

**DECLARATION SUBMITTING  
FOUNTAINS AT SUMMERFIELD CONDOMINIUM PHASE I  
TO THE OREGON CONDOMINIUM ACT**

THIS DECLARATION is made and executed by Tualatin Development Company, a division of Hayden Corporation, A Delaware Corporation, hereinafter called "Declarant."

Declarant desires to create a condominium to be known as Fountains at Summerfield Condominium Phase 1, which will be located in the City of Tigard, Washington County, Oregon. The purpose of this declaration is to submit the project to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act.

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

**1. Definitions.** When used herein the following terms shall have the following meanings:

- 1.1 "Act" means the Oregon Condominium Act.
- 1.2 "Association" means the Association of Unit Owners of Fountains at Summerfield Condominium.
- 1.3 "Board of Directors" means the directors selected pursuant to the provisions of this declaration and the bylaws to govern the affairs of the Association
- 1.4 "Bylaws" means the bylaws of the Association adopted as provided herein, as the same may be amended from time to time.
- 1.5 "Declarant" means Tualatin Development Company.
- 1.6 "Plat" means the plat of Fountains at Summerfield condominium, recorded simultaneously with the recording of this declaration.
- 1.7 "Incorporation by Reference" Except as otherwise provided in this declaration, each of the terms used herein shall have the meaning set forth in ORS 94.004, a part of the Act.

**2. Property Submitted.** The land submitted hereunder is held by Declarant in fee simple estate. It is located in the City of Tigard, Washington County, Oregon, and is more particularly described in Exhibit A attached hereto. The property submitted hereunder includes the land so described, all buildings, improvements and structures thereon, and all easements, rights and appurtenances belonging thereto.

**3. NAME.** The name by which the property submitted hereunder shall be known as "Fountains at Summerfield Condominium."

**4. GENERAL DESCRIPTION OF BUILDINGS.** Phase 1 consists of one building, designated Building 1. Building 1 contains eight units. The building is two stories, of wood frame construction, with brick veneer and wood siding, concrete foundation and ongrade slab floor, and composition roof.

## **5. UNITS.**

**5.2 General Description of Units.** Phase1 consists of 8 units, designated Unit 1 through 8, Unites 1, 2, 5 and 6 are located in the first story of Building 1. Units 3, 4, 7 and 8 are located in the second story of Building 1. Units 1, 3, 6 and 8 each contain an entry, kitchen, dining room, living room, den, bedroom, and two bathrooms, and enclose approximately 950 square feet. Units 2 and 4 each contain an entry, kitchen, dining room, living room, two bedrooms, and two bathrooms, and enclose approximately 1,061 square feet. Units 5 and 7 each contain an entry, kitchen, dining room, living room, two bedrooms and two bathrooms, and enclose approximately 1,140 square feet.

The dimensions, designation, and location of each unit are shown in the plat filed simultaneously herewith and made a part of this declaration as if fully set forth herein.

**5.2. Boundaries of Units.** Each unit shall be bounded by the interior unfinished surfaces of its perimeter and bearing walls, floors, and ceilings. All laths, wallboard, plaster board, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof shall be a part of the unit and all other portions of said walls, floors or ceilings shall be part of the common elements. The unit shall include windows, window frames, exterior and interior doors, door frames, air space, non-bearing interior partitions, and all other appliances, fixtures and improvements contained therein. In addition, each unit shall include the outlet of any utility service lines, including but not limited to water, sewerage, gas, electricity, and ventilating ducts within the unit, but shall not include any part of such lines or ducts themselves.

**5.3 Use of Units.** The units shall be occupied and used by the respective owner, family, tenant and social guests and for no other purposes. The owners of the respective units shall have the right to lease the same, provided that such lease is made subject to the covenants and restrictions contained in this declaration and is further subject to the bylaws, rules and regulations of the Association.

## **6. COMMON ELEMENTS**

**6.1 General Common Elements.** The general common elements consist of the following, to the extent they exist on the property, and except as portions thereof are expressly designated in this declaration as part of a unit or limited common elements.

(a) The land, pathways driveways, fences, ground, undesignated parking spaces, recreational facilities and outside storage spaces.

(b) The foundations, columns, girders, beams, supports, bearing walls, perimeter walls, main walls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances and exits of the building(s);

(c) Installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal and incinerators, up to the outlets within any units;

(d) The tanks, pumps, motors, fans, compressors, ducts and in general, all apparatus and installations existing for common use; and

(e) All other elements of any building necessary or convenient to its existence, maintenance and safety, or normally in common use.

6.2 Limited Common Elements. The following constitute limited common elements, the use of which shall be restricted to the unit(s) to which they pertain:

(a) Each unit is assigned the patio and/or deck which adjoin(s) the unit as shown on the Plat.

(b) Each unit is assigned the enclosed garage space which bears the number of the unit as shown on the Plat, except that garage spaces numbered 9 and 10 shall initially pertain to Unit 6. Upon the filing of the supplemental declaration for Phase 2, garage spaces numbered 9 and 10 shall automatically transfer and be assigned to the unit whose number they bear as shown on the plat filed simultaneously with the supplemental declaration.

(c) Units 1, 2, 3 and 4 are jointly assigned the enclosed entry connecting the front doors of those units; Units 5, 6, 7, and 8 are jointly assigned the enclosed entry connecting the front doors of those units. The enclosed entries include the landing and stairs, but not the covered porch, as shown on the Plat.

6.3 Undivided Interest in Common Elements. Each unit is allocated an equal undivided fractional interest in the common elements as shown on Exhibit B. The allocation reflects each unit's equal right to use and enjoy the general common elements. Each unit's undivided interest shall be deemed to be conveyed or encumbered with conveyance of said unit, even though the description in the instrument of conveyance or encumbrance may refer only to title in the unit.

6.4 Use of Common Elements. No person shall use the common elements or any part thereof in any manner contrary to or not in accordance with this declaration, the bylaws or such rules and regulations pertaining thereto which from time to time may be promulgated by the Board of Directors.

6.5 Maintenance, Repair, and Replacement. Except to the extent it is imposed on the unit owners by this declaration or the bylaws, the necessary work to maintain, repair or replace the common elements shall be in the responsibility of the Board of Directors of the Association and shall be carried out as provided in the bylaws. Nothing herein, however, shall be construed so as to preclude the Board of Directors from delegating such duties to individuals or entities.

## **7. COMMON PROFITS AND COMMON EXPENSES.**

The common profits shall be allocated among the unit owners according to the allocation of undivided interest of each unit in the common elements; provided, however, that no such profits shall be distributed among the unit owners and shall be used solely for purposes of maintaining, repairing, and replacing the common elements of other expenses of the Association. The common expenses shall be assessed to the unit owners according to the allocation of undivided interest of each unit in the common elements; provided, however, that unit owners may be assessed additional amounts individually for common expenses incurred through such unit owner's fault or direction or as otherwise provided in the bylaws.

8. Plan of Development. Declarant may annex additional property in the future to this condominium by adding additional phases.

A. Maximum Number of Phases. Declarant hereby submits Phase 1 to the condominium form of ownership. Declarant reserves the right to add up to 17 additional phases to the condominium (for a total of 18 phases) and to annex such additional phases by filing supplemental declarations pursuant to the Act. No additional phase shall be added and annexed after ten years following the recording of this declaration submitting Phase 1. Declarant may add less than 17 additional phases and may change the order in which the various phases are annexed.

B. Maximum Number of Units. Phase 1 contains 8 units. Declarant reserves the right to develop up to 102 additional units in subsequent phases, for a total of 110 units in the condominium. Declarant may develop less than 102 additional units.

C. Future Units. Declarant reserves the right to modify the floor plan, the architectural style, the size, and the materials used in future units, but will not lower the overall standard of quality.

D. Right to Presell. Declarant may presell condominium units prior to construction and may require that up to 100 percent of the units of each phase be sold prior to electing to proceed with the construction of the units in that phase.

E. Additional Common Elements. Declarant does not propose to include additional common elements in subsequent phases which may increase the proportionate amount of the common expenses payable by owners of units in Phase I.

F. fractional Interest in Common Elements. Each unit is allocated an equal undivided fractional ownership interest in the common elements. Each unit's equal undivided interest shall be deemed to be conveyed or encumbered with conveyance or encumbrance of said unit, even though the description in the instrument of conveyance of conveyance or encumbrance may refer only to title in the unit.

The method used to establish the allocation of undivided interest in the common elements of each unit at each phase of the development reflects each unit's equal right of use and enjoyment in the general common elements.

The fractional interest in the common elements of units in Phase I will change if additional phases are annexed to the condominium. At each phase, the numerator of the fraction will be one (1), and the denominator will be the total number of declared units. If Declarant elects to develop a total of 110 units, each unit in Phase I will have an undivided 1/110<sup>th</sup> fractional interest in the common elements.

G. Declaration of Future Phases to Summerfield. Declarant intends to declare each subsequent phase to be subject to the recorded Conditions and Restrictions pertaining to Summerfield and the recorded Bylaws of Summerfield Civic Association, in the same manner that Phase 1 is so declared in Section 18.

9. SERVICE OF PROCESS. The name of the person to receive service of process in cases provided in subsection (1) of ORS 94.280 is Robert C. Luton, and his place of business within the State of Oregon is 15300 S.W. 116<sup>th</sup> Avenue, Tigard, Oregon 97223.

#### 10. EASEMENTS AND ENCROACHMENTS.

10.1 Right of Access. The Association, through its Board of Directors, shall have the right to have access to each unit as may be necessary for the maintenance, repair or replacement of the common elements, or to make emergency repairs therein necessary for the public safety or to prevent damage to the common elements or to another unit. In

case of an emergency originating in or threatening his unit, or other portion of the condominium, each unit owner hereby grants the right of entry to any person authorized by the Board of Directors or the Association, whether or not the owner is present at the time. Each unit owner shall, upon request, leave a key to his unit with the Board of Directors to be used in such emergencies.

10.2 Encroachments. Each unit and all common elements shall have an easement over all adjoining units and common elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching units and common elements so long as the encroachments shall exist, and except as otherwise provided in the Act the rights and obligations of owners shall not be altered in any way by the encroachment, nor shall the encroachments be construed to be encumbrances affecting the marketability of title to any unit.

10.3 Granting of Interest Affecting Common Elements. The Association shall have the authority to grant easements, rights of way, licenses or other similar interests affecting the general common elements. The granting of any such interest shall first be approved by at least seventy-five percent (75%) of all votes of the unit owners as required by ORS 94.146(6). The instrument granting any such interest shall first be executed by the Chairman and the Secretary of the Association and acknowledged in the manner provided for acknowledgment of such instruments by such officers and shall state that such grant was approved by at least seventy-five percent (75%) of all votes of the unit owners.

**11. VOTING RIGHTS**. The owners or co-owners of each unit shall be entitled to one vote per unit.

## **12. ASSOCIATION OF UNIT OWNERS**

12.1 Organization; Adoption of Bylaws. Upon the execution and recording of this declaration, the Association shall be organized to serve as a means through which the unit owners may take action with regard to the administration, management, and operation of the condominium. Declarant shall simultaneously adopt and record bylaws for the Association.

12.2 Membership; Board of Directors. Each unit owner shall be a member of the Association, and membership therein shall be limited to unit owners only. The affairs of the association shall be governed by a Board of Directors as provided in the bylaws.

12.3 Power and Duties of the association. The association shall have such powers and duties as may be granted to it by the Oregon Condominium act, together with such additional powers and duties contained in this declaration and the bylaws.

12.4 Declarant Control of Association; Interim Board of Directors. Declarant will appoint an interim Board of Directors for the Association. Declarant hereby reserves the right to control the Association until the earlier of a) the date of conveyance to persons other than Declarant of seventy-five percent (75%) of the units in the last phase which Declarant may submit to this project, or b) seven year from the date the first unit is conveyed. Accordingly, upon the recording of the declaration and bylaws, the interim directors shall serve until the turnover meeting is held as provided in the bylaws.

12.5 Management Agreements, Contracts, and Leases. The Board of Directors, including the interim Board of Directors, shall have the right to contract with a professional manager or management firm to manage the affairs of the Association. However, if entered into prior to the turnover meeting of the condominium, no management agreement, service contract or employment contract which is directly made by or on behalf of the Association, the Board of Directors, or the unit owners as a group shall be in excess of three years and may be terminated without penalty by the Association or the Board of Directors upon not less than thirty (30) days written notice to the other party given not later than sixty (60) days after the turnover meeting.

### **13. MORTGAGEES.**

13.1 Definitions. As used herein, the following terms shall have the following meanings:

(a) "Mortgage" means a recorded mortgage or trust deed creating a lien against a unit.

(b) "Eligible mortgage holder" means a holder of a first mortgage on a unit who has requested notice of certain matters from the Association in accordance with Section 13.3 below.

13.2 Notice to Association. At the request of the Board of Directors, each owner shall promptly supply to the Board the name and address of the mortgagee or mortgagees of his unit.

13.3 Notice to a Holder, Insurer, or Guarantor of a Mortgage. A holder, insurer, or guarantor of a mortgage on a unit, who submits a written request to the Association stating the name and address of the holder, insurer, or guarantor and the unit number or address of the mortgaged unit shall be entitled to timely written notice of the following:

(a) Any condemnation or casualty loss that affects either a material portion of the condominium or the unit securing its mortgage:

(b) Any sixty-day (60-day) delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage;

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

13.4 Consent to Termination of the Condominium. Except with respect to termination of the condominium as a result of destruction, damage, or condemnation, any termination of the condominium shall require the approval of eligible mortgage holders representing at least sixty-seven (67%) of the votes of units that are subject to mortgages held by eligible mortgage holders. This approval shall be in addition to such other approvals and procedures as may be required by the declaration, bylaws, and Act.

13.5 Consent to Amendment of Documents. Except as otherwise provided in the Act, the approval of eligible mortgage holders representing at least fifty-one (51%) of the votes of units that are subject to mortgages held by eligible mortgage holders shall be required for any amendments of a material nature to the declaration or bylaws. Any amendment to the declaration or bylaws which changes any of the following would be considered as material:

(a) Voting rights:

- (b) Assessments, assessment liens, or subordination of assessment liens;
- (c) Reserves for maintenance, repair and replacement of the common elements;
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in the general or limited common elements, or rights to their use;
- (f) Boundaries of any unit;
- (g) Convertibility of units into common elements or of common elements into units;
- (h) Expansion or contraction of the condominium or the addition, annexation, or withdrawal of property to or from the condominium, except as provided in Section 8;
- (i) Insurance of fidelity bonds;
- (j) Leasing of units;
- (k) Imposition of any restrictions on a unit owner's right to sell or transfer his or her unit:
- (l) A decision by the Association to establish self-management when professional management had been required previously by eligible mortgage holders;
- (m) Restoration or repair of the condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the declaration, bylaws, or Act;
- (n) Any action to terminate the legal status of the condominium after substantial destruction or condemnation occur; or
- (o) Any provisions that expressly benefit mortgage holders, insurers, or guarantors.

This approval shall be in addition to such other approvals and procedures as may be required by the declaration, bylaws, and Act.

**13.6 Request for Approval of Eligible Mortgage Holders.** Any eligible mortgage holder or other mortgagee who receives a written request to approve additions or amendments to the declaration, bylaws, or other action to be taken by the Board of Directors, Association, or unit owners, shall be deemed to have given such approval unless a negative response is delivered or posted to the requesting party within thirty (30) days after such request has been received.

**13.7 Mortgagee's Request for Professional management.** Upon written request of eligible mortgage holders representing at least fifty-one percent (51%) of the votes of units that are subject to mortgages held by eligible mortgage holders, the Board of Directors shall employ a professional manager to manage the affairs of the Association. Any agreement for professional management shall be consistent with Section 12.5.

**13.8 Discharge of Lien Upon Foreclosure.** Where the purchaser of a unit obtains title to a unit as a result of foreclosure of the first mortgage or first trust deed, such purchaser, his successors and assigns, shall not be liable for any of the common expenses chargeable to such unit which became due prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common

expenses shall be a common expense of all the unit owners including such purchaser, his successors and assigns. Provisions of this section shall apply only to mortgagees of a first mortgage of record or beneficiaries of a first trust deed of record constituting first liens against the unit or purchasers holding under them.

13.9 Right to Receive Written Notice of Meetings. A holder of a first mortgage shall, upon written request to the Association, be entitled to receive notice of all meetings of the Association and shall be entitled to designate a representative to attend all such meetings.

13.10 Additional Approvals. Unless fifty-one percent (51%) of the holders of first mortgages of individual units have given their prior written approval, the Association shall not:

(a) Change the pro rata interest or obligations of any unit for (1) purposes of levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation awards, and (2) determining the pro rata share of ownership of each unit in the common elements;

(b) Partition or subdivide any unit;

(c) By act or omission, seek to abandon or terminate the condominium status of the project except as provided by statutes in case of substantial loss to the units and common elements of the condominium project;

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause;

(e) Use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project.

14. **AMENDMENT.**

14.1 Approval Required. Except as may otherwise be provided in this declaration or by the Act, the declaration may be amended if such amendment is approved by seventy-five percent (75%) or more of all votes of the unit owners. No amendment may change the allocation of undivided interest in the common elements, method of determined liability for common expenses, right to common profits, or voting rights of any unit unless such amendment has been approved by the owners of the affected units and the holders of any mortgage or trust deed on such unit. No amendment may reduce or eliminate the rights first mortgagees set forth herein without the written consent of fifty-one percent (51%) of all such first mortgagees.

14.2 Recordation. The amendment shall be effective upon recordation of the declaration as amended or of the amendment thereto, certified by the chairman and secretary of the Association as being adopted in accordance with the declaration and the provisions of ORS 94.004 to 94.480 and 94.991, and approved by the Real Estate Commissioner, in the Deed Records of Washington County.



14.3 change of Person to Receive Service of Process. The Board of Directors of the Association may elect to designate a person other than the one named in the declaration to receive service of process. Upon adoption of a resolution by the Board of Directors in accordance with the bylaws, the Board of Directors, without the need for further action but the Association or approval under ORS 97.036 and 94.059, shall record an amendment to the declaration. The amendment shall be certified by the chairman and the secretary of the Association, and shall state the name of the successor with the successor's residence or place of business as required by ORS 943029(l)(j), that the person named in the amendment has consented to the designation and that the resolution was duly adopted by the Association.

15. **DECLARANT RIGHTS.**

Notwithstanding any provision to the contrary in this declaration or the bylaws, Declarant shall have the following special rights:

15.1 Amendment to Declaration and Bylaws. No amendment to the declaration or the bylaws shall be effective without the written consent of Declarant until such time as seventy-five (75%) of the units in the last phase which Declarant may submit in this project have been conveyed to persons other than Declarant. No amendment may limit or diminish any right of Declarant reserved under the declaration, the Act, or any other special Declarant right without the written consent of Declarant until such time as Declarant waives in writing this right of consent.

15.2 Assessments for Additional Capital Improvements. No units owned by Declarant shall be assessed by the Association or the Board of Directors for the construction or acquisition of additional capital improvements without the written consent of Declarant as long as Declarant owns more than two units or five percent of the units submitted to the condominium, whichever is greater, or the time period specified in the declaration during which Declarant may annex additional phases has not expired.

15.3 Development Easement. Declarant and its agents shall have an easement over and upon the common elements as may be reasonably necessary for the purpose of completing any portion of the condominium, discharging any obligation of Declarant, and/or carrying out sales and rentals of units and advertisements thereof, including posting signs on the property. Declarant shall have the right to use units owned by Declarant as model units and shall have the right to use a unit as a sales office.

15.4 Other. Declarant shall be entitled to any and all other special Declarant rights, in addition to those specified herein, that are reserved for the benefit of or created by the Declarant under the declaration, bylaws, or the provisions of the Act.

16. **SEVERABILITY.**

Should any of the provisions herein conflict with the provisions of said law, the statutory provisions shall apply. Each provision of this declaration and the bylaws shall be deemed independent and severable, and the validity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision of this declaration or the bylaws.

17. **CONFLICTING PROVISIONS**

In the event of a conflict between or among the declaration, bylaws, and any administrative rules and regulations, the provisions of the declaration shall be paramount to the bylaws and the rules and regulations, and the bylaws shall be paramount to the rules and regulations. For purposes of this section, the term "declaration" shall include all amendments and the term "declaration" shall include all amendments and the term "bylaws" shall include all amendments.

18. **DECLARATION OF PHASE I TO SUMMERFIELD.**

Declarant, the successor in interest to TUALATIN-FRANKLIN, hereby declares that the real property described in the Declaration and the Plat of Phase 1 are and shall be subject to the conditions and Restrictions of Summerfield, recorded June 12, 1974, in Book 929, Page 726, or Washington County Records; the Restated Declaration of Conditions and Restrictions of Tualatin-Franklin, recorded November 30, 1973, in Book 954, Page 758, Washington County Records; the Bylaws of Summerfield Civic Association, recorded May 22, 1975, in Book 1024, Page 750, of Washington County Records.

IN WITNESS WHEREOF, Declarant has caused this declaration to be executed this 18<sup>th</sup> day of July, 1985.

TUALATIN DEVELOPMENT COMPANY,  
a division of Hayden Corporation,  
a Delaware corporation

By [Signature]  
President

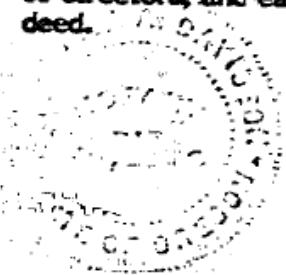
By [Signature]  
Secretary

STATE OF OREGON

County of Washington

)  
) ss.  
)

Personally appeared Robert C. Luton and Barbara L. Harrison wno, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of Tualatin Dev. Co. a corporation, and that said instrument was signed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.



[Signature]  
Notary Public for Oregon  
My Commission expires: 8/25/88

## EXHIBIT A

Real property located in the S.E. 1/4 of Section 10, T.2 S., R.1 W., W.M., Washington County, Oregon, described as follows:

“Beginning at the initial point marked with a 2”x36” iron with cap stamped Cooper Consultants 6” below the surface of the ground located 655.70 feet west and 150.02 south from a 2” iron pipe at the initial point of “Summerfield No. 14,” thence, from said initial point, S.0°05’54” E., 246.90 feet; thence S. 50°37’37” E., 86.22 feet to the northwesterly right-of-way of Summerfield Drive; thence northeasterly along said northwesterly right-of-way on the arc of a 610.00 foot radius curve to the right having a central angle of 11 ° 26’54”, the chord of which bears N 45 ° 05’06” E., 121.68 feet, an arc length of 121.88 feet; thence N. 39 ° 10’44” W., 92.77 feet; thence N. 0 ° 05’54” W., 110.00 feet; thence n. 89 °54’06” E., 4.05 feet; thence N. 44 ° 54’06” E., 33.94 feet; thence N. 89 ° 54’06” E., 48.90 feet; thence southeasterly on the arc of a 307.76 foot radius curve to the left having a central angle of 28 ° 42’23”, the chord of which bears S. 15 ° 12’50” E., 152.9 feet, an arc length of 154.19 feet; thence southwesterly on the arc of a 15.00 foot radius curve to the right having a central angle of 86 ° 34’59”, the chord of which bears S. 13 ° 43’29” W., 20.57 feet, an arc length of 22.67 feet to the northwesterly right-of-way of S.W. Summerfield Drive; thence northeasterly along said northwesterly right-of-way on the arc of 610.00 foot radius curve to the right having a central angle of 7° 20’20”, the chord of which bears N. 60 ° 41’08” E., 78.08 feet, an arc length of 78.13 feet; thence northwesterly on the arc of a 15.00 foot radius curve to the right having a central angle of 85 ° 59’41”, the chord of which bears N. 72 ° 38’52” W. 20.46 feet, an arc length of 22.51 feet; thence northwesterly on the arc of a 257.76 foot radius curve to the right having a central angle of 29 ° 39’01”, the chord of which bears N. 14 ° 49’ 31”W., 131.91 feet, an arc length of 133.39 feet; thence north, 82.40 feet; thence on the arc of 36.00 foot radius curve to the left having a central angle of 272 ° 02’03”, the chord of which bears west, 50.00 feet, an arc length of 170.92 feet; thence south, 20.48 feet; thence S 89 ° 54’06” W. 171.44 feet; thence S. 0 ° 06’14” E., 56.60 feet to the point of beginning.”

Together with and subject to the following:

1. The premises herein described are within and subject to the statutory powers, including the power of assessment, to the Unified Sewerage Agency of Washington County.
2. Limited access provisions contained in deed, which provides that no right or easement of right of access to, from, or across Southwest Summerfield Drive other than expressly provided for therein shall attaché to abutting property;  
Recorded: November 28, 1973, in Book 954, Page 340, Records of Washington County
3. Covenants, conditions, restrictions, and easements imposed by instrument, including the terms and provisions thereof, providing for, among other things, levies, assessments, and age restrictions;  
Recorded: June 12, 1973, in Book 929, Page 726, Records of Washington County.

4. Restated Declaration of Conditions and Restrictions of Tualatin-Franklin;  
Recorded: November 30, 1973, in Book 954, Page 758, Records of  
Washington County.
5. Bylaws, including the terms and provisions thereof, of Summerfield Civic  
Association;  
Recorded: May 22, 1975, in Book 1024, Page 750, Records of Washington  
County.
6. Articles of Incorporation of Summerfield Civic Association.
7. Amendments to the foregoing Covenants, Conditions, Restrictions, Restated  
Declaration, Bylaws, and Articles of Incorporation.

EXHIBIT B

FRACTIONAL INTEREST IN COMMON ELEMENTS

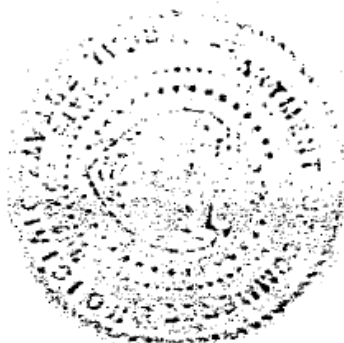
OF PHASE 1

|        |     |
|--------|-----|
| Unit 1 | 1/8 |
| Unit 2 | 1/8 |
| Unit 3 | 1/8 |
| Unit 4 | 1/8 |
| Unit 5 | 1/8 |
| Unit 6 | 1/8 |
| Unit 7 | 1/8 |
| Unit 8 | 1/8 |

The foregoing declaration is approved this 20<sup>th</sup> day of SEPT, 1985.

BY Dan Malen  
Assessor and Tax Collector for  
Washington County

The foregoing declaration and bylaws attached hereto are approved this 12<sup>th</sup>  
day of September, 1985.



MORELLA LARSEN, Real Estate  
Commissioner

By Steve F. Mayfield

**BYLAWS OF THE ASSOCIATION  
OF UNIT OWNERS OF FOUNTAINS AT  
SUMMERFIELD CONDOMINIUM**

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**BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF  
FOUNTAINS AT SUMMERFIELD CONDOMINIUM**

**ARTICLE I**

**PLAN OF UNIT OWNERSHIP**

**Section 1. Name and Location.** These are the bylaws of THE UNINCORPORATED ASSOCIATION OF UNIT OWNERS OF FOUNTAINS AT SUMMERFIELD CONDOMINIUM (hereafter the "Association"). Fountains at Summerfield Condominium (hereafter the "condominium") is located in the Oregon Condominium Act by declaration filed simultaneously herewith (hereafter "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 from time to time.

**Section 3. Purposes.** This Association is formed under the provisions of the Oregon Condominium 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, 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.

**Section 5. Composition of Association.** The Association shall be composed of all the unit owners of the condominium, including Tualatin Development Company, a division of Hayden Corporation (hereinafter "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.** Upon approval by a majority vote of the unit owners the Association may be incorporated under the Oregon Non-Profit 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.

**ARTICLE II**

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

**Section 1. Membership in the Association.** Upon becoming legal owner or contract purchaser of a unit, said owner shall automatically be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason. Unit ownership of the property 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 unit owner file with the Association satisfactory proof of ownership including a copy of the deed to or land sale contract for his unit, to which shall be affixed the certificate of the recording office of the County of Washington, Oregon, showing the date and place of recording of such deed or contract. Notwithstanding the forgoing, 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 unit shall have one vote. The Declarant shall be entitled to vote as the unit owner of any previously unsold units. The Board of Directors shall be entitled to vote as to any units owned by the Association. Whenever any unit is owned by two or more persons jointly, according to the records of the Association, the vote of such unit may 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 unit shall be disregarded completely in determining the proportion of votes given with respect to such matter.

**Section 3. Binding Vote: Percent of the Vote.** The term “Binding Vote” shall mean more than fifty percent (50%) if the vote of the 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 “percent of all votes” shall mean a percent of all the voting rights allocated to the 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 units by the Declaration.

**Section 5. Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of a majority of unit owners shall constitute a quorum. A subsequent joinder of a unit owner in the action taken at a meeting by signing and conferring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of the unit owner or owners. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

**Section 6. Proxies.** A vote may be cast in person or by proxy. A proxy given by a 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, and every proxy shall automatically cease upon sale of the unit by its owner. A unit owner may pledge or assign his voting rights to a mortgagee. In such a case, the mortgagee or its designated representative shall be entitled to receive all notices to which the unit owner is entitled hereunder and to exercise the 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 any meeting of the Association with respect to an unit owned or held by them in such capacity, whether or not the same shall have been transferred to his name; provided, that he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee, holding such unit in such capacity.

**Section 8. Authority to Vote.** All owners shall be entitled to vote, and this shall be true if they have leased their 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 such suitable place convenient to the unit owners as may be designated by the Board of Directors.

**Section 2. Informational Meetings.** The initial meeting of the Association shall be the transitional committee meeting or 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 conveyance to persons other than the Declarant of seventy-five percent (75%) of the units in the last phase which Declarant may submit to this project, or b) seven years from the date the first unit is covered, the Declarant shall call a meeting of the unit owners for the purpose of transferring control of the Association to all unit owners, including Declarant. Notice of such meeting shall be given to each unit owner at least seven but not more than fifty days prior to the meeting and shall state the purpose and the time and place where it is to be held.

**Section 4. Transitional Committee.** Within sixty (60) days of conveyance to persons other than the Declarant of fifty percent (50%) of the total number of units which Declarant may submit to this project, Declarant shall call a meeting of the unit owners for the purpose of forming a transitional committee. Notice of such meeting shall be given to each unit owner at least seven but not more than fifty days prior to the meetings and shall state the purpose and the time and place where it is to be held. The transitional committee shall be advisory only and shall consist of two or more members selected by 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 transitional committee if Declarant has called the turnover meeting within the time specified herein. However, if neither the turnover meeting nor the transitional committee meeting may be called and notice given by any unit owner.

**Section 5. Ballot Meetings.** Any meeting of the Association (other than the turnover meeting, the transitional committee meeting and special meetings called by petition of unit owners) may be by proxy ballot, as the Board of Directors may elect, rather than a formal gathering. Ballots for such meetings must be properly executed and returned in sufficient quantity to constitute a quorum and to pass the proposal specifically propounded on the ballot. The vote of ballot meeting shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots. Each unit owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned, within ten (10) days after the ballots have been counted.

**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 meeting may be changed from time to time, but must be held annually. At such meetings those members of the Board of Directors whose terms have expired shall be elected by the unit owners 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.** It shall be the duty of the Chairman to call a special meeting of the unit owners as directed by the resolution 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 the time and place where it is to be held, to each owner of record, at least seven (7) 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 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 single parties. If no address has been given 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 meeting may be waived by any unit owner before or after meeting.

**Section 9. Adjourned Meetings.** If any gathering of unit owners is not a legal meeting because a quorum has not attended, 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.** The order of business at meetings of the unit owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of the preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees, if any.
- (f) Election of directors.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

#### **ARTICLE IV**

#### **BOARD OF DIRECTORS**

#### **QUALIFICATIONS, ELECTION, MEETINGS**

**Section 1. Number and qualifications.** The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons. All directors must be the owner or the co-owner of a unit. For purposes of this section, the officers of any corporate owner and the partners of any partnership shall be considered co-owners of any units owned by such corporation or partnership. Co-owners of the same unit may not serve as directors simultaneously. The qualifications for directors set forth herein do not apply to interim directors appointed by Declarant.

**Section 2. Interim Directors.** Upon the recording of the Declaration, the Declarant hereby appoints the following interim board of three directors who shall serve until replaced by Declarant or until their successors have been elected by the unit owner as hereinafter provided:

Roy Brown  
Christopher J.W. Eadon  
Barbara L. Harrison

**Section 3. Election and Term of Office.** At the turnover meeting, the interim directors shall resign and three successors shall be elected as herein provided. The term of office of one director shall be fixed at three (3) years. The term of office of one director shall be fixed at two (2) years, and the term of office of one director shall be fixed at one (1) year. Should more directors be added, the same sequential election terms shall apply as nearly as is practicable. At the expiration of the initial term of office of each director, his 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. Upon agreement by binding vote of the unit owners, the Board of Directors may be elected by a single ballot with each owner permitted to vote for three (3) nominees, the director receiving the largest number of votes serving for the three-year term, the director receiving the second largest number of votes serving for the two-year term, and the director receiving the third largest number of votes serving for the one-year term.

**Section 4. Vacancies.** Vacancies on the Board of Directors caused by any reason other than the 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 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 legal 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 binding 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 owners may be given an opportunity to be heard at the meeting.

**Section 6. Open Meetings.** All meetings of the Board of Directors shall be open to unit owners. However, unit owners may not participate in the Board meetings without the permission of the Board of Directors. For other than emergency meetings, notice of the time and place of directors' meetings shall be posted at a place or places on the property at least three (3) days prior to the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform unit owners of such meetings.

**Section 7. Organizational Meeting.** The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be 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 legally hold such a meeting, providing a majority of the newly elected directors are present.

**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, but a majority of the directors.

**Section 9. Special Meetings.** Special meetings of the Board of Directors may be called by the Chairman 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, telephone or telegraph, which notice shall state the time, place, and purpose of the meeting.

**Section 10. Conference Call Meetings.** In emergency situations, meeting 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 any of the other directors. The directors shall keep telephone number on file with the Chairman 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 of Directors.** No director shall be compensated in any manner, except for out-of-pocket expenses not exceeding \$100 in any three month period, unless such compensation is approved by binding vote of the unit owners.

## ARTICLE V

### ASSOCIATION RESPONSIBILITIES:

#### BOARD OF DIRECTORS POWERS AND DUTIES

**Section 1. Number and qualifications.** The Association will have the responsibility of administering the project, approving the annual budget, establishing and collecting monthly assessments, arranging for the operation, management, and maintenance of the project, including negotiating and contracting with and supervising any person, persons, or business entity with respect to such matters, instituting defending or intervening in litigation or proceedings in its own name or on behalf of two or more owners on matters affecting the condominium, and taking such other actions and exercising such other power as are authorized by the provisions of ORS 94.146 as the same may be amended from time to time.

**Section 2. 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 by law or by these Bylaws directed 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 and supervision of the general common elements 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 settling assessments therefore.
- c) Collection of assessments from the owners, both pro rata 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 for reasonable compensation to perform such services as may be required for the proper administration of the Association.
- g) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- h) Purchasing units of the condominium at foreclosure or other judicial sales in the name of the Association, or its designee, 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 purchase can be undertaken 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.
- 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 \$2,500.00 unless the project has been approved by majority vote of the unit owners. This limitation shall not be applicable to repairs or maintenance undertaken pursuant to paragraph (a) above.
- l) Executing, acknowledging, delivering and recording on behalf of the unit owners easements, rights of ways, licenses and other similar interests affecting the general common elements after the granting of such interests has been approved by the unit owners 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 Article IX of these Bylaws.
- n) Enforcement by legal means or otherwise of the provisions of the Oregon Condominium Act, the Declaration, these Bylaws and any rules and regulations adopted hereunder.

**Section 3. Reports and Audits; Record Keeping.**

- a) 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 expenses of the common elements and any other expenses incurred, and shall keep any other financial records sufficient for proper accounting purposes.
- b) 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. 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



owner or mortgagee may, at his own expense, cause an audit or inspection to be made of the books and records of the Association.

- c) The Board of Directors shall maintain 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 owner or mortgagee such records and documents shall be made available for duplication. The Board shall maintain copies, (and amendment thereto), current operating budget, and the most recent annual report. Upon written request of a prospective purchaser, such copies and documents 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 4. Managing Agent.** The Board of Directors may 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. The managing agent shall have the right to contract with any unit owner, individually or collectively with other unit owners, for the management or lease of a particular unit or units.

## **ARTICLE VI OFFICERS**

**Section 1. Designation.** The principal officers of the Association shall be a Chairman, who shall be a member of the Board of Directors, a Secretary, and a Treasurer, all of who shall be elected by the Board of Directors. The Chairman 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. Election of Officers.** The officers of the Association shall be elected 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 elect 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 his 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. Chairman.** The Chairman shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and the Board of Directors. He 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 owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 5. Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. He shall attend to the giving and serving of all notices to the unit owners and directors. He shall have charge of such records of the Association as the Board may direct; and he shall, in general, perform all the duties incident to the office of Secretary and as may be required by the directors.

**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. He shall be responsible for the preparation of all required financial statements. He shall be responsible for the deposit of all monies and other depositories as may from time to time be designated by the Board of Directors. He shall perform all other duties incident to the office of Treasurer and as may be required by the directors.

**Section 7. Directors as Officers.** No officer shall receive any compensation for the Association for acting as an officer, unless such compensation is authorized by binding vote of the unit owners.

**Section 8. Compensation of 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 by the Board of Directors to meet all the common expenses and for such other reasons and purposes as provided in the Bylaws. Assessments may not be waived due to limited or nonuse of common elements or abandonment of a unit.

Assessments to cover the costs of insurance and funding the reserve account shall commence upon the first conveyance of a unit in the condominium. The commencement of assessments to cover the remaining operational expenses may be deferred until such time as Declarant elects to commence the same or until the turnover meeting, whichever is sooner. Declarant shall pay all such remaining operational expenses while such assessments are deferred.

**Section 2. Determination of Common Expenses.** Common expenses shall include:

- a) Expenses of administration.
- b) Expenses of maintenance, repair or replacement of 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 common elements and other utilities with a common meter or commonly billed, such as sewer and trash collection.
- 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.

**Section 3. Annual Budget.** The initial budget and estimated assessment shall be determined by the 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, estimate the expenses 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.

**Section 4. Reserve Accounts for Replacement of Common Elements.** The initial budget determined by the Declarant shall make provision 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 amount assessed 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 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; however, the Declarant may elect to defer payment of the accrued assessment for any unsold unit until the time of conveyance of that unit.

The reserve account shall be established in the name of the Association. It 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 reserve account to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from special assessments or maintenance fees.

Following the second year after the turnover meeting, future assessments for the reserve account may be reduced, eliminated or increased by an affirmative vote of unit owners holding not less than 75 percent of all votes.

**Section 5. 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 6. 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

expenses 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 IX and as otherwise provided in these Bylaws.

**Section 7. Omission of Budget and Assessments.** The omission by the Board before the expiration of any fiscal year to fix the budget estimate and 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 8. Debt Obligation; Installment; Interest.** Each assessment shall be the joint and several obligation of the owner or owners of the unit as of the time it is assessed. The Board may direct that assessments be paid annually or in such installments as the Board deems appropriate. 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 9. Association's Lien Against Unit.** The Association, upon complying with ORS 94.195 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 the reasonable value of common expenses attributable to the unit and for any unpaid assessments and interest. The lien shall be 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

**Section 10. 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, his successors and assigns, shall not be liable for any of the common expenses chargeable to such unit which became due prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common expenses shall be a common expense of all the unit owners including such purchaser, his successors and assigns.
- b) In a voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid charges against the latter for his proportionate share of common expenses up to the time of the grant or conveyance, without prejudices 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 charges against the prospective grantor, 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 charges against the grantor in excess of the amount therein set forth.

**Section 11. 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 his unpaid common expenses and assessments.

**Section 12. Annexation of Additional Units.** Unless the Board otherwise directs, if additional units are annexed during the course of a fiscal year, the common expenses shall be deemed to have increased proportionately, and such additional units shall be assessed consistent with existing units from the date of annexation.

## 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 restriction contained in the deed to the unit. Failure to comply therewith shall be ground for an action maintainable by the Association or by an aggrieved unit owner.

**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.

**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 element in which or as to which such violation exists and summarily abate and remove, at the expense of the owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the documents, 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 and, after giving notice an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws and rules and regulations adopted pursuant thereto.

**Section 5. Acceleration of Assessment.** In the even that a unit owner fails to pay an installment of an assessment when it is due, the Board may, after 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 94.195. 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 in 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).

**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 9.

**Section 8. Restriction of Right to Use of Common Element Facilities.** In the event a unit owner fails to pay assessments when due or violates the provisions of the Declaration, Bylaws or rules and regulations adopted pursuant thereto, the Board of Directors may deny or restrict such owner's right to use any common element facility with respect to which such owner otherwise had a right of use so long as the assessment remains unpaid or the violation continues.

**Section 9. Assessment Collection Costs; Attorney's Fees.** Unit owners shall be obligated to pay reasonable fees and costs including, but not limited to, attorney's fees incurred in connection with efforts to collect delinquent and unpaid assessments, whether or not suit or action is commenced. In the event suit or action is commenced for the collection of any amounts due or for the enforcement of any provisions of the Act, Declaration, Bylaws or rules and regulations adopted pursuant thereto, the defendant unit owner or owners, jointly and severally, will be liable for the costs of such suit or action, including reasonable attorney's fees to be fixed by the Court or Courts, both at trial and on appeal, in addition to all other obligations.

## 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 his own unit, which if omitted would affect the common elements of the condominium or a part thereof belonging to other owners, and shall be responsible for the damages and liabilities that his 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 his unit, regardless of whether such items are designated common elements.

c) Each unit owner shall keep the patios and decks and other limited common elements appurtenant to his unit in a neat, clean and sanitary condition.

d) A unit owner shall promptly reimburse the Association for any expenditures incurred in repairing or replacing any common element and/or facility damaged through his fault or at his direction, not otherwise covered by insurance policies carried by the Association for the owner's and the Association's benefit.

e) All other maintenance, repair and replacement to the general and limited 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. No unit owner shall be permitted to lease his unit for hotel or transient purposes, nor to lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing and copies shall be given to the Board of Directors.

b) A unit owner shall make no repair or alteration or perform any other work on his unit which would jeopardize the soundness or safety of the condominium property, 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 this limitation, however, a unit owner may:

- (j) Make any improvements or alterations to his unit that do not impair the structural integrity 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 may 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 his own 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 lobbies, patios, 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 patios. A unit owner may not change the appearance of the common elements of the exterior appearance of a unit without permission of the Board of Directors. Subject to limitations contained in these Bylaws, 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.

**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 of mechanical systems of the condominium or lessen the support of any portion of the condominium.

b) The Board of Directors may require the owners of the affected units to submit an opinion of a registered architect or registered professional engineer that the proposed relocation or elimination will not impair the structural integrity of 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 Chairman and Secretary of the Association and approved and recorded in accordance with ORS 94.059 (1) (b).

e) A plat necessary to show the altered boundaries between the adjoining units shall be recorded in accordance with ORS 94.042.

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 all 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 the Declarant to advertise units for sale or lease.

b) 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) Other than a maximum of two (2) household pets per unit, no animals or fowls shall be raised, kept or permitted within the condominium or any part thereof. No animals, fowls, or pets of any kind shall be kept, bred or raised for commercial purposes. Those unit owners keeping pets will abide by municipal sanitary regulations, leash laws, and rules or regulations promulgated by the Board of Directors. A unit owner may be required to remove a pet after receipt of two notices in writing from the Board of Directors of violations of any such laws, rules or regulations governing pets.

d) No garments, rugs, and similar items shall be hung from the windows or from any of the facades, decks, or terraces of the project. It is prohibited to hang or shake dust rags, mops, and similar items from the windows or decks or terraces, 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 property except in areas or containers designated for such items.

f) No person shall install wiring for electrical or telephone installation, television antenna, 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, awning, or shades, or exterior lights or noise making devices shall be installed without the prior consent of the Board of Directors.

g) In order to preserve the attractive appearance of the condominium, the Board of Directors may regulate the nature of items which may be placed in or on windows, decks, patios, 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 approves.

h) The parking spaces designated as general common elements in the Declaration are intended for use of automobiles of only guests of the unit owners. The Board may make such rules necessary to govern the use of any general common element parking areas by which all owners and other users shall be bound.

i) Vehicular traffic on the streets and drives within the project shall be limited to five (5) miles per hour as a safety precaution. This speed limit shall apply to bicycles, motor scooters, motorcycles, automobiles, and trucks.

j) No trucks, boats, house trailers, motorhomes, pickup-campers, mobile home, or like recreational vehicles shall be used for residential purposes, nor shall they be stored or parked on the general common elements except in areas, if any, specifically so designated by the Board of Directors.

k) No commercial activities of any kind shall be carried on in any unit or in any other portion of the condominium without the consent of the Board of Directors, except activities relating to the rental or sale of units. This provision, however, shall not be construed so as to prevent or prohibit a unit owner from maintaining his professional personal library, keeping his personal business or professional telephone calls, or conferring with business or professional associates, clients or customers, in his unit.

l) 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 owner shall permit anything to be done or kept in his unit or in the common elements which will result in cancellation of insurance on any unit or any part of the common elements.

**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.

**Section 7. Other Restrictions** Fountains at Summerfield Condominium, including all units and common elements, are subject to the terms and provisions of the instrument recorded June 12, 1973, in Book 929, page 766, records of Washington County, and the Bylaws of page 750, records of Washington County, and the unrecorded Articles of Incorporation of Summerfield Civic Association, and as said instruments may be amended from time to time.

**ARTICLE X**  
**INSURANCE AND BONDS**

**Section 1. Fidelity Bonds.** The Board of Directors may require that any person or entity who handles or is responsible for Association funds shall furnish such fidelity bond as the Board deems adequate. The premiums on such bonds shall be paid by the Association.

**Section 2. 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 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., 100 percent 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 Endorsement or its equivalent, if available. Such policy or policies shall name the Declarant, the Association, payable in favor of all mortgagees. 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. In no event shall such policy or policies have a deductible clause in excess of One Thousand Dollars (\$1000.00) per unit.

b) **Liability Coverage.** A comprehensive policy or policies insuring the Association, the unit owners individually, the Board of Directors, and the manager, if any, against liability to the public, the unit owners, and their 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 \$1,000,000.00 on a combined single limit basis.

c) **Workers’ Compensation.** Worker’s compensation insurance to the extent necessary to comply with any applicable laws.

**Section 3. Policy Provision.** 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, the manager, the unit owners and their respective servants, agents and guests.

b) A provision that the master policy on the condominium cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual owners.

c) A provision that the master policy on the condominium cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors or the manager without prior demand in writing that the Board of Directors or manager cure the defect.

d) A provision that “no other insurance” clause in the master policy exclude individual owners’ policies from consideration, and a waiver of the usual proration clause with respect to such policies.

e) A provision that the insurer issue subpolicies specifying the portion of the master policy earmarked for each owner’s interest and that until the insurer furnishes written notice and grace period to the mortgagee insured under the loss payable clause thereof, the mortgagee’s coverage is neither jeopardized by the conduct of the unit mortgagor-owner, the Association, or other unit owners nor cancelled for nonpayment of premiums.

f) A rider on the master policy patterned after “Use and Occupancy” insurance which will provide relief from monthly assessments while a unit is uninhabitable by the payment of the condominium expenses thereof and any other fixed costs, including, but without being limited to, taxes, rent, insurance, and mortgage payments. The proceeds from any casualty policy, whether held by the Association or a unit owner, payable with respect to any loss or damage to the common elements, shall be held in trust for the benefit of all insureds as their interest may appear.

g) A waiver of the insurer’s right to determine whether the damage should be repaired. If reasonable available, the policy or policies should contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild.

**Section 4. Fidelity Coverage.** The Board of Directors may secure and maintain in the name of the Association as obligee, fidelity insurance to protect the Association against dishonest acts by its officers, directors, trustees and employees, and all others who shall be responsible for handling the funds of the Association.

**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, 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 his own expense, insurance covering his property not insured under Section 2 (a) and against his liability not covered under Section 2 (b); provided, however, that no unit owner shall be entitled to exercise his 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 his unit which have a value in excess of \$500.00 so that the Board of Directors may make any desired adjustments in insurance coverage.

**Section 7. Review of Insurance Policies.** 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 2.

## ARTICLE XI

### DAMAGE AND DESTRUCTION

**Section 1. Insurance Proceeds Sufficient to Cover Loss.** In case of fire, casualty, or any other damage and 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 common element having the same vertical and horizontal boundaries as before. Such reconstruction shall be accomplished under the direction of the manager or the Board of Directors.

**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 to take into consideration as the owner's contribution any individual policy insurance proceeds provided by such 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, by sixty percent (60%) or more of all votes 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 unit owners;
- (b) The respective interest of a unit owner shall be the total of the fair market value of his 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 interesting appertaining to such unit shall be determined by:
  - (i) 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 the unit owners holding at least twenty-five (25%) of all the votes. In such event, a new appraiser shall be selected by the presiding judge of the circuit court for Washington County. Such appraiser's decision shall be final.
- (c) All costs and expenses incurred under this section shall be common expenses.

(d) In the event of 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) The property shall be subject to an action for partition at the suit of any unit owner. If a decree of partition orders the sale of the property, the net proceeds of the 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 in said fund 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, by sixty percent (60%) or more of all votes, 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.

## **ARTICLE XIII AMENDMENTS TO BYLAWS**

The Bylaws may be amended by approval of a majority of the unit owners; provided, however:

(1) 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 unit owners holding at least seventy-five (75%) of all the votes; and

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

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

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. If approved, said amendments shall be recorded in Washington County.

**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 he is or was a director, officer, employee, or agent of the Association or is or was 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 attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action, proceeding, or appeal therefrom, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his 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 itself create a presumption that a person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe his conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit, or proceeding as and when incurred, subject only to the right of the Association to seek reimbursement of any such payment, should it be proven at a later time that said person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a director, officer, employee, or agent shall have a right of contribution over and against all other directors, officers, employees, or agents and members of the Association who participated with or benefitted from the acts which created said liability.

**ARTICLE XV**  
**MICELLANEOUS**

**Section 1. Notices.** All notices to the Association or to the Board of Directors shall be sent care of the managing agent, or if there is no managing agent, to the principal office of the Association or to such other address as the Board 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 from time to time, in writing, to the Board of Directors, or if no address has been designated, then to the owner's 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 the same, irrespective of the number of violations or breaches thereof which may occur.

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

It is hereby certified that these Bylaws have been adopted by Tualatin Development Company, Declarant of Fountains at Summerfield Condominium, and will be recorded in the Deed Records of Washington County, together with the Declaration for said condominium, after said Declaration is approved by the real Estate Commissioner's Office and Assessor of said County.

DATED this 10th day of June, 1985.

TUALATIN DEVELOPMENT COMPANY

By *Robert C. Luton*

By *Barbara L. Harrison*

STATE OF OREGON        )  
  ) ss.  
County of Washington )

On the 10th day of June, 1985, personally appeared Robert C. Luton and Barbara L. Harrison who, being duly sworn, each for himself and not one for the other, did say that the former is the president and the latter is the secretary of TUALATIN DEVELOPMENT COMPANY, a corporation, that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

*Patricia A. Davidson*  
Notary Public for Oregon  
My commission expires: 8/25/88



After Recording Return to:  
Vial Fotheringham LLP  
7000 SW Varns Street  
Portland, OR 97223

Washington County, Oregon 2008-027159  
03/27/2008 02:25:25 PM  
D-R/BYAM Cnt=1 Stn=9 C TOMPkins  
\$15.00 \$5.00 \$11.00 - Total = \$31.00



01232369200800271590030032

I, Richard Hobemicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobemicht, Director of Assessment and Taxation, Ex-Officio County Clerk



## AMENDMENT TO BYLAWS OF THE ASSOCIATION OF UNIT OWNERS OF FOUNTAINS AT SUMMERFIELD CONDOMINIUM

This amendment amends Article X of the Bylaws of the Association of Unit Owners of Fountains at Summerfield Condominium, recorded in the records of Washington County, Oregon simultaneously with, and attached to, the Declaration Submitting Fountains at Summerfield Condominium Phase I, to the Oregon Condominium Act, as document number 85037059. An amendment was previously recorded as document number 2007-093952 which contained an error. This Amendment addresses and corrects the error.


Article X, Section 2 of the Bylaws is hereby amended to read:

Section 2. Insurance ("Master Policy"). For the benefit of the Association and unit owners, the Board of Directors shall secure and maintain the following insurance coverage 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 the full replacement value (i.e., 100 percent of current "replacement" costs) 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 Endorsement or its equivalent, if available. 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. The deductible for such policy or policies may be determined from time to time by the Board of Directors.

AUO of Fountains at Summerfield Condominium

By:   
President

By:   
Secretary

CERTIFICATION

The undersigned President and Secretary of AUO of Fountains at Summerfield Condominium hereby certify that the within Amendment to Bylaws has been approved pursuant to Article XIII of the Bylaws and ORS 110.410.

AUO of Fountains at Summerfield Condominium

By: *Crest Hdo*  
President

By: *Angela Barnett*  
Secretary

STATE OF OREGON    )  
  ) ss  
County of                    )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of February, 2008 by \_\_\_\_\_, President, of the AUO of Fountains at Summerfield Condominium, on its behalf.



*Tisha Miller*  
Notary Public for Oregon  
My Commission Expires: 7/25/2010

STATE OF OREGON    )  
  ) ss  
County of                    )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of February, 2008 by Angela Barnett Secretary, of the AUO of Fountains at Summerfield Condominium, on its behalf.



*Tisha Miller*  
Notary Public for Oregon  
My Commission Expires: 7/25/2010

After Recording Return to:  
P. Stephen Russell III, P.C.  
LANDYE BENNETT BLUMSTEIN LLP  
3600 Wells Fargo Tower  
1300 SW Fifth Avenue  
Portland, Oregon 97201

Washington County, Oregon **2019-009823**  
D-R/BYAM  
Stn=4 A STROM **02/19/2019 01:38:47 PM**  
\$10.00 \$11.00 \$5.00 \$60.00 **\$86.00**

I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobernicht, Director of  
Assessment and Taxation, Ex-Officio

**AMENDMENT TO THE BYLAWS  
OF THE ASSOCIATION OF UNIT OWNERS OF  
FOUNTAINS AT SUMMERFIELD CONDOMINIUM**

**RECITALS**

This Amendment amends Article VII of the Bylaws of the Fountains at Summerfield Condominium, recorded in the records of Washington County, Oregon simultaneously with, and attached to, the Declaration Submitting Fountains at Summerfield Condominium Phase 1 to the Oregon Condominium Act, as Document No. 85037059, as amended by the Amendment to the Bylaws of the Association of Unit Owners of Fountains at Summerfield Condominium recorded in the records of Washington County, Oregon on August 28, 2007 as Document No. 2007-093953 and by the Amendment recorded on March 27, 2008 as Document No. 2008-027159 (the "Bylaws"). Members of the Association of Unit Owners of Fountains at Summerfield Condominium (the "Association") wish to amend the Bylaws by adding a new Section 13.

**AMENDMENT**

Article VII of the Bylaws is hereby amended by adding the following Section 13, which will read in its entirety as follows:

**"13. New Owner Fee.** Beginning upon the date this Amendment is recorded, there shall be levied a New Owner Fee in an amount designated from time to time by resolution of the Board of Directors, payable by the transferee of the Unit, and due upon the date ownership of a Unit within the Condominium is transferred to a new owner, whether the transfer is voluntary, by operation of law, or otherwise. The New Owner Fee established by the Board of Directors shall be the same dollar amount per Unit, and such dollar amount may be changed no more often than once each calendar year, by resolution of the Board of Directors."

Except as specifically required in order to give full effect to the above-referenced Amendment, the Bylaws shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the Chairman and Secretary of the Association of Unit Owners of Fountains at Summerfield Condominium hereby certify that this Amendment was duly adopted by approval of at least a majority of the unit owners in the Condominium pursuant to the Bylaws.

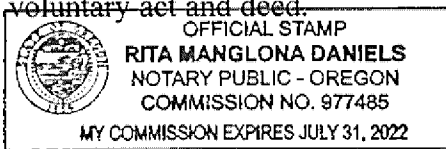
**ASSOCIATION OF UNIT OWNERS OF  
FOUNTAINS AT SUMMERFIELD  
CONDOMINIUM**

By: *Neal Sanders*  
Chairman

By: *Nancy J. Schade*  
Secretary

STATE OF OREGON )  
County of Washington ) ss. Feb. 13, 2019

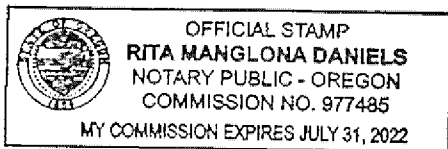
Personally appeared before me the above-named *Neal Sanders* who, being duly sworn, did say that he/she is the Chairman of the Association of Unit Owners of Fountains at Summerfield Condominium, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors; and acknowledged said instrument to be its ~~voluntary act and deed.~~



*[Signature]*  
Notary Public for Oregon

STATE OF OREGON )  
County of Washington ) ss. Feb. 13, 2019

Personally appeared before me the above-named *Nancy J. Schade* who, being duly sworn, did say that he/she is Secretary of the Association of Unit Owners of Fountains at Summerfield Condominium, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors; and they acknowledged said instrument to be its voluntary act and deed.



*[Signature]*  
Notary Public for Oregon