

DESCHUTES COUNTY OFFICIAL RECORDS  
NANCY BLANKENSHIP, COUNTY CLERK

2003-23272

\$316.00



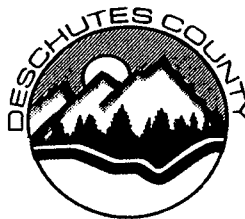
00153435200300232720590596

D-COVD Cnt=1 Stn=23 SHIRLEY  
\$290.00 \$11.00 \$10.00 \$5.00

04/09/2003 04:36:55 PM

# DESCHUTES COUNTY CLERK

## CERTIFICATE PAGE



This page must be included  
if document is re-recorded.  
Do Not remove from original document.

**DECLARATION SUBMITTING  
COTTONWOOD CONDOMINIUM,  
A CONDOMINIUM TO  
CONDOMINIUM OWNERSHIP**

THIS DECLARATION, pursuant to the provisions of the Oregon Condominium Act, is made and executed this \_\_\_\_ day of \_\_\_\_\_, 2003, by Steven E. McGhehey, as to an undivided twenty (20%) percent interest; Alva W. Anderson and Sharon E. Anderson, as tenants by the entirety, as to an undivided forty (40%) percent interest; Fredrick A. Mueller and Karen J. Mueller, as to an undivided twenty (20%) percent interest; and Vickie J. Patterson and John W. Hornbeck, as Trustees of the Dancing Trees Trust, as to an undivided ninety-four (94%) percent interest and Centers West, Inc., as to an undivided six (6%) percent interest, as tenants in common, as to the remaining undivided twenty (20%) percent interest (collectively "Declarant").

Declarant proposes to create a condominium to be known as Cottonwood Condominium, a Condominium, which will be located in the City of Sisters, Deschutes County, Oregon. The purpose of this Declaration is to submit the land, all buildings, improvements and structures on the land, any easements, rights and appurtenances belong to the property 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:

**ARTICLE 1  
DEFINITIONS**

When used in this Declaration the following terms shall have the following meanings:

1.1 Act shall mean the Oregon Condominium Act, currently ORS 100.005 to 100.900, as amended from time to time.

1.2 Association means the association of unit owners established pursuant to Article 14 below.

1.3 Board shall mean the Board of Directors of the Association.

1.4 Bylaws means the Bylaws of the Association of Unit Owners of Cottonwood Condominium, a Condominium Community adopted pursuant to Section 14.4 below as the same may be amended from time to time.

1.5 Condominium means all of that property submitted to the condominium form of ownership by this Declaration.

RETURN TO: FRED A. AST, JR. & ASSOC.  
              P.O. Box 751  
              SISTERS, OR 97759

1.6 Declarant means Steven E. McGhehey as to an undivided twenty (20%) percent interest; Alva W. Anderson and Sharon E. Anderson, as tenants by the entirety, as to an undivided forty (40%) percent interest; Fredrick A. Mueller and Karen J. Mueller, as to an undivided twenty (20%) percent interest; and Vickie J. Patterson and John W. Hornbeck, as Trustees of the Dancing Trees Trust, as to an undivided ninety-four (94%) percent interest and Centers West, Inc., as to an undivided six (6%) percent interest, as tenants in common, as to the remaining undivided twenty (20%) percent interest and their respective successors and assigns.

1.7 Declaration means this Declaration as the same may hereafter be amended.

1.8 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 13.1 below, but shall not include a contract vendor.

1.9 Eligible Mortgage Insurer or Guarantor means an insurer or governmental guarantor of a first mortgage on a unit who has requested notice of certain matters from the Association in accordance with Section 13.1 below.

1.10 Incorporation by Reference. Except as otherwise provided in this Declaration, each of the terms defined in ORS 100.005, a part of the Oregon Condominium Act, shall have the meanings set forth in such section.

1.11 Legal Requirements shall mean any and all laws, orders, rules and regulations of any governmental entity.

1.12 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Condominium under the provisions of Oregon law. The terms used herein are intended to have the same meaning as may be given in the Act in such terms unless the context clearly requires otherwise or definitions in this manner would have an unlawful consequence.

1.13 Master Declaration shall mean the Declaration of Covenants, Conditions and Restrictions, dated August 24, 1999, recorded August 24, 1999, in Volume 1999, Page 41448, Official Records, Deschutes County, Oregon. The Property is subject to the Master Declaration.

1.14 Miscellaneous. All terms and words used in this Declaration, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. "And/or" when applied to two or more matters or things shall be construed to apply to any one or more or all thereof, as the circumstances then warrant. "Herein," "hereof," "hereunder," and words of similar import shall be construed to refer to this Declaration as a whole, and not to any particular section, unless expressly stated otherwise.

1.15 Mortgage Approval. For purposes of determining the percentage of first Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds

first Mortgages on more than one Unit, such Mortgagee shall be deemed a separate Mortgagee as to each such Unit.

1.16 Mortgage and Mortgagee mean, respectively, a recorded mortgage, trust deed or contract of sale which creates a lien against a Unit, and the holder, beneficiary or vendor of such a mortgage, trust deed or contract of sale.

1.17 Owner shall mean the owner or owners of a Unit, but shall not include a Mortgagee unless in possession of a Unit. A person or entity who does not own a Unit shall not be an Owner.

1.18 Plat means the plat of Cottonwood Condominium, a Condominium Community recorded simultaneously with the recording of this Declaration.

1.19 Property shall mean the property submitted to the provisions of the Act, as described more particularly in Section 2.

1.20 Rules and Regulations shall mean those rules and regulations governing the use and enjoyment of the Condominium, as adopted by the Board pursuant to the Bylaws.

1.21 Turnover Meeting shall mean the meeting at which Declarant relinquishes control of the administration of the Association pursuant to ORS 100.210.

1.22 Units shall mean those parts of the Condominium designated in Section 4 as Units and comprised of the spaces enclosed by each of their respective boundaries as described in Section 4. Unit shall mean any one of the Units.

## ARTICLE 2

### SUBMISSION OF PROPERTY TO CONDOMINIUM STATUTE

The Property submitted to the Oregon Condominium Act by this Declaration is held by Declarant and conveyed by Declarant in fee simple estate. The land submitted is located in the City of Sisters, Deschutes County, Oregon and is more particularly described in the attached **Exhibit A**. The Property submitted includes the land so described, all buildings, improvements and structures, all easements, and rights and appurtenances located on, belonging to or used in connection with such land.

## ARTICLE 3

### NAME OF CONDOMINIUM

The name by which the Condominium shall be known is "Cottonwood Condominium, a Condominium."

## ARTICLE 4

### UNITS

4.1 General Description of Buildings. The Condominium consists of six (6) buildings. Three (3) of the buildings contain a total of five (5) dwelling units. Three (3) of the buildings are general common elements as described in Article 5. One of the three buildings contains dwelling Unit 1 and is located on the west side of the Property. The middle building contains Units 2 and 3. The east building contains Units 4 and 5. The building in which Unit 1 is located contains two stories without basement. The buildings which contain Units 2 and 3 and 4 and 5, respectively, are two stories without basement. The parking spaces in the garage buildings are limited common elements as described in Article 6. The buildings are of wood frame construction with wood lap siding and brick fascia, and the roofs are of asphalt composition.

4.2 General Description, Location and Designation of Units. The Condominium consists of a total of five (5) Units, and they are numbered 1, 2, 3, 4 and 5. The range of the areas of the surface planes of the dwelling portions of the Units shall be from 1467 square feet to 1,474 square feet. The dimensions and location of each Unit are shown on the Plat, which is made a part of this Declaration as if fully set forth herein and are also described on **Exhibit B** attached hereto. The designation of each Unit is by a unit number, its location and the area in square feet are shown on the attached **Exhibit B**. The boundaries are set forth below.

4.3 Boundaries of Unit. All Units shall be bounded by the interior surfaces of their respective perimeter and bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim. Each Unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of its finished surfaces and the exterior surfaces so described except those portions of walls, floors or ceilings that materially contribute to the structural or shear capacity of the Condominium. All other portions of the walls, floors or ceilings shall be part of the common elements. In addition, each Unit shall include the following: (a) all spaces, nonbearing interior partitions, windows, window frames, exterior doors, door frames and all other fixtures and improvements within the boundaries of the Unit; and (b) all outlets of utility and communications service lines, including but not limited to power, light, gas, hot and cold water, heating, refrigeration, air conditioning and waste disposal, security, cable television and telephone, within the boundaries of the Unit, but shall not include any part of such lines or ducts themselves. All dwelling Units will be entitled to the Parking Spaces (defined in Article 6) in the separate garage buildings, which Parking Spaces are designated as limited common elements on the Plat and are described in Article 6.

## ARTICLE 5

### GENERAL COMMON ELEMENTS

The general common elements consist of the following:

5.1 The land, pathways, driveways, fences, grounds and outdoor parking areas (excluding any Parking Spaces under Article 6 which are limited common elements).

5.2 Pipes, ducts, flues, fireplace flues, fire chutes, conduits, wires and other utility and communications installations to their outlets.

5.3 Roofs, foundations, bearing walls, perimeter walls, beams, columns and girders to the interior surfaces thereof.

5.4 Entrances and exits which are not part of a Unit.

5.5 All community services including water, electricity and underground propane gas tank (except individual electric meters which are part of each Unit).

5.6 All other elements of the buildings and the Condominium necessary or convenient to their existence, maintenance and safety, or normally in common use, except as may be expressly designated in this Declaration as part of a Unit or a limited common element.

5.7 The three (3) garage buildings are general common elements ("Garage Buildings"). Each Garage Building contain Parking Spaces and Garage Storages, which Spaces and Storages are limited common elements pursuant to Article 6. One of the Garage Buildings, designated D, contains a limited common element Parking Space in which 2 cars may be parked and a limited common element Garage Storage. Two Garage Buildings designated E and F respectively contain 2 limited common element Parking Spaces each in which 2 cars may be parked and two limited common element Garage Storages. The two Garage Buildings with 2 limited common element Parking Spaces are divided into two distinct areas by a common wall within each such Garage Building. Each dwelling Unit will be assigned a limited common element Parking Space as provided in Article 6.

5.8 The term "common elements" used in this Declaration includes general common elements under this Article and limited common elements under Article 6.

## ARTICLE 6 LIMITED COMMON ELEMENTS

The following shall constitute limited common elements, and are shown as limited common elements on the plat, the use of which shall be restricted to the Units to which they pertain:

6.1 All balconies, patios and entrances (including common entry porches), each of which shall pertain to the Unit or Units to which it adjoins.

6.2 "Parking Spaces" are located within the general common element garage structures ("Garage Buildings"). A Parking Space pertains to a Unit as provided in this Section 6.2. Each Parking Space is a limited common element. Unit 1 is assigned the entire Parking Space in Garage Building D, designated Parking Space D-1. Unit 2 is assigned Parking Space E-1 in Garage Building E. Unit 3 is assigned Parking Space E-2 in Garage Building E. Unit 4 is

assigned Parking Space F-1 in Garage Building F. Unit 5 is assigned Parking Space F-2 in Garage Building F.

The interior common wall between the Parking Spaces in Garage Building E shall be equally maintained solely by dwelling Units 3 and 2. The interior common wall between the Parking Spaces in Garage Building F shall be equally maintained solely by dwelling Units 4 and 5.

6.3 In addition to the Parking Spaces, the driveway approaches to the Garage Buildings are limited common elements and are assigned to the dwelling Units for parking of automobiles which are entitled to the Parking Spaces in the Garage Buildings. The maintenance and repair of the driveway approach in front of Garage Building E shall be the joint and sole responsibility of Units 2 and 3. The maintenance and repair of the driveway approach in front of Garage Building F shall be the joint and sole responsibility of Units 4 and 5.

6.4 The Garage Storage Areas are assigned to the Units as follows: (i) The entire Garage Storage in Garage Building D is assigned to Unit 1; (ii) The west Garage Storage in Garage Building E is assigned to Unit 2; (iii) The east Garage Storage in Garage Building E is assigned to Unit 3; (iv) the west Garage Storage in Garage Building F is assigned to Unit 4; and (v) the east Garage Storage in Garage Building F is assigned to Unit 5. An interior common wall is constructed in Garage Buildings E and F respectively, to segregate the west and east Garage Storages in Garage Buildings E and F, respectively. The maintenance and repair of the interior common walls in Garage Building E shall be the joint and sole responsibility of Units 2 and 3. The maintenance and repair of the interior common walls in Garage Building F shall be the joint and sole responsibility of Units 4 and 5.

The right of the use of a Parking Space and/or the Garage Storage assigned to the above Units may be transferred to any other Unit. Such transfer will occur if the existing Unit owner and all Mortgagees of the Unit for which the right of use of a limited common element is presently reserved and the owner to whom the right of use is being transferred agree to and record in Deschutes County Records, an amendment to this Declaration setting forth the transfer. Approval of the Oregon Real Estate Agency is not required for an amendment to the Declaration transferring the right of use of a limited common element.

## ARTICLE 7

### ALLOCATION OF UNDIVIDED INTERESTS IN COMMON ELEMENTS

Each Unit will be entitled to an undivided ownership interest in the common elements as shown on the attached **Exhibit B**. Each Unit's interest in the common elements shall be inseparable from the Unit and any conveyance, encumbrance, judicial sale, or other transfer, voluntary or involuntary, of an undivided interest in the common elements shall be void unless the Unit to which that interest is allocated is also transferred.

ARTICLE 8  
COMMON PROFITS AND EXPENSES; VOTING

8.1 Allocation of Common Profits and Expenses. The common profits and common expenses of the Condominium shall be allocated to the owner of each Unit according to the allocation shown on **Exhibit B**. The common expenses of the Condominium shall include, without limitation, the expenses incurred by the Association under Section 5.2 of the Bylaws (including general expenses and the allocable portion of expenses if any incurred by the master association under the Master Declaration). If the Board so determines, each Owner may pay the assessment of the master association direct to the master association. Except upon termination of the Condominium or as otherwise provided in the Bylaws (attached as **Exhibit C**) with respect to damage, destruction or condemnation, any such common profits shall be used solely for the purpose of maintaining, repairing and replacing the common elements or for other expenses or reserves of the Association. THERE SHALL BE NO REQUIREMENT THAT A COMMON EXPENSE ARISE OUT OF OR RELATE TO COMMON ELEMENTS. Each Owner acknowledges and consents to items of common expense for items described herein and in the Bylaws. Each Owner hereby covenants to pay to the Association the assessments for common expenses. No Owner may avoid the liability for assessments abandoning the Owner's Unit or by non-use of the common elements.

8.2 Allocation of Voting Rights. Each Unit Owner shall be entitled to one vote in the affairs of the Association and for the purposes of this Declaration for each Unit owned by the Owner. The method of voting shall be as specified in the Bylaws.

8.3 Adoption of Bylaws. On behalf of the Association, Declarant hereby adopts the Bylaws attached hereto as **Exhibit C** to govern the administration of the Condominium. The Bylaws shall be effective on the execution and recording of this Declaration.

ARTICLE 9  
SERVICE OF PROCESS

The designated agent to receive service of process in cases provided in subsection (1) of ORS 100.550 is named in the Condominium Information Report which will be filed with the Real Estate Agency in accordance with ORS 100.250(1)(a).

ARTICLE 10  
USE AND TAXATION OF PROPERTY

10.1 Use. Each Unit is to be used for residential purposes as described in the Bylaws. Additional limitations on use are contained in the Bylaws, and will be contained in the rules and regulations adopted pursuant to the Bylaws. Each Unit Owner shall be bound by each of such documents.



10.2 Taxation. Each Unit shall be considered a parcel of real property subject to separate assessment and taxation by any taxing authority in a manner comparable to the taxation of other parcels of real property.

## ARTICLE 11 MAINTENANCE AND REPAIR OF COMMON ELEMENTS

11.1 Responsibility for Maintenance and Repair. The necessary work to maintain, repair or replace the common elements shall be the responsibility of the board of directors of the Association and shall be carried out as provided in the Bylaws.

11.2 Maintenance and Repair by Owners. Each Owner of a Unit shall keep the Unit in good order, condition, and repair at any time as may be necessary to maintain the good appearance and condition of his Unit or Units, subject to the provisions of Section 11.3 below and the Bylaws. Without limitation of the foregoing, each Owner of a Unit shall be solely responsible for the maintenance, repair, or replacement of the Parking Spaces assigned to such Unit, interior of the doors providing ingress to and egress from the dwelling portion of the Unit and the interior of the garage doors and the replacement of all such doors (including those which are part of the separate Garage Buildings) which contain the Parking Spaces assigned to certain Units under Article 6, all landscaping improvements and vegetation included within a Unit and any plumbing, wiring, heating fixtures, telephones, fans, the garage door operating mechanism including those located in each Parking Space, any limited common elements under Article 6 except as set forth in Section 11.3, which are assigned to a Unit, lighting fixtures and lamps, refrigerators, dishwashers, ranges, or other appliances and accessories that may be in or attached to the dwelling or garage portion of the Owner's Unit. Each Unit shall maintain the driveway approaches in front of each Garage Building in which are located the Parking Spaces which have been assigned to such Unit. The fact that the Association may from time to time perform periodic maintenance of certain elements of the Condominium shall not relieve an Owner of the Owner's obligation to maintain such elements in good order, condition, and repair. However, in no event will an Owner be responsible for repair and replacement of the roof or the roof support structure (including, without limitation, the beams supporting the roof) of the dwelling portion of the Unit or a Garage Building, unless (as set forth in Section 11.4) damage to such roof structure beyond ordinary wear and tear is directly attributable to the negligent or intentional acts of an Owner.

11.3 Maintenance and Repair by Association. Subject to the provisions of Sections 11.2 and 11.4, the Association shall be responsible for performing periodic maintenance and repair to the above-ground exterior surfaces of the dwelling Units and the Garage Buildings. Accordingly, subject to Sections 11.2 and 11.4, the Association shall be responsible for performing periodic maintenance, repair, and replacement of the roofs of the Units and Garage Buildings, the roof support structure, the roof drainage system (including, without limitation, screens, gutters, downspouts, and collection basins); painting of the exterior of the doors providing ingress to and egress from the dwelling portion of the Units, the exterior of the garage doors, and the exterior trim of the Unit and exterior Garage Buildings; the exterior stairways, the exterior surfaces of the walls of the dwelling and the exteriors of any Garage Buildings of any

Units (including, without limitation, the brick and stucco), landscaping, snow removal and the water irrigation system installed for the street trees adjacent to the Condominium and the street trees themselves. The Association shall also maintain and repair the foregoing items which are part of each Garage Building under Section 5.7. The Association may cause window washing and shall paint exterior doors and trim described above in this Section to occur at the intervals specified by the Bylaws or by the Board. The obligation of the Association to perform the foregoing maintenance and repair shall not diminish or restrict the obligation of each Owner to keep the Owner's Unit in good order, condition, and repair under Section 11.2. The Association, acting through its Board, or a managing agent, manager, or any other person authorized by the Board, shall have an easement over and across each Unit and the separate Garage Buildings under Section 5.7 for the purpose of performing the maintenance, repair, and replacement activities described in this Section 11.3.

11.4 Damage by Owner. Notwithstanding Section 11.3, if damage to any portion of a Unit or other area or attribute of the Condominium for which the Association is responsible to maintain beyond ordinary wear and tear is directly attributable to the negligent or intentional acts of an Owner (or his licensees, contractors, or agents), then that Owner shall repair such damage as soon as reasonably possible at the Owner's sole expense, without any right of reimbursement or right to spread the expense of such repairs among the other Owners. In addition, as set forth in the Bylaws, the Association may make repairs that an Owner is obligated to make but does not make and charge the Owner for the expense therefor.

11.5 Mortgagee's Rights Upon Failure to Maintain. If the mortgagee of any Unit determines that the Board of Directors is not providing an adequate maintenance, repair and replacement program for the common elements, such mortgagee, at its option, may give a notice to the Board of Directors by delivering same to the registered agent, setting forth the particular defect which it believes exists in the maintenance, repair and replacement program. If the specified defects are not corrected within ninety (90) days subsequent to receipt of such notice, then the mortgagee, upon written notice to the registered agent that it is exercising its proxy rights, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each Unit on which it holds a mortgage on all business coming before such meeting. Such proxy rights shall continue until all defects listed on the notice are corrected.

11.6 Rights of City Upon Failure to Maintain. The provisions of this Declaration and of the Bylaws regarding the maintenance, repair and replacement of the common elements shall be deemed to be for the benefit of the City of Sisters as well as the Unit owners, and the City may enforce such provisions by appropriate proceedings at law or in equity. Without limitation to the foregoing, the City may deliver a written notice to the Board of Directors by delivering the same to the registered agent, setting forth the particular defect which it believes exists in the maintenance, repair and replacement program. If the specified defects are not corrected within thirty (30) days after receipt of the notice, or, if such correction cannot reasonably be completed within such time, and the Association fails within such time to pursue the correction with reasonable diligence, then the City may take necessary curative action. In such event, the cost of correction by the City shall constitute a lien against each Unit and its interest in the common elements based upon such Unit's share of the common expenses as provided in this Declaration.

11.8 Design Review Committee. No Unit shall be materially altered or added to until design plans and specifications showing, as appropriate, the site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, and screening therefor have been submitted to and approval in writing by the Design Review Committee. The Design Review Committee ("DRC") shall be appointed by the Board. If the Board does not appoint a DRC, then the Board shall act as the DRC. Notwithstanding the foregoing, any Owner may remodel, paint, or redecorate the interior of structures on his or her Unit without such approval. In addition, no approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with the original plans and specifications. It is the intent and purpose of this Declaration to achieve a high standard of quality of workmanship and materials and to assure harmony of external design with existing improvements and location with respect to topography and finished grade elevations. The design review process and the constitution, operation, and determination of the Design Review Committee shall be established initially by Declarant and after turnover by the Board, which may, at any time, alter any aspect thereof in the Board's sole and absolute discretion.

## ARTICLE 12 EASEMENTS

12.1 In General. Each Unit has an easement in and through each Unit and the common elements for all support elements and utility, wiring, heat, and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium. In addition, each Unit and all the common elements are specifically subject to easements as required for the electrical wiring and plumbing for each Unit. The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common elements reserved by law. Each Unit Owner has an unrestricted right of ingress and egress to his or her Unit. This right is perpetual and passes with the ownership of a Unit.

12.2 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 effort, 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 as long as the physical boundaries of the Units are in substantial accord with the description of those boundaries that appears in the Declaration. There shall be valid easements for the maintenance of the encroaching Units and common elements so long as the encroachments shall exist, and the rights and obligations of an Owner shall not be altered in any way by the encroachment. This provision does not relieve a Unit Owner of liability in the case of willful misconduct of the Unit Owner, or relieve Declarant or any contractor, subcontractor or materialmen from any liability as a result of failure to adhere to the Plat. The encroachments described in this Section 12.2 shall not be construed to be encumbrances affecting the marketability of title to any Unit.

12.3 Granting of Easements by Association. The Association, upon prior approval of seventy-five (75%) percent of the voting power of the Unit Owners, may execute, acknowledge, deliver and record on behalf of the Unit Owners leases in excess of two years, easements, rights-of-way, licenses, and similar interests affecting the common elements and consent to vacation of roadways within and adjacent to the Condominium. No such interest may be granted with regard to a limited common element unless the Owners and mortgagees of the Units having the right to use such limited common element join in the instrument granting the interest.

12.4 Rights of Entry. The Board of Directors of the Association, managing agent, manager or any other person authorized by the Board of Directors shall have the right to enter any Unit in the case of an emergency originating in or threatening such Unit or other condominium property, whether or not the Owner is present at the time. Such persons shall also have the right to enter any Unit for the purpose of performing installations, alterations or repairs to any common element and for the purpose of inspection to verify that the Unit Owner is complying with the restrictions and requirements described in this Declaration and the Bylaws, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. An Owner may not arbitrarily deny access to the Owner's Unit.

12.5 Easements for Declarant. Declarant and Declarant's agents, successors and assigns shall have an easement over and upon the common elements as may be reasonably necessary for the purpose of completing or making repairs to existing structures, for the purpose of carrying out sales and rental activities necessary or convenient for the sale or rental of Units, including, without limitation, the right to use the Units owned by Declarant as model Units and the right to use a Unit as a sales office, and for the purpose of discharging any other obligation of Declarant or exercising any other special Declarant's right, whether arising under the Declarant or exercising any other special Declarant right, whether arising under the Oregon Condominium Act or reserved in this Declaration or the Bylaws.

### ARTICLE 13 APPROVAL BY MORTGAGEES

13.1 Notice of Action. Upon written request to the Association identifying the name and address of the holder, insurer or guarantor and the Unit number or address of the Unit on which it has (or insures or guarantees) the mortgage, any such eligible mortgage holder or eligible insurer or guarantor shall be entitled to timely written notice of the following:

(a) Any condemnation or casualty loss which affects a material portion of the Condominium or affects the Unit securing its mortgage.

(b) Any 60-day delinquency in the payment of assessments or charges owned by an owner of any Unit on which it holds the mortgage.

(c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association.

(d) Any proposed action which would require consent of a specified percentage of eligible mortgage holders as required by this article.

### 13.2 Termination and Amendment to Documents.

(a) The approval of eligible holders holding mortgages on Units which have at least sixty-seven (67%) percent of the voting rights of Units subject to eligible holder mortgages shall be required to terminate the legal status of the project as a condominium for reasons other than substantial destruction or condemnation of the Property.

(b) Except when a greater percent is required by the Declaration or Bylaws, or a greater or lesser percent is required by the Oregon Condominium Act or as otherwise provided in this Declaration, the consent of the Owners of Units holding at least sixty-seven (67%) percent of the voting rights and the approval of eligible holders holding mortgages on Units which have at least fifty-one (51%) percent of the voting rights of the Units subject to eligible holder mortgages 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 shall constitute a material change:

- (1) Voting rights;
- (2) Increases in assessments that raise the previously assessed amount by more than twenty-five (25%) percent, assessment liens or the priority of such liens;
- (3) Reduction in reserves for maintenance, repair and replacement of the common elements;
- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interests in the general or limited common elements, or rights to their use;
- (6) The boundaries of any Unit;
- (7) Convertibility of Units into common elements or of common elements into Units;
- (8) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of Property to or from the Condominium, except as provided in Article 15;
- (9) Hazard or fidelity insurance requirements;
- (10) Imposition of any restrictions on the leasing of Units;

(11) Imposition of any restriction on the right of a Unit Owner to sell or transfer his or her Unit;

(12) A decision by the Association to establish self-management when professional management had been required previously by this Declaration, the Bylaws or an eligible mortgage holder;

(13) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than specified in this Declaration or the Bylaws;

(14) Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or

(15) Any provisions that expressly benefit mortgage holders, insurers or guarantors.

(c) An addition or amendment to the Declaration or Bylaws shall not be considered material for purposes of Section 13.2(b) if it is for the purpose of correcting technical errors, or for clarification only. Any eligible mortgage holder who receives a written request to approve any termination, additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, return receipt requested, be deemed to have approved such request.

13.3 Additional Approvals. In addition to any other approvals required by the Oregon Condominium Act, this Declaration or the Bylaws, the prior written approval of two-thirds of the holders of first mortgages on Units in the Condominium (based upon one vote for each first mortgage owned) or Unit Owners (other than Declarant) must be obtained for the following:

(a) Abandonment or termination of the Condominium regime.

(b) Any change in the pro rata interest or obligations of any individual Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the common elements.

(c) The partition or subdivision of any Unit.

(d) Abandonment, partition, subdivision, encumbrance, sale or transfer of 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 of 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 cases of substantial loss to the Units and/or common elements of the condominium project.

13.4 Notice to First Mortgage of Defaults. Any first mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the owner of the mortgaged Unit of any obligation under this Declaration, the rules and regulations or the Bylaws which is not cured within sixty (60) days.

#### ARTICLE 14 ASSOCIATION OF UNIT OWNERS

14.1 Operation. Upon the recording of this Declaration an association of Unit Owners 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. The name of this association shall be the "Cottonwood Condominium Owners Association," and the Association shall be an Oregon non-profit corporation.

14.2 Membership; Board of Directors. Each Unit Owner shall be a member of the Association. The affairs of the Association shall be governed by a board of directors as provided in the Bylaws.

14.3 Powers and Duties. The Association shall have such powers and duties as may be granted to it by the Oregon Condominium Act, including each of the powers set forth in ORS 100.405(4), together with such additional powers and duties afforded it by this Declaration or the Bylaws.

14.4 Adoption of Bylaws, Declarant Control of Association. Upon the execution and the recording of this Declaration, Declarant adopts the Bylaws for the Association by execution of this Declaration, which Bylaws are attached as **Exhibit C**. At the same time, Declarant will appoint an interim board of directors of the Association, which directors shall serve until their successors have been elected as provided in Section 3.4 of the Bylaws. In addition, Declarant shall have the right to consent to any amendment to the Declaration or the Bylaws as provided in Section 15.1 below and Section 9.2 of the Bylaws.

#### ARTICLE 15 ADMINISTRATIVE CONTROL

15.1 Declarant Control. Except as otherwise provided in this Declaration or in the Bylaws, Declarant reserves control until the earlier to occur of the date that is three (3) years after the date on which the first Unit is conveyed or the date at which seventy-five (75%) percent of the Units have been conveyed to persons other than the Declarant, during which period:

(a) Declarant may appoint and remove officers and members of the Board;

(b) Declarant shall have five votes with respect to each Unit owned by it, notwithstanding the provisions of Section 8.7;

(c) Declarant shall have the right to exercise all powers of the Association, the Board, or the Condominium officers under this Declaration, the Bylaws and the Act, except that Declarant may not bind the Association to any management agreement, service contract, employment contract, lease of recreational areas or facilities, or contract or lease (other than a ground lease) to which Declarant is a party, which is made prior to the Turnover Meeting unless the Association or the Board is granted therein a right of termination thereof which is exercisable without cause or penalty upon not less than thirty (30) days' written notice given to the other party thereto not later than sixty (60) days after the Turnover Meeting;

(d) Declarant shall have the right to use the Units in connection with its planning, design, development, construction, repair, and sales activities as described in Section 12.4; and

(e) Declarant shall have the right to approve amendments to this Declaration, the Bylaws, the Plans, and the Rules and Regulations proposed by the Owners.

## ARTICLE 16

### AMENDMENT

**16.1 How Proposed.** Amendments to the Declaration shall be proposed by either a majority of the Board of Directors or by Unit Owners holding thirty (30%) percent or more of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

**16.2 Approval Required.** Except as may otherwise be provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if such amendment is approved by Unit Owners holding seventy-five (75%) percent of the voting rights of the Condominium and by mortgagees to the extent required by Article 13. Declarant's prior written consent shall also be required so long as Declarant owns twenty-five (25%) percent or more of the Units in the Condominium, but no such consent shall be required after three (3) years from the date of conveyance of the first Unit to a person other than Declarant. Notwithstanding the foregoing, the Declarant may without the consent of other Owners and prior to turnover, amend the Declaration, the Bylaws, and the Articles of Incorporation of the Association in order to comply with HUD's, FNMA's, or such other governmental agency's standards, requirements, rules or regulations. No amendment may change the size, location, allocation of undivided interest in the common elements, method of determining liability for common expenses, right to common profits, or voting rights of any Unit unless such amendment has been approved by the owners and mortgagees of the affected Unit. Any amendment which would limit or diminish any special Declarant rights established in this Declaration or the Bylaws shall require the written consent of Declarant.



16.3 Recordation. Any amendment shall be effective upon recordation in the Official Records of Deschutes County, Oregon, of the Declaration as amended or of the amendment thereto, certified to by the chairman and secretary of the Association as being adopted in accordance with this Declaration and the provisions of the Act, and approved by the county assessor and the Real Estate Commissioner if such approvals are required by the Act.

## ARTICLE 17 SEVERABILITY

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.

## ARTICLE 18

### APPLICABILITY

Each Unit Owner, including Declarant as to any unsold Unit, shall be subject to all of the rights and duties assigned to Unit Owners under the terms of the Declaration and Bylaws.

## ARTICLE 19

### GENERAL PROVISIONS

**19.1 Interpretation.** The rights and obligations of all members of the Association and any person dealing with the Association or any of its members with respect to matters pertaining to the Declaration, the Articles of Incorporation, any amendment or supplemental condominium declaration, or the Bylaws, must be interpreted in accordance with and governed by the laws of the state of Oregon.

**19.2 Severability.** Each provision of the Declaration, any amendment or supplement thereto, the Articles of Incorporation, and the Bylaws is independent and severable. The invalidity or partial invalidity of any provision must not affect any of the remaining portions of that or any other provision of this Declaration or the Bylaws.

19.3 Waiver of Rights. The failure of the Association, the Board of Directors, an officer, or a Unit owner to enforce any right, provision, covenant or condition provided in the Declaration or any amendment or supplement thereto, the Articles of Incorporation, or the Bylaws does not constitute a waiver of the right of any such party to enforce the right, provision, covenant, or condition in the future.

19.4 Legal Proceedings. Failure to comply with any of the terms of the Declaration, any amendment or supplement thereto, the Articles of Incorporation, the Bylaws and any rules and regulations adopted thereunder is grounds for relief, which may include, without limitation, fining the noncomplying owner, bringing an action to recover money due, damages or a suit for injunctive relief, or an action to foreclose a lien, or any combination. Relief may be sought by

the Association, the Board of Directors, an officer, a professional manager or management firm, or, if appropriate, by an aggrieved Unit Owner.

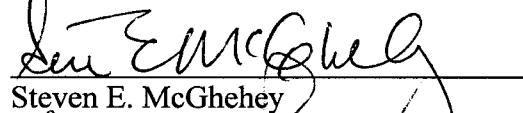
19.5 Costs and Attorney Fees. In any proceeding (including arbitration) arising because of an alleged failure of a Unit Owner to comply with the terms and provisions of this Declaration (as amended or supplemented), the Bylaws (as amended), the Articles of Incorporation, rules and regulations adopted under the Bylaws, or the Act, the prevailing party is entitled to recover the cost of the proceedings and such reasonable attorney fees as may be determined by the arbitration or trial court in any trial or by the appellate court in any appeal. In addition, the Association is entitled to recover costs and attorney fees incurred by it to collect delinquent assessments or fines, or to enforce the terms of the Declaration (supplement or amendment thereto), Articles of Incorporation, Bylaws or any rules or regulations promulgated thereunder whether or not any collection or foreclosure action or suit is filed.


19.6 Compliance. Each Unit Owner must comply with the provisions of the Declaration (supplement or amendment thereto), the Articles of Incorporation, and the Bylaws, and with the administrative rules and regulations adopted thereunder, and with all other applicable, covenants, conditions, and restrictions of record. Failure to comply will be grounds for suit or action, maintainable by the Association or any Unit Owner in addition to other sanctions that may be provided in the Bylaws or in any existing administrative rules and regulations.

19.7 Conflicting Provisions. If a conflict arises between or among the provisions of the Declaration, the Articles of Incorporation of the Association, the Bylaws, and any administrative rules and regulations, the provisions of the Declaration must be paramount to those of the Articles, the Bylaws, and the rules and regulations, and the Articles will be paramount to those of the Bylaws and the rules and regulations. For purposes of this Section 19.7, the term "Declaration" includes all amendments and Supplements to this Declaration, and the term "Bylaws" includes all amendments to the Bylaws.

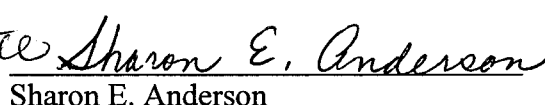
IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the day and year first set forth above.

DECLARANT

  
Steven E. McGhehey

  
Alva W. Anderson

  
Vickie J. Patterson, Trustee of  
the Dancing Trees Trust

  
Sharon E. Anderson

[Signatures continue on following page]

John W. Hornbeck  
John W. Hornbeck, Trustee of  
the Dancing Trees Trust

Fredrick A. Mueller  
Fredrick A. Mueller

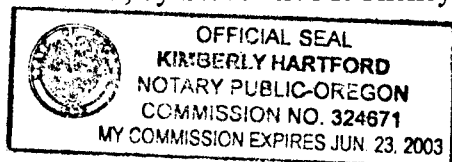
Karen J. Mueller  
Karen J. Mueller

CENTERS WEST, INC.

By: Vickie Hornbeck  
Its: President

STATE OF OREGON           )  
  )  
County of Deschutes       )       SS.

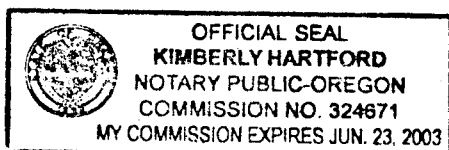
The foregoing instrument was acknowledged before me this 19 day of March, 2003, by Steven E. McGhehey.



Kimberly Hartford  
Notary Public for Oregon  
My Commission Expires: 6-23-03

STATE OF Oregon       )  
  )  
County of Deschutes   )       SS.

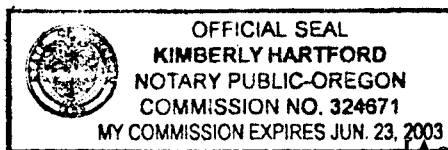
The foregoing instrument was acknowledged before me this 19 day of March, 2003, by Vickie J. Patterson, in her capacity as Trustee of the Dancing Trees Trust.



Kimberly Hartford  
Notary Public for Oregon  
My Commission Expires: 6-23-03

STATE OF Oregon       )  
  )  
County of Deschutes   )       SS.

The foregoing instrument was acknowledged before me this 19 day of March, 2003, by John Hornbeck, in his capacity as Trustee of the Dancing Trees Trust.



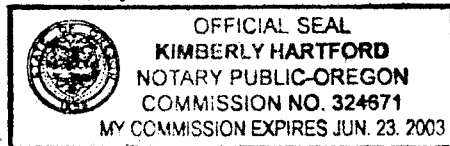
Kimberly Hartford  
Notary Public for Oregon  
My Commission Expires: 6-23-03

[Acknowledgments continue on following page]

STATE OF OREGON )  
County of Deschutes )

SS.

The foregoing instrument was acknowledged before me this 19 day of March, 2003, by Alva W. Anderson.

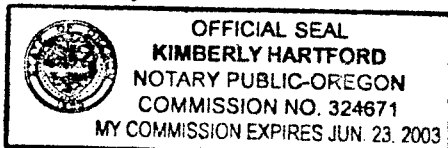


Kimberly Hartford  
Notary Public for Oregon  
My Commission Expires: 6-23-03

STATE OF OREGON )  
County of Deschutes )

SS.

The foregoing instrument was acknowledged before me this 19 day of March, 2003, by Sharon E. Anderson.

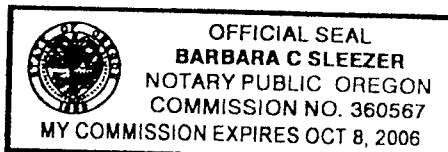


Kimberly Hartford  
Notary Public for Oregon  
My Commission Expires: 6-23-03

STATE OF OREGON )  
County of Benton )

SS.

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of March, 2003, by Fredrick A. Mueller.

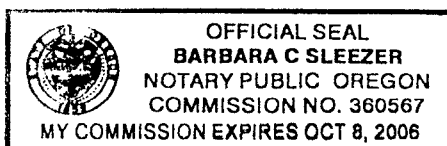


Barbara C Sleezer  
Notary Public for Oregon  
My Commission Expires: 10/8/06

STATE OF OREGON )  
County of Benton )

SS.

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of March, 2003, by Karen J. Mueller.

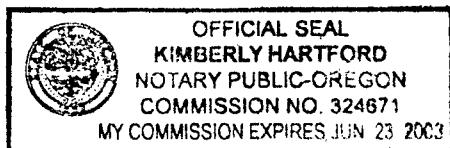


Barbara C Sleezer  
Notary Public for Oregon  
My Commission Expires: 10/8/06

[Acknowledgments continue on following page]

STATE OF Oregon )  
 ) ss.  
County of Deschutes )

The foregoing instrument was acknowledged before me this 19 day of March, 2003 by Vickie Hornbeckas President of Centers West, Inc.



Kimberly Hartford  
Notary Public for Oregon  
My Commission Expires: 6-23-03

### **MORTGAGEE'S CONSENT**

Bank of the Cascades, is the owner and holder of a mortgage or trust deed on the property submitted to the Oregon Condominium Act hereunder and consents to the making of the foregoing Declaration.

BANK OF THE CASCADES

By: E. Marie Landers  
Title: Senior Vice President



STATE OF OREGON )  
 ) ss.  
County of Deschutes )

On this 20<sup>th</sup> day of March, 2003, personally appeared before me E. Marie Landers as Senior Vice President of Bank of the Cascades.

Amy Berger  
Notary Public for Oregon  
My Commission Expires: March 27, 2006

The foregoing Declaration is approved this 25 day of March, 2003.

**ASSESSOR AND TAX COLLECTOR  
FOR DESCHUTES COUNTY**

By: [Signature]

## APPROVAL BY REAL ESTATE COMMISSION

The foregoing Declaration is approved pursuant to ORS 100.110 this: 1 day of April, 2003, and in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two (2) years from this date.

By: \*

  
\_\_\_\_\_  
Brian DeMarco



**EXHIBIT A**  
**Property Description**

Lot 11 of PINE MEADOW VILLAGE, PHASE I, Deschutes County, Oregon

EXHIBIT "A"

## EXHIBIT B

<u>Unit No.</u>	<u>Article 7 Square Feet</u>	<u>Allocation Of Interest in Common Elements Article 7</u>	<u>Allocation of Interest for Determining An Owner's Profit &amp; Expenses (Article 8)</u>
1	1,474	20%	20%
<u>Unit No.</u>			
2	1,472	20%	20%
3	1,472	20%	20%
<u>Unit No.</u>			
4	1,467	20%	20%
5	1,467	20%	20%
Totals Sq. Ft.	7,352	100%	100%

617\020\cottonwood.declaration.final.31203



**BYLAWS  
OF  
COTTONWOOD CONDOMINIUM  
OWNERS ASSOCIATION,  
an Oregon non-profit corporation**

**ARTICLE 1  
PLAN OF CONDOMINIUM OWNERSHIP**

1.1 Name and Location. These are the bylaws of the COTTONWOOD CONDOMINIUM OWNERS ASSOCIATION (the "Association"). Cottonwood Condominium (the "Condominium") is located in the City of Sisters, Deschutes County, Oregon, and has been submitted to the Oregon Condominium Act (the "Act") by a declaration recorded simultaneously with these bylaws (the "Declaration"). The location of the Condominium is more specifically described in the Declaration.

1.2 Principal Office. The principal office of the Association shall be initially located at 414 W. Washington Street, Sisters, Oregon 97759, or such other address as may be designated by the Board of Directors from time to time.

1.3 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, and has all powers necessary in that regard.

1.4 Applicability of Bylaws. The Association, Declarant, all Unit Owners and their respective successors and assigns, and all persons using the Cottonwood Condominium property shall be subject to these bylaws and to all rules and regulations which may be adopted pursuant to these bylaws.

1.5 Composition of Association. The Association shall be composed of all the Unit Owners of the Condominium, including Steven E. McGhehey, as to an undivided twenty (20%) percent interest; Alva W. Anderson and Sharon E. Anderson, as tenants by the entirety, as to an undivided forty (40%) percent interest; Fredrick A. Mueller and Karen J. Mueller, as to an undivided twenty (20%) percent interest; and Vickie J. Patterson and John W. Hornbeck, as Trustees of the Dancing Tree Trust, as to an undivided ninety-four (94%) percent interest and Centers West, Inc., as to an undivided six (6%) percent interest, as tenants in common, as to the remaining undivided twenty (20%) percent interest (collectively the "Declarant"), and the Association, itself, to the extent any of these own any Unit or Units of the Condominium.

1.6 Incorporation. The Association will be incorporated under the Oregon Non-Profit Corporation Law by filing the Articles of Incorporation with the Oregon Secretary of State's Office immediately following the recording of these Bylaws. The Articles of Incorporation of the Association shall be consistent with the Declaration and these bylaws, and these bylaws shall constitute the bylaws of the incorporated association.

1.7 Definitions. The definitions contained in or adopted by the Declaration shall be applicable to these bylaws.

## ARTICLE 2 MEETINGS OF ASSOCIATION

2.1 Membership. On recording a conveyance or a contract to convey a Unit, the grantee or purchaser named in the conveyance or contract automatically is a Member of the Association and remains a Member of the Association until the person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the Condominium, Unit ownership is determined on the basis of the records maintained by the Association. The record must be established by the Unit Owner filing with the Association a copy of the deed to or land sale contract for his or her Unit, to which must be affixed the certificate of the recording officer of the County of Deschutes, Oregon, showing the date and place of recording of the deed or contract. No person may be recognized as a Unit Owner unless a copy of the deed or contract showing him or her to be the current owner or contract purchaser of a Unit has been filed with the Association as provided above. Notwithstanding the foregoing, Declarant is 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.

2.2 Organizational and Turnover Meeting. The turnover meeting, which shall constitute the initial meeting of the Association, shall be called by the Declarant within ninety (90) days of the expiration of the date that Declarant's administrative control terminates as described in Article 15 of the Declaration. The Declarant shall give notice (as provided in Section 2.5) of the turnover meeting to each Owner. The notice shall state the purpose, time, and place of the meeting. If the meeting is not called by the Declarant, the meeting may be called and notice given by any Owner or any first mortgagee of a Unit. At the turnover meeting, the Declarant shall relinquish control of the administration of the Association to the Owners and the latter shall control; the Owners shall elect a Board of Directors as set forth in these bylaws; and the Declarant shall deliver to the Association the items specified in ORS 100.210(5). During the three (3) month period following the turnover meeting, the Declarant or an informed representative thereof shall be available to meet with the Board on at least three (3) mutually acceptable dates to review the documents that are to be delivered to the Association pursuant to ORS 100.210(5). If the Declarant has complied with the terms of ORS 100.210, then, unless Declarant otherwise has sufficient voting rights as an Owner to control the Association, the

Declarant shall not be responsible for the failure of the Owners to comply with the provisions of ORS 100.210(4), and the Declarant shall be relieved of any further responsibility for the administration of the Association except as an Owner for any unsold Unit. Nothing in this section shall be construed as preventing the Declarant from calling the organizational and turnover meeting prior to such date, or from calling informal, informational meetings of the Unit Owners.

2.3 Place of Meetings and Annual Meetings. The Association shall hold meetings at such suitable place convenient to the Unit Owners as may be designated by the Board of Directors from time to time. The first annual meeting of the Association shall be held either as of the date of the turnover or approximately one (1) year following the turnover meeting and the date shall be set by action of the Board. The date of successive annual meetings may be changed from time to time, but must be held annually. The annual meetings shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

2.4 Special Meetings. Special meetings of the Association may be called by the chairperson or secretary or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from at least thirty (30%) percent of the Unit Owners stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.5 Notice of Meetings. Notice of all meetings of the Association stating the time and place and the matters for which the meeting is being called shall be given by the chairperson or secretary. Such notice shall be in writing and mailed to each Unit Owner at the Owner's address as it appears on the books of the Association and to any first mortgagee requesting such notice not less than ten (10) days nor more than fifty (50) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived by any Unit Owner before or after meetings. When a meeting is adjourned for less than thirty (30) days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

2.6 Voting. There shall be one vote for each Unit. Each Unit Owner, or Owners if more than one Owner of a Unit or Units, shall have one vote for each Unit of the Condominium owned by such Unit Owner or Owners. Whenever any Unit is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such Unit may be exercised by any one of the Owners then present, in the absence of protest by a co-Owner. In the event of such protest, no one co-Owner shall be entitled to vote without the approval of all co-Owners. In the event of disagreement among the co-Owners, the vote of such Unit shall be disregarded completely in determining the proportion of votes given with respect to such matter. The Declarant shall be entitled to vote as the Unit Owner of any then existing Units retained by the Declarant, and the Board of Directors shall be entitled to vote on behalf of any Unit which has

been acquired by or on behalf of the Association; provided, however, that the Board of Directors shall not be entitled to vote such Units in any election of directors.

**2.7 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, at any time prior to the meeting. The presence of an Owner at a meeting shall automatically revoke such Owner's proxy for all matters which come before the meeting while the Owner is present. 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 such Owner's 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 under these bylaws and to exercise the Unit Owner's voting rights from and after the time that the mortgagee shall be given 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.

**2.8 Fiduciaries and Joint Owners.** An executor, administrator, guardian or trustee may vote, in person or by proxy, at any meeting of the Association with respect to any Unit owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that such person shall satisfy the secretary that he or she is the executor, administrator, guardian or trustee, holding such Unit in such capacity. Whenever any Unit is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such Unit may be exercised by any one of the Owners then present, in the absence of protest by a co-Owner. In the event of such protest, no one co-Owner shall be entitled to vote without the approval of all co-Owners. In the event of disagreement among the co-Owners, the vote of such Unit shall be disregarded completely in determining the proportion of votes given with respect to such matter.

**2.9 Landlords and Contract Vendors.** Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a Unit shall be exercised by the landlord if the rental agreement or lease has an original term of ten (10) years or less, or by the tenant if the rental agreement or lease has an original term of more than ten (10) years. Unless otherwise stated in the contract, all voting rights allocated to a Unit shall be exercised by the vendee of any recorded land sale contract on the Unit.

**2.10 Quorum of Unit Owners.** At any meeting of the Association, members holding fifty (50%) percent of the voting rights, present in person or by proxy, shall constitute a quorum. The subsequent joinder of a Unit Owner in the action taken at a meeting by signing and concurring in the minutes of the meeting 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 a 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.

2.11 Majority Vote. The vote of the holders of more than fifty (50%) percent of the voting rights, present in person or by proxy at a meeting at which a quorum is constituted, shall be binding upon all Unit Owners for all purposes except where a higher percentage vote is required by law, by the Declaration or by these bylaws.

2.12 Rules of Order. All meetings of the Association shall be conducted according to the latest edition of the Robert's Rules of Order published by the Robert's Rules Association. Notwithstanding the above, a decision of the Association may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied. A decision of the Association is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision. Unless provided otherwise in Robert's Rules of Order, the order of business at annual meetings of the Association shall be:

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

2.13 Ballot Meeting. At the discretion of the Board of Directors, any matter which might come before the Association at a meeting, including election of directors, may be determined by proxy ballot, rather than at a formal gathering. Ballots shall be sent to all Unit Owners in the same manner as notice of meetings, with a specified deadline for return of ballots. Ballots for

such meetings must be properly executed and returned in sufficient quantity to constitute a quorum, and determination of the matter presented shall be based upon the required percentage of ballots returned, unless approval of a specified percentage of all voting rights is required by law, the Declaration or of these bylaws. The vote of a ballot meeting shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots. Within ten (10) days after the ballots have been counted, 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.

### ARTICLE 3 Board of Directors

3.1 Number and Qualification. Except as provided in Section 3.2, the affairs of the Association shall be governed by a Board of Directors composed of three (3) persons, as provided in Sections 3.2 of this Article. All directors, other than interim directors appointed by Declarant, shall be Owners or co-Owners of Units of the Condominium. For purposes of this section, the officers of any corporate Owner, members of a limited liability company, or the partners of any partnership shall be considered co-Owners of any Units owned by an corporation, limited liability company or partnership.

3.2 Interim Directors. Upon the recording of the Declaration submitting the Condominium to the Oregon Condominium Act the Declarant shall appoint an interim Board of three (3) directors, who shall serve until replaced by Declarant or their successors have been elected by the Unit Owners as provided below.

3.3 Election and Term of Office. At the first organizational and turnover meeting called by Declarant pursuant to Section 2.2 of these bylaws, the interim directors shall resign and three (3) successors shall be elected, one (1) to serve until the next annual meeting and two (2) to serve until the second annual meeting after their election. Thereafter, at the expiration of the initial term of office of each respective director, his or her successor shall be elected to serve for a term of two years. Directors shall hold office until their respective successors have been elected by the Unit Owners. Election shall be by plurality. A Director may be re-elected to serve successive terms.

3.4 Vacancies. Vacancies in 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 the 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 to fill the unexpired term at the next annual meeting of the Association or the next special meeting of the Association called for that purpose. Vacancies in interim directors shall be filled by Declarant.

3.5 Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors, other than interim directors, may be removed with or without cause by a majority vote of the Unit Owners present in person or by proxy, and a successor shall be elected at that meeting to fill the vacancy thus created. The notice of any such meeting shall state that such removal is to be considered, and any director whose removal has been proposed shall be given an opportunity to be heard at that meeting.

3.6 Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or by these bylaws may not be delegated to the Board of Directors by the Unit Owners. The powers and duties to be exercised by the Board of Directors shall include, but not be limited to the following:

(a) Operation, care, upkeep, maintenance, repair and replacement of the general and limited common elements and any property of the Association.

(b) Determination of the amounts required for operation, maintenance and other affairs of the Association, and the making of such expenditures.

(c) Adoption of a budget for the Association, and assessment and collection of the common expenses.

(d) Employment and dismissal of such personnel as necessary for the efficient maintenance, upkeep and repair of the common elements.

(e) 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; provided, however, the Board may not incur or commit the Association to incur legal fees in excess of \$2,500 for any specific matter unless the Unit Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five (75%) percent of the voting rights present in person or by proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to legal fees incurred in defending the Association and the Board of Directors from claims or litigation brought against the Board of Directors.

(f) Opening of bank accounts on behalf of the Association and designated the signatories required therefor. Causing the preparation and distribution of annual financial statements of the Condominium to each of the Unit Owners as more specifically provided in Article 6 of these Bylaws.

(g) Preparing or causing to be prepared and filed any required state or federal income tax returns or forms for the Association.

(h) Purchasing Units of the Condominium at foreclosure or other judicial sales in the name of the Association, or its designee, on behalf of the all the Unit Owners as provided in these bylaws.

(i) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of directors), 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. Reviewing on an annual basis the insurance coverage of the Association.

(k) Making additions and improvements to, or alterations of, the common elements; provided, however, that no such project may be undertaken by the Board if the total cost will exceed the amount of \$2,500 unless the Unit Owners have enacted a resolution authorizing the project by a vote of sixty (60%) percent of the voting rights present in person or by proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to maintenance, repairs or replacement undertaken pursuant to paragraph (a) above. The limitation set forth in this paragraph shall increase by \$1,000 on each fifth anniversary of the recording of the Declaration.

(l) Designating one or more committees which, to the extent provided in the resolution designating the committee, shall have the powers of the Board of Directors in the management of the affairs of the Association. At least one member of each committee shall be a member of the Board of Directors.

(m) Enforcement by legal means of the provisions of the Oregon Condominium Act, the Declaration, these bylaws and any rules and regulations adopted hereunder.

(n) The filing of an Annual Report and any amendment in accordance with ORS 100.250 and 100.260.

(o) Causing the Association to provide, within 10 days of receipt of a written request from an Owner, a written statement that provides: (a) The amount of assessments due from the Owner and unpaid at the time the request was received, including (i) regular and special assessments, (ii) fines and other charges, (iii) accrued interest, and (iv) late payment charges, (b) The percentage rate at which interest accrues on assessments that are not paid when due, (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed charge for late payment. The Association shall not be obligated to deliver the foregoing statement to an Owner if the Association has commenced litigation by filing a complaint against the Owner and the litigation is pending when the statement would otherwise be due.



3.7 Managing Agent or Manager. On behalf of the Association, the Board of Directors may employ or contract for a managing agent or a manager at a compensation to be established by the Board of Directors. Any such management agreement shall be terminable by the Association upon not more than 90 days' written notice thereof. The Board of Directors may delegate to the managing agent or manager such duties and powers as the Board of Directors may authorize. In the absence of such appointment, the Board of Directors shall act as manager; provided, however, that the Board of Directors may not terminate professional management and assume self-management unless the decision to do so is approved by at least fifty-one (51%) percent of the total voting powers of the Association.

3.8 Contracts Entered into by Declarant or Interim Board. Notwithstanding any other provision of these bylaws, any leases or contracts (including management contracts, service contracts and employment contracts) entered into by the Declarant or the interim Board on behalf of the Association shall have a term not in excess of three years. In addition, any such lease or contract shall provide that it may be terminated without cause or penalty by the Association or Board of Directors upon not less than thirty (30) days' notice to the other party given at any time after election of the permanent Board at the organizational and turnover meeting described in Section 2.2 of these bylaws.

3.9 Organizational Meeting of the Board. Within ten (10) days following the annual meeting of the Association or following any meeting at which an election of directors has been held, the Board of Directors shall hold an organizational meeting at such place and time as shall have been fixed by the directors at the meeting at which the election was held.

3.10 Regular and Special Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Special meetings of the Board of Directors may be called by the chairperson and must be called by the secretary at the written request of at least two directors. Notice of any special meeting shall be given to each director, personally or by mail, telephone or telegraph at least seven (7) days prior to the date named for such meeting, and shall state the time, place and purpose of such meeting.

3.11 Open Meeting. All meetings of the Board of Directors shall be open to Unit Owners. In an emergency, such meetings may be conducted by telephonic communication. Such telephonic meetings must be carried on by means of a "conference call" in which each Director may speak with any of the other Directors. The Directors must keep telephone numbers on file with the Chairperson to be used for telephonic meetings. No notice to either Directors or Association members is required for a telephonic meeting of the Board of Directors to be held for any emergency action. Provided, if a majority of the Units are principal residences of the occupants, then: (a) for other than emergency meetings, notice of each Board of Directors' meeting shall be posted at a place or places on the property at least three (3) days prior to the

meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Unit Owners of such meeting; and (b) only emergency meetings of the Board of Directors may be conducted by telephonic communication. Notwithstanding the foregoing, in the discretion of the Board, the following may be considered in executive session:

(a) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters;

(b) Personnel matters, including salary negotiations and employee discipline;

(c) The negotiation of contracts with third parties; and

(d) No Association member has a right to participate in the Board of Directors' meetings unless the member is also a member of the Board of Directors. The Chairperson has authority to exclude any Association member who disrupts the proceedings at a meeting of the Board of Directors. Except in the case of an emergency, the Board of Directors of an Association shall vote in an open meeting whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer of the Board of Directors shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners.

3.12 Waiver of Notice. Any director may, at any time, waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall constitute a waiver of notice by such director, except where the director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all of the directors are present at any meeting of the Board, no notice to directors shall be required and any business may be transacted at such meeting.

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

3.14 Compensation. No director shall receive any compensation from the Association for acting as Director.

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

3.16 Insurance. The Board of Directors shall obtain the insurance and fidelity bonds required in Article 8 of these bylaws. In addition, the Board of Directors, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association or Unit Owners. The Board of Directors shall conduct an annual insurance review which, if appropriate, shall include an appraisal of all improvements contained in the Condominium.

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

#### ARTICLE 4 OFFICERS

4.1 Designation. The principal officers of the Association shall be the chairperson, the secretary and the treasurer, all of whom shall be elected by the Board of Directors. The directors may appoint a vice chairperson, an assistant treasurer, an assistant secretary, and such other officers as in their judgment may be necessary. The chairperson shall be a member of the Board of Directors, but the other officers need not be directors or Unit Owners.

4.2 Election of Officers. The officers of the Association shall be elected annually, by the Board of Directors at the organization meeting of each new Board 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 of Directors called for such purpose.

4.3 Removal of Officers. Upon the affirmative vote of a majority of the 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.

4.4 Chairperson. The chairperson shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. The chairperson shall have all of the general powers and duties which are usually vested in the chief executive officer of an association, including but not limited to the power to appoint committees from among the Unit Owners from time to time as the chairperson may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.5 Secretary. The secretary shall keep the minutes of all proceedings of the Board of Directors and the minutes of all meetings of the Association. He or she shall attend to the giving and serving of all notices to the Unit Owners and directors and other notices required by law. The secretary shall keep the records of the Association, except for those of the treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the directors or the chairperson. In addition, the secretary shall act as vice chairperson, taking the place of the chairperson and performing the chairperson's duties whenever the chairperson is absent or unable to act, unless the directors have appointed another vice chairperson.

4.6 Treasurer. The treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of required financial statements. He or she shall be responsible for the deposit of all moneys and other valuable effects in such depositories as may from time to time be designated by the Board of Directors, and shall disburse funds of the Association upon properly authorized vouchers. The treasurer shall perform all other duties incident to the officer of treasurer of an association and such other duties as may be assigned to him or her by the Board of Directors.

4.7 Execution of Instruments. All agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by general or special resolution of the Board of Directors and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the chairperson. All checks shall be signed by the treasurer, or in the absence or disability of the treasurer, by the chairperson or any duly elected assistant treasurer.

4.8 Compensation of Officers. No officer who is a member of the Board of Directors shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the Unit Owners. The Board of

Directors may fix any compensation to be paid to any officers who are not also directors.

4.9 Indemnification of Directors, Officers, Employees and Agents. The Association must 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 act that he or she 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 fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with the suit, action, or proceeding if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that his or her 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, does not of itself create a presumption that a person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his or her conduct was unlawful. Payment under this clause may be made while the claim, action, suit, or proceeding is pending subject only to the right of the Association to be reimbursed, should it be proved at a later time that the 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 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 that created said liability.

## ARTICLE 5 BUDGET, EXPENSES AND ASSESSMENTS

5.1 Budget. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association, estimate the common expenses expected to be incurred, less any previous over-assessment, and assess the common expenses to each Unit Owner in the proportion set forth in the Declaration. The budget shall provide for an adequate reserve fund for maintenance, repairs and replacement of those common elements which must be replaced on a periodic basis. If so determined by the Board of Directors, the budget may include projected assessments, if any, to the Master Association (see Master Declaration) or the Board may allow the Owners to pay such assessments direct to the Master Association. Any budget for the Association prepared by Declarant or during the period of Declarant's administrative control of the Association shall be based on Declarant's good faith projection of the requirements of the Association for the period in question, but such projections may vary substantially from the actual requirements of the Association for such period. After the turnover meeting, the Board of

Directors shall be responsible for preparation of the budget of the Association and shall not rely upon prior budgets or projections prepared by Declarant.

5.2 Determination of Common Expenses. Common expenses shall include:

- (a) Expenses of administration.
- (b) Expenses of maintenance, repair or replacement of common elements or any other portions of the Condominium required to be maintained by the Association pursuant to the Declaration or these bylaws.
- (c) Cost of insurance or bonds obtained in accordance with these bylaws.
- (d) A general operating reserve, including an amount sufficient to cover the deductible under the property damage insurance policy.
- (e) Reserves for replacements and deferred maintenance.
- (f) Any deficit in common expenses for any prior period.
- (g) Utilities for the common elements and other utilities with a common meter or commonly billed, such as trash collection, water and sewer.
- (h) Any other items properly chargeable as an expense of the Association.

5.3 Assessment of Common Expenses.

(a) Obligation to Pay. All Unit Owners shall be obligated to pay common expenses assessed to them by the Board of Directors on behalf of the Association pursuant to these bylaws and the Declaration. Within thirty (30) days after adopting the annual budget, the Board shall advise each Owner in writing of the amount of common expenses payable by the Owner, and furnish copies of summaries of such budget on which such common expenses are based to all Owners, and if requested, to their Mortgagees. A failure to deliver a copy of any summary of a budget or an amended budget to each Owner shall not affect the liability of any Owner for any such assessment, and in the event the Board fails to adopt an annual budget, then the last adopted annual budget shall continue in effect. Nothing herein contained shall be construed as restricting the right of the Board to, at any time, in their sole discretion, levy any additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management of the Condominium, or in the event of emergencies. Assessments may not be waived due to limited or nonuse of the common elements, and no Unit Owner may offset amounts owing or claimed to be owing by the

Association or Declarant to the Unit Owner against such Unit Owner's obligation to pay assessments. Subject to paragraph (c) below, Declarant shall be assessed as the Unit Owner of any unsold Unit, but such assessments shall be prorated to the date of sale of the Unit. The Board of Directors, on behalf of the Association shall assess the common expenses against the Unit Owners from time to time, at least annually, and shall take prompt action to collect from a Unit Owner any common expense due which remains unpaid for more than thirty (30) days from the due date for its payment. The Board may elect to round assessments to the nearest dollar.

(b) Initial Working Capital Fund. Declarant shall establish an initial working capital fund in an amount at least equal to two (2) months of estimated regular association assessments for each Unit. At the time of closing of the initial sale of each Unit, each purchaser shall make an initial contribution to the working capital of the Association equal to two months' regular association assessments for the Unit. At the time of the organization and turnover meeting, the Declarant shall pay such contribution for all unsold Units, but may obtain reimbursement for such sums from the purchaser upon the sale of each such Unit. Such initial contribution shall be in addition to the regular monthly common expense assessment and shall not be considered as an advance payment of regular assessments. The working capital fund shall be transferred to the Association for deposit to a segregated fund at the time of the organizational and turnover meeting. Declarant may not use the working capital fund to defray any of Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association.

The Board of Directors must create and maintain a general operating reserve account by allocation and payment thereto monthly of an amount determined by the Board of Directors. This account must be used to pay expenses that exceed budgeted amounts. The initial working capital required by Section 5.3(b) must be deposited into the operating reserve account.

Each reserve account must be kept in an account with a safe and responsible depository, must be accounted for separately and, if invested, the obligation or security must be fully guaranteed as to principal by the United States of America or one of its agencies. Assessments paid into the reserve accounts are the property of the Association and are not refundable to sellers of Units. No Unit Owner has any individual rights in any of these reserves, although it is understood that the value of their respective Units may increase in proportion to each Unit's right to receive, repair, maintenance, and replacement therefrom.

(c) Commencement of Regular Operating Expense Assessments. Regular monthly assessments for common operating expenses shall commence within sixty (60) days after closing of the first sale of a Unit in the Condominium. Declarant shall pay all assessments due for operating expenses on all unsold Units. Declarant shall give not less than ten (10) days' written notice to all Owners of the commencement of assessments for all common expenses.

(d) Commencement of Assessment for Replacement Reserves. Regular monthly assessments for replacement reserves as described in Section 5.5 shall commence upon the closing of the sale of the first Unit in the Condominium, except that Declarant may elect to defer payment of such assessments to the Association for each Unit owned by Declarant until the closing of the sale of such Unit.

(e) No Exception. No Owner may claim exemption from liability for contribution toward the common expenses by waiver by the Owner of the use or enjoyment of or by abandonment of the Owner's Unit.

(f) Procedures. If Declarant pays all the operating expenses of the Condominium or subsidizes the expenses, the assessment of Declarant must be reduced by that amount, but must not be reduced to a sum less than the total amount of the replacement reserve items. With respect to Units not yet conveyed by Declarant, Declarant may accrue the replacement reserve items. At the time of conveyance of the Unit for which the replacement reserve has been accrued, the accrued reserves must be paid to the Association by Declarant.

#### 5.4 Special or Extraordinary Assessments.

(a) Special Assessments for Capital Improvements. In the case of any duly authorized capital improvement to the common elements, the Board of Directors may by resolution establish separate assessments for the same, which may be treated as capital contributions by the Unit Owners, and the proceeds of which shall be used only for the specific capital improvements described in the resolution. The Association shall not assess Units owned by the Declarant for additional capital improvements to the Condominium without the written consent of Declarant as long as Declarant owns more than three (3) Units. Any assessment under this Section 5.4(a) in excess of \$5,000 must be approved by 3 of the 5 Owners.

(b) Other Special or Extraordinary Assessment. In the event the Board of Directors determines that the assessments established upon adoption of the budget as provided in Section 5.1 above will be insufficient to pay the common expenses, or the Board of Directors determines that additional funds will be needed to meet unexpected or unbudgeted common expenses, the Board may levy an additional special or extraordinary assessment. Such assessment shall be allocated to each Unit in the same proportion set forth in the Declaration, and may be payable in installments over a specified period, in a lump sum, or in a lump sum with option to pay in installments with interest, as determined by the Board of Directors. Any assessment under this Section 5.4(b) in excess of \$5,000 must be approved by 3 of the 5 Owners.

5.5 Replacement Reserves. The Declarant shall establish a reserve account for replacement of those common elements all or a part of which normally require replacement in more than three (3) and less than thirty (30) years. Such reserve account shall be funded by



assessments against the individual Units assessed for maintenance of the items for which the reserve account is being established, which sums shall be included in the regular monthly assessment for the Unit, except as otherwise provided in Section 5.3(f). The amount assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. The reserve account shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time. The reserve account shall be used only for replacement of common elements and shall be kept separate from assessments for maintenance and operating expenses; provided, however, the Board may segregate the reserve fund by standard accounting procedures, and is not obligated to keep the reserve funds in an account separate from the Association's other monies. After the organizational and turnover meeting described in Section 2.2, however, 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. Nothing in this section shall prohibit prudent investment of the reserve account. Following the second year after the turnover meeting, the Association may, on an annual basis elect not to fund the reserve account described herein by unanimous vote of the Owners. Assessments paid into the reserve account are the property of the Association and are not refundable to sellers of Units. Sellers of the Units, however, may treat their outstanding share of the reserve account as a separate item in any sales agreement. The Board annually shall conduct a reserve study or review and update an existing study of the common elements to determine the reserve account requirements. The provisions of this section shall be operable only to the extent and so long as required by the Oregon Condominium Act.

(a) Commencement Date. Assessments for reserves shall commence upon closing of the first sale of a Unit, subject to subsection 5.5(b).

(b) Declarant Deferment. Declarant may elect to defer payment of the assessments for the reserve fund with respect to a Unit until the time of conveyance of the Unit. However, the Declarant may not defer payment of accrued reserve assessments: (i) beyond the date of the turnover meeting provided in Section 2.2, or (ii) the turnover meeting is not held, the date the Owners assume administrative control of the Association. The books and records of the Association shall be maintained to show the amounts Declarant owes the Association for reserve assessment.

5.6 Default in Payment of Assessments. In the event of default by any Unit Owner in paying any assessments to the Association, including assessed common expenses and any other charge imposed or levied by the Association pursuant to the provisions of the Declaration, these bylaws or the Oregon Condominium Act, such Unit Owner shall be obligated to pay interest at the rate of twelve (12%) percent per annum on such assessment from the due date thereof, or at such greater rate as may be established by the Board of Directors from time to time, not to exceed the maximum lawful interest rate, if any. In addition, the defaulting Unit Owner shall pay a late

charge for any assessment not paid within ten (10) days of its due date in the amount of five (5%) percent of the delinquent payment, or such other reasonable late charge as may be established by the Board of Directors from time to time, together with all expenses incurred by the Association in collecting such unpaid assessments, including attorneys' fees (whether or not suit is instituted, and at trial or any appeal or petition for review therefrom). If there is a default, then the Association may record a common expense lien against the Unit of the defaulting Owner, as provided for under the Act. If the assessment is not paid within thirty (30) days of its due date, the Board of Directors may declare any remaining installments of assessments for the balance of the fiscal year immediately due and payable. The Board of Directors shall have the right and duty to recover for the Association such assessments, together with such charges, interest and expense of the proceeding, including attorneys' fees, by an action brought against such Unit Owner or by foreclosure of the lien upon the Unit granted by the Oregon Condominium Act. The Board of Directors shall notify the holder of any first mortgage upon a Unit and any eligible mortgage insurer or guarantor thereof of any default not cured within sixty (60) days of the date of default. If there is a default, the defaulting Unit Owner loses the Owner's right to vote until all defaults are entirely cured.

Whether or not suit or action is commenced, Unit owners are obliged to pay reasonable fees and costs, including, but not limited to, attorney fees (whether or not suit or action is commenced) incurred in connection with efforts to collect delinquent and unpaid assessments, fines, and enforcement of the Declaration, Bylaws, or rules and regulations of the Association. In addition to the assessment for operating expenses and the funding of reserves, assessments may include fees, late charges, fines, and interest imposed pursuant to ORS 100.405(4)(i)-(k), provided that any late charge, fine or interest must be based upon a schedule contained in an amendment to the Declaration or these Bylaws that is delivered to each owner in accordance with the foregoing code section or based on a resolution adopted by the Board of Directors or the Association that is delivered to each Unit, mailed to each owner in accordance with the foregoing code.

5.7 Foreclosure of Liens for Unpaid Assessments. In any suit brought by the Association to foreclose a lien on a Unit because of unpaid assessments, the Unit Owner shall be required to pay a reasonable rental for the use of the Unit during the pendency of the suit, and the plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect such rental. The Board of Directors, acting on behalf of the Association, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the Unit. A suit or action to recover a money judgment for unpaid assessments shall be maintainable without foreclosing the lien securing the same. The Association may, if permitted by law, file in small claims court to collect its assessments.

5.8 Statement of Assessments. The Board of Directors shall advise each Unit Owner in writing of the amount of assessments payable by such Owner, and furnish copies of each budget

on which such assessments are based to all Unit Owners and, if requested, to their mortgagees. The Board of Directors shall promptly provide any Unit Owner who makes a request in writing with a written statement of the Owner's unpaid assessments.

5.9 Prior Mortgages; Liability of Subsequent Purchaser. Any lien of the Association against a Unit or Units for common expenses shall be subordinate to tax and assessment liens and any prior Mortgage of record, unless there has been compliance with all requirements of ORS 100.450(7). Where the purchaser or Mortgagee of a Unit or Units obtains title to the Unit or Units as a result of foreclosure of a prior Mortgage or by deed in lieu of foreclosure, such purchaser or Mortgagee, his successors and assigns shall not be liable for any of the common expenses chargeable to such Unit or Units which became due prior to the acquisition of title of such Unit or Units by such purchaser or Mortgagee except to the extent provided in ORS 100.475(2); provided, in the case of a deed in lieu of foreclosure, that the Mortgagee complies with the requirements of 100.465(1); and provided further, that any sale or transfer of a Unit pursuant to a foreclosure shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit or Units for the lien of, any common expenses thereafter becoming due. In a voluntary conveyance of a Unit or Units (subject to this Declaration), the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Unit or Units to the time of grant of conveyance, without prejudice to the grantees' right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser, the Board of Directors shall make and deliver a statement of the unpaid assessments against the prospective grantor of the Unit or Units, and the grantee in such case shall not be liable for, nor shall the Unit or Units when conveyed by subject to, a lien filed thereafter for any unpaid assessments against the grantor in excess of the amounts therein set forth.

5.10 Conveyance. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Unit up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, upon request of a prospective purchaser the Board of Directors shall make and deliver a statement of the unpaid assessments against the prospective grantor or the Unit, and the grantee in that case shall not be liable for, nor shall the Unit when conveyed be subject to, a lien filed thereafter for any unpaid assessments against the grantor in excess of the amount set forth in the statement.

## ARTICLE 6 RECORDS AND AUDITS

6.1 General Records. The Board of Directors and the managing agent or manager, if any, shall keep detailed records of the actions of the Board of Directors and the managing agent or manager, minutes of the meetings of the Board of Directors and minutes of the meetings of the Association. The Board of Directors shall maintain a Book of Resolutions containing the rules,

regulations and policies adopted by the Association, Board of Directors and the manager. The Board of Directors shall maintain a list of Owners entitled to vote at meetings of the Association and a list of all mortgagees of Units.

6.2 Financial Records. The Board of Directors or its designee shall keep financial records sufficient for proper accounting purposes.

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

6.4 Payment of Vouchers. The treasurer shall pay all vouchers for all budgeted items and for any non-budgeted items up to \$1,000 signed by the chairperson, managing agent, manager or other person authorized by the Board of Directors. Any voucher for non-budgeted items in excess of \$1,000 shall require the authorization of the chairperson. Any checks written on reserve accounts must be signed by two members of the Board of Directors.

6.5 Reports and Audits. An annual financial statement consisting of a balance sheet and income and expense statement for the preceding fiscal year shall be rendered by the Board of Directors to all Unit Owners 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 or review of the books and records pertaining to the Association and furnish copies thereof to the Owners and such mortgagees. Upon written request, of any Owner or any holder, insurer or guarantor of a first mortgage shall be entitled to an audited financial statement for the immediately preceding fiscal year at the expense of the Unit Owner and shall be made available within one hundred twenty (120) days after the end of such fiscal year.

6.6 Notice of Sale, Mortgage, Rental or Lease. Immediately upon the sale, mortgage, rental or lease of any Unit, the Unit Owner shall promptly inform the secretary or manager of the name and address of said vendee, mortgagee, lessee, or tenant.

6.7 Availability of Records. During normal business hours or under other reasonable circumstances, the Association shall make available to Unit Owners, prospective purchasers and lenders, and to holders, insurers, or guarantors of any first mortgage, current copies of the Declaration, bylaws, other rules concerning the Condominium, amendments or supplements to such documents, and the books, records, financial statements and current operating budget of the Association. Upon written request, the Association shall make such documents, information and records available to such persons for duplication during reasonable hours. The Association may charge a reasonable fee for furnishing copies of such documents, information and records.

6.8 Annual Report. The Board shall file an annual report pursuant to the Act with the Real Estate Agency.

ARTICLE 7  
MAINTENANCE AND USE OF CONDOMINIUM PROPERTY

7.1 Maintenance and Repair. Except as otherwise provided in Section 7.3 for damage or destruction caused by a casualty:

(a) Units. All maintenance of and repair to any Unit shall be made by the Owner of such Unit, who shall keep the same in good order, condition and repair and shall do all redecorating, painting and staining which at any time may be necessary to maintain the good appearance and condition of the Owner's Unit. In addition, each Unit Owner shall be responsible for the maintenance, repair, or replacement of windows and doors and any plumbing, heating or air conditioning fixtures, telephones, water heaters, fans, lighting fixtures and lamps, fireplaces, refrigerators, dishwashers, ranges, or other appliances and accessories that may be in or connected with such Owner's Unit. The Association, however, may repair or replace, at the Association's expense, portions of Units to the extent reasonably necessary for the preservation of the common elements in good condition and working order.

(b) Common Elements. All maintenance, repairs and replacements to the general common elements shall be made by the Association and shall be charged to all the Unit Owners as a common expense. Each Unit Owner, however, shall maintain, repair and replace the limited common elements which pertain to such Owner's Unit, and each Unit Owner shall keep an Owner's limited common elements in a neat, clean and sanitary condition.

7.2 Additions, Alterations and Improvements.

(a) Improvements. A Unit Owner may make any improvements or alterations to such Owner's Unit that do not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

(b) Alteration of Unit. After acquiring an adjoining Unit or an adjoining part of an adjoining Unit, a Unit Owner 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 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.

(c) Consent of Owners to Alteration. A Unit Owner shall make no repair or alteration or perform any other work on such Owner's Unit which would jeopardize the soundness or safety of the property, reduce its value, 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.

(d) Change to Common Elements. A Unit Owner may not change the appearance of the common elements or the exterior appearance of a Unit without permission of the Board of Directors.

7.3 Damage or Destruction by Casualty of Condominium Property. In the case of damage or destruction which affects a material portion of the project, timely written notice shall be given to the Unit Owners and their mortgagees and any eligible mortgage insurer or guarantor and the following provisions shall apply:

(a) Repair of Casualty/Damage. In the event of damage or destruction by casualty of Condominium property, the damage or destruction shall be repaired, reconstructed and rebuilt unless, within fourteen (14) days of such damage or destruction, the Board of Directors or more than ten (10%) percent of the Unit Owners shall have requested a special meeting of the Association. At the time of such meeting, unless Unit Owners holding ninety (90%) percent of the voting power, whether in person, by writing or by proxy, with the approval of mortgagees as required by the Declaration, vote not to repair, reconstruct or rebuild the damaged property, then the Property shall be removed from Condominium Ownership in the manner provided in the Oregon Condominium Act.

If the insurance proceeds are insufficient to reconstruct the damaged or destroyed buildings, the damage to or destruction of the buildings must be promptly repaired and restored by the manager or the Board of Directors, using the proceeds of insurance, if any, on the buildings for that purpose and all the Unit owners must 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 the owner. However, if three-fourths or more in value of all the buildings is destroyed or substantially damaged, and if the Owners of at least 60% of the Units so vote, and on written approval of holders of first mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, the manager or Board of Directors must record with the County Recorder a notice setting forth such facts, and on the recording of the notice:

- (i) The Condominium property is deemed to be owned in common by

the Owners.

(ii) The respective interest of each Unit Owner in the Property must be determined by the provisions of ORS 100.610 that are in effect on the date that the Condominium Declaration is recorded.

(iii) Any liens affecting any of the Units must be deemed to be transferred in accordance with the existing priorities to the undivided interests of the owners in the project.

(b) Association Repairs to Common Elements. The Association shall be responsible for repairing, reconstructing or rebuilding all of such damage or destruction to the common elements and, to the extent of the Association's insurance coverage and any deductible under such policies, all such damage or destruction to the Units. Each Unit Owner shall be responsible for repairing, reconstructing or rebuilding of the Owner's Unit which is not so covered by the Association's insurance.

(c) Liability for Damage Caused by Unit Owner. If, due to the act of a Unit Owner, or of a member of such Owner's family or household pet or of a guest or other authorized occupant or visitor of such Unit Owner, damage shall be caused to the common elements or to a Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a common expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Association, to the extent not fully covered by the Association's insurance.

(d) Insurance Proceeds. In the event any portion of the insurance proceeds paid to the Association is not used to repair, reconstruct or rebuild the damaged or destroyed property, the Association shall distribute the proceeds among the Unit Owners and their mortgagees (as their interests may appear) in the same proportion as common expenses are shared, unless the Property is removed from Unit Ownership. If the Property is removed from Unit Ownership, the insurance proceeds, together with the proceeds from the sale of the Property, shall be distributed to the Unit Owners and their mortgagees (as their interests may appear) in the manner described in the Oregon Condominium Act.

(e) Reconstruction Costs. If the Association is required or elects to reconstruct any common element or Unit that has been damaged or destroyed, an affected Unit Owner (i.e., the Owner whose Unit or limited common element has been damaged or destroyed) must contribute to the Association all amounts received by the Owner from property loss insurance policies to help pay for the repairs. To the extent that insurance proceeds are unavailable or unpaid when needed, the Association must assess the Owner the amount of the Association's "deductible" under its policy to pay the cost of repairing or reconstructing the Owner's Unit or

limited common elements. The assessment must be both a personal obligation of the Owner and a lien against the Owner's Unit in the same manner as any other Association assessment.

(f) Architectural Changes After Damage or Destruction. Reconstruction of the damaged or destroyed building as used in this Article means restoring the building to substantially the same condition in which it existed before the fire, casualty, or disaster, and must be performed substantially in accordance with the Declaration and the original plans and specifications unless other action is approved in writing by holders of first mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium. Reconstruction must be accomplished under the direction of the manager or the Board of Directors. Notwithstanding all other provisions here, the Owners may, by an affirmative vote of sufficient Owners, amend these Bylaws, cause an amendment to be made to the Condominium documents to facilitate architectural changes that the Owners affected thereby and the Association deem desirable if, and only if, the partial or total destruction of the Condominium, or any buildings thereof, by fire, casualty, or any other disaster is great enough to require the substantial reconstruction of the whole of the Condominium, or the buildings, and on written approval by holders of first mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium. However, any amendment of the Condominium documents is valid only on (1) compliance with all applicable provisions of the Oregon Condominium Act; (2) approval by the Oregon Real Estate Commissioner; (3) recording with the recording officer of Deschutes County; and (4) recording with that recording officer of the approval thereof of each mortgage holder and each other lienholder of record having a lien against any part of the project, or building, affected by the amendment.

(g) Reallocation of Percentage Interest. If the Condominium buildings or Units are partially destroyed, the Unit owners may not reallocate percentages of interest in the common elements without the prior approval of the mortgage holders of all the remaining Units, whether existing in whole or in part. Any such reallocation must also comply with the Oregon Condominium Act and other provisions of the Declaration, any applicable Supplemental Condominium Declaration, and the Bylaws.

7.4 Condemnation. If any portion of the Condominium is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, notice of the proceeding or proposed acquisition shall promptly be given to each Unit Owner and to each mortgagee and any eligible mortgage insurer or guarantor. The Association shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of any portion of the common elements, and each Unit Owner appoints the Association to act as his attorney-in-fact for such purposes. All compensation, damages or other proceeds of the taking, other than any award for moving expenses of specific Unit Owners, shall be payable to the Association and allocated and distributed as provided in this Section 7.4



(a) Taking. If the entire Condominium property is taken, or if Unit Owners holding ninety (90%) percent of the voting power agree that such substantial portion of the Condominium has been taken as to make the project obsolete, then the Property shall be deemed removed from Unit Ownership. In such event, any proceeds of the condemnation paid to the Association, together with any other proceeds upon sale of the remaining Condominium property, shall be distributed among the Unit Owners and their mortgagees, as their interests may appear, in accordance with the provisions of the Oregon Condominium Act.

(b) Partial Taking. If less than the entire Condominium Property is taken, and the Property is not determined to be obsolete as provided in paragraph (a) above, then as soon as practicable the Board of Directors shall, reasonably and in good faith, allocate the award among the Units in accordance with the reduction in the value of each Unit and its interest in the common elements, compared to the total reduction in value of all Units and their interest in the common elements. In the event any Unit Owner or mortgagee objects to the allocation determined by the Board of Directors, the matter shall be submitted to arbitration in accordance with the rules of the Deschutes County Circuit Court. The cost of such determination shall be paid out of the proceeds of the condemnation. Any portion of the award allocated to a Unit Owner under this paragraph (b) shall be paid first to all mortgagees and holders of liens on the Unit Owner's interest in accordance with the existing priorities, and the balance to the Unit Owner. If any reconstruction or repair is undertaken as a result of the condemnation, the Board of Directors may retain and apply such portion of each Unit Owner's share of the award as is necessary to discharge the Owner's liability for any special assessment arising from such reconstruction or repair.

7.5 Restrictions and Requirements Respecting Use of Condominium Property. The following restrictions and requirements are in addition to all other restrictions and requirements contained in the Declaration and these bylaws:

(a) Residential Use. 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 of the Association or manager, 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 or her professional personal library, keeping his or her personal business or professional records or accounts, handling his or her personal business or professional telephone calls, or conferring with business or professional associates, clients or customers, in such Owner's Unit.

(b) Use of Common Elements. The common elements shall be used for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of the Units. The use, operation and maintenance of the common elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner.

(c) Offensive or Unlawful Activities. No noxious or offensive activities shall be carried on in any Unit nor shall anything be done in or placed upon any Unit which interferes with or jeopardizes the enjoyment of other Units or the common elements which is a source of annoyance to residents. Unit occupants shall exercise extreme care not to make noises which may disturb other Unit occupants, including the use of musical instruments, radios, televisions and amplifiers. No unlawful use shall be made of the Condominium nor any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

(d) Animals. No animals or fowls shall be raised, kept or permitted within the Condominium or any part thereof, except domestic dogs, cats, or other household pets kept within a Unit. No such dogs, cats or pets shall be permitted to run at large nor shall be kept, bred or raised for commercial purposes or in unreasonable numbers. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof, and Owner shall be responsible for removal of wastes of their animals. All dogs shall be carried or kept on a lease while outside a Unit. No pet shall be permitted to cause or create a nuisance or unreasonable disturbance or noise. A Unit Owner may be required to remove a pet upon receipt of the third notice in writing from the Board of Directors of violations of any rule, regulation or restriction governing pets within the Condominium.

(e) Exterior Lighting or Noise Making Devices and Antennas. Except with the consent of the Board of Directors of the Association or the manager, no exterior lighting or noise making devices shall be installed or maintained on any Unit and no antennas or transmitting towers shall be affixed to the general or limited common elements, unless otherwise allowed by law.

(f) Windows, Decks, Patios and Outside Walls. In order to preserve the attractive appearance of the Condominium the Board of Directors of the Association or the manager may regulate the nature of items which may be placed in or on windows, decks, patios, and the outside walls so as to visible from other Units, the common elements, or outside the Condominium. Garments, rugs, laundry and other similar items may not be hung from windows, facades, decks or patios.

(g) Trailers, Campers and Boats. Except the with consent of the Board of Directors of the Association or the manager or as provided in the Declaration or these Bylaws, no trailer, truck camper, motorcycle, boat or boat trailer, or other recreational vehicle shall be parked on any portion of the Condominium, except within the Garage Buildings.

(h) Leasing and Rental of Units. A Unit Owner may lease or rent his or her Unit; subject to the following conditions: (i) the Owner must rent or lease his entire Unit and (ii) the number of people which may occupy any Unit shall not exceed six (6) persons. All leases and

rentals shall be by written lease agreement, which shall provided that the terms of the lease shall be subject in all respects to the provisions of the Declaration and these bylaws, and that any failure by the lessee or tenant to comply with the terms of such documents shall be a default under the lease. If the Board of Directors finds that a lessee or tenant has violated any provision of the Declaration, these bylaws or the rules and regulations, the Board may require the Unit Owner to terminate such lease or rental agreement. Other than the foregoing, there is no restriction on the right of any Unit Owner to lease or rent such Owner's Unit.

(i) Signs. Unless written approval is first obtained from the Board of Directors, no sign of any kind shall be displayed to the public view on or from any Unit or the common elements except signs used by the Declarant to advertise Units for sale or lease.

(j) Trash. No part of any Unit or any part of the common elements shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. No garbage, trash or other waste shall be kept or maintained on any part of the Property except in sanitary containers in the designated areas.

(k) Insurance. 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 or her Unit or in the common elements which will result in cancellation of insurance on any Unit or any part of the common elements.

(l) Garage Doors. All garage doors shall remain closed except to permit the entrance and exit of vehicles or access to any garage storage area.

(m) Water Beds. If any water beds are placed in a Unit, the Unit Owner shall carry insurance covering damage caused by the water bed and shall be responsible for all damages to any Unit or the common elements which might be caused by the water bed.

(n) Parking in Driveways. Subject to Section 7.5(g), the Owner and occupants of each Unit, and their guests and invitees shall have the right to use the driveway appertaining to such Owner's Unit for parking of cars, SUVs, or pick-ups of 1-ton or less, but shall not

(o) Association Rules and Regulations. In addition, the Board of Directors from time to time may adopt, modify, or revoke such 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 property. Such action may be modified by vote of not less than seventy-five (75%) percent of the voting rights present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of rules and regulations will be under consideration. 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.

7.6 Abatement and Enjoining of Violations. The violation of any provision of the Declaration or these bylaws, of any rule or regulation adopted pursuant to these bylaws, or of any decision of the Association made pursuant to such documents, shall give the Board of Directors, acting on behalf of the Association, the right, in addition to any other rights set forth in these bylaws, to do any or all of the following after giving notice and opportunity to be heard:

(a) to enter the Unit in which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board of Directors shall not thereby be deemed guilty of any manner of trespass, provided, however, that judicial proceedings shall be instituted before any items of construction may be altered or demolished; or

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

(c) to levy reasonable fines; and

(d) to terminate the right to receive utility services paid for out of assessments or the right of access to and use of recreational and service facilities of the Condominium until the correction of the violation has occurred.

The offending Unit Owner shall be liable to the Association for all costs and attorneys' fees incurred by the Association, whether or not legal proceedings are instituted and including attorneys' fees on appeal or petition for review, together with any expense incurred by the Association in remedying the default, damage incurred by the Association or Unit Owners, or fines so levied. Such sums shall be assessed against the offending Unit as an assessment and enforced as provided in Article 5. In addition, any aggrieved Unit Owner may bring an action against such other Unit Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

## ARTICLE 8 INSURANCE

8.1 Types of Insurance. For the benefit of the Association and the Unit Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the common expense funds, the following insurance:

#### 8.1.1 Property Damage Insurance.

(a) The Association shall maintain a policy or policies of insurance covering loss or damage from fire, with standard extended coverage and "all risk" endorsements, and such other coverages as the Association may deem desirable.

(b) The amount of the coverage shall be for not less than one hundred (100%) percent of the current replacement cost of the Units and common elements (exclusive of land, foundation, excavation and other items normally excluded from coverage), subject to a maximum deductible of \$5,000.

(c) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the common elements and all personal property and supplies belonging to the Association, together with all fixtures, improvements and alterations comprising a part of each Unit and refrigerators, air conditioners, cooking ranges, dishwashers and clothes washers and dryers contained within Units and owned by the Unit Owners.

(d) Such policy or policies shall name the Association as insured, and shall provide for loss payable in favor of the Association, as a trustee for each Unit Owner and each such Unit Owner's mortgagee, as their interests may appear. The policies shall contain the standard mortgage clause, or equivalent endorsement (without contribution) which is commonly accepted by institutional mortgage investors in Oregon.

(e) The Association has no responsibility to procure or assist in procuring property loss insurance for any owner or tenant for (i) damage to a Unit or limited common elements not covered by the Association's policy (because of the deductible amount or because the claim for loss or damage is one not normally covered by fire and property loss insurance policies with extended coverage endorsements); or (ii) for any damage or loss to the owner's or tenant's personal property. Owners must be responsible for purchasing insurance policies insuring their units and appurtenant limited common elements for the deductible amount under the Association's policies and for insuring their own personal property for any loss or damage. Proof of such insurance coverage must be provided to the Association's Secretary by the Unit owner. Tenants must be responsible for insuring their own personal property for any loss or damage. The Board of Directors must notify all owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Board of Directors must give at least 30 days' notice to the owners of any increase in the deductible proposed in renewal or replacement insurance policies. Owners and tenants of all Units must procure and maintain comprehensive liability policies having combined limits of not less than \$300,000 for each occurrence. Such insurance must provide coverage for, without

limitation, the negligent acts of the owner and tenant and their guests or other occupants of the Unit for damage to the general and limited common elements and other Units and the personal property of others located therein.

#### 8.1.2 Liability Insurance.

(a) The Association shall maintain comprehensive general liability insurance coverage insuring the Declarant, the Association, the Board of Directors, the Unit Owners and the managing agent, against liability to the public or to the Owners of Units and of common elements, and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Property, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of a Unit Owner (other than as a member of the association or Board of Directors) for liability arising out of acts or omission of such Unit Owner and liability incident to the Ownership and/or use of the part of the Property as to which such Unit Owner has the exclusive use or occupancy.

(b) Limits of liability under such insurance shall not be less than Two Million Dollars (\$2,000,000.00) on a combined single limit basis.

(c) Such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

8.1.3 Workers' Compensation Insurance. The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

#### 8.1.4 Fidelity Insurance.

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

(b) The total amount of fidelity insurance coverage required shall be based upon the best business judgment of the Board of Directors. In no event, however, may the aggregate amount of such insurance be less than the sum equal to three months' aggregate assessments on all Units plus reserve funds.

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

8.1.5 Directors' and Officers' Liability Insurance. The Association shall maintain a policy of directors' and officers' liability insurance with coverage in the amount of not less than One Million Dollars (\$1,000,000), subject to a reasonable deductible.

8.1.6 Insurance by Unit Owners. Each Unit Owner shall be responsible for obtaining, at such Owner's own expense, insurance covering his or her property not insured under Section 8.1.1 above and against his or her liability not covered under Section 8.1.2 above, unless the Association agrees otherwise.

8.2 Other Insurance Requirements. Insurance obtained by the Association shall be governed by the following requirements:

(a) All policies shall be written with the State of Oregon or a company licensed to do business in the state of Oregon acceptable to FNMA which falls into a B general policyholder's rating or a financial performance index of 6 or better, as designated in Best's Key Rating Guide, or an A or better rating from Demotech, Inc.

(b) Notwithstanding the provisions of 8.1 above, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement, or any successor to such trustee. Such insurance trustee shall have exclusive authority to negotiate losses under any property or liability insurance policy. Each Unit Owner appoints the Association, or any insurance trustee or substitute trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance including: the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purchase. The Association or insurance trustee shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Unit Owners and their first mortgage holders, as their interests may appear.

(c) All property insurance policies shall contain a "Special Condominium Endorsement" or its equivalent providing for the following: recognition of any Insurance Trust Agreement, a waiver of the right of subrogation against Unit Owners individually, that the

insurance is not prejudiced by any act or neglect of individual Unit Owners which is not in the control of such Owners collectively, and that the policy is primary in the event the Unit Owner has other insurance covering the same loss.

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

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

(f) Each Unit Owner shall be required to notify the Board of Directors of all improvements made by the Owner to his or her Unit, the value of which is in excess of Five Hundred Dollars (\$500). Nothing in this paragraph shall permit an Owner to make improvements without first obtaining the approval of the Board of Directors pursuant to Section 7.2.

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

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

(a) To the extent appropriate and available at reasonable cost, the Association shall maintain additional coverages against such other risks as are customarily covered with respect to projects similar in construction, location and use, including but not limited to, host liquor liability, contractual and all-written contract insurance, employer's liability insurance, earthquake, comprehensive automobile liability insurance, and an endorsement patterned after "use and occupancy" insurance providing relief from monthly assessments while a Unit is uninhabitable due to a covered loss.

(b) If reasonably available, the insurance policies shall include Inflation Guard



Endorsement, and Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement, and an Increased Cost of Construction Endorsement).

(c) Flood Insurance, if the Condominium is in a Special Flood Hazard Area.

8.4 FNMA and GNMA Requirements. Notwithstanding any other provisions of this article, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity requirements for Condominium projects established by FNMA and Government National Mortgage Association, so long as either is a mortgagee or Owner of a Unit within the Condominium, except to the extent such coverage is not available or has been waived in writing by FNMA or Governmental Mortgage Association. FNMA or FNMA's servicer, its successors and assigns, shall be named as a mortgagee in the Association's policies.

## ARTICLE 9 AMENDMENTS TO BYLAWS

9.1 How. Amendments to the bylaws shall be proposed by either a majority of the Board of Directors or by Unit Owners holding thirty percent (30%) of the voting rights. The proposed amendment must be reduced in writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for consent to the amendment.

9.2 Adoption. A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the Unit Owners and may be approved by the Unit Owners at a meeting called for this purpose or by ballot vote. Unit Owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by Unit Owners holding a majority of the voting rights and by mortgagees to the extent required by the Declaration, except that any amendment relating to age restrictions, pet restrictions, limitations on the number of persons who may occupy Units, or limitations on the rental or leasing of Units must be approved by Unit Owners holding seventy-five (75%) percent of the voting rights. Declarant's consent shall also be required so long as Declarant owns twenty-five (25%) percent or more of the Units in the Condominium. Such consent shall not be required after three (3) years from the date of conveyance of the first Unit to a person other than Declarant. Any amendment which would limit or diminish any special Declarant rights established in these bylaws shall require the written consent of Declarant. Notwithstanding the foregoing, the Declarant may, without the consent of the other Owners and prior to turnover, amend these bylaws, and the articles of incorporation of the Association in order to comply with HUD's and FNMA's, or such other governmental agency's standards, requirements, rules or regulations.

9.3 Execution and Recording. An amendment shall not be effective until certified by the chairperson and secretary of the Association as being adopted in accordance with these bylaws and the provisions of the Oregon Condominium Act and recorded as required by law. If required by the Oregon Condominium Act, any amendment adopted within five (5) years after the recording of the initial bylaws shall be approved by the Oregon Real Estate Commissioner to the extent required by the Oregon Condominium Act.

## ARTICLE 10 MISCELLANEOUS

10.1 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 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, of, if no address has been designated, then to the Owner's Unit.

10.2 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.

10.3 Action Without a Meeting. Any action which the Oregon Condominium Act, the Declaration or the bylaws require or permit the Owners or directors to take at a meeting may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the Owners or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the Owners or directors, shall be filed in the records of minutes of the Association.

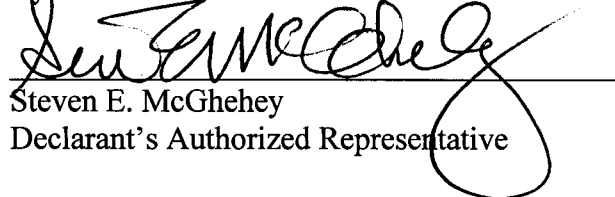
10.4 Invalidity; Number; Captions. The invalidity of any part of these bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these bylaws. As used in these bylaws, the singular shall include the plural, and the plural the singular. The masculine and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

10.5 Conflicts. These bylaws are intended to comply with the Oregon Condominium Act and the Declaration. In case of any irreconcilable conflict, such statute and document shall control over these bylaws or any rules and regulations adopted hereunder.

DATED this 19 day of March, 2003

COTTONWOOD CONDOMINIUM OWNERS  
ASSOCIATION, an Oregon non-profit corporation

By: Declarant

  
Steven E. McGhehey  
Declarant's Authorized Representative

617\014\cottonwood.bylaws.doc