



After recording, return to:

Karen Smith
Resort Resources, Inc.
PO Box 1466
Bend, OR 97709

**INITIAL BYLAWS
OF
THE FALLS OWNERS ASSOCIATION**

These **INITIAL BYLAWS OF THE FALLS OWNERS ASSOCIATION** are adopted as of the 20th day of September, 2002, by **EAGLE CREST, INC.**, an Oregon corporation (the "**Declarant**") and **C CORP., INC.**, an Oregon corporation (the "**Project Declarant**").

RECITALS

A. Declarant is the declarant under the Declaration of Protective Covenants, Conditions, Restrictions and Easements for The Ridge at Eagle Crest recorded June 5, 1996, in the Records of Deschutes County, Oregon, as Document No. 96-20423 (the "**Master Declaration**").

B. Pursuant to the Master Declaration, Declarant adopted the Amended and Restated Declaration Annexing Phase 1 of The Falls to The Ridge at Eagle Crest, recorded June 4, 1998, as Document No. 98-23450; Declaration Annexing Phase 2 of The Falls to The Ridge at Eagle Crest, recorded May 24, 1999, as Document No. 99-25616; Declaration Annexing Phase 3 of The Falls to The Ridge at Eagle Crest, recorded May 18, 2000, as Document No. 2000-19580; Declaration Annexing Phase 4 of The Falls to The Ridge at Eagle Crest, recorded October 3, 2001, as Document No. 2001-48713; Declaration Annexing Phase 5 of The Falls to The Ridge at Eagle Crest, recorded December 27, 2001, as Document 2001-64035; and Declaration Annexing Phase 6 of The Falls to The Ridge at Eagle Crest, recorded May 22, 2002, as Document No. 2002-27934 (collectively, the "**Project Declaration**").

C. The Project Declaration establishes The Falls as a Project within The Ridge at Eagle Crest and establishes certain covenants and restrictions applicable to The Falls.

D. Section 6.11 of the Project Declaration provides that Declarant may elect to establish a Project Association for The Falls. In such event, Declarant will adopt Articles of

Incorporation and initial Bylaws for the Project Association and supervise the organization of and election of directors for the Project Association. Upon establishment of the Project Association, the Project Association shall be responsible for enforcement of the restrictions contained in the Project Declaration in the manner provided in the Master Declaration, adoption of Project Policies and Procedures, maintenance of the Project Common Areas within The Falls as provided in the Project Declaration, and assessment and collection of Project Assessments in the same manner as provided in the Master Declaration for assessment and collection of assessments thereunder.

E. Declarant has established The Falls Owners Association (the "**Association**") as a Project Association within The Falls and as a Class I Planned Community under the Oregon Planned Community Act, ORS 94.550 to 94.783. In connection therewith, Declarant has adopted and filed Articles of Incorporation for the Association, which Articles of Incorporation establish C Corp, Inc. as Project Declarant for the Association.

NOW, THEREFORE, Declarant and Project Declarant hereby adopt the bylaws attached hereto as Exhibit A as the Initial Bylaws of the Association and has caused such Bylaws to be recorded in the Real Property Records of Deschutes County, Oregon, pursuant to ORS 94.625(c).

EAGLE CREST, INC., an Oregon corporation

By: *Terol E. Andrus*
Its President

C CORP, INC., an Oregon corporation

By: *[Signature]*
Its President

STATE OF OREGON)
)ss.
County of Deschutes)

This instrument was acknowledged before me this 24th day of September, 2002,
by Terol E. Andrus, as President of Eagle Crest, Inc., an Oregon corporation, on its behalf.



Karen L. Smith
Notary Public for Oregon
My commission expires: 10-17-2004

STATE OF OREGON)
)ss.
County of Deschutes)

This instrument was acknowledged before me this 30 day of Sept, 2002,
by C. Koon, as President of
C Corp, Inc., an Oregon corporation, on its behalf.



Cindy Barker
Notary Public for Oregon
My commission expires: 8-9-2005

EXHIBIT A

**BYLAWS OF
THE FALLS OWNERS ASSOCIATION**

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BYLAWS OF
THE FALLS OWNERS ASSOCIATION

Article 1.

Definitions

1.1 **Association.** “Association” means **THE FALLS OWNERS ASSOCIATION**, a nonprofit corporation organized and existing under the laws of the State of Oregon.

1.2 **Articles of Incorporation.** “Articles of Incorporation” means the Articles of Incorporation of the Association.

1.3 **Project Declaration.** The “Project Declaration” means the Amended and Restated Declaration the Amended and Restated Declaration Annexing Phase 1 of The Falls to The Ridge at Eagle Crest, recorded June 4, 1998, as Document No. 98-23450; Declaration Annexing Phase 2 of The Falls to The Ridge at Eagle Crest, recorded May 24, 1999, as Document No. 99-25616; Declaration Annexing Phase 3 of The Falls to The Ridge at Eagle Crest, recorded May 18, 2000, as Document No. 2000-19580; Declaration Annexing Phase 4 of The Falls to The Ridge at Eagle Crest, recorded October 3, 2001, as Document No. 2001-48713; Declaration Annexing Phase 5 of The Falls to The Ridge at Eagle Crest, recorded December 27, 2001, as Document 2001-64035; and Declaration Annexing Phase 6 of The Falls to The Ridge at Eagle Crest, recorded May 22, 2002, as Document No. 2002-27934; and any further declarations annexing additional phases to The Falls, as the same may be amended or supplemented.

1.4 **Incorporation by Reference.** Except as otherwise provided herein, the terms that are defined or incorporated by reference in the Project Declaration and Articles of Incorporation are used in these Bylaws as therein defined.

Article 2.

Membership

2.1 **Membership.** Every Owner of one or more Lots within The Falls shall, immediately upon creation of the Association and thereafter during the entire period of such ownership, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

2.2 **Membership List.** The Secretary shall maintain at the principal office of the Association a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board of Directors.

Article 3.

Meetings and Voting

3.1 **Place of Meetings.** Meetings of the members of the Association shall be held at such reasonable place convenient to the members as may be designated in the notice of the meeting.

3.2 **Turnover Meeting.** Project Declarant shall call the first meeting of the Owners to organize the Association within ninety (90) days after termination of the Class B membership as provided in Section 3.7 below. Notice of such meeting shall be given to all Owners as provided in Section 3.5. If the Project Declarant fails to call the meeting, the meeting may be called and notice given by the Transitional Advisory Committee established under Section 4.3 below or by any Owner or mortgagee of a Lot. The expense of giving notice shall be paid or reimbursed by the Association. In the event of a lack of quorum at such turnover meeting, it may be adjourned as provided in Section 3.6. Nothing in this section shall be construed as preventing Project Declarant from calling the Turnover Meeting before such date or from calling informal, informational meetings of the Owners or meetings to elect interim directors.

3.3 **Annual Meeting.** The annual meeting of the members for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at such reasonable hour and on such reasonable day as may be established by the Board of Directors or, if the Board should fail to designate a date by the first day of May, then at 7:30 p.m. on the third Saturday in May. The first annual meeting shall be held within one year after the date of the Turnover Meeting.

3.4 **Special Meetings.** A special meeting of the Association may be called at any time by the President or by a majority of the Board of Directors. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from members having at least thirty percent (30%) of the voting rights entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

3.5 **Notice of Meeting.**

(a) Written or printed notice stating the place, day and hour of the meeting, the items on the agenda, including the general nature of any proposed amendment to the Project Declaration, Articles of Incorporation or these Bylaws, any budget changes, any proposal to remove a director or officer and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) or more than fifty (50) days before the date of the meeting. Such notice shall be given either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member entitled to vote at such meeting and to all mortgagees who have requested such notice. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the member at his or her most recent address as it appears on the records of the Association or to the mailing address of his or her Lot.

(b) When a meeting is adjourned for thirty (30) days or more, or when a redetermination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases, no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

3.6 **Quorum.** At any meeting of the Association, members having at least twenty percent (20%) of the voting rights entitled to be cast at such meeting, present in person or by proxy, shall constitute a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a member or members. 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 not less than forty-eight (48) hours or more than thirty (30) days from the time the original meeting was called until a quorum is present. The quorum for the adjourned meeting shall be reduced to ten percent (10%) of the voting rights entitled to be cast at the meeting, present in person or by proxy.

3.7 **Voting Rights.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B member and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Project Declarant and shall be entitled to three votes for each Lot owned by Project Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When Project Declarant has completed development of all Lots within The Falls as permitted by the Master Plan and ninety percent (90%) of the Lots as permitted by the Master Plan have been sold and conveyed to owners other than Project Declarant or a successor Project Declarant;

(b) At such earlier time as Project Declarant may elect in writing to terminate Class B membership.

3.8 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 Lot 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 Lot in such capacity. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote or proxy of such Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-Owner. In the event of disagreement among the co-Owners, the vote of such Lot shall be disregarded completely in determining the proportion of votes given with respect to such matter, unless a valid court order establishes the authority of a co-Owner to vote.

3.9 Tenants and Contract Vendors. Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a Lot shall be exercised by the Owner. Unless otherwise stated in the contract, all voting rights allocated to a Lot shall be exercised by the vendee of any recorded land sale contract on the Lot.

3.10 Proxies. Every member entitled to vote or to execute any waiver or consent may do so in person, by absentee ballot, or by written proxy duly executed and filed with the Secretary of the Association. An Owner may not revoke a proxy given pursuant to this section, except by actual notice of revocation to the person presiding over the meeting or by attending and voting at the meeting. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date unless the proxy specifies a shorter term. Mortgagees may designate a representative to attend any meeting of the Association.

3.11 Majority Vote. The vote of a majority of the voting rights entitled to be cast by the members present or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by law, by the Project Declaration, by the Articles of Incorporation, or by these Bylaws.

3.12 Rules of Order. Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Association shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

3.13 Ballot Meetings.

(a) At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every member who is entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(b) The Board of Directors shall provide Owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. If, at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board of Directors requesting secrecy procedures, a written ballot must be accompanied by a secrecy envelope, a return identification envelope to be signed by the Owner, and instructions for marking and returning the ballot. Notwithstanding the applicable provisions of paragraph (c) of this section, written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(c) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of Lot Owners has voted, and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected. If approval of a proposed action otherwise would require a meeting at which a specified percentage of Lot Owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met. Except as otherwise provided in paragraph (b) of this section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(d) All solicitations for votes by written ballot shall state the number of responses needed to meet any applicable quorum requirement and the total percentage of votes needed for approval. All such solicitations for votes shall specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of (i) the date on which the Association has received a sufficient number of approving ballots to pass the proposal, (ii) the date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage, or (iii) a date certain by which all ballots must be returned to be counted. A written ballot may not be revoked.

Article 4.

Directors: Management

4.1 **Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors of three (3) to five (5) persons. All directors, other than interim directors appointed by Project Declarant, shall be Owners or co-Owners of Lots. For purposes of this section, the officers of any corporate Owner and the partners of any partnership shall be considered co-Owners of any Lots owned by such corporation or partnership.

4.2 **Interim Directors.** Initially, Project Declarant shall appoint an interim Board of Directors composed of three (3) directors. When fifty percent (50%) of the Lots permitted by the Master Plan have been sold to Owners other than Project Declarant or a successor Project Declarant, one (1) of the three (3) interim directors shall be elected by the Class A Members at a meeting called by Project Declarant. When seventy-five percent (75%) of the Lots permitted by the Master Plan have been sold to Owners other than Project Declarant or a successor Project Declarant, the interim board shall be increased to five (5) directors, three (3) appointed by Project Declarant and two (2) elected by the Class A Members at a meeting called by Project Declarant. Interim directors elected by the Class A Members shall serve for terms of two years each, or until the Turnover Meeting, whichever occurs first.

4.3 **Transitional Advisory Committee.** Unless the Turnover Meeting has already been held, Project Declarant shall call a meeting of the Owners for the purpose of forming a Transitional Advisory Committee. The meeting shall be called within sixty (60) days after the date Project Declarant conveys fifty percent (50%) or more of the Lots existing on the date of incorporation of the Association to Owners other than a successor Project Declarant. The committee shall consist of two (2) or more Owners elected by the Owners other than Project Declarant and not more than one (1) representative of Project Declarant. Any interim director elected by the Class A Members pursuant to Section 4.2 above shall automatically be deemed to have been elected as one of the members of the Transitional Advisory Committee. The members shall serve until the Turnover Meeting or their successors have been elected by the Owners. The Transitional Advisory Committee shall be advisory only, and its purpose shall be to enable ease of transition from administrative control of the Association by Project Declarant to control by the Owners. The committee shall have access to any information, documents and records that Project Declarant must turn over to the Owners at the time of the turnover meeting. If Project Declarant fails to call the meeting to elect a Transitional Advisory Committee within the time specified, the meeting may be called and notice given by any Owner. If the Owners fail to elect a Transitional Advisory Committee at the meeting called for such purpose, Project Declarant shall have no further obligation to form the committee.

4.4 **Election and Tenure of Office.**

(a) At the Turnover Meeting, the interim directors shall resign and the members shall elect two (2) directors to serve for one (1) year and three (3) directors to serve for two (2) years. The three nominees receiving the greatest number of votes shall serve for two (2) years. In the event of a tie, term selection shall be by random means. Thereafter, the successors to each director shall serve for terms of two (2) years each.

(b) All directors shall hold office until their respective successors shall have been elected by the members. Election shall be by plurality.

4.5 **Vacancies.**

(a) A vacancy in the Board of Directors shall exist upon the death, resignation or removal of any director, or if the authorized number of directors is increased, or if the members fail at any annual or special meeting of members at which any director or directors are to be elected to elect the full authorized number of directors to be voted for at that meeting.

(b) Vacancies in interim directors appointed by Project Declarant shall be filled by Project Declarant and vacancies in interim directors elected by Class A Members shall be filled by the Class A Members at a meeting called for such purpose. Vacancies in the Board of Directors, other than interim directors, may be filled by a majority of the remaining directors even though less than a quorum, or by a sole remaining director. Each director so elected shall hold office for the balance of the unexpired term and until his or her successor is elected.

4.6 **Removal of Directors.** All or any number of the directors, other than interim directors appointed by Project Declarant, may be removed, with or without cause, at any meeting of members at which a quorum is present, by a vote of a majority of the number of votes entitled to be cast at an election of directors. No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting as provided in these Bylaws.

4.7 **Powers.** The Board of Directors shall have all 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 Project Declarant or by these Bylaws may not be delegated to the Board of Directors by the Owners. The Board of Directors may delegate responsibilities to committees or a managing agent, but shall retain ultimate control and supervision. The powers and duties to be exercised by the Board of Directors shall include, but not be limited to, those set forth in Section 3.2 of the Articles of Incorporation and the following:

(a) Carry out the program for maintenance, upkeep, repair and replacement of any property required to be maintained by the Association as described in the Project Declaration, the Articles of Incorporation and these Bylaws.

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

(c) Prepare a budget for the Association, and assessment and collection of the Assessments.

(d) Employ and dismiss such personnel as may be necessary for such maintenance, upkeep and repair.

(e) Employ 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 \$5,000 for any specific matter unless the Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five percent (75%) of the voting rights present in person or by absentee ballot or proxy at a meeting at which a quorum is constituted. This limitation shall not be applicable to legal fees incurred in defending the Association or the Board of Directors from claims or litigation brought against them. The limitation set forth in this paragraph shall increase by \$500 on each fifth anniversary of the recording of these Initial Bylaws. To the extent required by the Oregon Planned Community Act, the Board shall notify the Owners before instituting litigation or administrative proceedings. With regard to any pending litigation involving the Association, the Board shall periodically report to the Lot Owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the Board to disclose any privileged communication between the Association and its counsel.

(f) Open bank accounts on behalf of the Association and designating the signatories required therefor.

(g) Prepare and file, or cause to be prepared and filed, any required income tax returns or forms for the Association.

(h) Purchase Lots at foreclosure or other judicial sales in the name of the Association or its designee.

(i) Sell, lease, mortgage, vote the votes appurtenant to (other than for the election of directors), or otherwise deal with Lots acquired by the Association or its designee.

(j) Obtain insurance or bonds pursuant to the provisions of these Bylaws and review such insurance coverage at least annually.

(k) Make additions and improvements to, or alterations of, the Project Common Areas, or modify, close, remove, eliminate or discontinue use of any common facility, including any improvement or landscaping, except that any such modification, closure, removal, elimination or discontinuance (other than on a temporary basis) of any swimming pool, spa or recreational or community building must be approved by a majority vote of the members at a meeting or by written ballot held or conducted in accordance with these Bylaws, together with the written consent of the Class B member, if such Class B membership has not been terminated.

(l) From time to time adopt, modify, or revoke such Policies and Procedures governing the details for the operation of the Association, the conduct of persons and the operation and use of The Falls as the Board of Directors may deem necessary or appropriate to ensure the peaceful and orderly use and enjoyment of The Falls. Such action may be overruled or modified by vote of not less than seventy-five percent (75%) of the voting rights of Class A members present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of Policies and Procedures will be under consideration, together with the consent of the Class B member.

(m) Monitor and enforce by legal means the provisions of the Project Declaration, the Articles of Incorporation, these Bylaws and any Policies and Procedures adopted hereunder.

(n) In the name of the Association, maintain a current mailing address of the Association.

(o) Subject to Section 5.4 of the Articles of Incorporation, enter into management agreements with professional management firms, either alone or with other Project Associations or the Master Association. The professional manager may include Project Declarant or an affiliate of Project Declarant.

(p) May, but shall not be obligated to, maintain or support certain activities within The Falls designed to make The Falls safer than it otherwise might be. **Neither the Association, the Master Association, any managing agent retained by the Association or the Master Association, Project Declarant, nor Declarant shall in any way be considered insurers or guarantors of security within The Falls, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants that the Association, the Master Association, their Board of Directors and committees, any managing agent retained by them, Project Declarant,**

and Declarant are not insurers and that each person using The Falls assumes all risks for loss or damage to persons, to property and to the contents resulting from acts of third parties and releases such parties from any liability therefore.

4.8 Meetings.

(a) Meetings of the Board of Directors shall be held at such place as may be designated from time to time by the Board of Directors or other persons calling the meeting.

(b) Annual meetings of the Board of Directors shall be held within thirty (30) days following the adjournment of the annual meetings of the members.

(c) Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President or by any two directors.

(d) Unless other rules of order are adopted by resolution of the Association or the Board of Directors, all meetings of the Board of Directors shall be conducted according to the latest edition of *Robert's Rules of Order*, published by Robert's Rules Association.

4.9 Open Meetings. All meetings of the Board of Directors shall be open to Owners except that, in the discretion of the Board, the following matters 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; and (c) the negotiation of contracts with third parties. Except in the case of an emergency, the Board of Directors shall vote in an open meeting on whether to meet in executive session. If the Board of Directors votes to meet in executive session, the presiding officer 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. Meetings of the Board of Directors may be conducted by telephonic communication, except that if a majority of the Lots 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 Falls at least three (3) days before the meeting, or notice shall be provided by a method otherwise reasonably calculated to inform the Owners of such meeting; and (b) only emergency meetings of the Board of Directors may be conducted by telephonic communication. The meeting and notice requirements of this section may not be circumvented by chance, social meetings, or any other means.

4.10 Notice of Meetings.

(a) Notice of the time and place of meetings shall be given to each director orally, or delivered in writing personally or by mail or telecopy, at least twenty-four (24) hours before the meeting. Notice shall be sufficient if actually received at the required time or if mailed or telecopied not less than seventy-two (72) hours before the meeting. Notice mailed or

telecopied shall be directed to the address shown on the Association's records or to the director's actual address ascertained by the person giving the notice. Such notice need not be given for an adjourned meeting if such time and place is fixed at the meeting adjourned.

(b) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

4.11 Quorum and Vote.

(a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn from time to time but may not transact any business.

(b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors unless a greater number is required by law, the Project Declaration, the Articles of Incorporation or these Bylaws.

4.12 Liability. Neither a member of the Board of Directors nor an officer of the Association shall 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. The managing agent of the Association, and its officers and employees, shall not be liable to the Owners or any third parties on account of any action or failure to act in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent and its officers and employees from any such claims, other than for gross negligence or intentional misconduct.

4.13 Compensation. No director shall receive any compensation from the Association for acting as such.

4.14 Executive, Covenants and Other Committees. Subject to law, the provisions of the Articles of Incorporation and these Bylaws, the Board of Directors, by a vote of a majority of the directors in office, may appoint an Executive Committee, a Covenants Committee to be responsible for covenant enforcement as provided in Section 9.4 and such other standing or temporary committees as may be necessary from time to time consisting of Owners and at least one member of the Board of Directors and having such powers as the Board of Directors may designate. Such committees shall hold office at the pleasure of the Board.

Article 5.

Officers

5.1 Designation and Qualification. The officers of the Association shall be the President, the Secretary, the Treasurer, and such Vice Presidents and subordinate officers as the Board of Directors shall from time to time appoint. The President shall be a member of the Board of Directors, but the other officers need not be directors. Officers need not be members of the Association. Any two offices, except the offices of President and Secretary, may be held by the same person.

5.2 Election and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board to serve for one (1) year and until their respective successors are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

5.3 Removal and Resignation.

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever, in their judgment, the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided, however, that the Board of Directors may reject any postdated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

5.4 President. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have powers of general supervision, direction and control of the business and affairs of the Association. He or she shall preside at all meetings of the members and of the Board of Directors. He or she shall be an ex officio member of all the standing committees, including the executive committee, if any, shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.5 Vice Presidents. The Vice Presidents, if any, shall perform such duties as the Board of Directors shall prescribe. In the absence or disability of the President, the

President's duties and powers shall be performed and exercised by the Senior Vice President as designated by the Board of Directors.

5.6 Secretary.

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

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

(c) If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

5.7 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts and disbursements. The books of accounts shall at all reasonable times be open to inspection by any director. The Treasurer shall deposit or cause to be deposited all moneys and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse or cause to be disbursed the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

5.8 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 members. The Board of Directors may fix any compensation to be paid to other officers.

Article 6.

Age Restrictions

6.1 General. The Lots within The Falls are intended for the housing of persons 55 years of age or older, although younger persons are not restricted from occupying a Lot along with a person 55 years of age or older so long as co-occupancy is in compliance with this

Article. The provisions of this Article are intended to be consistent with, and are set forth in order to comply with, the Fair Housing for Older Persons Act (the "Act") regarding discrimination based on familial status. If permitted by applicable law, Project Declarant, until termination of the Class B Membership, or the Association, acting through its Board of Directors, shall have the power to amend this Article without the consent of the members or any person except the Project Declarant prior to the Turnover Meeting for the purposes of making this Article consistent with the Act, and any amendments, regulations, and any judicial decisions arising thereunder.

6.2 Restrictions on Occupancy.

(a) Except as may otherwise be permitted pursuant to paragraph (d) of this Section, each occupied Lot shall at all times have as a permanent occupant at least one person who is 55 years of age or older (the "**Qualifying Occupant**"), except that in the event of the death of a person who was the sole Qualifying Occupant of a Living Unit, the spouse of such Qualifying Occupant may continue to occupy the Lot provided that the provisions of the Act and the regulations adopted thereunder are not violated by such occupancy. For purposes of this Article, an occupant shall not be considered a "**Permanent Occupant**" unless such occupant considers the Living Unit to be his or her legal residence and actually resides in the dwelling on the Lot for at least six months during every calendar year or such shorter period as the dwelling is actually occupied by any person.

(b) No Living Unit shall be occupied by any person under the age of 19. For purposes of this Article, a Living Unit shall be deemed to be "occupied" by any person who stays overnight in the dwelling on the Lot more than 21 days in any 60-day period or more than 30 days in any 12-month period.

(c) Nothing in this Article is intended to restrict the ownership of or transfer of title to any Living Unit; however, no Owner may occupy the Living Unit unless the requirements of this Article are met, nor shall any Owner permit occupancy of the Living Unit in violation of this Article. Owners shall be responsible for (i) including a statement that the Lots within The Falls are intended for the housing of persons 55 years of age or older, as set forth in Section 6.1, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Unit, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and (ii) clearly disclosing such intent to any prospective tenant, purchaser, or other potential occupant of the Living Unit. Every lease of a Living Unit shall provide that failure to comply with the requirements and restrictions of this Article shall constitute a default under the lease.

(d) Any Owner, in writing, may request that the Board of Directors make an exception to the requirements of this Article with respect to his or her Living Unit. The Board of Directors may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the Act would still be met.

6.3 Change in Occupancy; Notification.

(a) In the event of any change in occupancy of any Living Unit as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Living Unit shall immediately notify the Board of Directors in writing and provide to the Board of Directors the names and ages of all current occupants of the Living Unit and such other information as the Board of Directors may reasonably require to verify the age of each occupant.

(b) In the event that an Owner fails to notify the Board of Directors and provide all required information within ten (10) days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Living Unit for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Article, in addition to all other remedies available to the Association under these Bylaws and Oregon law.

6.4 Monitoring Compliance; Appointment of Attorney-in-Fact.

(a) The Association shall maintain age records on all occupants of Lots. The Board of Directors shall adopt and publish policies, procedures, and rules to monitor and maintain compliance with this Article, including policies regarding visitors, updating of age records, the granting of exemptions pursuant to Section 6.2(d), and enforcement. The Association shall periodically distribute such policies, procedures, and rules to Owners and make copies available to Owners, their tenants, and Mortgagees upon reasonable request.

(b) The Association shall have the power and authority to enforce this Article in any legal manner available as the Board of Directors deems appropriate, including, without limitation, conducting a census of the occupants of the Living Units, requiring copies of birth certificates, or other proof of age for each occupant of the Living Unit to be provided to the Board of Directors on a periodic basis, and taking action to evict the occupants of any Living Unit which is not in compliance with the requirements and restrictions of this Article. **EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT, OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER LIVING UNIT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE.** Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Living Unit that, in the judgment of the Board of Directors, are reasonably necessary to monitor compliance with this Article and the Act.

(c) Each Owner shall be responsible for ensuring compliance of its Living Unit with the requirements and restrictions of this Article and the Policies and Procedures of the Association adopted hereunder by itself and by its tenants and other occupants of its Living Unit. **EACH OWNER AGREES TO INDEMNIFY, DEFEND, AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION THAT MAY ARISE FROM FAILURE OF SUCH OWNER'S LIVING UNIT SO TO COMPLY.**

Article 7.

Assessments

7.1 **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of The Falls and for the improvement, operation and maintenance of the Project Common Areas.

7.2 **Types of Assessments.** The Association may levy Annual Assessments, Special Assessments, Emergency Assessments, and Individual Assessments, all as more particularly described below.

7.3 **Apportionment of Assessment.**

(a) **Lots Owned by Declarant or by Project Declarant.** Lots owned by Declarant or Project Declarant shall not be subject to Annual Assessments, Special Assessments or Emergency Assessments until such time as the Lot is occupied for residential use, except that Annual Assessments for reserves as described in Section 7.10 below shall begin accruing for all Lots, including Lots owned by Declarant and Project Declarant, from the date the Master Association turns over financial administration of The Falls to the Association or the date the Lot is annexed to The Falls, whichever is later. Declarant and Project Declarant, however, may defer payment of the accrued reserve assessments for a Lot until the date the Lot is conveyed to a person other than Declarant or Project Declarant, or a successor Declarant or Project Declarant, but not beyond the date of the Turnover Meeting or, if no Turnover Meeting is held, the date the Owners assume administrative control of the Association. The books and records of the Association shall reflect the amount owing from Declarant or Project Declarant for all reserve Assessments.

(b) **Other Lots.** All Lots other than Lots exempt from Assessments pursuant to paragraph 7.3(a) above shall be subject to assessment and shall pay an equal share of the Annual Assessments, Special Assessments and Emergency Assessments from the date the Master Association turns over financial administration of The Falls to the Association or the date the Lot is annexed to The Falls, whichever is later. Notwithstanding the provisions of this section, however, a supplemental declaration annexing a specific Project Common Area facility may specify a special allocation of assessing the costs of operating and maintaining the

facility on such Project Common Area in order to more fairly allocate such cost, taking into account the extent of use or other factors. Project Declarant may elect to delay collection of Annual Assessments against all Lots, but in such case shall pay all common expenses of the Association until such Assessments commence. No Owner by the Owner's own action may claim exemption from liability for contribution towards common expenses by waiver by the Owner of use or enjoyment of any of the Project Common Area or by abandonment by the Owner of the Owner's Lot. An Owner may not claim an offset against an Assessment for failure of the Association to perform its obligations, and no Owner may offset amounts owing or claimed to be owing by the Association or Project Declarant to the Owner.

7.4 Annual Assessments. The Board of Directors of the Association shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous overassessment and any common profits of the Association. The budget shall take into account the number of Lots subject to assessment as of the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. The budget may be based upon a greater number of Lots than those reasonably anticipated to be subject to assessment during the fiscal year if the Declarant agrees to subsidize the Association for any shortfall in the Operations Fund until the assumed number of Lots is subject to assessment. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the reserves required by Section 7.10 below. Annual Assessments for such operating expenses and reserves ("**Annual Assessments**") shall then be apportioned among the Lots as provided in Section 7.3 above. Within thirty (30) days after adopting the annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt an annual budget, the last adopted budget shall continue in effect.

7.5 Special Assessments. In addition to the Annual Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment ("**Special Assessment**"), applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Annual Assessments. Special Assessments that in the aggregate in any fiscal year exceed an amount equal to five percent (5%) of the budgeted gross expenses of the Association for such fiscal year may be levied only if approved by a majority of the voting rights voting on such matter, together with the written consent of the Class B member, if any. Before the Turnover Meeting, any Special Assessment for acquisition or construction of new capital improvements or additions must be approved by not less than fifty percent (50%) of the Class A voting rights, together with the written consent of the Class B member. Special Assessments shall be apportioned as provided in Section 7.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

7.6 Emergency Assessments. If the Annual Assessments levied at any time are or will become inadequate to meet all expenses incurred under this Declaration for any reason,

including nonpayment of any Owner's Assessments on a current basis, the Board of Directors shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, noting the reason therefor, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("**Emergency Assessment**"). Any Emergency Assessment that in the aggregate in any fiscal year would exceed an amount equal to five percent (5%) of the budgeted gross expenses of the Association for such fiscal year may be levied only if approved by not less than a majority of the voting rights voting on such matter, together with the written consent of the Class B member, if any. Emergency Assessments shall be apportioned as set forth in Section 7.3 above and payable as determined by the Board of Directors.

7.7 Individual Assessments. Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited ("**Individual Assessment**"). Individual Assessments include, without limitation, charges for services provided under Section 3.2(i) of the Articles of Incorporation and any common expense that the Board of Directors determines is the fault of the Owner and not paid by insurance. Individual Assessments shall also include default Assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of these Bylaws or the Policies and Procedures of the Association and for fines or other charges imposed pursuant to these Bylaws for violation thereof. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to the Individual Assessments.

7.8 Annexation of Additional Property. When Additional Properties are annexed to The Falls, the Lots included therein shall become subject to Assessments from the date of such annexation to the extent provided in Section 7.3. The Board of Directors, however, at its option may elect to recompute the budget based upon the additional Lots subject to assessment and additional Project Common Areas and recompute Annual Assessments for all Lots, including the new Lots, for the balance of the fiscal year. Notwithstanding any provision of these Bylaws apparently to the contrary, a Project Declaration annexing Additional Property may provide that such Additional Property does not have the right to use a particular Project Common Area or facility located thereon, in which case such Additional Property shall not be assessed for the costs of operating, maintaining, repairing, replacing or improving such Project Common Area or facility.

7.9 Operations Fund. The Association shall keep all funds received by it as Assessments, other than reserves described in Section 7.10, separate and apart from its other funds, in a bank account in the State of Oregon in the name of the Association to be known as the "**Operations Fund**." All expenses of the Association shall be paid from the Operations Fund or from the Reserve Fund referred to in Section 7.10. The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents within The Falls and in particular for the improvement and maintenance of

properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Project Common Areas and of the Lots within The Falls, including but not limited to:

(a) Payment of the cost of maintenance, utilities and services as described in the Project Declaration, the Articles of Incorporation and these Bylaws.

(b) Payment of the cost of insurance as described in these Bylaws.

(c) Payment of taxes assessed against the Project Common Areas and any improvements thereon.

(d) Payment of the cost of other services that the Association deems to be of general benefit to the Owners, including, but not limited to, accounting, legal and secretarial services.

7.10 **Reserve Fund.**

(a) **Establishment of Account.** Project Declarant shall conduct a reserve study as described in paragraph (c) of this section and establish a bank account in the State of Oregon in the name of the Association (the “**Reserve Fund**”) for replacement of common properties that will normally require replacement in whole or in part in more than three (3) and less than thirty (30) years, for exterior painting if the Project Common Areas or other property to be maintained by the Association include exterior painted surfaces, and for other items, whether or not involving Project Common Areas, if the Association has responsibility to maintain the items. The Reserve Fund need not include those items that could reasonably be funded from operating Assessments or for those items for which one or more Owners are responsible for maintenance and replacement under the provisions of the Project Declaration, the Articles of Incorporation or these Bylaws.

(b) **Funding of Reserve Fund.** The Reserve Fund shall be funded by Assessments against the individual Lot assessed for maintenance of the items for which the Reserve Fund is being established, which sums shall be included in the regular Annual Assessment for the Lot. The Reserve Fund shall be established in the name of the Association. The Association is responsible for administering the Reserve Fund and making periodic payments into it.

(c) **Reserve Studies.** The reserve portion of the initial Assessment determined by Project Declarant shall be based on a reserve study described in this paragraph (c) or other sources of information. The Board of Directors annually shall conduct a reserve study, or review and update an existing study, to determine the Reserve Fund requirements and may adjust the amount of payments as indicated by the study or update and provide other reserve items that the Board of Directors, in its discretion, may deem appropriate. The reserve study shall include:

- (i) Identification of all items for which reserves are to be established;
- (ii) The estimated remaining useful life of each item as of the date of the reserve study;
- (iii) The estimated cost of maintenance, repair or replacement of each item at the end of its useful life;
- (iv) A thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

(d) **Use of Reserve Fund.** The Reserve Fund shall be used only for the purposes for which the reserves have been established and shall be kept separate from other funds. After the Turnover Meeting, however, the Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the Board of Directors has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Funds so borrowed from the Reserve Fund must be repaid from Assessments. Not later than the adoption of the budget for the following year, the Board of Directors shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. Nothing in this section shall prohibit prudent investment of the Reserve Fund. In addition to the authority of the Board of Directors under paragraph (c) of this section, following the second year after the Turnover Meeting, the Association may elect to reduce or increase future Assessments for the Reserve Fund by an affirmative vote of not less than seventy-five percent (75%) of the voting power of the Association and may, on an annual basis by a unanimous vote, elect not to fund the Reserve Fund. Assessments paid into the Reserve Fund are The Falls of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

7.11 Creation of Lien and Personal Obligation of Assessments. Declarant and Project Declarant, for each Lot owned by them within The Falls, does hereby covenant, and each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established and collected from time to time in the manner provided in these Bylaws. Such Assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 9.6, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Such Assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below.

7.12 **Voluntary Conveyance.** In a voluntary conveyance of a Lot the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor of the Lot 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 of the Lot, and the grantee in that case shall not be liable for, nor shall the Lot 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.

7.13 **Duties of Board.** As provided in the Project Declaration, the Articles of Incorporation, the Association, through its Board of Directors, shall do the following:

(a) Assess and collect from every Owner Assessments in the manner described in these Bylaws.

(b) Keep all funds received by the Association as Assessments, other than reserves, in the Operations Fund and keep all reserves collected pursuant to these Bylaws in the Reserve Fund and use such funds only for the purposes described in these Bylaws.

(c) From time to time, and at least annually, prepare a budget for the Association, estimating the common expenses expected to be incurred with adequate allowance for reserves based upon the reserve study required by these Bylaws, and determine whether the Annual Assessment should be increased or decreased. Within thirty (30) days after adopting a proposed annual budget, the Board of Directors shall provide a summary of the budget to all Owners. If the Board of Directors fails to adopt a budget, the last adopted annual budget shall continue in effect.

(d) Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any Assessment shall be sent to every Owner subject thereto and to any first mortgagee requesting such notice. The due dates shall be established by the Board of Directors, which may fix a regular flat Assessment payable on a monthly, quarterly, semiannual or annual basis. The Board of Directors shall cause to be prepared a roster of the Lots showing Assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner or mortgagee during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board of Directors, and every Owner as to the amounts of unpaid Assessments

(e) When Additional Properties are annexed, the Board of Directors shall assess any Lots included therein in accordance with Section 7.8 of these Bylaws.

(e) Enforce the Assessments in the manner provided in these Bylaws.

(f) Keep records of the receipts and expenditures affecting the Operations Fund and Reserve Fund and make the same available for examination by members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each member written notice of each Assessment at least 30 days before the time when such Assessments shall become due and payable; and for a reasonable charge, promptly provide any Owner or mortgagee who makes a request in writing with a written certificate of such Owner's unpaid Assessments.

Article 8.

Records and Reports

8.1 **Records.** The Association shall keep within the State of Oregon correct and complete financial records sufficiently detailed for proper accounting purposes, keep minutes of the proceedings of its members, Board of Directors and committees having any of the authority of the Board of Directors, and retain all documents, information and records turned over to the Association by Project Declarant. All documents, information and records delivered to the Association by Project Declarant pursuant to ORS 94.616 shall be kept within the State of Oregon.

8.2 **Statement of Assessments Due.** The Association shall provide, within ten (10) business days after 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 regular and special assessments, fines and other charges, accrued interest, and late-payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment or the amount of a fixed-rate charge for late payment. The Association is not required to comply with this section 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.

8.3 **Inspection of Books and Records.** During normal business hours or under other reasonable circumstances, the Association shall make available to Owners, prospective purchasers and lenders, and holders of any mortgage of a Lot current copies of the Project Declaration, Articles, Bylaws, Policies and Procedures, amendments or supplements to such documents and the books, records, financial statements and current operating budget of the Association. The Association shall maintain a copy, suitable for purposes of duplication, of each of the following: (a) the Project Declaration, the Articles of Incorporation, these Bylaws, the Policies and Procedures and any amendments or supplements thereto, (b) the most recent financial statement of the Association, and (c) the 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 or records. The fee may include reasonable personnel costs for furnishing the documents, information or records.

8.4 Payment of Vouchers. The Treasurer or managing agent shall pay all vouchers for all budgeted items and for any nonbudgeted items, up to \$1,000 signed by the President, managing agent, manager or other person authorized by the Board of Directors. Any voucher for nonbudgeted items in excess of \$1,000 shall require the authorization of the President or a resolution of the Board of Directors.

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

8.6 Reports and Audits. An annual financial statement consisting of a balance sheet and an income and expense statement for the preceding year shall be rendered by the Board of Directors to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association and furnish copies thereof to the members. At any time any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

Article 9.

Enforcement

9.1 Use of Project Common Areas. In the event any Owner shall violate any provision of the Project Declaration, the Articles of Incorporation, these Bylaws or the Policies and Procedures adopted by the Association governing the use of Project Common Areas, then the Association, acting through its Board of Directors, shall notify the Owner in writing that the violations exist and the Owner is responsible for them, and may, after reasonable notice and opportunity to be heard, do any or all of the following: (a) suspend the Owner's voting rights and right to use the Project Common Areas for the period that the violations remain unabated, or for any period not to exceed sixty (60) days for any infraction of its Policies and Procedures, (b) impose reasonable fines upon the Owner, in the manner described in Section 9.2(a) below, which fines shall be paid into the Operations Fund as Individual Assessments, or (c) bring suit or action against such Owner to enforce such provisions. Nothing in this section, however, shall give the Association the right to deprive any Owner of access to and from the Owner's Lot.

9.2 Nonqualifying Improvements and Violation of General Protective Covenants. In the event any Owner constructs or permits to be constructed on his Lot an Improvement contrary to the provisions of the Project Declaration, the Articles of Incorporation, these Bylaws or the Policies and Procedures, or causes or permits any Improvement, activity, condition or nuisance contrary to such provisions to remain uncorrected or unabated on the Owner's Lot, then the Association acting through its Board of Directors shall notify the Owner in writing of any such specific violations and shall require the Owner to remedy or abate the same in order to bring his Lot, the Improvements thereon and the use thereof, into conformance with such provisions. If the Owner is unable, unwilling or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of these Bylaws, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, then the Association acting through its Board of Directors, shall have the right to do any or all of the following:

(a) Assess reasonable fines against such Owner, based upon a resolution adopted by the Board of Directors that is delivered to each Lot, mailed to the mailing address of each Lot or mailed to the mailing address designated by the Owner of each Lot in writing, which fines shall constitute Individual Assessments for purposes of these Bylaws;

(b) Enter the offending Lot and remove the cause of such violation, or alter, repair or change the item that is in violation of such provisions in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Operations Fund as an Individual Assessment, provided that no items of construction shall be altered or demolished in the absence of judicial proceedings;

(c) Suspend the voting rights, any utility services paid for out of Assessments and the right to use the Project Common Areas for the period that the violations remain unabated, provided that the Association shall not deprive any Owner of access to and from his Living Unit; and

(d) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce such provisions.

9.3 Default in Payment of Assessments; Enforcement of Lien. If an Assessment or other charge levied under these Bylaws is not paid within thirty (30) days after its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date at the rate set forth below. In such event the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owner's voting rights and right to use the Project Common Areas until such amounts, plus other charges under these Bylaws, are paid in full and may declare all remaining periodic installments of any Annual Assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his Lot.

(b) The Association shall have a lien in accordance with ORS 94.709 against each Lot for any Assessment levied against the Lot, including any fines or other charges imposed under these Bylaws against the Owner of the Lot.

(c) The Association may bring an action to recover a money judgment for unpaid Assessments, fines and charges under these Bylaws without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) The Association shall have any other remedy available to it by law or in equity.

9.4 Enforcement Procedures. The Association shall have the power, as provided in these Bylaws, to impose sanctions for any violation of the Project Declaration, the Articles of Incorporation, these Bylaws or the Policies and Procedures. To the extent specifically required by these Bylaws, the Board of Directors shall comply with the following procedures prior to the imposition of sanctions:

(a) **Notice.** The Board of Directors or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) the alleged violator shall have fourteen (14) days to present a written request for a hearing before the Board of Directors or a Covenants Committee appointed by the Board of Directors, if any; and (iv) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within fourteen (14) days of the notice.

(b) **Response.** The alleged violator shall respond to the notice of the alleged violation in writing within such fourteen (14) day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board of Directors in writing within such fourteen (14) day period the Board of Directors may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board of Directors or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period.

(c) **Proof of Notice.** Prior to the effectiveness of sanctions imposed pursuant to this section, proof of proper notice shall be placed in the minutes of the Board of Directors or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

(d) **Hearing.** If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held before the Board of Directors or the Covenants Committee, as applicable. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing (i.e., the decision) and the sanction, if any, to be imposed.

(e) **Appeal.** Following a hearing before the Covenants Committee, if applicable, the violator shall have the right to appeal the decision to the Board of Directors. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President or Secretary within ten (10) days after the hearing date.

9.5 **Reports to First Mortgagees.** In response to a written request of any first mortgagee of a Lot, the Association shall report to such mortgagee whether such Lot is current or past-due with respect to Assessments.

9.6 **Subordination of Lien to Mortgages.** The lien of the Assessments or charges provided for in these Bylaws shall be subordinate to the lien of any mortgage or deed of trust on such Lot, which was made in good faith and for value and that was recorded before the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the Assessment lien, but the sale or transfer of any Lot that is subject to any mortgage or deed of trust pursuant to a decree of foreclosure thereunder or any deed or proceeding, deed or assignment in lieu of foreclosure shall extinguish any lien of an Assessment, notice of which was recorded after the recording of the mortgage or trust deed. The unpaid Assessments as a result of such foreclosure or sale shall become a common expense of all Owners, including the mortgagee or purchaser, and such sale or transfer shall not release the Lot from liability for any Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

9.7 **Interest, Late Charges and Expenses.** Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate that is three percentage points per annum above the prevailing Portland, Oregon prime rate as of the due date, or such other rate as may be established by the Board of Directors, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board of Directors not to exceed thirty percent (30%), which resolution is delivered to each Lot, mailed to the mailing address of each Lot or mailed to the mailing address designated by the Owner in writing. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and

a fee for preparing the notice of lien, established from time to time by resolution of the Board of Directors.

9.8 **Costs and Attorneys' Fees.** In the event the Association shall bring any suit or action to enforce the Project Declaration, the Articles of Incorporation, these Bylaws or the Policies and Procedures or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy remedies.

9.9 **Assignment of Rents.** As security for the payment of all liens arising pursuant to this Article 9, each Owner hereby gives to and confers upon the Association the right, power and authority, during the continuance of such ownership, to collect the rents, issues and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of that Owner's obligation under the Project Declaration or these Bylaws to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time after ten (10) days written notice to such Owner, either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of any indebtedness to the Association or in performance of any agreement hereunder, and in such order as the Association may determine. Such action shall not cure nor waive any default hereunder or invalidate any act done pursuant to the Project Declaration or these Bylaws. The assignment of rents and powers described in the foregoing paragraph shall not affect, and shall in all responses be subordinate to, the rights and powers of the holder of any first or second mortgage on any Lot, or any part thereof, to do the same or similar acts.

9.10 **Nonexclusiveness and Accumulation of Remedies.** An election by the Association to pursue any remedy provided for violation of these Bylaws shall not prevent concurrent or subsequent exercise of another remedy permitted under these Bylaws. The remedies provided in these Bylaws are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate or remedy any violation of these Bylaws by appropriate legal proceedings.

9.11 **Nonwaiver.** Failure by the Association or by any Owner to enforce any covenant or restriction contained in the Project Declaration, the Articles of Incorporation, these

Bylaws or the Policies and Procedures shall in no event be deemed a waiver of the right to do so thereafter.

Article 10.

Dispute Resolution

10.1 Mediation.

(a) Except as otherwise provided in this section, before initiating litigation, arbitration or an administrative proceeding in which the Association and an Owner have an adversarial relationship, the party that intends to initiate litigation, arbitration or an administrative proceeding shall offer to use any dispute resolution program available within Deschutes County, Oregon, that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party.

(b) If the party receiving the offer does not accept the offer within ten (10) days after receipt of the offer, such acceptance to be made by written notice, hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the Association, for the other party, the initiating party may commence the litigation, arbitration or administrative proceeding. The notice of acceptance of the offer to participate in the program must contain the name, address and telephone number of the body administering the dispute resolution program.

(c) If a qualified dispute resolution program exists within Deschutes County, Oregon and an offer to use the program is not made as required under paragraph (a) of this section, then litigation, arbitration or an administrative proceeding may be stayed for thirty (30) days upon a motion of the noninitiating party. If the litigation, arbitration or administrative action is stayed under this paragraph, both parties shall participate in the dispute resolution process.

(d) Unless a stay has been granted under paragraph (c) of this section, if the dispute resolution process is not completed within thirty (30) days after receipt of the initial offer, the initiating party may commence litigation, arbitration or an administrative proceeding without regard to whether the dispute resolution is completed.

(e) Once made, the decision of the court, arbitrator or administrative body arising from litigation, arbitration or an administrative proceeding may not be set aside on the grounds that an offer to use a dispute resolution program was not made.

(f) The requirements of this section do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation, arbitration or an administrative proceeding initiated to collect Assessments, other than Assessments attributable to fines.

10.2 **Arbitration.** Any claim, controversy, or dispute by or among Declarant, Project Declarant, the Master Association, Association, the Architectural Control Committee, or one or more Owners, or any of them, arising out of or related to the Project Declaration, the Articles of Incorporation, these Bylaws of the Association, the Policies and Procedures, or The Falls shall be first subject to mediation as described in Section 10.1 above or otherwise, and if not timely settled by mediation, resolved by arbitration in accordance with this Article 10. The decisions and award of the arbitrator shall be final, binding and nonappealable. The arbitration shall be conducted in Deschutes County, Oregon, pursuant to the arbitration statutes of the State of Oregon and any arbitration award may be enforced by any court with jurisdiction. Filing for arbitration shall be treated the same as filing in court for purposes of meeting any applicable statute of limitations or for purposes of filing a notice of pending action (“lis pendens”).

10.3 **Selection of Arbitrator.** The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties. The arbitrator selected shall be neutral and unbiased, except to the extent the arbitrator’s prior relationship with any party is fully disclosed and consented to by the other party or parties. If the parties are unable to agree upon the arbitrator within ten (10) days after a party’s demand for arbitration, upon application of any party, the presiding judge of the Circuit Court of Deschutes County, Oregon shall designate the arbitrator.

10.4 **Consolidated Arbitration.** Upon demand by any party, claims between or among the parties and third parties shall be submitted in a single, consolidated arbitration.

10.5 **Discovery.** The parties to the arbitration shall be entitled to such discovery as would be available to them in an action in Deschutes County Circuit Court. The arbitrator shall have all of the authority of the court incidental to such discovery, including, without limitation, authority to issue orders to produce documents or other materials, to issue orders to appear and submit to deposition, and to impose appropriate sanctions including, without limitation, award against a party for failure to comply with any order.

10.6 **Evidence.** The parties to the arbitration may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary for an understanding and determination of the dispute. The arbitrator shall determine the admissibility of the evidence offered. All evidence shall be taken in the presence of the arbitrator and all of the parties, except when any of the parties is absent in default or has waived its right to be present.

10.7 **Excluded Matters.** Notwithstanding the foregoing, the following matters shall not be subject to mediation or arbitration under this Article 10 (but shall be subject to the applicable provisions of Section 10.8 below): (a) actions relating to the collection of fees, Assessments, fines and other charges imposed or levied by the Association (other than disputes as to the validity or amount of such fees, Assessments, fines or charges, which disputes shall be subject to mediation/arbitration as provided above); and (b) actions to enforce any order, decision or award rendered by arbitration pursuant to this Article 10. The filing of a lis pendens or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal Rules of Civil Procedure shall not constitute a waiver of the right or duty to utilize the procedures specified in this Article 10.

10.8 **Costs and Attorneys' Fees.** The fees of any mediator and the costs of mediation shall be divided and paid equally by the parties. Each party shall pay its own attorneys' fees and costs in connection with any mediation. The fees of any arbitrator and the costs of arbitration shall be paid by the nonprevailing party or parties; if none, such fees and costs shall be divided and paid equally by the parties. Should any suit, action or arbitration be commenced in connection with any dispute related to or arising out of the Project Declaration, the Articles of Incorporation, these Bylaws or the Policies and Procedures; to obtain a judicial construction of any provision of the Project Declaration, the Articles of Incorporation, these Bylaws or the Policies and Procedures; to rescind such documents; or to enforce or collect any judgment or decree of any court or any award obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute as the court or arbitrator may adjudge reasonable, at trial, in the arbitration, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit, action or arbitration proceeding. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party shall be decided by the arbitrator (with respect to attorneys' fees incurred before and during the arbitration proceeding) and by the court or courts, including any appellate or review court, in which such matter is tried, heard or decided, including a court that hears a request to compel or enjoin arbitration or that hears exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorneys' fees incurred in such proceedings).

10.9 **Survival.** The mediation and arbitration agreement set forth in this Article 10 shall survive the transfer by any party of its interest or involvement in The Falls and any Lot therein and shall survive the termination of the Project Declaration.

Article 11.

Insurance

11.1 **Types of Insurance..** For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the Operations Fund, the following insurance:

(a) **Property Damage Insurance.**

(i) 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.

(ii) The amount of the coverage shall be for not less than one hundred percent (100%) of the current replacement cost of the improvements on the Project Common Areas (exclusive of land, foundation, excavation and other items normally excluded from coverage), subject to a reasonable deductible.

(iii) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the Project Common Areas and all personal property and supplies belonging to the Association.

(b) **Liability Insurance.**

(i) The Association shall maintain comprehensive general liability insurance coverage insuring the Project Declarant, the Association, the Board of Directors, and the managing agent, against liability to the public or to Owners and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Project Common Areas, 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 an Owner (other than as a member of the Association or Board of Directors) for liability arising out of acts or omissions of such Owner and liability incident to the ownership and/or use of the part of The Falls as to which such Owner has the exclusive use or occupancy.

(ii) Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) on a combined single-limit basis.

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

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

(d) **Fidelity Bonds.**

(i) The Board of Directors may cause the Association to maintain blanket fidelity bonds 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 that the Association has retained a management agent, the Board of Directors may require such agent to maintain fidelity bonds for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The cost of such insurance, if any, may be borne by the Association.

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

(iii) Such fidelity bond shall name the Association as obligee and shall contain waivers by the bond issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds shall provide that they 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.

11.2 Insurance by Lot Owners. Each Owner shall be responsible for obtaining, at his or her own expense, homeowner's insurance covering the improvements on the Owner's Lot and liability resulting from use or ownership of the Lot, unless the Association agrees otherwise. The insurance coverage maintained by the Association shall not be brought into contribution with the insurance obtained under this section by the Owners.

11.3 Planned Community Act Requirements. The insurance maintained by the Association shall comply with the requirements of the Oregon Planned Community Act, ORS 94.550 to 94.780.

Article 12.

Mortgagees

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Living Unit to which its mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of The Falls or which affects any Living Unit on which there is a first mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owned by a Living Unit subject to the mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Project Declaration, Articles of Incorporation, these Bylaws or the Policies and Procedures relating to such Living Unit or the Owner or occupant which is not cured within sixty (60) days;

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

(d) Any proposed action that would require the consent of a specified percentage of Eligible Holders.

12.2 **No Priority.** No provision of these Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first mortgagee of any Living Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Project Common Area.

12.3 **Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Living Unit.

12.4 **Failure of Mortgagee to Respond.** Any mortgagee who receives a written request from the Board of Directors to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the mortgagee by certified or registered mail, return receipt requested.

12.5 **Construction of this Article.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Project Declaration, the Articles of Incorporation, these Bylaws or Oregon law for any of the acts set out in this Article.

Article 13.

General Provisions

13.1 **Seal.** The Board of Directors may, by resolution, adopt a corporate seal.

13.2 **Notice.** All notices to the Association or to the Board of Directors shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may hereafter designate from time to time. All notices to members shall be sent to the member's unit or to such other address as may have been designated by the member from time to time in writing to the Board of Directors.

13.3 **Waiver of Notice.** Whenever any notice to any member or director is required by law, the Project Declaration, the Articles of Incorporation, or these Bylaws, a waiver of notice in writing signed at any time by the person entitled to notice shall be equivalent to the giving of the notice.

13.4 **Action Without Meeting.** Any action that the law, the Project Declaration, the Articles of Incorporation or these Bylaws require or permit the members or directors to take at any meeting may be taken without a meeting or ballot meeting if a consent in writing setting forth the action so taken is signed by all of the members or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the members or directors, shall be filed in the records of minutes of the Association.

13.5 **Conflicts.** These Bylaws are intended to comply with the Oregon Planned Community Act, Oregon Nonprofit Corporation Law, the Master Declaration, the Project Declaration and the Articles of Incorporation. In case of any irreconcilable conflict, such statutes and documents shall control over these Bylaws.

Article 14.

Amendments to Bylaws

14.1 **How Proposed.** Amendments to these Bylaws shall be proposed by either a majority of the Board of Directors or by members holding at least thirty percent (30%) of the voting rights entitled to be cast for such amendment. 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 be attached to any request for consent to the amendment.

Adoption.

(a) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members and may be approved by the membership at a meeting called for such purpose or by ballot vote. Members not present at the meeting considering such amendment may express their approval in writing or by proxy. Any resolution must be approved by members holding a majority of the voting rights, together with the written consent of the Class B member, if any. Amendment or repeal of any provision of these Bylaws that is also contained in the Project Declaration or Articles of Incorporation must be approved by the same voting requirement for amendment of such provision of the Project Declaration or the Articles of Incorporation.

(b) Notwithstanding the provisions of the preceding paragraph, until the Turnover Meeting has occurred, Project Declarant shall have the right to amend these Bylaws in order to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community. After the Turnover

Meeting, any such amendment shall require the approval of a majority of the voting rights of the Association, voting in person, by proxy, or by ballot, at a meeting or ballot meeting of the Association at which a quorum is represented.

14.3 **Execution and Recording.** An amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws and ORS 94.625 and recorded in the Deed Records of Deschutes County, Oregon.