

**BYLAWS  
OF THE ASSOCIATION OF UNIT OWNERS  
OF WEST OAKS CONDOMINIUMS, INC.**

**ARTICLE I**

**PLAN OF UNIT OWNERSHIP**

**Section 1. Name and Location.** These are the Bylaws of the ASSOCIATION OF UNIT OWNERS OF WEST OAKS CONDOMINIUMS, INC. (the "Association"). West Oaks Condominiums (the "Condominium") is located in the City of Corvallis, Benton County, Oregon, and has been submitted to the Oregon Condominium Act (the "Act") by a declaration filed and recorded in the records of Benton County simultaneously herewith (the "Declaration"). The location of the Condominium is more specifically described in the Declaration.

**Section 2. Principal Office.** The principal office of the Association shall be located at such address as may be designated by the Board of Directors.

**Section 3. Purposes.** This Association is formed under the provisions of the Act to serve as the means through which the Unit Owners may take action with regard to the administration, management, and operation of the Condominium.

**Section 4. Applicability of Bylaws.** The Association, all Unit Owners, the Declarant, its successors and assigns, and all persons using the Condominium in any manner shall be subject to these Bylaws and to all rules and regulations which may be promulgated hereunder. The Declaration shall control in the event of any conflict between these Bylaws and the Declaration.

**Section 5. Composition of Association.** The Association shall be composed of all Residential Unit Owners of the Condominium, including the Declarant and the Association itself, to the extent any of these own any Unit or Units of the Condominium.

**Section 6. Definitions.** Except as otherwise provided herein, the definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

**Section 7. Incorporation.** The Association is to be incorporated under the Oregon Nonprofit Corporation Law. In such event, the Articles of Incorporation shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the Bylaws of the incorporated association. In addition, Residential Unit Owner shall be deemed the "members" of the corporation for purposes of the Oregon Nonprofit Law, and the Association shall be a mutual benefit corporation.

## ARTICLE II

### ASSOCIATION MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

Section 1. Membership in the Association. Upon becoming legal Owner of a Residential Unit, an Owner shall automatically be a member of the Association and shall remain a member of the Association until such time as that ownership ceases for any reason. Residential Unit ownership shall be determined for all purposes of the Bylaws and the administration of the property, from the record of Unit ownership maintained by the Association. The Board of Directors may, at its discretion, require that a Residential Unit Owner file with the Association satisfactory proof of ownership, including a copy of the deed to or land sale contract for such Residential Unit, to which shall be affixed the certificate of recording office of the County of Benton, Oregon, showing the date and place of recording of such deed or contract. Notwithstanding the foregoing, the Declarant shall be the Owner of all previously unsold Units, although no deed or land sale contract, with respect to such Units, has been filed with the Association.

Section 2. Voting. The Owners of each sold Residential Unit shall have one vote per Unit. No votes shall be provided for Parking Units. The Declarant shall be entitled to vote as the Unit Owner of any previously unsold Units, and shall have three votes per Residential Unit owned. The Board of Directors shall be entitled to vote as to any Residential Units owned by the Association. Unless a valid court order establishes the authority of a co-owner to vote, whenever any Residential Unit is owned by two or more persons jointly, according to the records of the Association, the vote of such Residential Unit may be exercised by any one of the Owners then present, in the absence of protest by a co-Owner. In the event of such protest, no one co-Owner shall be entitled to vote without the approval of all co-Owners. In the event of disagreement among the co-Owners, the vote of such Residential Unit shall be disregarded in determining the proportion of votes given with respect to such matter, except in counting a quorum.

Section 3. Binding Vote; Percent of all Votes. The term "binding vote" shall mean more than fifty percent (50%) of the vote of the Residential Unit Owners present in person or by proxy, at a meeting at which a quorum is constituted. Such binding vote shall bind all Unit Owners for all purposes except where a higher percentage vote is required by law, by the Declaration, or by these Bylaws. The term "percentage of all votes" shall mean a percent of all the voting rights allocated to the Residential Units by the Declaration.

Section 4 Majority Vote. The term "majority vote" or "majority of Unit Owners" means more than fifty percent (50%) of the voting rights allocated to the Residential Units by the Declaration.

**Section 5. Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of forty percent (40%) of Residential Unit Owners shall constitute a quorum. A subsequent joinder of a Residential Unit 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, all actions taken shall be proper as to quorum, and any subsequent withdrawal of a Residential Unit Owner or Owners shall be disregarded. If any meeting of members cannot be organized because of 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, as provided in Article III, Section 9 of these Bylaws.

**Section 6. Proxies,** A vote may be cast in person or by proxy. A proxy given by a Residential Unit Owner to any person who represents such Owner at meetings of the Association shall be in writing and signed by such Owner, and shall be filed with the Secretary. No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy. Every proxy shall automatically cease upon sale of the Residential Unit by its Owner. A Residential Unit 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 Residential Unit Owner is entitled and to exercise the Residential Unit Owner's voting rights from and after the time that the mortgagee shall give written notice of such pledge or assignment to the Board of Directors. Any first mortgagee may designate a representative to attend all or any meetings of the Association.

**Section 7. Fiduciaries.** An executor, administrator, guardian, or trustee may vote, in person or by proxy, at a meeting of the Association with respect to any Unit owned or held by such person in such capacity, whether or not the same shall have been transferred to the Residential Unit Owner's name; provided, that the fiduciary shall satisfy the Secretary that the fiduciary is the executor, administrator, guardian, or trustee, holding such Unit in such capacity.

**Section 8. Authority to Vote.** All Owners of Residential Units shall be entitled to vote, and such entitlement shall remain whether or not an Owner has leased the premises to a third party. An Owner's right to vote may not be revoked.

## ARTICLE III

### MEETINGS OF THE ASSOCIATION

**Section 1. Place of Meetings.** Meetings of the Association shall be held at a suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

**Section 2. Initial Meeting.** The initial meeting of the Association shall be the turnover meeting as provided, below. However, prior to such meeting, the Declarant

may call meetings of the Unit Owners, formally or informally, for such purposes as Declarant deems necessary or appropriate.

**Section 3. Turnover Meeting.** Within ninety (90) days of the earlier of: a) the date of the conveyance to persons other than the Declarant of seventy-five percent (75% ) of the total Residential Units created or annexed by the. Declarant, or b) five (5) years from the date the first Residential Unit is conveyed, or c) such other earlier date as Declarant may elect to relinquish control, the Declarant shall call a meeting of the Unit Owners for the purpose of transferring control of the Association to all Residential Unit Owners, including Declarant. Notice of such meeting shall be given to each Unit Owner at least ten (10) but not more than fifty (50) days prior to the meeting and shall state the purpose and the time and place where it is to be held. At such turnover meeting, the interim Board of Directors will resign and successor directors will be elected by the Residential Unit Owners as provided in Article IV, Section 3, of these Bylaws. At such meeting the Declarant shall deliver to the Association such information and documents as may be required by the Act.

The Declarant may, at its sole option, call the turnover meeting prior to the time specified herein. If Declarant has not called a meeting within the time specified herein, the meeting may be called and notice given by any Residential Unit Owner or any first mortgagee of a Residential Unit.

In order to facilitate an orderly transition, during the three-month period following the turnover meeting, the Declarant or an informed representative shall be available to meet with the Board of Directors on at least two mutually acceptable dates to review the documents delivered to the Association.

**Section 4. Transition Committee.** Within sixty (60) days of conveyance to persons other than the Declarant of the fifty percent (50%) of the total number of Residential Units which Declarant may submit to this Condominium, Declarant shall call a meeting of the Unit Owners for the purpose of forming a transition committee. Notice of such meeting shall be given to each Unit Owner at least ten (10) but not more than fifty (50) days prior to the meeting and shall state the purpose and the time and place where it is to be held. The transition committee shall be advisory only and shall consist of two or more members selected by Residential Unit Owners other than the Declarant and may include not more than one representative of the Declarant. The members shall serve until the turnover meeting. The function of the committee shall be that of enabling ease of transition from control of the administration of the Association by the Declarant to control by, the Unit Owners. The committee shall have access to the information, documents and records which the Declarant is required to turn over to the Association at the turnover meeting.

Declarant shall not be required to call a meeting for the purpose of forming a transition committee if Declarant has called the turnover meeting within the time specified herein. However, if neither the turnover meeting nor the transition committee

meeting has been called within the time specified herein, the transition committee meeting may be called and notice given by any Unit Owner.

**Section 5. Ballot Meetings.** Any action that may be taken at any annual, regular or special meeting of the Association of Unit Owners 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 and the Board of Directors has provided Unit Owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. If at least three (3) days before written ballots are scheduled to be mailed or distributed, at least ten percent (10%) of the Owners petition the Board of Directors requesting secrecy procedures, a written 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 ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

(a) 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 shall be deemed to 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 shall be deemed to be rejected; and

(b) If approval of a proposed action otherwise would require a meeting at which a specified percentage of Unit Owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when the date for return of the ballots has passed and such required percentage has not been met. Unless otherwise prohibited by the Declaration, Articles of Incorporation or Bylaws, the votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are counted.

All solicitations for votes by written ballot shall state the following:

(1) If approval of a 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; and

(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.

All solicitations for votes by written ballot shall specify the period during which the Association shall accept written ballots for counting, which period shall end on the earliest of the following dates:

(a) If approval of a proposed action by written ballot requires that a certain percentage of the Unit Owners approve the proposal, the date on which the Association has received a sufficient number of approving ballots;

(b) If approval of a proposed action by written ballot requires that a certain percentage of the Unit Owners approve the proposal, the date on which the Association has received a sufficient number of disapproving ballots to render approval impossible; and

(c) In all cases, a date certain on which all ballots must be returned to be counted.

Except as otherwise provided in the Declaration, Articles of Incorporation, or Bylaws, a written ballot may not be revoked.

**Section 6. Annual Meeting.** The first annual meeting of the Association shall be held approximately one year following the turnover meeting and shall be set by action of the Board of Directors. The date of successive annual meetings shall be set by action of the Board of Directors and may be changed from time to time, but must be held annually. At such meetings, the Unit Owners shall elect directors to fill the positions of those directors whose terms have expired, in accordance with the provisions of Article IV, Section 3, of these Bylaws. The Unit Owners may also transact such other business of the Association as may properly come before them.

**Section 7. Special Meetings.** A special meeting of the Unit Owners may be called by the Chairperson, by a majority of the Board of Directors, or upon a petition signed by at least thirty percent (30%) of the Unit Owners, according to their voting rights, having been presented to the Secretary. All meetings called because of petition of Unit Owners shall be held at a formal gathering and not by ballot. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of all the Unit Owners or as otherwise set out in these Bylaws.

**Section 8. Notice of Meetings.** It shall be the duty of the Secretary to mail a notice of each meeting of the Unit Owners stating the purpose thereof and at the time and place where it is to be held, to each Owner of record, at least ten (10) days but not more than fifty (50) days prior to such meeting or the date when ballots for a ballot meeting are required to be returned. The mailing shall be to the Owner's address last given to the Secretary in writing by the Unit Owner. If Unit ownership is split or the Unit has been sold on a contract, notice shall be sent to a single address, of which the Secretary has been notified in writing by such parties. If no address has been given to the Secretary in writing, then mailing to the Condominium Unit shall be sufficient. The

mailing or actual delivery of a notice in the manner provided in this Section shall be considered notice served. Notice of a meeting may be waived by any Unit Owner before or after the meeting.

**Section 9. Adjourned Meetings.** If any gathering of Unit Owners is not a legal meeting because a quorum has not been attained, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called. No notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place. The adjournment provisions of this Section do not apply to meetings by ballot.

**Section 10. Order of Business and Conduct of Meetings.** The order of business at meetings of the Unit Owners shall be as follows:

- (a) Quorum call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Approval 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.
- (i) Adjournment.

Unless otherwise provided in a resolution duly adopted by the Board of Directors, meetings of the Association and of the Board shall be conducted according to the latest edition of Robert's Rules of Order published by Robert's Rules Association. No decision, of the Association or the Board may be challenged because the appropriate rules of order were not followed 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 was denied. A decision of the Association and the 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.

## ARTICLE IV

### BOARD OF DIRECTORS QUALIFICATIONS, ELECTION, MEETINGS

**Section 1. Number and Qualification.** The affairs of the Association shall be governed by a Board, of Directors composed of three (3) or five (5) persons. All directors must be an Owner or co-Owner of a Unit For purposes of this Section, the officer of any corporate Owner, the partners of any partnership Owner and the members of any limited liability company Owner shall be considered co-Owners of any Units owned by such corporation or partnership. The qualifications for directors set forth herein do not apply to interim directors appointed by Declarant.

**Section 2. Interim Directors.** Upon recording of the Declaration, the Declarant will appoint an interim board of three (3) directors who shall serve until replaced by Declarant or until their successors have been elected by the Unit Owners as hereinafter provided.

**Section 3. Election and Term of Office.** At the turnover meeting, the interim directors shall resign and five (5) successors shall be elected as herein provided. If five (5) directors are elected, the two directors receiving the first and second largest numbers of votes shall serve three-year terms, the two directors receiving the third and fourth largest numbers of votes shall serve two-year terms, and the director receiving the fifth largest number of votes shall serve one-year term. At the expiration of the initial term of office of each director, a successor shall be elected to serve a term of three (3) years. The directors shall hold office until their successors have been elected and hold their first meeting.

**Section 4. Vacancies.** Vacancies on the Board of Directors caused by any reason other than removal of a director by a vote of the Association shall be filled by vote of a majority of the remaining directors, even though they may constitute less than a quorum, or by a sole remaining director. Each person so elected shall be a director until a successor is elected upon the expiration of the term for which such person was elected by the other directors to serve. Vacancies in the interim Board of Directors shall be filled by Declarant.

**Section 5. Removal of Directors.** At any annual or special meeting, other than a meeting by ballot, any one or more of the directors, other than interim directors, may be removed with or without cause, by vote of the Unit Owners, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners may be given an opportunity to be heard at the meeting. Removal of a Board Member shall not be effective unless the matter of the removal is an item on the agenda and stated in the requisite notice for the meeting under ORS 100.407.

**Section 6. Open Meetings.** All meetings of the Board of Directors shall be open to Unit Owners, For other than emergency meetings, notice of the time and place of directors' meetings shall be posted at a place or places at the Condominium at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform Unit Owners of such meetings. Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the Chairperson or other presiding officer of the Board shall state the general nature of the action to be considered, as precisely as possible, and when and under what circumstances the deliberations can be disclosed to Unit Owners. The statement, motion or decision to meet in executing session must be included in the minutes of the meeting.

Only the following matters may be discussed in executive session: (a) consultation with legal counsel concerning the rights and duties of the Association with

regard to existing or potential litigation or criminal matters; (b) personnel matters, including salary negotiations and employee discipline; (c) negotiations of contracts with third parties; and (d) collection of unpaid assessments. A contract or action considered in executive session does not become effective unless the Board of Directors, following the executing session, reconvenes in an open meeting and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

**Section 7. Organizational Meeting.** The first meeting of a newly elected Board of Directors shall be held within ten (10) day of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order to hold such meeting, providing a majority of the newly elected directors are present. Such meeting may be held immediately following the turnover meeting.

**Section 8. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors.

**Section 9. Special Meetings.** Special meetings of the Board of Directors may be called by the Chairperson or Secretary or on the written request of at least two (2) directors. Special meetings of the Board of Directors may be called on three (3) days' notice to each director, given personally or by mail or telephone, which notice shall state the time, place, and purpose of the meeting.

**Section 10. Conference Call Meetings.** Emergency meetings of the Board of Directors may be conducted by telephonic communication. Such telephonic meetings may be carried on by means of a "conference call" in which each director may speak with all of the other directors. The directors shall keep telephone numbers on file with the Chairperson to be used for telephonic meetings.

**Section 11. Waiver of Notice.** Before, at, or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice to such directors shall be required, and any business may be transacted at such a meeting.

**Section 12. Board. of Directors' Quorum.** At all meetings of the Board of Directors, a majority of the existing directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 13. Compensation for Directors.** No director shall be compensated in any manner, except for out-of-pocket expenses not exceeding \$100 in any twelve (12) month period, unless such compensation is approved by vote of the Unit Owners.

**Section 14. Liability.** A Member of the Board of Directors or an officer of the Association shall not be liable to the Association or any member thereof for any damage, loss or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for acts of gross negligence or intentional misconduct. In the event any member of the Board of Directors or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

## ARTICLE V

### ASSOCIATION RESPONSIBILITIES; BOARD OF DIRECTORS' POWERS AND DUTIES

**Section 1. Association Powers.** Subject to the provisions of the Declaration and these Bylaws, the Association shall have the power to:

- (a) Adopt and amend bylaws and rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves and levy and collect assessments for common expenses from unit owners;
- (c) Hire and terminate managing agents and other employees, agents and independent contractors;
- (d) Defend against any claims, proceedings or actions brought against it;
- (e) Subject to applicable Oregon law, initiate or intervene in litigation or administrative proceedings in its own name, and without joining the individual unit owners, in the following:

Matters relating to the collection of assessments and the enforcement of declarations and bylaws;

- ii. Matters arising out of contracts to which the Association is a party;

Actions seeking equitable or other nonmonetary relief regarding matters that affect the common interest of the unit owners, including, but not limited to the abatement of nuisance;

iv. Matters relating to or affecting the common elements, including but not limited to actions for damage, destruction, impairment or loss of use of any common element;

v. Matters relating to or affecting the units or interests of unit owners including but not limited to damage destruction, impairment or loss of use of a unit of portion thereof, if resulting from a nuisance or a defect in or damage to a common element or required to facilitate repair to any common element; and

vi. Any other matter to which the association has standing under law or pursuant to the Declaration, these Bylaws or the Articles of Incorporation;

(f) Make contracts and incur liabilities;

(g) Regulate the use, maintenance, repair, replacement and modification of common elements;

(h) Cause additional improvements to be made as a part of the common elements;

(i) Acquire by purchase, lease, devise, gift or voluntary grant real or personal property or any interest therein and take, hold, possess and dispose of real or personal property or any interest therein;

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements;

(k) Impose charges for late payments of assessments, attorney fees for collection of assessments and, after giving written notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws and rules and regulations of the Association, provided that the charge imposed or fine levied by the Association is based:

On a schedule contained in the Declaration or Bylaws, or an amendment to either that is delivered to each Unit, mailed to the mailing address of each Unit or mailed to the mailing addresses designated in writing by the Unit Owner(s); or

ii. On a resolution adopted by the Board of Directors or the Association that is delivered to each Unit, mailed to the mailing address of each Unit or mailed to the mailing addresses designed by the Unit Owner(s) in writing;

(l) Adopt rules regarding the termination of utility services paid for out of, assessments of the Association and access to and use of the recreational and service facilities available to unit owners and, after giving written notice and an opportunity to

be heard, terminate the rights of any Unit Owner(s) to receive such benefits or services until the correction of any violation covered by such rule has occurred;

(m) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of assessments;

(n) Assign its right to future income, including the right to receive common expense assessments;

(o) Provide for the indemnification of its officers and Board of Directors, as may be limited by Oregon law, and maintain directors' and officers' liability insurance;

(p) Exercise any other powers that may be exercised in this state by any such association; and

(q) Exercise any other powers determined by the Association to be necessary and proper for the governance and operation of the Association.

**Section 2. Association Responsibilities.** The Association will have the responsibility of administering the Condominium; approving the annual budget; establishing and collecting assessments; maintaining, repairing and replacing the common elements and Association property and arranging for the operation, management, maintenance and repair of the Condominium and Association property, including negotiating and contracting with and supervising any person, persons, or business entity with respect to such matters; payment for the expenses of maintenance, repair and replacement of common elements and Association property and other expenses of the Condominium; and taking such other actions and exercising such other powers as are authorized by the provisions of the Act as the same may be amended from time to time.

**Section 3. Board's Powers and Duties.** The Board of Directors shall have all powers and duties necessary to carry out the responsibilities of the Association and may do all such acts and things as are not required by law or these Bylaws to be exercised and done by the Unit Owners. Specifically and without limitation, the Board of Directors shall have authority to carry out and be responsible for the following matters:

(a) Operation, care, upkeep, maintenance, repair, supervision and replacement of the General Common Elements, Association Property, and the Limited Common Elements, except to the extent this obligation is imposed on the Unit Owner in these Bylaws.

(b) Determination of the amounts required for operation, maintenance; and other affairs of the Association; preparation and adoption of operating budgets; and setting assessments therefore.

(c) Collection of assessments from Unit Owners, both prorata assessments and individual assessments.

(d) Payment of all common expenses of the Association and institution and maintenance of a voucher system for such payment, which shall require a sufficient number of signatories on checks and vouchers thereon as shall be reasonably necessary to prevent any misuse of Association funds,

(e) Employment and dismissal of such personnel as is necessary for the maintenance, upkeep, and repair of the Common Elements.

(f) Employment of legal, accounting, or other personnel or consultants for reasonable compensation to perform such services as may be required for the proper administration of the Association, and preparing and filing the required income tax returns or forms.

(g) Opening and maintenance of bank accounts, which must be within the State of Oregon, on behalf of the Association and designating the signatories required therefore. Separate bank accounts shall be maintained for assessments and for reserves. All expenses of the Association shall be paid from the appropriate Association shall be paid from the appropriate Association account(s).

(h) Purchasing Units of the Condominium at foreclosure sales in the name of the Association, or its designee, pursuant to ORS 100.460, on behalf of all the Unit Owners as provided in these Bylaws. In any foreclosure action instituted by the Board of Directors, the Board shall enter a bid at the sale for the amount of the unpaid lien and costs and expenses incurred in such action. No other bid by the Association to purchase a Unit shall be made unless the Unit Owners have authorized the purchase by majority vote.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to, or otherwise dealing with Units of the Condominium acquired by the Association or its designee on behalf of all the Unit Owners pursuant to ORS 100.460.

(j) Obtaining insurance or bonds pursuant to the provisions of these Bylaws.

(k) Making additions and improvements to, or alterations of, the Common Elements; provided however, that no such project may be undertaken by the Board if the total cost will exceed the amount of \$2,500 unless the project has been approved by a majority vote of the Unit Owners. This limitation shall not be applicable to repairs or maintenance undertaken pursuant to subparagraph (a) above.

(l) Executing, acknowledging, delivering and recording on behalf of the Unit Owners leases, easements, rights of ways, licenses, and other similar interests affecting the general Common Elements or consent to vacations of the same, after the grant or vacation of such interests has been approved as provided in ,the Declaration.

(m) Promulgation of rules and regulations governing the Condominium and use thereof which shall be consistent with the restrictions set out in these Bylaws;

(n) Establish, periodically update, and implement a Maintenance Plan which identifies those components of the common elements requiring periodic maintenance, including a maintenance manual defining how and when such maintenance should be performed and setting for the estimated cost of such maintenance. The Maintenance Plan shall provide for an annual inspection of the property for evidence of water intrusion or other needed repairs by a knowledgeable independent party, and the Board shall reasonably address any matters revealed by the inspection. Copies of any written inspection reports received within five (5) years following the organizational and turnover meeting shall be delivered to the Declarant. The operating and reserve budgets of the Association shall take into account such costs. Changes or updates to the Maintenance Plan should be based upon advice of competent experts/consultants.

(o) File the necessary income tax returns of the Association.

(p) Enforcement by legal means or otherwise of the provisions of the Act, the Declaration, these Bylaws and any rules and regulations adopted hereunder.

(q) Except as otherwise provided in the Declaration, Articles of Incorporation or these Bylaws, authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances. Unless so authorized in writing by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or for any amount.

#### Section 4. Reports and Audits; Record Keeping.

(a) The Association shall keep financial records sufficient for accounting purposes.

(b) The Board or its designee shall keep detailed, accurate records, in chronological order, of the receipts and expenditures affecting the Common Elements, itemizing the maintenance and repair expense of the Common Elements and any other expenses incurred, and shall keep any other financial records sufficient for proper accountings purposes.

(c) An annual report consisting of a balance sheet and income and expense statement for the preceding year shall be distributed by the Board of Directors to all Unit Owners, and to all mortgagees of Units who have requested the same, within ninety (90) days after the end of each fiscal year. Said annual report shall be reviewed within 180 days after the end of the fiscal year by an independent certified public accountant licensed in the State of Oregon in accordance with the Statements on Standards for Accounting and Review Services issued by the American institute of Certified Public

Accountants, unless at least 60% of the Unit Owners vote against the CPA review each year, not including the Units owned by Declarant. From time to time the Board of Directors, at the expense of the Association may obtain an audit of the books and records pertaining to the Association. At any time any Unit Owner or mortgagee may, at no expense to the Association, cause an audit or inspection to be made of the books and records of the Association.

(d) The Board of Directors shall maintain within the State of Oregon at all times the records and documents of the Association, including those received from Declarant at the turnover meeting. Such records and documents shall be reasonably available for examination by a Unit Owner or a mortgagee; upon written request from the Unit Owner or mortgagee such records and documents shall be made available for duplication. The Board shall maintain copies suitable for duplication, of the Declaration, Bylaws, rules and regulations (and amendments thereto), current operating budget, and the most recent annual report. Upon written request of a prospective purchaser, such copies and document shall be made available for duplication during reasonable hours. The Board may charge a reasonable fee for furnishing copies to a Unit Owner, mortgagee or prospective purchaser.

Section 5. Managing Agent The Board of Directors will employ a managing agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties otherwise delegated to the Secretary or Treasurer in Article VI of these Bylaws.

Section 6. Annual Report. After the turnover meeting described in Article III, Section 3, has been held, the Board or its designee shall annually prepare and deliver to the office of the Oregon Real Estate Agency, not later than the "report date," an annual report as provided in the Act. The "report date" shall be the anniversary date on which the Condominium Information Report was filed in the office of the Oregon Real Estate Agency. The annual report shall set forth:

- (a) The name of the Association;
- (b) The name of the Condominium and the county in which the Condominium is located;
- (c) The mailing address, including the street and number, if any, and county of the Association;
- (d) The name and residence or business address, including the street and number, of the person designated as agent to receive service of process in cases provided in ORS 100.550(1) and any other legal proceeding relating to the Condominium or Association; if the designated agent has been changed since the last annual report was filed, the report shall contain a statement that the new agent has consented to the appointment; and

(e) The names and addresses of the Chairperson and Secretary of the Association,

Within thirty (30) days after there is a change in the information contained in a report, the Board or its designee shall prepare and deliver to the Oregon Real Estate Agency an amendment in accordance with the Act, which amendment shall set forth:

(1) The name of the Association as shown on the current records of the Office of the Secretary of State;

(2) The name and county identification of the Condominium;

(3) A statement of the information as changed; and

(4) If the current designated agent is to be changed, the name of the new designated agent and residence or business address, including the street and number, and a statement that the new agent has consented to the appointment.

The reports and amendments shall be made on forms prescribed and furnished by the Oregon Real Estate Agency, shall be accompanied by one exact or conformed copy and the correct filing fee, shall contain information current as of thirty (30) days before delivery for filing, shall be executed by the designated agent and the Chairperson or Secretary of the Association, and shall state beneath or opposite the signature the name of the person and the capacity in which the person signs ; and shall contain any additional information that the Oregon Real Estate Agency may require.

Section 7. Statement of Association Information. The Board of Directors may, at its discretion or if required by statute, prepare and record in the county records a Statement of Association Information pursuant to ORS 94.667.

## ARTICLE VI

### OFFICERS

Section 1. Designation. The principal officers of the Association shall be a Chairperson, who shall be a member of the Board of Directors, a Secretary, and a Treasurer, all of whom shall be appointed by the Board of Directors. The Chairperson shall be a Unit Owner, The Secretary and Treasurer need not be Unit Owners. The Board may appoint an Assistant Treasurer and an Assistant Secretary, and any such other officers as in their judgment may be necessary or desirable.

Section 2. Appointment of Officers. The officers of the Association shall be appointed by the Board of Directors at the organizational meeting of each new Board or any Board meeting thereafter, and shall hold office at the pleasure of the Board. If any office shall become vacant, the Board of Directors shall appoint a successor to fill the

unexpired term at any regular meeting of the Board of Directors, or at any special meeting of the Board called for that purpose.

**Section 3. Removal of Officers.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

**Section 4. Chairperson.** The Chairperson shall be the chief executive officer of the Association. The Chairperson shall preside at all meetings of the Association and of the Board of Directors, and shall have all of the general powers and duties which are usually vested in the chief executive officer of an association, including, but not limited to, the power to appoint committees from among the Unit Owners from time to time as may be appropriate to assist in the conduct of the affairs of the Association.

**Section 5. Secretary.**

(a) The Secretary shall keep or cause to be kept a Book of Minutes of all meetings of the Board of Directors and members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at members' meetings and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the members and of the Board of Directors as is required by these Bylaws or by law. The Secretary shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

(c) In the absence or disability of the Chairperson, the Chairperson's duties and powers shall be performed and exercised by the Secretary.

**Section 6. Treasurer.** The Treasurer shall have responsibility for Association funds and securities not otherwise held by the managing agent, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for (1) the preparation of all required financial statements, (2) the deposit of all monies and other valuable effects in the name, and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors, and (3) all other duties incident to the office of Treasurer and as may be required by the directors..

**Section 7. Directors as Officers.** Any director may be an officer of the Association.

**Section 8. Compensation for Officers.** No officer shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by binding vote of the Unit Owners,

## ARTICLE VII

### EXPENSES AND ASSESSMENTS

**Section 1. Assessments.** All Unit Owners are obligated to pay assessments imposed and billed by the Board of Directors to meet all the common expenses and for such other reasons and purposes as provided in the Declaration or Bylaws. A coupon book containing remittance statements for the assessments, reflecting the date each payment is due, will be mailed to each Unit Owner. A reminder notice will be sent to any Unit Owner whose payment is not received in accordance with the Association's policy. The term "assessment," as used in the Declaration or Bylaws, means any monthly, quarterly, annual, or one-time charge imposed or levied by the Association on or against a Unit Owner or Unit pursuant to the Declaration, the Bylaws, or the Act. Assessments may not be waived due to limited use or non-use of Common Elements or abandonment of a Unit. From the date of conveyance of the first Unit in the first stage of the Condominium and, for subsequent stages, from the date of recording the applicable Supplemental Declaration, Declarant shall pay assessments due for operating expenses on all unsold Units.

**Section 2. Deferring Commencement of Assessments.** Until the turnover meeting, Declarant may elect to defer commencement of all or part of common expense assessments as to all Units in the Condominium or in a stage of the Condominium. Additionally, until the Supplemental Declaration for the final stage has been recorded, or Declarant determines that no additional stages will be annexed, Declarant may elect to subsidize part of the common expense assessments as to all Units in the Condominium or in a stage of the Condominium. If Declarant so elects to defer commencement of all or part of common expense assessments (with respect to any unsold Units), Declarant shall pay as they accrue and be responsible for all or part of the common expenses attributable to the Condominium Unit of Units for which assessments have been deferred, until assessments commence for all common expenses. Declarant shall give not less than ten (10) days written notice to all affected Unit Owners prior to the commencement of common expense assessments if such a deferral occurs, or prior to the termination of subsidization.

**Section 3. Determination of Common Expenses.** Common expenses shall include:

- (a) Expenses of administration.
- (b) Expenses of maintenance, repair or replacement of General Common Elements.

- (c) Cost of insurance or bonds obtained in accordance with these Bylaws.
- (d) Cost of funding reserves.
- (e) Any deficit in common expenses for any prior period.
- (f) Utilities for the General Common Elements and other utilities with a common meter or commonly billed.
- (g) Any other items properly chargeable as an expense of the Association or properly assessed against a Unit Owner or Owners as provided herein.
- (h) Any other items agreed upon as common expenses by all Unit Owners.

#### **Section 4. Annual Budget.**

(a) The initial budget and estimated assessment shall be determined by Declarant. The budget and assessment shall thereafter be subject to review by the Board of Directors. The Board shall from time to time, and at least annually, prepare a budget for the expenses of the Association to be incurred during the coming year or fiscal period, and determine the annual assessment and any special assessments to be paid during such year or period. Account shall be taken of any expected income and any surplus available from the prior year's operations. The budget may provide for reserves for working capital and unexpected contingencies. If any sums estimated and budgeted for any purpose prove inadequate for any reason (including a Unit Owner's failure to pay assessments for any reason), the Board may at any time levy a further assessment. In the event that additional Units are annexed to the Condominium during any fiscal year, the Board shall determine in its sole discretion whether a new budget is required and, if so, shall prepare such budget for the remaining portion of the fiscal year to determine the amounts of assessments to be paid for the remaining portion of the fiscal year.

(b) From time to time, and at least annually, the Board of Directors shall prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Unit Owners. If within thirty (30) days after the summary is provided to the Unit Owners the Board of Directors is petitioned by Unit Owners representing twenty percent (20%) of the voting rights of the Association, the Board shall call a meeting of the Unit Owners to consider rejection of the budget. The date of the meeting shall be not less than fourteen (14) nor more than thirty (30) days after receipt of the petition. At the meeting, whether or not a quorum is present, the budget shall be adopted unless seventy-five percent (75%) or more of the voting rights of the Association rejects the budget. If the proposed annual budget is rejected, the last annual-budget shall continue in effect until the Unit Owners approve a subsequent budget.

**Section 5. Working Capital Fund.** A working capital fund shall be established initially by the Declarant in an amount equal to two (2) months of estimated common expenses for each Unit. Such amount shall be collected upon closing of the sale of each Unit or upon transfer of control of the Association to the Owners, whichever occurs earlier. Establishment and payment of the initial working capital account amounts shall not relieve the Owner of its obligation to make payments of regular monthly assessments nor shall such payment be considered to be an advance payment of any regular monthly assessments to cover common expense. No portion of these funds shall be used by the Declarant to defray any of its expense, construction costs, or to make up any budget deficiencies while it is in control of the Association. Declarant shall be permitted to reimburse itself for the initial working capital contributions actually paid by Declarant for any unsold Units by collecting the amount paid from each Owner at the closing of the sale of such Unit.

**Section 6. Reserve Accounts for Replacement of Common Elements.** The initial budget determined by Declarant shall make provision, based upon a reserve study in accordance with ORS 100.175, for a reserve account or accounts for replacement of those Common Elements which will normally require replacement in more than three (3) and less than thirty (30) years. The reserve account assessment shall take into account the estimated remaining life of such items and the current replacement cost thereof. The amount of payments to the reserve account shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The Board of Directors shall annually conduct a reserve study or review and update the existing study to determine the reserve account requirements.

The initial reserve study to be conducted by the Declarant and all annual updates thereof by the Board of Directors shall include (i) an identification of all items for which reserves are to be established; (ii) the estimated remaining useful life of each item as of the date of the reserve study; (iii) an estimated cost of maintenance, repair or replacement of each item at the end of its useful life, and (iv) a thirty-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

The reserve account must be funded by assessments against the individual Unit assessed for maintenance of items for which the reserve account is established: For example, if a Unit or Units are assessed separately for maintenance of a particular limited or general Common Element, the same Unit or Units will be assessed separately for any reserve account established for that particular limited or general Common Element.

The assessment for the reserve account will accrue from the time of the conveyance of the first individual Unit assessed. Declarant may elect to defer payment of the accrued reserved assessment for any unsold Unit until the time of conveyance of that Unit. However, the Declarant may not defer payment of the accrued reserved assessment beyond the date of the turnover meeting or, if no turnover meeting is held, beyond the date the Unit Owners assume administrative control of the Association.

The books and records of the Association shall at all times reflect amounts owed by Declarant for reserve assessments.

The reserve account shall be established in the name of the Association and funds held in the reserve account may be prudently invested for the benefit of the Association. The reserve account is to be used only for replacement of Common Elements and shall be kept separate from the general operating account of the Association. However, after the turnover meeting, the Board of Directors may borrow funds from the reserved account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses which will later be repaid from special assessments or maintenance fees if the Board has adopted a resolution, which may be a continuing annual resolution, authorizing the borrowing of funds. No later than the adoption of the budget for the following year, the Board of Directors shall adopt by resolution a written repayment plan providing for repayment of the borrowed funds within a reasonable period.

Assessments paid into the reserve account are the property of the Association and are nonrefundable to sellers of Units.

On an annual basis, the Association may elect not to fund the reserve account based upon unanimous vote of the Owners or may elect to reduce or increase future assessments for the reserve account by an affirmative vote of at least seventy-five percent (75%) of the Owners.

**Section 7. Special Assessments for Capital Improvements.** In the case of any duly authorized capital improvements to the Common Elements, the Board of Directors may establish separate assessments for the same and maintain the proceeds from such assessments in separate accounts.

**Section 8. Assessments Allocated to Each Unit; Individual Assessments.** Except as otherwise provided, all Unit Owners shall be assessed in accordance with the undivided interest in the Common Elements allocated to each Unit by the Declaration. However, Unit Owners may be assessed additional amounts individually for common expense incurred through such Unit Owner's fault or direction. Further, Unit Owners may be assessed additional amounts individually for fines, charges, and expenses in the process of collection of assessments and enforcement of the Declaration, Bylaws, and rules and regulations pursuant to Article VIII, and as otherwise provided by these Bylaws. Unless a complaint has been filed against the Owner and litigation is pending, the Association shall provide, within ten (10) business days of receipt of a written request from the Unit Owner, a written statement that provides (a) the amount of all regular and special assessments, fines and other charges, accrued interest, and late payment charges unpaid at the time the request was received; (b) the percentage rate at which interest accrues on assessments not paid when due; and (c) the percentage rate or fixed amount at which late payment charges were determined.

**Section 9. Omission of Budget and Assessments.** The omission by the Board before the expiration of any fiscal year to fix the budget, estimate the expense, and/or determine the assessment for the forthcoming year shall not be deemed a waiver or modification in any respect of the provision of these Bylaws, or a release of the Unit Owner from the obligation to pay the assessment or any installment thereof; the assessments fixed for the preceding year and any unpaid portions of prior special assessments shall continue until new assessments are fixed.

**Section 10. Debt Obligation; Installment; Interest.** Each assessment shall be the joint and several personal obligation of the Owner(s) of the Unit as of the time it is assessed. Other than Special Assessments, Assessments shall be billed monthly by the Association, or a management agent designated by the Association, and shall be paid monthly, Special Assessments shall be billed as authorized by the Board of Directors. Any assessment or installment thereof unpaid when due shall be delinquent and shall bear interest at twelve percent (12%) per annum from its due date until paid.

**Section 11. Association's Lien Against Unit** The Association, upon complying with ORS 100.450 or as the same may be amended, shall have a lien upon the individual Unit and undivided interest in the Common Elements appertaining to such Unit for any unpaid assessments. A lien includes interest, late charges, attorney fees, costs or other amounts levied under the Declaration or Bylaws. The lien is prior to all other liens or encumbrances upon the Unit except:

- (a) tax and assessment liens, and
- (b) a first mortgage or trust deed of record.
- (c) Notwithstanding subparagraph (b) above, the Association's lien shall be prior to the lien of any first mortgage or trust deed of record for the Unit and the undivided interest in the Common Elements if:

The Association has given the lender under the mortgage or trust deed ninety (90) days prior written notice that the Owner of the Unit is in default in payment of an assessment. The notice shall contain (i) name of the borrower; (ii) recording date and recording information of the trust deed or mortgage; (iii) name of the Condominium, Unit Owner, and Unit identification; and (iv) amount of unpaid assessment; the notice must also set forth the following in 10-point type: "NOTICE: the lien of the Association may become prior to that of the lender pursuant to ORS 100.450;" and

ii. The lender has not initiated judicial action to foreclose the mortgage or requested an issuance of a trustee's notice of sale under the trust deed or accepted a deed in lieu of foreclosure in the circumstances described in Section 11 of this Article prior to the expiration of ninety (90) days following the notice by the Association; and

iii. The Association has provided the lender, upon request, with copies of any liens filed on the Unit, a statement of the assessments and interest remaining unpaid on the Unit, and other documents which the lender may reasonably request; and

iv. The borrower is in default under the terms of the mortgage or trust deed as to principal and interest; and

v. A copy of the notice has been verified, filed, and recorded in the manner prescribed in 100.450(3).

**Section 12. Deed in Lieu of Foreclosure.** A deed in lieu of foreclosure accepted by the holder of a first mortgage or the beneficiary of the first deed of trust in respect to a Unit shall have the effect of extinguishing a lien of the Association filed to secure unpaid assessments, to the extent such assessments are greater than the last six (6) months' assessments, in the following circumstances:

(a) Written notice has been given to the Association, addressed to the individual authorized to accept service of process, sent by first class mail, return receipt requested, notifying the Association of the mortgagee or beneficiary's intent to accept a deed in lieu of foreclosure and stating that a portion or all of the lien of the Association may be extinguished in the circumstances specified in this section; and

(b) The deed in lieu of foreclosure is recorded not later than thirty (30) days after the date the notice is mailed to the Association.

**Section 13. Transferee's Liability for Unpaid Share of Common Expenses.**

(a) Where the purchaser of a Unit obtains title to the Unit as a result of foreclosure of the first mortgage or trust deed, such purchaser, or any successors and assigns, shall not be liable for any unpaid assessments against such Unit or its Owner which became due prior to the acquisition of title to such Unit by such purchaser. All unpaid and unrecoverable assessments shall be a common expense of all the Unit Owners including such purchaser, or any successors and assigns.

(b) In a voluntary conveyance of a Unit, the grantor shall be required to pay any outstanding lien(s) to the Association at or prior to the closing of such sale. If not so paid, 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 the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. 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 that 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 amount therein set forth.

**Section 14. Statement of Common Expenses and Assessments.** The Board of Directors shall promptly provide any Unit Owner who makes a request in writing with a written statement of the Owner's unpaid assessments.

## **ARTICLE VIII**

### **COLLECTION OF ASSESSMENTS; ENFORCEMENT**

#### **Section 1. Compliance With Declaration, Bylaws, Rules and Regulations.**

Each Unit Owner shall comply with the Declaration, Bylaws, and rules and regulations adopted pursuant thereto, as well as with such other covenants, conditions and restrictions contained in the deed to the Unit. Failure to comply therewith shall be grounds for an action maintainable by the Association or by an aggrieved Unit Owner. As described in Section 17.5 of the Declaration, except with respect to any action by the Association to collect assessments (other than assessments attributable to fines), to foreclose on an existing lien or execute an existing judgment, any dispute in which the Association and a Unit Owner have an adversarial relationship shall be subject to binding arbitration rather than litigation. The party intending to institute arbitration proceedings shall first, however, offer to use any dispute resolution program (mediation) available in Benton County. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address contained in the records of the Association for the other party. The other party shall, within ten (10) days after receipt of the notice, acknowledge receipt of the notice and its agreement to participate in dispute resolution (mediation) as set forth in ORS 100.407(11). The notice of acceptance must be in writing, hand-delivered or mailed to the initiating party, and must include the name, address and telephone number the body administering the dispute resolution/mediation program. If the offer to mediate the dispute is not so accepted, the initiating party may proceed to commence its arbitration proceedings. In the event an offer to mediate pursuant to ORS 100.407(11) is no made prior to institution of litigation or arbitration, upon motion of the non-instituting party, any litigation or arbitration proceeding may be stayed for thirty (30) days. If such proceeding is stayed, both parties shall then participate in dispute resolution (mediation). Unless a stay of litigation or arbitration has been granted, if the dispute resolution process has not been completed within thirty (30) days after receipt of the initial offer, the initiating party may commence its arbitration proceeding without regard to whether the dispute resolution (mediation) is completed. No decision by the arbitrator or court, once made, may be set aside on the grounds that an offer to first use dispute resolution (mediation) was not made. Dispute resolution (mediation) shall not be required if circumstances exist where irreparable harm to a party will occur due to delay nor shall it be required prior to commencement of litigation or administrative, proceedings initiated to collect assessments, other than assessments attributable to fines.

**Section 2. Authority to Enforce and Collect** The Board of Directors; on behalf of the Association, shall take prompt action against any violator to enforce the provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto, including prompt action to collect any unpaid assessment. In doing so, the

Board may exercise one or more of the remedies, separately or concurrently, specified in this Article, as well as any other remedies which may be available at law or in equity.

**Section 3. Abatement and Enjoining of Violations.** In the event of the violation of the Declaration, Bylaws, or any rules or regulations adopted pursuant thereto, the Board of Directors shall have the right to:

(a) enter the Unit or Limited Common Elements in which or as to which such violation exists and summarily abate and remove, at the expense of the Unit Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions of such documents (except that judicial proceedings must be instituted before items of construction can be altered or demolished), and the Board and its agents shall not thereby be deemed guilty of any manner of trespass; and/or

(b) enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

**Section 4. Late Charges; Fines,** The Board may, if it deems appropriate, impose charges for late payments of assessments, attorneys 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 adopted pursuant thereto. The amount of such late fees and fines shall be determined by the Board of Directors in an adopted resolution. A copy of such resolution, and any updates thereto, shall be delivered or mailed to the designated mailing address of each Unit Owner.

**Section 5. Acceleration of Assessment.** In the event that a Unit Owner fails to pay an installment of an assessment when it is due, the Board may, after ten (10) days written notice, declare the defaulting Unit Owner's entire annual or special assessment due immediately and interest thereafter shall accrue on the entire assessment at twelve percent (12%) per annum until paid.

**Section 6. Foreclosure of Lien Against Unit; Appointment of Receiver; Power to Bid at Foreclosure Sale.** The Board of Directors, on behalf of the Association, may bring suit to foreclose the lien against the Unit pursuant to ORS 100.450. In any such foreclosure suit, the Unit Owner shall be required to pay reasonable rental for the Unit. The plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect the rent. The Board of Directors, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same, subject to the restrictions in Article V, Section 2(h) herein,

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**Section 7. Action to Obtain and Recover a Money Judgment** The Board of Directors, on behalf of the Association, may bring an action to obtain a money judgment against a Unit Owner for damages and/or for unpaid assessments. An action to

recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same referred to in Article VII, Section 10 of these Bylaws.

**Section 8. Termination of Utility Services or Access to Facilities,** The Board of Directors may adopt rules regarding the termination of utility services paid for out of assessments of the Association and access to and use of recreational or service facilities available to Unit Owners and, after giving notice and an opportunity to be heard, terminate the rights of any Owners to receive such benefits or services until the correction of any violation covered by such rule has occurred.

**Section 9. Attorney's Fees.** In addition to any other provision in the Bylaws with respect to attorney fees, in any suit or action brought by the Association to foreclose its lien, collect delinquent assessments, or to enforce compliance with the terms and provisions of the Act, the Declaration or Bylaws, all amendments or supplements thereto, or any rules or regulations adopted thereunder, the prevailing party shall be entitled to recover reasonable attorney fees therein and in any appeal therefrom.

## **ARTICLE IX**

### **MAINTENANCE AND USE OF CONDOMINIUM PROPERTY**

#### **Section 1. Maintenance and Repair**

(a) Each Unit Owner must perform promptly all cleaning, maintenance, and repair work within the Owner's Unit, which if omitted would affect the Common Elements of the Condominium or a part thereof belonging to other Unit Owners, and shall be responsible for the damages and liabilities that failure to do so may cause.

(b) Each Unit Owner shall be responsible for the repair, maintenance, or replacement of windows, doors, and any plumbing, heating or air conditioning fixtures, telephones, water heaters, fans, lighting fixtures and lamps, fireplaces and flues, refrigerators, dishwashers, ranges, ovens, or other appliances and accessories that may be in or connected with the Unit Owner's Unit, regardless of whether such items are designated Common Elements.

(c) Each Unit Owner shall keep any areas that are designated as Limited Common Elements appurtenant to the Unit Owner's Unit in good repair and in a safe, neat, clean, and sanitary condition and shall be responsible for replacement when needed of any Limited Common Element which adjoins the Unit. In a situation where a Limited Common Element (such as a fence) may be deemed to be for the joint benefit of two or more Units, the affected Unit Owners shall share pro rata in the costs of any needed repair or replacement.

(d) A Unit Owner shall promptly reimburse the Association for any expenditures incurred in repairing or replacing any Common Element damaged through the Unit Owner's fault or at the Unit Owner's direction, as provided in Article X, Section 7, of these Bylaws.

(e) All other maintenance, repair, and replacement to the General Common Elements shall be made by the Association as a common expense.

## **Section 2. Use of Units; Internal Changes, Alterations.**

(a) All Units shall be used for residential purposes only, and all Common Elements shall be used in a manner conducive to such purposes. A Unit Owner shall be permitted to lease or rent such Unit or any part thereof to others so long as the rental period is not less than thirty (30) days. Any lease or rental agreement shall provide that the terms of said agreement shall be subject in all respects to the provisions of the Declaration, Bylaws, and rules and regulations adopted by the Board of Directors and that any failure by the tenant to comply with the terms of such documents shall be a default under said agreement. A Unit Owner may be assessed individually for common expenses incurred through such tenant's fault or direction and for fines, charges and expenses incurred in enforcing the Declaration, Bylaws, and rules and regulations with respect to such tenant. All such agreements that provide for a tenancy in excess of one month shall be in writing, and copies shall be given to the Board of Directors. The Owner shall be responsible for ensuring that its tenant is given copies of the Declaration, Bylaws, and any rules governing the Condominium and for its tenant's compliance therewith.

(b) A Unit Owner shall make no repair or alteration or perform any other work on any Unit which would jeopardize the soundness or safety of the Condominium, reduce the value thereof, impair any easement or hereditament or increase the common expenses of the Association unless the consent of all the other Unit Owners affected is first obtained. Subject to these limitations, however, a Unit Owner may:

i. Make any improvements or alterations to any Unit that does not impair the structural integrity, life safety or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

ii After acquiring an adjoining Unit or an adjoining part of an adjoining Unit, submit a written request to the Board of Directors for permission to remove or alter any intervening partition or to create apertures therein, even if the partition in whole or in part is a Common Element. The Board of Directors shall approve the change unless it determines within forty-five (45) days that the proposed change will impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium. The Board of Directors may require the Unit Owner, at the Owner's expense, to submit an opinion of a registered architect or registered professional engineer that the proposed change will not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the

Condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

**Section 3. Use of the Common Elements.** A Unit Owner shall not place or cause to be placed in the patios, balconies, porches, decks, ramps, vestibules, stairways, and other Condominium areas and facilities of a similar nature, any furniture, packages, or objects of any kind, except that suitable furniture may be placed on the decks and balconies, if any. A Unit Owner may not change the appearance of the Common Elements or the exterior appearance of a Unit without permission of the Board of Directors. Subject to limitations contained in these Bylaws and the Declaration, a Unit Owner may use the Common Elements in accordance with the purposes for which they are intended, but a Unit Owner may not hinder or encroach upon the lawful rights of the other Unit Owners. Outdoor living areas designated as Limited Common Elements shall be used exclusively for patios, low-profile decks, private plantings and landscaping and other reasonable outdoor living activities in accordance with any rules and regulations promulgated by the Board of Directors of the Association.

**Section 4. Relocation of Boundaries.**

(a) The boundaries between adjoining Units, including any intervening Common Elements, may be relocated or eliminated by an amendment to the Declaration. The Owners of the affected Units shall submit to the Board of Directors a proposed amendment which shall identify the Units involved, state any reallocations of Common Element interest, voting rights, common expense liability and right to common profits and contain words of conveyance. The Board of Directors shall approve the amendment unless it determines within forty-five (45) days that the reallocations are unreasonable or the relocation or elimination will impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium. Following such approval, the Board shall refer the matter to any vote required by the Declaration or the Act.

(b) The Board of Directors may require the Owners of the affected Units to submit an opinion, at the Owners' cost, of a registered architect or registered professional engineer that the proposed relocation or elimination will not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

(c) The Board of Directors or any agent appointed by the Board of Directors may supervise the work necessary to effect the boundary relocation or elimination.

(d) The amendment shall be executed by the Owners and mortgagees or trust deed beneficiaries of the affected Units, certified by the Chairperson and Secretary of the Association and approved and recorded in accordance with ORS 100.135(1)(b).

(e) A plat necessary to show the altered boundaries between the adjoining Units shall be recorded in accordance with ORS 100.115.

(f) Any expenses incurred under this Section shall be charged to the Owners of the Units requesting the boundary relocation or elimination.

**Section 5. Rules of Conduct.** The following rules of conduct apply to all Unit Owners and other persons using the Condominium in any manner.

(a) Without prior written approval of the Board of Directors, no advertisements, posters, or signs of any kind shall be displayed to public view on or from any Unit or the Common Elements except signs used by Declarant to advertise Units for sale or lease. Approval shall not be unreasonably withheld for ordinary signs advertising Units for sale. The restrictions of this provision shall not apply to (i) Declarant's Sales Office and Model Home Signs: the placement by Declarant or Declarant's agents of one or more signs identifying the name of Declarant and/or the location of a sales office or model home; or (ii) Construction: the placement by Declarant or Declarant's agents of signs customarily used in connection with the original construction and sales of houses.

(b) No noxious or offensive activities shall be carried on upon any Unit or the Common Areas, nor shall anything be done or placed in or on any Unit or Common Areas which interferes with or jeopardizes the enjoyment of other Units or which is a source of annoyance to residents. No unlawful use shall be made of a Unit or any part thereof, and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. Without limiting the generality of the foregoing, no heat pump or other heating, ventilating, or air conditioning equipment shall be installed in any Unit, the operation of which produces noise at a level higher than eighty (80) decibels. Approval as to installation of any such items shall also require written pre-approval of the Board of Directors and the Architectural Review Committee, appointed by the Board, if any. All persons shall exercise extreme care about creating disturbances, making noises or using musical instruments, radios, television, and amplifiers that may disturb other residents.

(c) No animals, including poultry, shall be raised or kept in any Unit, except that a total of two (2) dogs, cats or other household pets may be kept, provided they do not weigh in excess of 50 pounds, are not raised or kept for commercial purposes and are not permitted to cause damage, discomfort, unreasonable odor or noise to neighbors and neighboring Units. Pets will be allowed as long as the pet owner shall at all times strictly comply with the provisions of this Section, any additional rules and regulations adopted by the Board of Directors, and all municipal or other laws and regulations relating to pets, including but not limited to leash and licensing laws. No pet owner shall permit any pet to bark or otherwise annoy in any manner other Unit Owners. All pet owners shall immediately remove any waste deposited by a pet in any General or Limited Common Elements. Owners whose pets cause inconvenience, to other Owners shall take all steps necessary to prevent recurrence thereof, and Owners whose pets damage other Owner's Units or personal property shall reimburse such other Owner(s) for reasonable costs actually incurred by them in repairing such damage. The Board of Directors shall have the right to require removal of a pet from

the Condominium after sending two (2) notices in writing to the Unit Owner of violation of any provisions of this Section or such other rules and regulations governing pets as may be adopted by the Board of Directors.

(d) No garments, rugs, and similar items shall be hung from the windows or from any of the facades, decks, porches, or stairways of the Condominium. It is prohibited to hang or shake dust rags, mops, and similar items from the windows or decks, porches, or stairways, or to clean such items by beating them on an exterior part of the Buildings.

(e) No garbage, trash, or other waste shall be deposited or maintained on any part of the Common Elements except in areas or containers designated for such items.

(f) No person shall install wiring for electrical or telephone installation, machines, or air conditioning units or similar devices on the exterior of the Condominium or cause them to protrude through the walls or the roof of the Condominium except as authorized by the Board of Directors. No exterior window guards, awnings, or shades, or exterior lights or noise-making devices shall be installed without the prior consent of the Board of Directors. No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collection panels or equipment upon any Unit or the Common Areas without prior written approval from the Board of Directors or any Architectural Review Committee. If approved, such apparatus must be erected and maintained in such a way that it is screened from public view. The Board of Directors and any Architectural Review Committee shall have the absolute authority to determine whether an accessory is adequately screened from public view. The authority of the Board and any Architectural Review Committee in this matter shall be subject to any regulations issued by the Federal Communications Commission or any other applicable governmental authority.

(g) In order to preserve the attractive appearance of the Condominium, the Board of Directors or Architectural Review Committee may regulate the nature of items which may be placed in or on windows, decks, patios, balconies, porches, fences and the outside walls so as to be visible from other Units, the Common Elements, or outside the Condominium. All such items shall be maintained in a neat, clean, and sanitary manner by the Unit Owner. All windows shall be covered with material that is white or lined with white, or as the Board or Committee approves.

(h) The Parking Units and parking spaces, if any, designated as General Common Elements in the Declaration are intended for use of automobiles of only Unit Owners, tenants, and guests. The Board may make such rules necessary to govern the use of any Parking Units and parking spaces by which all Unit Owners and other users shall be bound. No Owner shall be permitted to (i) place any barrier or similar item across any Common Area or his or her individual Parking Unit, (ii) allow the growth of vegetation upon the Owners Parking Unit, (iii) park, or allow the parking of, vehicles in such a manner that any portion of the vehicle is located in any portion of a General

Common Area, or adjacent public street, or (iv) park, or allow the parking of, vehicles in a manner that materially diminishes the rights of the public to use the sidewalks or Common Areas for their ordinary and customary purposes.

(i) No trucks, boats, house trailers, motor homes, pickup campers, mobile homes, tents or like recreational vehicles shall be used for residential purposes either temporarily or permanently, nor shall they be stored or parked on the Common Elements except in areas, if any, specifically so designated by the Board of Directors.

(j) No commercial activities of any kind shall be carried on in any Unit or in any portion of the Condominium without the consent of the Board of Directors, except (1) activities relating to the rental or sale of Units; (2) activities by the Declarant or any contractor or subcontractor retained by the Declarant to construct Units; (3) activities by any contractor or subcontractor retained by the Declarant, the Association, or a Unit Owner to repair or remodel a Unit, provided that any exterior or structural construction activities be preapproved by the Board of Directors; (4) storage of any construction materials and equipment in the normal course of construction related to subsections (2) or (3) hereof; and (5) use of any Unit(s) by the Declarant or its marketing representatives as a sales or rental office or model Unit for purposes of sales or rental of Units. This provision, however, shall not be construed so as to prevent or prohibit a Unit Owner from maintaining a professional personal library, keeping personal business or professional records or accounts, handling personal business or professional telephone calls, or occasionally conferring with business or professional associates, clients, or customers, in the Owner's Unit, deck or patio area.

(k) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the cost of insurance on the Common Elements. No Unit Owner shall permit anything to be done or kept in any Unit or in the Common Elements which will result in cancellation of insurance on any Unit or any part of the Common Elements.

(l) No person shall carry on any criminal activities in the Condominium.

(m) No Owner shall permit any vehicle which is in a state of disrepair to be abandoned or to remain parked upon the General or Limited Common Areas or on the adjacent public streets at any time unless within a Unit's enclosed garage, if any, for a period in excess of 48 hours. A vehicle shall be deemed in a "state of disrepair" when the Board reasonably determines that its presence offends the occupants of the Condominium or surrounding neighborhood. Should any Owner fail to remove such vehicle within five days following the date on which notice is mailed to such Owner by the Association, the Association may have the vehicle removed and charge the expense of such removal to the Owner.

(n) Each Owner shall ensure that the wall(s) separating such Owner's Unit from other Units within the same Building are not punctured or otherwise breached by such Owner or Owner's lessees, invitees, contractors, or family members.

(a) No Owner may install a permanent basketball Hoop on any Unit or on the Common Areas without the prior written approval by the Board of Directors or Architectural Review Committee, The Board or Committee may, in its discretion, prohibit such basketball hoops. Basketball hoops shall be prohibited if the area of play is intended to be the street.

(p) There shall be no interference with the established drainage patters or systems over or through the Limited or General Common Areas without the prior written approval of the Board of Directors and any Architectural Review Committee.

(q) No Owner shall dump or pour liquids or materials down the catch basins of any stormwater system within the Condominium or any adjacent public streets.

Section 6. Additional Rules Adopted by Board of Directors. In addition, the Board of Directors from time to time may adopt, modify, or revoke such other rules and regulations governing the conduct of persons and the operation and use of the Units and Common Elements as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Condominium. Such rules and regulations may be modified or repealed by binding vote of the Unit Owners. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Secretary promptly to each Unit Owner and shall be binding upon all Unit Owners and Occupants of all Units from the date of delivery.

## ARTICLE X

### INSURANCE AND BONDS

Section 1. Insurance ("Master Policy"). For the benefit of the Association and the Unit Owners, the Board of Directors shall secure and maintain the following insurance coverage, which policies shall be in the name of the Association, and shall pay for the same out of the common expense funds.

(a) Fire and Extended Coverage. A policy or policies of property insurance equal to full replacement value (*i. e.*, one hundred percent (100%) of current "replacement" cost) exclusive of land, foundation, excavation, and other items normally excluded from coverage of a condominium project, but including all Buildings, Units, service equipment, and the like and any fixture or equipment within an individual Unit which is financed under a mortgage, with an Agreed Amount and Inflation Guard Endorsement or its equivalent, if available. Such policy or policies shall name the Declarant, the Association, and the Unit Owners as insured and shall provide for a separate loss payable in favor of all mortgagees, their successors, and assigns. Such policy or policies shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and by vandalism and malicious mischief. Such policy or policies may provide protection against loss or damage from windstorm, water damage, and such other risks as are customarily

covered in similar condominium projects. Such policy or policies shall be with an insurer with a policy holder's rating of at least B and a financial rating of not less than III (or as an alternative an A general) under Best's Insurance Reports. In no event shall such policy or policies have a deductible clause in excess of One Thousand Dollars (\$1,000) per Unit.

(b) **Liability Coverage.** A comprehensive policy or policies insuring the Association, the Unit Owners individually, the Board of Directors, and the manager or managing agent, if any, against liability to the public, the Unit Owners, and the invitees or tenants, incident to the ownership, supervision, control or use of the property. There may be excluded from the policy required under this paragraph, coverage of-a Unit Owner, other than coverage as a member of the Association or Board of Directors, for liability arising out of acts or omissions of that Unit Owner and liability incident to the ownership or use of the part of the property as to which that Unit Owner has the exclusive use or occupancy. Liability insurance required under this paragraph shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement providing that the rights of a named insured under the policy shall not prejudice any - action against another named insured. Limits of liability under such insurance policy shall not be less than One Million Dollars (\$1,000,000) on a combined single limit basis.

(c) **Workers' Compensation.** Workers' compensation insurance to the extent necessary to comply with any applicable laws.

(d) **Flood Insurance.** In the event the property is located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards or for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), the Association shall obtain and pay the premiums upon, as a common expense, flood insurance on the Buildings and other property. Such flood insurance shall be in an amount deemed appropriate by the Board of Directors of the Association but shall not be less than the lesser of (a) the maximum coverage available under the NFIP for all Buildings or other insurable property within the special flood hazard area; or (b) 100% of current replacement cost of all such Buildings or other insurable property within such an area.

**Section 2. Policy Provisions.** The Board of Directors shall make every effort to secure insurance policies that will provide for the following:

(a) A waiver of subrogation by the insurer as to any claims against the Board of Directors, manager, Unit Owners, and their respective servants, agents, and guests.

(b) A provision that the master policy is primary in the event a Unit Owner has other insurance covering the same loss.

### **Section 3. Fidelity Insurance.**

(a) The Board of Directors shall cause the Association to maintain blanket fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of, or administered by, the Association. In the event the Association has retained a managing agent, the Board of Directors may require such agent to maintain fidelity insurance for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association.

(b) The total amount of fidelity coverage required shall be based upon the best business judgment of the Board of Directors.

(c) Such fidelity insurance shall name the Association as obligee and shall contain waivers by the issuers of the insurance of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The insurance shall provide that it may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 10 days prior written notice to the Association and, if applicable, to FNMA or a FNMA servicer.

**Section 4. Directors and Officers Liability.** The Board may secure and maintain directors and officers' liability insurance for the directors and officers of the Association. The cost of said liability coverage shall be a common expense.

**Section 5. Settlement of Loss.** All losses under policies above described shall be settled exclusively with the Board of Directors or its authorized representative. Proceeds of the policies shall be paid to the Association as trustee for the Unit Owners, and their first mortgage holders, as their interest may appear, or, upon demand of any mortgagee, to an insurance trustee acceptable to the Association and mortgagees of Units.

**Section 6. Unit Owner's Obligations.** Each Unit Owner shall be responsible for obtaining, at the Unit Owner's expense, insurance covering the Owner's property not insured under Section 1(a) and against any liability not covered under Section 1(b); provided, however, that no Unit Owner shall be entitled to exercise this right to maintain insurance coverage in such a way so as to decrease the amount which the Board of Directors, on behalf of the Association and all Unit Owners, may realize under any insurance policy which the Board of Directors may have in force at any particular time. Additionally, each Unit Owner must inform the Board of Directors of all improvements made by such Owner to each Unit which have a value in excess of Five Hundred Dollars (\$500), so that the Board of Directors may make any desired adjustments in insurance coverage.

**Section 7. Unit Owner's Reimbursement.** A Unit Owner shall promptly reimburse the Association for any expenditures incurred in repairing or replacing any

portions of the Common Elements or Units that are damaged or lost through the Owner's fault or at the Owner's direction where such damage or loss is not covered by insurance policies carried by the Association for the Owner's and the Association's benefit. If such damage or loss is covered by said policies, the Unit Owner will promptly pay all amounts that would otherwise be paid by the Association pursuant to the deductible clause of said policies. All such amounts to be reimbursed or paid by a Unit Owner shall be deemed an individual assessment imposed on that Unit Owner.

**Section 8. Review of Insurance Policies; Additional Insurance.** At least annually, the Board of Directors shall review all insurance carried by the Association, which review shall include an appraisal of all improvements made to the Condominium by a representative of the insurance carrier writing the policy or policies specified in Section 1. The Board may obtain such additional insurance coverage as it deems necessary or appropriate, from time to time, for the benefit of the Association, the Unit Owners, and mortgagees.

**Section 9. Other Insurance Requirements.** Insurance obtained by the Association shall be governed by the following requirements;

(a) All policies shall be written with the State of Oregon or a company licensed to do business in the State of Oregon, a category as defined in Section 1(a).

(b) Notwithstanding the provisions of Section 1(a) above, there may be named as an insured, on behalf of the Association, the Associations' authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement, or any successor to such trustee. Such insurance trustee shall have exclusive authority to negotiate losses under any property or liability insurance policy. Each Unit Owner appoints the Association, or any insurance trustee or substitute trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance including: the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purchase. The Association or insurance trustee shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Unit Owners and their first mortgage holders, as their interests may appear.

(c) All property insurance policies shall contain endorsements providing for the following: recognition of any Insurance Trust Agreement, a waiver of the right of subrogation against Unit Owners individually, that the insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such Unit Owners collectively, and that the policy is primary in the event the Unit Owner has other insurance covering the same loss, and any such other insurance policies of the Unit Owners or their mortgagees shall not be brought into contribution with the insurance policies to be obtained by the Association.

(d) For purposes of this Article, insurance policies are unacceptable where (I) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, Unit Owners, or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members, or (iii) policy includes any limiting clauses (other than insurance conditions) which could prevent Unit Owners from collecting insurance proceeds.

(e) All policies required by this Article shall provide that they may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the insurance policy. Evidence of insurance shall be issued to each Unit Owner and mortgagee upon request.

(f) Any Unit Owner who obtains individual insurance policies covering any portion of the property other than his personal property and fixtures shall file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance.

## ARTICLE XI

### DAMAGE AND DESTRUCTION

Section 1. Insurance Proceeds Sufficient to Cover Loss. In case of fire, casualty, or any other damage or destruction, the insurance proceeds of the master policy, if sufficient to reconstruct the property damaged or destroyed, shall be applied to such reconstruction. Reconstruction of the damaged or destroyed property, as used in this paragraph, means restoring the property to substantially the same condition in which it existed prior to the fire, casualty, or disaster, with each Unit and the General Common Element having the same vertical and horizontal boundaries as before. Such reconstruction shall be accomplished under the direction of the Board of Directors or its designee.

Section 2. Insurance Proceeds Insufficient to Cover Loss. If the insurance proceeds are insufficient to reconstruct the damaged or destroyed property, the damage to, or destruction of, such property shall be promptly repaired and restored by the manager or the Board of Directors, using the proceeds of insurance, if any, on such property for that purpose, and all the Unit Owners shall be liable for assessment for any deficiency for such reconstruction. Such deficiency shall include as part of the Unit Owner's contribution, any individual policy insurance proceeds paid or payable to such Unit. Owner. Provided, however, if seventy-five percent (75%) or more in value of all the property is destroyed or substantially damaged and if the Unit Owners and mortgagees, by sixty-seven percent (67%) or more of all votes (as set forth in Section 13 of the Declaration as to mortgagees) agree that the property shall not be repaired, reconstructed, or rebuilt, then the property shall be considered removed from the provisions of the Oregon Condominium Act, and:

(a) The property shall be deemed to be owned in common by all the Unit Owners;

(b) The respective interest of a Unit Owner shall be the fair market value of the Owner's Unit and Common Element interest appertaining to such Unit immediately before termination of the Condominium. The proportion of any Unit Owner's interest to that of all Unit Owners shall be determined by dividing the fair market value of that Unit Owner's Unit and Common Element interest by the total fair market values of all Units and Common Element interests. The fair market value of each Unit and Common Element interest appertaining to such Unit shall be determined by:

Agreement of all Unit Owners; or

ii An independent appraiser selected by the Board of Directors. The decision of the appraiser shall be distributed to the Unit Owners and shall become final unless within fifteen (15) days after the distribution, the Board of Directors receives written objection from Unit Owners holding at least twenty-five percent (25%) of all the votes. In such event, a new appraiser shall be selected by the presiding judge of the circuit court for Benton County. Such appraiser's decision shall be final.

(c) All costs and expenses incurred under the Section shall be common expenses.

(d) In the event any part of the property has been damaged or destroyed, the appraiser may use any available data and information pertaining to the Condominium including, but not limited to, building plans, prior appraisals, and information on file with governmental authorities.

(e) Liens affecting any Unit shall be liens, in accordance with the then existing priorities, against the undivided interest of the Unit Owner in the property owned in common.

(f) Removal of the property from provisions of the Act shall comply with ORS 100.605 and other applicable statutes.

(g) The property shall be subject to an action for partition at the suit of any Unit Owner. If a judgment of partition orders the sale of the property, the net proceeds of sale, together with the net proceeds of the policies of insurance on the property, if any, shall be considered as one fund and shall be divided among the Unit Owners and their mortgagees, as their interests may appear, in proportion to the Unit Owners' respective undivided interests as determined under ORS 100.600 and 100.610 after first paying out of the respective shares of the Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each Unit Owner.

## ARTICLE XII

### CONDEMNATION

The Board of Directors shall have the sole authority to negotiate with any public or private body or person having the power of eminent domain and to sue or defend in any litigation involving such bodies or persons with respect to the Common Elements of the Condominium and shall assist any Unit Owner whose Unit or a part thereof is the subject of any condemnation or eminent domain proceeding. Prompt written notice of any such proceeding shall be given to the Unit Owners and their mortgagees. With respect to a taking of the Common Elements or any part thereof, the Board of Directors shall arrange for the repair or restoration of said Common Elements out of the proceeds of the award unless the Unit Owners and mortgagees, by sixty-seven percent (67%) or more of all votes (as set forth in Section 13 of the Declaration as to mortgagees), agree not to repair or restore said Common Elements. In that event, the Board of Directors shall disburse the net proceeds of such award to the Unit Owners (and their mortgagees as their interests may appear) according to the formula and procedure prescribed herein in Article XI, Section 2. Removal of the property, or any portion thereof, from the provisions of the Act shall comply with ORS 100.605 and other applicable statutes.

## ARTICLE XIII

### AMENDMENTS TO BYLAWS

**Section 1. How Proposed.** Amendments to these Bylaws shall be proposed by either a majority of the Board of Directors or by Residential Unit Owners holding fifteen percent (15%) or more of the voting rights. The proposed amendment must be reduced to writing, and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request to consent to the amendment.

**Section 2. Approval Required.** The Bylaws may be amended by approval of a majority of the Unit Owners; provided, however:

(a) Any amendment which relates to age restrictions, pet restrictions, limitations on the number of people who may occupy Units, and limitations on the rental or leasing of Units must be approved by Residential Unit Owners holding at least seventy-five percent (75%) of all the votes; and

(b) Declarant's written consent to any amendment shall be required until such time as seventy-five percent (75%) of the total number of Residential Units which Declarant may submit to the Condominium have been conveyed to persons other than Declarant;

(c) Declarant's written consent shall be required to any amendment which would limit or diminish any special Declarant's right and until such time as Declarant waives in writing this right of consent; and

(d) Mortgagees shall be entitled to such rights as are set forth in Section 13 of the Declaration.

Section 3. Recordation. Prior to the recordation of such amendment, the Association will submit the proposed Amended Bylaws or Amendment to a Bylaw to the Oregon State Real Estate Commissioner for approval in accordance with the Act. In approved, such amendments shall be recorded in Benton County. The Commissioner's approval is not required for an amendment to the Bylaws adopted five (5) years after the Bylaws are initially recorded.

Section 4. Additional Rights. Notwithstanding the provisions of this Article XIII, Declarant shall have the right to amend these Bylaws in order to comply with the requirements of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon which insures, guarantees or provides financing for a planned community, lots in a planned community or condominiums.

#### ARTICLE XIV

##### INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

The Association shall indemnify any director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the fact that the person is or was a director, officer, employee, or agent of the Association or serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys fees), judgments, fines, and amounts paid in settlement reasonably incurred by said person in connection with such suit, action, proceeding, or appeal therefrom, if the person acted in good faith and in a manner the person reasonably believed to be in, or not opposed to, the best interest of the Association, and had no reasonable cause to believe the conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, shall not of create a presumption that a person did not act in good faith and in a manner which the person reasonably believed to be in, or not opposed to, the best interest of the Association, and had reasonable cause to believe the conduct was unlawful. Payment under this clause may be made during the

**Section 2. Irreparable Harm.** The requirements of Section 1 do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation or an administrative proceeding initiated to collect assessments, other than assessments attributable to fines.

**ARTICLE XVI**

**MISCELLANEOUS**

**Section 1. Notices.** All notices to the Association or to the Board of Directors shall be sent in 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 of Directors may hereafter designate from time to time. All notices to any Unit Owner shall be sent to such address as may have been designated by him or her from time to time in writing to the Board of Directors, or if no address has been designated then to the Unit.

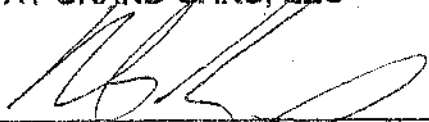
**Section 2. Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce to the same, irrespective of the number of violations or breaches thereof which may occur.

**Section 3. Invalidity; Numbers; Captions.** The invalidity of any part of these 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 plural the singular. The masculine and neuter shall each include masculine, feminine and neuter, as the context requires. All captions used herein are intended to be solely for convenience or reference and shall in no way limit any provision of these Bylaws.

It is hereby certified that these Bylaws have been adopted by Willamette Builders Group at Grand Oaks, LLC, Declarant of West Oaks Condominiums, and will be recorded in the Deed of Records of Benton County, together with the Declaration for said Condominium, after said Declaration is approved by the Real Estate Agency and the Assessor of said County.

DATED May 5, 2005.

**WILLAMETTE BUILDER GROUP  
AT GRAND OAKS, LLC**

  
By: Brent E. Keys, Authorized Member:

STATE OF OREGON            )  
  ) ss.  
County of Multnomah        )

This instrument was acknowledged before me on \_\_\_\_\_ 2005, by Brent E. Keys as  
Member of Willamette Builders Group at Grand Oaks, LLC.

  
\_\_\_\_\_  
Notary Public for Oregon

