a written statement of that Owner's due and unpaid assessments as of the time the request was received including but not limited to (i) regular and

special assessments, (ii) fines and other charges, (iii) accrued interest and the method used to calculate it, and (iv) late payment charges and the method used to calculate it. The Association need not provide such a statement if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.

## **5.9 Default in Payment of Common Expenses.**

**5.9.1** In the event of delinquency or default by any Owner in paying to the Association the assessed Common Expenses (including but not limited to reserve assessments or any special assessments), such Owner will be obligated to pay interest on such Common Expenses from the due date thereof, at the rate of eighteen percent (18%) per annum or the maximum legal rate of interest permitted by Oregon law, whichever is less, together with all expenses, including attorneys' fees, whether or not legal proceedings are commenced and both at trial and on appeal incurred by the Association in collecting such unpaid expenses together with all expenses, including attorneys' fees, incurred by the Association in any proceeding brought to collect such unpaid expenses, no interest or late charges will be assessed on delinquent Common Expenses paid within fifteen (15) days after the due date thereof. Any delinquency shall be considered a lien on the property until paid in full regardless of conveyance of ownership.

**5.9.2** The Board may also establish and impose charges for late payments of assessments, attorney fees for collection of assessments and, after giving notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations, provided that any such charge or fine is based on a schedule set forth in resolution adopted by the Board or the Association that is delivered to each Unit or mailed to each owner and the address designated by each owner for the receipt of any notice with respect to the Condominium.

**5.9.3** The Board has the right and duty to recover for the Association such Common Expenses, together with interest thereon, late charges, if any, and expenses of the proceeding, including attorneys' fees, by an action brought against such Owner or by foreclosure of the lien upon the Unit granted by the Act. The Board must notify the holder of any first mortgage upon a Unit of any default not cured within thirty (30) days of the date of notice of default.

## **5.10 Delinquent Assessment Deposit.**

**5.10.1** An Owner may be required by the Board, from time to time, to make and maintain a deposit of not less than one (1) month's nor in excess of three (3) months' estimated monthly assessments and charges, which may be collected in the same manner as other assessments and charges. Such deposit shall be held in a separate fund, be credited to the Unit owned by such Owner, and be for the purpose of establishing a reserve for delinquent assessments.

**5.10.2** Resort may be had against the deposit at any time when such owner is ten (10) days or more delinquent in paying his monthly or other assessments and charges. Such deposits shall not be considered as advance payments of regular assessments. In the event the

Board should draw upon such deposit as a result of an Owner's delinquency in payment of any assessments, such Owner shall continue to be responsible for the immediate and full payment of such delinquent assessment (and all penalties and costs related thereto) and thus the full restoration of such deposit, and the Board shall continue to have all of the rights and remedies for enforcing such assessment payment and deposit restoration as provided by the Declaration and by law.

**5.10.3** Upon the sale of a Unit, the Seller/Owner thereof shall not be entitled to a refund from the Association of any deposit or reserve account made or maintained with respect to such Unit pursuant to this or any other Section of these Bylaws; rather, any such deposit or reserve account shall continue to be held by the Association for the credit of such Unit, the Unit purchaser shall succeed to the benefit thereof, and the Unit seller shall be responsible for obtaining from the purchaser appropriate compensation therefore.

### **5.11 Acceleration of Assessments.**

In the event any monthly assessment attributable to a particular Unit remains delinquent for more than sixty (60) days, the Board may, upon fifteen (15) days written notice to the Owner of such Unit, accelerate and demand immediate payment of all, or such portion as the Board determines, of the monthly assessments and other charges which the Board reasonably determines will become due during the next succeeding twelve (12) months with respect to each Unit.

### **5.12 Foreclosure of Liens for Unpaid Common Expenses.**

In any action brought by the Association to foreclose a lien on a Unit because of unpaid Common Expenses, the Owner shall be required to pay a reasonable rental for the use of the Unit during the pendency of the suit, and the plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect such rental. The Board, acting on behalf of the Association, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the Unit. An action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing any lien securing the same. The remedies provided herein are cumulative, and the Association may pursue any of them, as well as any other remedies which may be available under law, although not expressed herein.

### **5.13 Lien Priority.**

Any lien of the Association against a Unit for Common Expenses shall have the priority provided in the Act in relation to other tax and assessment liens, and any prior Mortgage or Trust Deed of record.

### **5.14 First Mortgages; Liability of Subsequent Owner.**

Any lien of the Association against a Unit for Common Expenses shall be subordinate to tax and assessment liens and any first Mortgage of record, unless there has been compliance with all requirements of Section 100.450(7) of the Act. Where the purchaser or

Mortgagee of a Unit obtains title to the Unit as a result of foreclosure of a first Mortgage or by deed in lieu of foreclosure, such purchaser or Mortgagee and his successors and assigns shall not be liable for any of the common expenses chargeable to such Unit which became due prior to the acquisition of title to such Unit by such purchaser or Mortgagee except to the extent provided in Section 100.475(2) of the Act; *provided*, in the case of a deed in lieu of foreclosure, that the Mortgagee complies with the requirements of Section 100.465(1) of the Act; and *provided further*, that any sale or transfer of a Unit pursuant to a foreclosure shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit from the lien of, any common expenses thereafter becoming due. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Unit to the time of grant of conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser, the Board of Directors shall make and deliver a statement of the unpaid assessments against the prospective grantor of the Unit, and the grantee in such case shall not be liable for, nor shall the Unit when conveyed be subject to, a lien filed thereafter for any unpaid assessments against the grantor in excess of the amounts therein set forth.

### **5.15 Liability of Owners.**

An Owner shall be liable for the expenses of any Common Element maintenance, repair or replacement rendered necessary by that Owner's act, neglect or carelessness or by that of any member of the Owner's family, or the Owner's guests, employees, invitees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Any such expenses may be waived at the discretion of the Board and paid from the general operating expense. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation. The expense of any maintenance, repair or replacement required, as provided herein, shall be charged to said Owner as a specific item, which shall be a lien against such Owner's Unit with the same force and effect as if the charge was a part of the normal Common Expenses attributable to such Owner's Unit.

### **5.16 Violation by Owners; Remedies.**

Subject to any limitations contained in the Declaration, the violation of any rule or regulation adopted by the Board, or the breach of any covenant or provision contained in the Declaration or the Bylaws shall give the Board the rights set forth in the Declaration and the right: (i) to enter upon that part of the Condominium where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board or its agents shall not thereby be deemed guilty in any manner of trespass and (ii) to enjoin, abate or remedy by appropriate legal proceedings the continuance of any breach. All expenses of the Board in connection with such violation and such action or proceedings, including engineering, architectural and other professional fees and costs, court costs and attorneys' fees and any other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the rate provided in Section 5.10 of these Bylaws, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of that Owner's respective share of the Common Expenses. The Board shall have a

lien for all of the same upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto and upon all personal property in that Owner's Unit or located elsewhere in the Condominium. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. Any violations by an Owner of the Declaration, Bylaws, or Association Rules that are deemed by the Board to be a hazard to public health or safety may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the offending Owner as a specific item, which shall be a lien against the offending Owner's Unit with the same force and effect as if the charge was a part of the normal Common Expenses attributable to such Unit. Any violation or breach by an Owner's tenant, occupant, agent, invitee, licensee or employee shall be deemed a violation or breach of the owner.

#### **5.17 No Waiver.**

The failure of the Association or of an Owner to enforce any right, provisions, covenant or condition, which may be granted by any of the provisions of the Declaration, the Bylaws, or any Association Rules, shall not constitute a waiver of the right of the Association or Owner to enforce such right, provision, covenant or condition in the future. The receipt by the Board of payment of any assessment from an Owner, with knowledge of any such violation or breach, shall not be deemed a waiver of such violation or breach; and no waiver by the Board or any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board. This Section also extends to the Declarant or Declarant's managing agent exercising the power of the Board during the initial period of operation of the Association and the Condominium.

### **6. RECORDS AND AUDITS**

#### **6.1 General Records.**

The Board and managing agent shall keep detailed records of the actions of the Board and managing agent and minutes of Board and Association meetings. The Board shall maintain a list of Owners entitled to vote at Association meetings and a list of all Mortgagees of Units. The Board shall maintain, at the office of the Association, a copy suitable for duplication of the following: the Declaration, the Bylaws, any Rules and Regulations and any amendments thereto, the most recent annual financial statement of the Association, the current operating budget of the Association, and any other documents required by the Act to be so maintained. Such documents shall be made reasonably available for inspection and duplication by Owners, Mortgagees, and prospective purchasers of Units upon written request therefrom. All Association documents and records shall be maintained within the State of Oregon at all times.

#### **6.2 Records of Receipts and Expenditures.**

The Board or its designee shall keep detailed, accurate records in chronological order of receipts and expenditures affecting the Common Elements, itemizing maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the budgets authorizing the payments shall be available for examination by the Owners and Mortgagees during normal business hours.

### **6.3 Assessment Roll.**

The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such account shall designate the name and address of the Owner or Owners of each Unit, the amount of each assessment against each Owner, the dates and amounts in which the assessment comes due, the amounts paid upon each Owner's account and each Owner's balance due on the assessments.

### **6.4 Common Expense Payment Records.**

Subject to the signature requirements set forth in Section 4.7, the managing agent shall pay all budgeted Common Expenses without further authorization by the Association. Any unbudgeted Common Expenses shall require approval by an Officer on a written authorization voucher to the managing agent before payment of the same by the managing agent. Unless requested more frequently, the managing agent shall be required to provide annual reports of the payments made by it on behalf of the Association.

### **6.5 Annual Reports and Audits.**

An annual financial statement of the Association, consisting of at least a balance sheet and income and expense statement for the preceding fiscal year, shall be rendered by the Board and delivered to all Owners and to all Mortgagees of Units who have requested the same, within ninety (90) days after the end of each fiscal year. The Treasurer of the Association shall file required state and federal tax returns based upon the annual financial statements. An Annual Report shall be filed each year with the Oregon Real Estate Agency as required under ORS 100.415(13), 100.250(b) and 100.260(2). At any time any Owner or Mortgagee may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

### **6.6 Notice of Sale, Mortgage, Rental or Lease.**

Immediately upon the closing of any sale, mortgage, rental or lease of any Unit, the Owner shall promptly inform the Secretary or managing agent of the name and address of the purchaser, mortgagee, lessee, or tenant. The foregoing notification requirement is in addition to that set forth in Section 1.7 of the Declaration regarding notification to the Board of any contemplated sale or lease of a Unit.

## **7. OCCUPATION AND USE**

### **7.1 Generally.**

The Condominium is intended solely for residential use. The Units may be used only in a manner appropriate to maintain the Condominium's status as a residential condominium on an ownership, rental, or lease basis, and for social, recreational, or other reasonable purposes normally incidental to residential use. Units may be used for accessory home businesses subject to Board approval of the business as compatible with the residential character of the Condominium, such approval to not be unreasonably withheld, conditioned or delayed. Units

may be used for operating the Association and for management of the Condominium. Units may only be leased in accordance with and to the extent allowed by Section 7.2 of these Bylaws.

## **7.2 Leasing or Renting of Units.**

**7.2.1** No Unit may be rented or leased for transient or motel or hotel lodging purposes which is defined as occupancy that has any of the following characteristics: (a) occupancy is charged on a daily, weekly or other less than monthly periodic basis except for Occasional Vacation Rentals permitted hereunder; (b) any service normally offered by hotels or motels, including but not limited to, regular maid and linen service, a front desk located within or without the Condominium, telephone switchboard service or other telephone service which is part of a system serving more than one Unit or is networked with other Units or lodging facilities within or without the Condominium; and (c) occupancy is available through a third party property management agent or other person who is responsible for reservation arrangements and other duties relating to the renting or leasing of a Unit or by any other means that constitutes an invitation to the general public to seek occupancy for lodging that has any characteristics specified in (a) and (b) of this Section.

**7.2.2** For purposes of these Bylaws, the term “leasing” or “renting” a Unit means the granting of a right to use or occupy a Unit, for a specified term (including any renewal or extension options not to exceed twenty (20) years or an indefinite term (with rent reserved on a periodic basis), in exchange for the payment of rent (that is, money, property or other goods or services of value), but does not mean or include joint ownership of a Unit by means of joint tenancy, tenancy-in-common or other form of co-ownership.

**7.2.3** No Unit may be rented or leased for less than thirty (30) consecutive days except for occasional vacation rentals by an Owner (“Occasional Vacation Rentals”). Nothing in this subsection is intended to prohibit an Owner from occasionally renting such Owner’s Unit provided such rental is not: (a) for transient or motel or hotel lodging in violation of this Section, or (b) part of a continuing pattern of business operation. The Board may, by resolution, adopt reasonable rules to govern Occasional Vacation Rentals.

**7.2.4** No Unit may be rented or leased for a term of more than thirty (30) consecutive days if such rental or lease results in more than thirty percent (30%) of the Units, excluding Occasional Vacation Rentals, (“Rental-Lease Ratio”) being occupied by non-Owners. No reduction of the Rental-Lease Ratio may affect any rights of any occupant of a Unit under an existing lease or rental agreement. Except for lease renewal or sublease, an Owner must apply to the Board for permission in accordance with this Section 7 prior to renting or leasing his or her Unit for other than a permitted Occasional Vacation Rental. The Rental-Lease Ratio leasing restriction shall not apply to any Units owned by the Declarant and Declarant is not required to submit request for approval prior to renting their Units. That is, the Declarant may rent or lease any number of the Units owned by Declarant at any time, without applying to the Board for permission and without the need to comply with the Rental-Lease Ratio. Until such time as the Declarant no longer owns any Units, the Board shall not consider any of the Units owned by Declarant in determining the Rental-Lease Ratio. The Rental-Lease Ratio leasing restriction shall not apply to any Units owned by any Owner who took title to its Unit pursuant to a deed in lieu of foreclosure or by an actual foreclosure sale (“Owner by Foreclosure”). That is, an Owner by

Foreclosure may rent or lease any number of the Units owned by such Owner by Foreclosure at any time, without applying to the Board for permission and without the need to comply with the Rental-Lease Ratio. The Board shall not consider any of the Units owned by the Owner by Foreclosure in determining the Rental-Lease Ratio.

**7.2.5** Except as provided in this subsection, no trade, craft, business, profession, commercial or similar activities of any kind may be conducted in any Unit or in any other portion of the Condominium without the written consent of the Board, pursuant to rules and regulations adopted consistent with the provisions of this Section. Nothing in this Section may be construed so as to prevent or prohibit: (a) subject to this Section 7.2, activities relating to the rental, lease or sale of Units; (b) an Owner from maintaining his or her professional personal library, keeping his or her personal business or professional records or accounts, handling his or her personal business or professional telephone calls, or conferring with business or professional associates, clients, or customers, in such Owner's Unit; or (c) use of a Unit as a "home office."

**7.2.6** If any tenant or occupant of a Unit violates or permits the violation by his guests and invitees of any provisions hereof or of the Bylaws or of the Rules and Regulations, and the Board determines that such violations have been repeated and that a prior notice to cease has been given, the Board may give notice to the tenant or occupant of the Unit to forthwith cease such violations; and if the violation is thereafter repeated, the Board will have the authority, on behalf of and at the expense of the Owner, to evict the tenant or occupant. The Board will have no liability to an Owner or tenant for any eviction made in good faith. The Association will have a lien against the Owner's Unit for any costs for any costs incurred by it in connection with such eviction, including reasonable attorney's fees, which may be collected and foreclosed by the Association in the same manner as assessments are collected and foreclosed under Section 5. As used herein, the term "lease" includes any lease, rental agreement or other occupancy arrangement, however denominated. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise rent his Unit.

### **7.2.7 Application for Permission to Lease or Rent Procedure.**

7.2.7.1 Except as otherwise expressly provided herein and subject to Sections 7.2.1 and 7.2.4 prior to renting or leasing his or her Unit for other than Occasional Vacation Rental permitted hereunder or, an Owner (other than the Declarant or an Owner by Foreclosure) must apply to the Board for permission.

7.2.7.2 Applications for permission to rent or lease for other than Occasional Vacation Rental will be reviewed and approved or denied by the Board as provided in this Section.

7.2.7.3 The Board will review applications for permission to rent or lease in chronological order based on the date of receipt. Within five (5) business days of receipt, the Board will approve an application unless such approval would cause more Units to be rented or leased than is permitted under the Rental-Lease Ratio; however, the Board may not approve an application if at the time of review of the application the approval would result in permitting the Owner to rent or lease more Units than any other Owner who has submitted an application until the applications of such other Owner has

been approved. The Board must notify an Owner within five (5) business days of receipt of an application if permission is not given and the reason for the denial.

7.2.7.4 If an application is denied, the Board must place the Owner on a waiting list according to the date the application was received so that the Owner whose application was earliest received will have first opportunity to rent or lease when the number of Units rented or leased falls below the Rental-Lease Ratio threshold; however, an Owner who is currently renting or leasing a Unit must be placed on the waiting list after Owners who are not currently renting or leasing a Unit and after any Owner who is currently renting or leasing fewer Units than the applicant.

7.2.7.5 Once the Rental-Lease Ratio threshold has been reached (such threshold not to include any Units owned and/or leased by the Declarant or an Owner by Foreclosure), any time the number of Units rented or leased falls below such threshold, the Board will notify the Owner who is first on the waiting list that Owner's application will be approved unless Owner requests in writing that Owner's application be withdrawn.

7.2.7.6 All Owners of Units must provide the Board with a Statement of Unit Occupancy Information which must be kept on file with the books and records of the Association so that the Association may determine the percentage of Units rented or leased. The Statement of Unit Occupancy Information must be kept current by the Owner, be on a form prescribed by resolution of the Board, and contain a statement of whether or not the Unit is occupied by the Owner and if not, the following information: (i) the name of the renter, lessee or sub lessee; and (ii) the term of the rental, lease or sublease.

7.2.7.7 If an Owner, other than the Declarant or an Owner by Foreclosure, fails to submit the application required under this subsection and rents or leases his or her Unit, or rents or leases his or her Unit after the Board has denied a properly submitted application due to the then current Rental-Lease Ratio, the Board may assess fines against the Owner and the Owner's Unit after notice and an opportunity to be heard, and may seek other available legal remedies, including but not limited to, a request to the appropriate court for mandatory removal of the tenant or lessee from the Unit. All remedies of the Association are cumulative. Any and all costs of such enforcement action, together with attorney fees at trial or on any appeal, may be assessed against the Unit pursuant to Section 5.

7.2.7.8 The Board may adopt rules prescribing the form of the application and waiting list required by this subsection and such other rules as it determines necessary to implement the requirements of this Section.

## **7.2.8 Rental and Lease Agreements for Other than Occasional Vacation Rental; Compliance with Declaration and Bylaws.**

7.2.8.1 Except for Occasional Vacation Rentals permitted hereunder, all agreements for the rental or lease (including sublease) of Units and all Owners, renters, lessees and sub lessees of Units must comply with this Section.

7.2.8.2 All rentals and leases, including subleases, of Units must be by written agreement which provides that the terms of the agreement are subject in all respects to the provisions of the Declaration, these Bylaws, Association Rules, and the Condominium Act and that any failure by the tenant, lessee or sub lessee to comply with the terms of such documents or Condominium Act is a default under the agreement.

7.2.8.3 The Owner must provide the tenant or lessee (including sublessee) of the Unit a copy of the Declaration, the Bylaws, including any relevant amendments to such documents, and all Association Rules and in effect during the period of such rental or lease and obtain a receipt for delivery of such documents.

7.2.8.4 Upon the commencement of the rental or lease period (including any renewal or sublease), the Owner must provide the Association a statement of Unit occupancy information and a copy of the receipt specified in paragraph (b) of this Section. If the Owner fails to provide such receipt, the Association must provide such documents to the tenant, lessee or sublessee. The Association must obtain a receipt therefor, and may charge the copy expenses to the Owner as part of the Owner's assessments imposed under Article 5.

7.2.8.5 If the Board determines that a tenant, lessee or sublessee of a Unit has violated any provisions of the Declaration, the Bylaws, the Rules and Regulations, or the Condominium Act, in addition to any other remedies available to the Association, the Board may require that the Owner terminate such rental or lease agreement, or Owner's lessee terminate any sublease.

7.2.8.6 An Owner is responsible for paying for any damage to the Common Elements caused by his or her guests, tenants or lessees (including sublessees) and for any fines imposed by the Board for any violations of the Declaration, the Bylaws or the Association Rules.

### **7.3 Sales Facilities of Declarant.**

Notwithstanding any provision in Section 7.1, Declarant, its agents, employees, and contractors shall be permitted to maintain, during the period of sale and construction of the Condominium Units, upon such portion of the Condominium as Declarant may own and upon the Common Elements, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction, sale, or rental of Condominium Units and interests, including, but not limited to, a business office, storage area, signs, modeled units, sales office, construction office, and parking areas for all prospective tenants or purchasers of Declarant. The special Declarant rights set forth in the Declaration shall be controlling over any conflicting restrictions in these Bylaws.

#### **7.4 Effect on Insurance.**

Nothing shall be done or kept in or on the Common Elements which will increase the rate of insurance on the Common Elements without the prior written consent of the Board. No Owner or Purchaser shall permit anything to be done or kept in or on the Common Elements which will result in the cancellation of insurance on the Common Elements or which would be in violation of the law.

#### **7.5 Offensive or Unlawful Activities.**

No noxious or offensive activities shall be carried on upon the Condominium, Unit, Common Area, or any part thereof, nor shall anything be done or placed in, on or under any part of the Condominium or any Unit which unreasonably interferes with or jeopardizes the enjoyment of the Condominium, or which is a source of unreasonable annoyance to residents. No unlawful use shall be made of the Condominium or any part thereof, and all laws, zoning ordinances, regulations or any other Legal Requirement (as defined in the Declaration ) of all governmental authorities having jurisdiction thereof shall be strictly complied with. Construction of buildings and improvements by Declarant that are part of or are scheduled to become a part of the Condominium shall not violate this Section. Compliance with any Legal Requirements shall be accomplished by and at the sole expense of the Owner or Association, as the case may be, whichever shall have the obligation to maintain and repair the portion of the condominium affected by any such Legal Requirement. Each Owner shall give prompt notice to the Board of Directors of any written notice received of the violation of any Legal Requirement affecting the Owner's Unit or the Condominium. Notwithstanding the foregoing provisions, an Owner may, at his expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any Legal Requirement affecting any portion of the Condominium which such Owner is obligated to maintain and repair, and the Board of Directors shall cooperate with such Owner in such proceedings, *provided that*:

**7.5.1** Such Owner shall pay and shall defend, save harmless, and indemnify the Board, the Association, and each other Owner against all liability, loss or damage which any of them respectively shall suffer by reason of such contest and any noncompliance with such Legal Requirement, including attorneys' fees and other expenses incurred;

**7.5.2** Such Owner shall keep the Board advised as to the status of such proceedings; and

**7.5.3** If any Owner conducts any activity or fails to comply with any Legal Requirement that increases the insurance premiums on insurance carried by the Association, or for which the Association is directly or indirectly responsible, such Owner shall pay such increased premium to the Association, upon demand, and if not so paid, such amount shall bear interest after the date of such demand at the rate provided in Section 5.10.

#### **7.6 Contested Legal Requirements.**

An Owner need not comply with any Legal Requirement so long as the Owner is contesting the validity or applicability thereof as provided in Section 7.5, *provided that*

noncompliance shall not create a dangerous condition or constitute a crime or an offense punishable by fine or imprisonment, and that no part of the Condominium shall be subject to being condemned or vacated by reason of noncompliance or otherwise by reason of such contest. The Board may also contest any Legal Requirement without being subject to the conditions described in Section 7.5 as to contest and may also defer compliance with any Legal Requirement, subject to the conditions contained in this Section 7.6 as to deferral of compliance by an Owner, and the costs and expenses of any contest by the Board shall be a Common Expense.

### **7.7 Parking.**

Watercraft, trailers and recreational vehicles may be parked on General Common Elements only while being prepared for travel, limited to forty-eight (48) hours prior to leaving and forty-eight (48) hours after return to the Condominium. Subject to the preceding sentence, parking of boats, watercraft, trailers, recreational vehicles, trucks, campers, motorcycles, similar equipment and anything being in excess of three-quarters of a ton in weight shall not be allowed on Common Elements. No parking of any kind is allowed on the asphalt drive lane, except for in the parking spaces assigned as Limited Common Elements. No maintenance or repairs of any kind may be made to automobiles or other personal vehicles on any part of the Common Elements, provided that the foregoing does not prohibit any person from changing a flat tire.

### **7.8 Vehicles.**

No Owner shall permit any vehicle that is in an extreme state of disrepair to be abandoned or to remain parked upon any part of the Condominium for a period in excess of forty-eight (48) hours. A vehicle shall be deemed in an “extreme state of disrepair” when the board reasonably determines that its presence offends the residents of the Condominium. Should any Owner fail to remove such vehicle within two (2) days following the date on which notice is mailed to such Owner by the Board, the Board may have the vehicles removed from the Condominium and charge the expense of such removal to the Owner. No on-street vehicle maintenance or repair involving motor oils, fuels, or other lubricants or solvents shall be permitted anywhere on the Condominium. On-site vehicle washing shall be permitted only in paved areas that discharge all waste to a water quality treatment facility.

### **7.9 Pets.**

Domesticated animals, birds, fish and reptiles (herein referred to as “pets”) may be kept in the Units subject to Rules and Regulations, including a limitation to no more than two (2) pets, neither of which weighing in excess of twenty five ( 25) pounds. Dogs will not be allowed on the Common Elements unless they are being carried or are held on a leash. The Board may at any time require the removal of any pet that the Board reasonably determines is dangerous, unreasonably disturbing other Owners, repeatedly soiling or causing damage to the Common Elements, or not being kept in accordance with Rules and Regulations. The Board may exercise this authority with respect to specific pets on a case by case basis. At all times, the Common Elements shall be free from pet debris, including food and fecal matter. Each Owner shall be responsible for any damage to the Common Elements caused by a pet kept in his or her Unit or

by any guest or invitee of such Owner to the extent not covered by property insurance maintained by the Association.

#### **7.10 Protection of Wildlife.**

Feeding or harassing of wildlife anywhere on the Condominium shall be prohibited. Bird feeders may be used, subject to the Rules and Regulations of the Association, but only sterile bird seed may be used.

#### **7.11 Rubbish and Trash.**

No Unit or any part of the Common Elements (including any decks included in the Limited Common Elements) shall be used as a dump for trash or rubbish of any kind. All garbage and other debris and waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. In the event an Owner or occupant fails to remove any trash, rubbish, garbage, or other debris or waste materials from such Owner's or occupant's Unit (or from the street or other Common Elements if deposited thereon by such Owner or occupant) within five (5) days after notice from the Association, the Association may have such waste removed and charge the expense of such removal to the Owner of the Unit as provided in Section 5.3.12. Customary construction activities by Declarant that relate to development and construction of the condominium or buildings and improvements which are scheduled to be part of the condominium shall not violate this Section.

#### **7.12 Restriction on Vegetation.**

Only vegetation approved by the Association may be planted on any portion of the Condominium.

#### **7.13 Signs.**

No sign of any kind shall be displayed to the public on or from any Unit, Limited Common Element or General Common Element without the prior written consent of the Board. This Section shall not apply to the Declarant who may post such signs on the Property as Declarant deems necessary or appropriate for the sale of Units in the Condominium as long as the Declarant has a Unit for sale.

#### **7.14 Window Coverings.**

All window coverings shall be off-white in color, consistent with the blinds included in the original sale of the Units. The replacement of any original or existing blinds shall be approved by the Association.

#### **7.15 Temporary Structures.**

No structure of a temporary character, trailer, tent, shack, garage, barn, or other outbuilding shall be permitted or used in the Condominium at any time as a residence either temporarily or permanently.

### **7.16 Leaf Blowers.**

No leaf blowers that generate either noise or air pollution shall be used on any part of the condominium other than by a landscape maintenance company hired by the Board.

### **7.17 Association Rules and Regulations.**

The Board is empowered to pass, amend or revoke detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Section and the other provisions of these Bylaws. Such Rules and Regulations shall be binding upon all Owners upon adoption by the Board. In the event of any conflict between the Bylaws or the Declaration, and the Rules and Regulations, the Declaration or Bylaws shall prevail. Rules and Regulations shall not be effective until provided to the Owners in writing and one or more may be revoked by a majority vote of the Owners at an Owners' meeting.

## **8. MAINTENANCE OF CONDOMINIUM PROPERTY AND RELATED MATTERS**

### **8.1 Maintenance and Repair.**

Except as otherwise provided herein for damage or destruction caused by casualty, the Condominium shall be maintained, repaired and/or replaced, as follows:

#### **8.1.1 Units.**

All repairs, maintenance and replacement of, any Unit shall be made by and at the sole expense of the Owner of such Unit, who shall keep the same in good order, condition and repair. An Owner shall make no repair, replacement, maintenance, alteration or perform any other work on his/her Unit that would jeopardize the soundness or safety of the Condominium or reduce the value or impair any easement or other right of any Owner, unless the written consent of all Owners affected is also obtained.

#### **8.1.2 Common Elements.**

All maintenance, repairs and replacements to the Common Elements shall be made by the Association and shall be charged to all the Owners as a Common Expense. The Board shall be solely responsible for determining the appropriate maintenance schedule for the Common Elements and all other items for which the Board is responsible for maintaining in the Declaration or the Bylaws. Without limitation of the foregoing, the Association shall be responsible for the painting, staining, repair and replacement of the exterior surfaces of all Units (including the repair and replacement of roofs, gutters, vinyl siding and exterior doors); cleaning of the exterior surfaces of all window and door glass; the repair and resurfacing of all streets, driveways, and walkways; and the cutting, pruning, trimming, and watering of all landscaping. If the Mortgagee of any Unit determines that the Board is not providing an adequate maintenance, repair, and replacement program for the Common Elements, such Mortgagee, at its option, may deliver a notice to the registered agent of the Association, as required pursuant to Section 100.550 of the Act, setting forth the particular defect(s) which it believes exists in the

maintenance, repair, and replacement program. If the specified defect(s) are not corrected within sixty (60) days after receipt of such notice, then the Mortgagee, upon written notice to the registered agent that it is exercising its proxy rights thereunder, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each Unit on which it holds a Mortgage on all business coming before such meeting, which proxy rights shall continue until the defect(s) described in the notice are corrected. All work will be specially assessed to the benefited Units if the work pertains to less than all of the Units in the Condominium. For example, if the roof of a single Building needs repair, then the cost will be specially assessed only to the Unit Owners of the affected Building. Any such special assessment to the benefited Units shall be as reasonably and uniformly determined by the Board.

### **8.1.3 Repairs by Association.**

The Association may make repairs, replacements and maintenance that an Owner is obligated to make and that such Owner does not make within a reasonable time. The Association shall indemnify its agents, employees and other representatives from any and all liability to any Owner incurred by reason of any reasonable exercise of the right of entry afforded in the Declaration or Bylaws to effect emergency repairs. The Association shall have no liability to an Owner for any use of its right of entry or right to make emergency repairs if the Association has reasonable cause to believe that such action is required. Each Owner shall be deemed to have consented to having such repairs done to such Owner's Unit by the Association. An Owner will be specially assessed and must reimburse the Association for all such repair, replacement and maintenance costs except to the extent covered by insurance, including any legal or collection costs incurred by the Association to collect the costs of such repairs, replacement and maintenance. All such sums of money will bear interest from the due date thereof at the default rate provided in the Declaration and may otherwise be collected in the same manner as regular Common Expense assessments. If repairs are required due to an emergency and the Association does not immediately commence the required replacement, maintenance or repairs, either Owner may do so and such Owner will have all of the rights of the Association described in this Section.

## **8.2 Additions, Alterations or Improvements.**

**8.2.1** No Owner shall make any exterior alterations to the Owner's Unit, or make any change to an installation upon the Common Elements, or decorate, alter or repair any part of the Common Elements except for maintenance of those parts of the Common Elements which the Owner has the duty to maintain, without the prior written consent of the Association.

**8.2.2** Nothing shall be installed by the Owner of a Unit on the exterior of the Buildings or Common Elements without the prior written consent of the Board, subject to the following exception. Radio and television dishes and antennas and other over-the-air reception devices ("OTARD's") that are subject to the FCC's Over-the-Air Reception Devices Rule may be installed on each Owner's Limited Common Elements to the extent feasible and painted so as to camouflage the OTARD. If such a location is not feasible then the Owner may apply to the Board for an acceptable location on the General Common Elements of that Owner's Unit for the OTARD. The Board shall permit each Owner to install an OTARD on the General Common Elements in a specific location where it is feasible to obtain the desired service as is reasonably

determined by the Board. Owner shall submit to the Board detailed plans and specifications for any OTARD that Owner wishes to install on the General Common Elements or Limited Common Element, and shall not commence any construction, installation or operation of any such OTARD until the plans and specifications for its installation shall have been approved in writing by the Board. The Board may condition its approval upon, among other things, the provision of reasonable security to insure the performance of the Owner's obligations under this Section. Any such OTARD shall be painted as directed by the Board so as to camouflage the installation if that will not interfere with the desired service. The Board shall have the right to supervise the installation and removal of any such OTARD. The Board shall also have the right to require landscaping or other materials be installed at the Owner's expense to reasonably screen any such OTARD from view and to enforce reasonable OTARD safety and maintenance requirements. Board approval shall also be required for any OTARD mast installation that would be more than twelve (12) feet in height or any OTARD dish that would be more than three (3) feet in diameter.

### **8.3 Damage or Destruction by Casualty.**

#### **8.3.1 Responsibility of Association.**

The Association shall be responsible for repairing, reconstructing, or rebuilding all damage or destruction of the Common Elements by casualty and, to the extent of the Association's insurance coverage, all such damage or destruction to the Units. Each Owner shall be responsible for the repairing, reconstructing, or rebuilding of his Unit to the extent not covered by the Association's insurance within twelve (12) months of the occurrence of such casualty. The Association shall rebuild and restore the damaged or destroyed portions of the Common Elements and, to the extent of the Association's insurance coverage, of the Units, so that the Property is rebuilt and restored to substantially the same condition in which it existed prior to such damage or destruction, unless Owners of at least seventy-five percent (75%) of the Units and seventy-five percent (75%) of all first Mortgagees of Units agree that the Property shall not be rebuilt or restored. The Association shall represent the Owners in any proceeding, negotiation, settlement, or agreement relating to the payment of proceeds under any insurance policies held by the Association. Any such proceeds shall be payable to the Association to the extent of its interest therein. If the Property is to be rebuilt and restored and the proceeds of the insurance policies held by the Association are insufficient to fund the full cost of rebuilding and restoration, the difference between the amount of such proceeds and such cost may be charged to all Owners as a common expense. If the required number of Owners and first Mortgagees agree that the Property shall not be rebuilt and restored, the Property shall be considered removed from the provisions of the Act in accordance with Section 100.605 thereof; and any proceeds resulting from such removal shall be distributed in accordance with Section 100.615 of the Act.

#### **8.3.2 Responsibility of Owner.**

If, due to the act or neglect of an Owner, or of a member of his family or his household pet or of a guest, servant, invitee, or other authorized occupant or visitor of such Owner, damage shall be caused to the Common Elements or to a Unit owned by others, or maintenance, repairs, or replacements shall be required which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs, and replacements as may be determined by the Association, to the extent not covered by the Association's insurance. Owners

of Units are required to carry homeowner's insurance on a Unit, as specified in Section 9.2 hereof.

#### **8.4 Total Condemnation.**

If, at any time or times during the continuance of the condominium form of ownership pursuant to the Declaration, the whole of the Condominium is taken by eminent domain or condemned by any public authority or sold or otherwise disposed of in lieu of or in anticipation thereof, all of which is hereinafter call "Condemnation", each Unit Owner shall be deemed to exclusively own the Limited Common Elements associated with such Owner's Unit such that they would be entitled to the Condemnation compensation and subject to the risk of loss from any such Condemnation. The Association shall have the sole authority to represent the Owners in any Condemnation proceedings or negotiations, settlements and agreements with the condemning authority as the attorney-in-fact of all the Owners and pursuant to such authority may accept any release and discharge of liability made by the Board on behalf of the Owners, but only with respect only to the General Common Elements of the Condominium. The Board's authority to act as attorney-in-fact of the Owners for such purpose is coupled with an interest and is irrevocable. The compensation to be paid to Owners of Units shall be negotiated and finalized, including, if required, by representation in any proceeding, by the Association, subject to ratification of such compensation by the Owners of at least seventy-five percent (75%) of the Units at a special meeting called for that purpose, whether or not proceedings are necessary. The Board shall provide each Owner and each Mortgagee with a written notice of the commencement of any such Condemnation proceeding regarding the General Common Elements and of any proposed sale or disposition in lieu or in advance of such proceeding. All compensation, damages respecting the General Common Elements, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association. The net Condemnation Award, after the Association is reimbursed for all costs of representing the Owners, shall be apportioned among the Owners in an equitable manner as reasonably determined by the Board.

#### **8.5 Partial Condemnation.**

In the event of a partial condemnation of the Condominium which includes some Units, each Owner whose Unit is condemned shall deal with the condemning authority with regard to compensation therefor, and the compensation for such Unit shall be paid to such Owner (or the Mortgagee of that Owner's Unit). The Association shall negotiate compensation relating to any Common Elements. The cost, if any, of restoring the balance of the Condominium so that it may be used shall be determined by the Association and the Association shall negotiate with the condemning authority with regard to compensation for this expenditure and shall, unless the Condominium is terminated within thirty (30) days after the receipt of such compensation in accordance with the Act, reconstruct the Condominium, using the funds received for such reconstruction. Any moneys received by the Association for any such reconstruction shall be held in trust by the Association for the purpose of such reconstruction.

## **9. INSURANCE**

### **9.1 Association Insurance Coverage.**

The Board shall obtain and maintain at all times as a Common Expense the insurance required by the Act and such additional insurance that the Board deems advisable, which shall include but not be limited to the following:

#### **9.1.1 Fire and Extended Coverage Insurance.**

The Board shall obtain and maintain at all times a policy or policies of property insurance covering fire and other risks covered under special form coverage (including vandalism, malicious mischief, sprinkler leakage, debris removal, cost of demolition, windstorm, flood and water damage, endorsements,) in an amount as near as practicable to the full insurable replacement value (without deduction for depreciation) of the Condominium, including the Units, exclusive of land, foundation, excavation and other items normally excluded from coverage or such other property insurance as the Board reasonably determines will provide substantially equal or greater protection, insuring the Owners and their Mortgagees, as their interests may appear. The Board shall be named as the insured in such policy or policies and, as trustee for the benefit of Owners and Mortgagees as their interests may appear. All such policies shall contain the standard mortgage clause, or equivalent endorsement, that is commonly accepted by private institutional mortgage investors in the area in which the Condominium is located. The Board shall cause certificates of insurance to be issued to each Unit Owner and Mortgagee upon request. If such insurance is maintained by other than the Board, then the Board shall monitor the insurance for sufficiency. The insurance policy described in this Section 9.1.1 shall provide that the policy is primary in the event a Unit Owner has other insurance covering the same loss. All insurance shall be obtained from an insurance carrier rated A- (and rated as in Class IX or better financial condition) by Best's Insurance Reports or equivalent rating service, and licensed to do business in the State of Oregon.

#### **9.1.2 Commercial General Liability Insurance.**

The Board shall at all times maintain commercial general liability insurance insuring the Association, Unit Owners, Board, Declarant, and its managing agent against liability to the public or to individual Unit Owners. Such insurance shall include liability for water damage, liability for damage to property of others, contractual liability, non-owned automobile liability, and liability for maintenance or use of the Common Elements. The liability under which insurance must be determined by the Board after consultation with insurance consultants, but not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and/or property damage arising out of a single occurrence (such policy limits to be reviewed at least annually by the Board and increased in its discretion).

#### **9.1.3 Worker's Compensation Insurance.**

The Board shall obtain and maintain at all times a policy or policies of worker's compensation insurance to the extent required by applicable laws.

#### **9.1.4 Fidelity Bonds.**

The Board shall obtain and maintain at all times adequate fidelity bonds covering the members of the Board and all other officers, Directors and employees of the Association handling or responsible for funds of or administered by the Association. If a management agent has the responsibility for handling or administering funds of the Association, the management agent will be required to maintain fidelity bond coverage for its officers, employees and agents responsible for such funds. In no event may the aggregate amount of such bonds be less than a sum equal to three (3) months aggregate assessments on all Units plus Reserve Funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of “employees” or similar terms or expressions.

#### **9.1.5 Insurance Against Loss.**

The Board shall obtain and maintain at all times insurance against loss of or to personal property of the Association by fire, theft, and other causes, with deductible provisions as the Board deems reasonably advisable.

#### **9.1.6 Other Insurance.**

The Board shall maintain such other insurance as the Board deems advisable; provided, that notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority, Veterans Administration, or other governmental or quasi-governmental agency involved in the secondary mortgage market, so long as such agency is a Mortgagee, an insurer or guarantor of a Mortgage, or owner of a Unit within the Condominium, except to the extent such coverage is not available or has been waived in writing by such agency.

### **9.2 Owner’s Insurance Coverage.**

It is acknowledged that the foregoing provisions specify only the insurance to be obtained and maintained by the Association and that the following insurance shall be obtained and maintained by each Owner as specified:

**9.2.1** Each Owner at his/her own expense shall maintain adequate property insurance covering such furnishings, fixtures, equipment, decorating and personal property and chattels of the Owner contained within the Owner’s Unit or stored elsewhere on the Condominium, including his automobile or automobiles, and for loss of use and occupancy of his Unit in the event of damage. Any such policy or policies of insurance shall contain waivers of subrogation against the Association, its manager, agents, employees and servants, and against the other Owners and any members of their households, except for vehicle impact, arson and fraud.

**9.2.2** Public liability insurance in the amount reasonably set by the Board of Directors no more often than every three years with respect to a Unit, covering any liability of any Owner to the extent not covered by any public liability and property damage insurance obtained and maintained by the Association.

**9.2.3** Each Owner shall file a copy of such individual policy or policies with the Board within thirty (30) days after purchase of such insurance, and the Board must immediately review its effect with the Board's insurance broker, agent, or carrier.

### **9.3 Insurance Proceeds.**

Insurance proceeds for damage or destruction to any part of the Condominium shall be paid to the Board on behalf of the Association, which must segregate such proceeds from other funds of the Association for use and payment as provided in the Bylaws and the Declaration. The Association, acting through its Board, has the sole authority to purchase and maintain appropriate insurance (including the collection and disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all necessary documents and the performance of all other acts necessary to accomplish such purpose) as attorney-in-fact of all Owners, and any insurer may accept a release and discharge of liability made by the Board on behalf of the named insureds under the policy. The Board's authority to act as attorney-in-fact of the Owners for such purpose is coupled with an interest and is irrevocable.

### **9.4 Mandatory Provisions.**

All insurance policies and fidelity bonds in this Section shall contain the following provisions:

**9.4.1** The recognition of any insurance trust agreement;

**9.4.2** A waiver of subrogation by the insurer as to any and all claims against the Association and any Owner, or their respective agents, employees, or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured;

**9.4.3** Confirmation that the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such Owners collectively;

**9.4.4** The policies and bonds may not be cancelled without at least ten (10) days' prior written notice to the Association and each Mortgagee under Section 13.2 of the Declaration; and

**9.4.5** A provision that any master policy on the Condominium cannot be canceled, invalidated, or suspended on account of the conduct of any officer or employee of the Board of Directors or the manager without prior demand in writing that the Board of Directors or manager cure the defect.

## **9.5 Unacceptable Policies.**

No insurance policy or fidelity bond required under this Section 9 may:

**9.5.1** require or permit contributions or assessments against the Association, the Board, the Owners, any managing agent, the Mortgagees or any guarantor of the above;

**9.5.2** require or permit loss payments are contingent upon action by the insurance carrier's board of Directors, policyholders, or members; or

**9.5.3** include any limiting clauses (other than insurance conditions) that could prevent the Board, the Association or the Unit Owners from collecting insurance proceeds.

## **10. AMENDMENTS TO BYLAWS**

### **10.1 How Proposed.**

Amendments to the Bylaws shall be proposed by either a majority of the Board or by the Owners holding at least twenty-five percent (25%) of the votes in the Association. The proposed amendment must be in writing and shall be included in the notice of any meeting at which action is to be taken thereon.

### **10.2 Adoption.**

A resolution adopting a proposed Bylaws amendment may be offered by either the Board or Owners and may be approved by the Owners at a meeting called for this purpose. Owners not present at the meeting considering such amendment may express their approval in writing or by proxy delivered to the Board at or prior to such a meeting. Subject to the provisions of the Declaration and these Bylaws otherwise, any resolution shall be approved by Owners holding at least fifty-one percent (51%) of the votes of the Units, except for amendments changing voting requirements and age, occupancy, or rental and leasing restrictions which shall require approval by Owners holding at least seventy-five percent (75%) of the votes in the Association and except that any provision of these Bylaws that is required to be in the Declaration may be amended only in accordance with the requirements governing the amendment of the Declaration. In any event, no amendment shall be effective to impair, reduce or terminate any special Declarant rights provided in these Bylaws or the Declaration without the consent of the Declarant so long as the Declarant has the right under the Declaration to create additional Units or is the Owner of an unsold Unit.

### **10.3 Execution and Recording.**

A Bylaw amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws, approved by the Oregon Real Estate Commissioner if required by law, and recorded as required by law.

## **11. MEDIATION AND ARBITRATION**

Every Owner and the Association has the right to enforce the provisions of the Declaration, these Bylaws and any Association Rules by submitting disputes to non-binding mediation, and if the mediation is unsuccessful, to final and binding arbitration in accordance with Section 19.9 of the Declaration. Neither the Owner nor the Association may commence litigation or an administrative proceeding that would result in an adversarial relationship with the other without first complying with any requirements of the Act to offer to submit the matter to an alternative dispute resolution process.

## **12. MISCELLANEOUS**

### **12.1 Notices.**

All notices to the Association or Board shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time by written notice thereof to each Owner. All notices to any Owner shall be sent to such home or business address, facsimile number or electronic mail address as may have been designated by that Owner from time to time, in writing, to the Board, or if no address has been designated, then to the Owner's Unit. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first class postage paid. If sent by electronic mail or facsimile, such notice shall be deemed delivered one business day after sending by such means, unless the sender is notified of failure of such delivery by such means.

### **12.2 Waiver.**

No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

### **12.3 Invalidity; Number; Captions.**

The invalidity of any part of the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any provisions of these Bylaws.

### **12.4 Action Without a Meeting.**

Any action which the Act, Declaration or Bylaws require or permit the Owners or Board to take at a meeting may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all Owners or Directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the Owners or Board, shall be filed in the Association minutes.

## **12.5 Conflicts; Severability.**

Each term and provision of these Bylaws shall be valid and enforceable to the fullest extent permitted by law. If any term or provision of these Bylaws or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, whether under ORS Chapter 100 or otherwise, the remainder of these Bylaws and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby. These Bylaws are intended to comply with the Act and the Declaration. In case of any irreconcilable conflict, the Act and the Declaration shall control over these bylaws, any amendments hereto or any rules and Regulations adopted hereunder.

## **12.6 Rules or Order.**

Robert's Rules of Order (latest edition) shall govern the conduct of Association and Board proceedings when not in conflict with the Declaration, the Articles, these Bylaws or Oregon law. A decision of the Association or its Board may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied. A decision of the Association or its Board is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

## **12.7 Liability Survives Termination.**

The sale or other disposition of a Unit, shall not relieve or release any former Owner from any liability or obligation incurred or in any way connected to said ownership, nor shall such termination impair any rights or remedies which the Association may have against such former Owner arising out of or in any way connected with such ownership and the covenants and obligations incident thereto.

## **12.8 Indexing.**

Whenever any dollar amount is specified in these Bylaws, such amount will be automatically adjusted each January 1<sup>st</sup> for that calendar year based upon any changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average for All Items, as published by the U.S. Bureau of Labor Statistics, U.S. Department of Labor, or if such index is discontinued, a comparable index selected by the Board, using the index for 2006 as the base year.

## **12.9 The Declarant as Owner.**

Except as expressly provided in these Bylaws and the Declaration, the Declarant shall, with respect to any Units owned by the Declarant, enjoy any and all rights, and assume any and all obligations, enjoyed or assumed by an Owner.

