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I, Joe Nelson, 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.



Joe Nelson, Director of Assessment and Taxation, Ex-Officio County Clerk

After Recording Return to:

Stuart K. Cohen PC  
16035 NW Claremont Drive  
Portland, OR 97229

**RESTATED BYLAWS  
OF THE ASSOCIATION OF UNIT OWNERS  
OF FOUNTAINS AT SUMMERFIELD CONDOMINIUM  
AND AMENDMENTS TO COMPLY WITH HOUSE BILL 2534**

**Recitals**

The Bylaws of the Association of Unit Owners of Fountains at Summerfield Condominium were originally recorded as Recorded on September 19, 1985, in the Washington County Deed Records as an Exhibit to the Condominium Declaration recorded as Document 85037059. The Bylaws have been amended three times (the "Amendments") by documents recorded as follows:

- (1) August 28, 2007, as Document 2007-093952, re-recorded on March 27, 2008, as Document 2008-027159
- (2) February 19, 2019, as Document 2019-009823
- (3) April 18, 2022, as Document 2022-026498

The Board of Directors, by Resolution and pursuant to Oregon Revised Statute Section 100.411 is restating the original Bylaws to incorporate the Amendments into this document entitled Restated Bylaws and to comply with House Bill 2534. The Board of Directors certifies that these Restated Bylaws include all previously adopted amendments that are recorded and in effect; and no other changes were made to the Bylaws and the Amendments, except to correct scrivener's errors, to conform format and style, and to bring the documents into compliance with House Bill 2534.

**ARTICLE I  
PLAN OF UNIT OWNERSHIP**

Section 1. Name and Location. These are the bylaws of THE 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 their 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 such 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 their 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 a unit owned or held by them in such capacity, whether or not the same shall have been transferred to the fiduciaries name; provided, that such fiduciary shall satisfy the Secretary that such fiduciary 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, a successor shall be elected to serve a term of three (3) years. The directors shall hold office until their successors have been elected and hold their first meeting. 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 sold 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 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 their 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 a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 4. Chair. The Chairman shall be the chief executive officer of the Association. The Chair shall preside at all meetings of the Association and the Board of Directors. The Chair 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 the Chair may in the Chair's 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. The Secretary shall attend to the giving and serving of all notices to the unit owners and directors. The Secretary shall have charge of such records of the Association as the Board may direct; and 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. The Treasurer shall be responsible for the preparation of all required financial statements. The Treasurer 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. The Treasurer shall perform all other duties incident to the office of Treasurer and as may be required by the directors.

Section 7. 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, their 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, their 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 a 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 the 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.

Section 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.

## **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 event 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 their 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 the 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 their unit, regardless of whether such items are designated common elements, provided that the Association shall be responsible for the replacement of any PTAC sleeves and HVAC drain lines.
- c) Each unit owner shall keep the patios and decks and other limited common elements appurtenant to the 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 such owner's fault or at such owner's 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 the 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 the 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:
  - (i) Make any improvements or alterations to the 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 such owner's expense to submit an opinion of a registered architect or registered professional engineer that the proposed change will not impair the structural integrity or mechanical systems of the condominium or lessen the support of any portion of the condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

**Section 3. Use of the Common Elements.** Except as provided in these Bylaws, 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. The Board of Directors may establish the criteria for approval of such installations by Board Resolution. **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 affect 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, heat pumps, or similar devices on the exterior of the condominium, or in the common element patio areas, or cause such installations 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. The Board of Directors may establish the criteria for approval of such installations by Board Resolution.

- 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 a professional personal library, keeping their personal business or professional telephone calls, or conferring with business or professional associates, clients or customers, in their 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 the 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 Association, and the unit owners as insureds and shall provide for a separate loss 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. The deductible for such policy or policies may be determined from time to time by the Board of Directors.
- 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.
- b) 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.
- c) 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.
- d) A provision that the insurer issue sub-policies 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.
- e) 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 their own expense, insurance covering their property not insured under Section 2 (a) and against such liability not covered under Section 2 (b); provided, however, that no unit owner shall be entitled to exercise such 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 their 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 the 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 such person 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 such person acted in good faith and in a manner such person 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 such 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 such person 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 such 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 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.

These Restated Bylaws were approved by the Board of Directors the 14<sup>th</sup> day of September, 2022.

By: Barbara Stayton, President  
Barbara Stayton, President

By: Julie Helle, Secretary  
Julie Helle, Secretary

STATE OF OREGON            )  
  ) ss.  
County of Clackamas    )

September 14, 2022

Personally appeared the above named Barbara Stayton and Cyndy O'Brien, who being first duly sworn, did say that they are the President and Secretary, respectively, of the above referenced Association, and that the foregoing instrument was signed on behalf of said Association by authority of its Board of Directors as its voluntary act and deed.

[Signature]  
NOTARY PUBLIC FOR OREGON

