

BYLAWS OF THE HERON'S REST HOMEOWNERS' ASSOCIATION

THESE BYLAWS shall be effective upon their recording in Tillamook County, Oregon, and are made and executed this day of _____ day of _____, 202__, by The Heron's Rest Homeowners' Association, a nonprofit mutual benefit corporation organized under the laws of the State of Oregon (hereinafter "**Association**").

ARTICLE 1 PLAN OF LOT OWNERSHIP; DEFINITIONS

1.1 **Bylaws Applicability.** These Bylaws apply to all property in Heron's Rest, a planned community in Tillamook County, Oregon (the "**Development**"), that has been subjected to the Declaration of Protective Covenants, Conditions and Restrictions of Heron's Rest (the "**Declaration**").

1.2 **Personal Application.** All present or future Owners, tenants, Occupants, and their employees, and any other person that might occupy any portion of the Property in any manner, shall be subject to the provisions set forth in these Bylaws. The acquisition, rental, or occupancy of any of the Lots shall constitute acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

1.3 **Definitions.** Capitalized terms used but not defined herein shall have meanings attributed to them in Article 1 of the Declaration.

1.4 **Oregon Planned Community Act.** The Property, all Lots and Owners thereof, the Association and all Members thereof, shall be subject to the Oregon Planned Community Act, ORS 94.550 et seq. (the "**PCA**") (as such statutes may be amended or renumbered in the future). All citations to an Oregon statute herein shall also refer to the successor or renumbered statute for the same.

ARTICLE 2 ASSOCIATION MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

2.1 **Membership in the Association.** Upon recordation of a conveyance or contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be and shall remain a Member of the Association until such time as such person's ownership ceases for any reason.

2.2 **Voting Rights.** The Association shall have two (2) classes of voting members:

2.2.1 **Class A.** Class A members shall be all Owners of Lots other than Declarant, and each Class A member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote.

2.2.2 **Class B.** The Class B members shall be Declarant, its successors and assigns. The Class B member shall have three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier of the following dates (the "**Termination Date**"):

- (a) Twenty (20) years after the date this Declaration is recorded; and
- (b) At such earlier time as Declarant elects in writing to terminate Class B membership.

After the Termination Date, each Owner, including Declarant, shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots subject to this Declaration, initially or through annexation.

2.3 **Fractional or Joint Interests.** When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event shall fractional voting be allowed. The vote of such Lot may be exercised by anyone of the Owners then present, in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such Lot shall be disregarded for all purposes, except for determining whether a quorum is present.

2.4 **Majority of Owners.** As used in these Bylaws, the term "majority" shall mean those Owners holding over fifty percent (50%) of the voting rights allocated to the Owners in accordance with the Declaration and Section 2.2 above.

2.5 **Voting; Proxies.** Owners may cast votes in person, by written ballot, or by proxy. Proxies must be filed with the Secretary of the Association ("**Secretary**") before or during the appointed meeting. A proxy shall expire one (1) year after the date it was signed unless a shorter period is specified in the proxy. An Owner may not revoke a proxy except by actual notice of revocation to the person presiding over a meeting of the Association. 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.

2.5.1 **Fiduciary Voting.** An executor, administrator, conservator, 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 has been transferred

to such person's name; provided, however, that such person must provide the Secretary with written evidence satisfactory to the Secretary that the person is the executor, administrator, conservator, guardian or trustee, holding such Lot in such capacity. Any person voting on behalf of a Lot owned by a corporation or other entity must provide the Secretary with written evidence, satisfactory to the Secretary, that such person is the duly constituted representative thereof.

ARTICLE 3 ADMINISTRATION

3.1 **Association Responsibilities.** The Owners shall constitute the Members of the Association. Except as otherwise provided in the Declaration or these Bylaws, decisions and resolutions of the Association shall require approval by a majority of the Owners present at any legal meeting. A legal meeting is one duly called pursuant to these Bylaws at which a quorum is present, in person or by proxy at a formal gathering or, if a vote is taken by written ballots, when ballots are returned representing more than thirty percent (30%) of the vote, unless a larger vote is required to approve a ballot item, in which case the quorum requirements shall be the number of votes required to approve the proposal.

3.2 **Place of Meetings.** Formal meetings of the Association shall be held at suitable places convenient to the Owners as may be designated by the Board of Directors of the Association (the "**Board**"). If a vote is taken by written ballot, the Board shall count the returned written ballots within seventy-two (72) hours of the ballot return deadline. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned within fifteen (15) days after the ballot return deadline.

3.3 **Initial Meeting.** The initial meeting of the Association shall be held within 180 days after the transfer of the first Lot to an Owner who is not the Declarant ("**Initial Meeting**"). The Declarant shall call the meeting by written notice to each of the Owners stating the exact time and place of the initial meeting and the purpose thereof.

3.4 **Declarant Control, Transitional Committee and Turnover Meeting.** Nothing in these Bylaws shall be construed or interpreted to reduce or limit the Declarant's administrative control of the Association as provided in the Declaration. The Declarant shall call a meeting for the purpose of creating a transitional meeting, and later for the purpose of turning over administrative control of the Association ("**Turnover Meeting**"), in accordance with the terms and conditions of the Declaration and the PCA.

2.4 **Annual Meetings.** The first annual meeting of Owners shall be held in the first quarter of the calendar year following the calendar year in which the Initial Meeting is held, and shall be held in same month as the first annual meeting or in the month next following, at such hour and on such date as the Board may designate. At such meetings, and after the Turnover Meeting, the Owners shall elect Directors to fill vacancies or to succeed retiring Directors as

provided in Section 3 of these Bylaws and shall also transact such other business of the Association as may properly come before the meeting.

2.5 **Place of Meetings.** Meetings of the Owners shall be held at such other suitable place within Oregon, convenient to the Owners, as may be designated by the Board.

2.6 **Special Meetings.** Special meetings of the Association may be called at any for the purpose of considering matters which, by the terms of the PCA, the Declaration or these Bylaws, require the approval of all or some of the Owners, or for any other reasonable purpose. Such meetings shall be called by written notice of the President, by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by the Owners of not less than thirty percent (30%) of the Lots stating the purpose of the meeting. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof.

2.7 **Notice.** The President or Secretary shall give written notice of each Owners' meeting at least seven (7) days but not more than fifty (50) days prior to the date set for such meeting. The notice shall state the purpose thereof and the time and place where it is to be held. Notice shall be given to each Owner of record, and to any first Mortgagee of record requesting such notice, by first class mail to each Owner or first Mortgagee at the home or business address listed on the books of the Association, by electronic mail sent to the electronic mail address of such Owner as listed on the books of the Association, or at such other address as such Owner shall have designated by notice in writing to the President or Secretary, at least ten (10) days prior to the giving of such notice of meeting. The giving of a notice in the manner provided in these Bylaws shall be considered notice properly served. Notice of a meeting may be waived by any Owner before, during or after the meeting. When a meeting is adjourned for less than thirty (30) days, no notice of the adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

2.8 **Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners holding thirty percent (30%) or more of the outstanding votes in the Association shall constitute a quorum.

2.9 **Ballot Meetings.** Unless prohibited or limited by the Articles of Incorporation of the Association, any action that may be taken at any annual or special meeting of the Owners may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter as provided in ORS 94.647 (or successor statute). Such ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. A proposed action shall be deemed to be approved by written ballot when the number of votes cast by ballot equals or exceeds any quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot, except as otherwise required in ORS 94.647 (or successor statute).

2.10 **Electronic Ballots.** The board of directors of the Association, in its discretion, may provide that a vote, approval or consent of an owner may be given by electronic ballot in accordance with the PCA.

2.11 **Order of Business.** The order of business at annual meetings of the Association shall be:

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

ARTICLE 3 BOARD OF DIRECTORS

3.1 **Number, Term and Qualification.** The affairs of the Association shall be governed by the Board of Directors ("**Board**"), which shall consist of between three (3) and five (5) persons as determined from time to time by the Owners. Until the Turnover Meeting, the Board shall consist of the directors appointed by the Declarant, and the Board may be comprised of fewer than three (3) directors. Each director shall hold office for the term herein fixed and until the director's successors have been qualified and elected. There shall be no limit on the number of successive terms a director may serve on the Board, if elected as herein provided. Except for directors appointed by the Declarant, all directors shall be Owners. No director shall continue to serve on the Board after ceasing to be an Owner. For purposes of this section, the officers of any corporation, the trustees of any trust, or the partners of any partnership that owns a Lot shall be considered co-Owners of any such Lot.

3.2 **Powers and Duties.** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts except such acts which by law, the Declaration, or these Bylaws may not be delegated to the Board by the Owners. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein) the following.

3.2.1 Operation, care, inspection, upkeep, repair, replacement and maintenance of the portions of the Common Property and Commonly Maintained Property, as well as any easement areas, that are the responsibility of the Association.

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

3.2.3 Conduct reserve studies, or review and update any existing studies, of the Common Elements and Commonly Maintained Property to determine the Reserve Account requirements in accordance with the Declaration and applicable law.

3.2.4 Collect Assessments from Owners.

3.2.5 Provide for the designation, hiring and removal of employees and other personnel, including lawyers and accountants, to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Development and to delegate any such powers to the manager or managing agent.

3.2.6 Adoption and amendment of reasonable Association Rules and Regulations pursuant to Section 7 of these Bylaws.

3.2.7 Maintain all Association funds in bank accounts within the State of Oregon on behalf of the Association and designate required signatories.

3.2.8 The acquisition of any and all goods and services necessary for the operation of the Condominium or for enforcement of the Declaration and these Bylaws consistent with Board-approved budgets or specially approved by the Board.

3.2.9 Maintenance, repair, upkeep, restoration, improvement, and replacement of any Common Property or Commonly Maintained Property, in the discretion of the Board.

3.2.10 Pay any amount necessary to discharge any lien or encumbrance which is claimed to or may, in the opinion of the Board, constitute a lien or encumbrance against the Common Property as opposed to a particular Owner's Lot. Where one or more Owners are responsible for the existence of such a lien, they shall be jointly and severally liable for the cost of discharging it, and any costs and expenses (including court costs and attorneys' fees, both at trial and on appeal) be specially assessed against the Owners and the Lot responsible, to the extent of their responsibility.

3.2.11 Subject to Board approval, obtain and review bonds and insurance the Board deems necessary such as liability for personal injury and property damage, fidelity of Association officers and other employees, and Directors' and Officer's liability, for the Association and the Development, including the Lots, pursuant to the provisions of the Declaration or Bylaws.

3.2.12 Borrow money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the Common Property or Commonly Maintained Property; provided, however, that no lien to secure repayment of any sum borrowed may be created on any Lot without the consent of the Owner of such Lot. The

Association shall have no power to encumber the Common Property to secure repayment of borrowed funds without the written consent of 75% of the Owners.

3.2.13 Subject to the limitations contained in Section 8 of these Bylaws, adjust and settle claims under insurance policies and execute and deliver releases on settlement of such claims on behalf of all Owners, all holders of Mortgages or other liens on the Lots and all Owners of any other interest in the Development.

3.2.14 File all appropriate income tax returns and the Annual Report with the Oregon Real Estate Agency.

3.2.15 Enforcement by legal means of the provisions of the PCA, the Declaration, these Bylaws and any Association Rules and Regulations adopted hereunder.

3.3 **Activities for Profit Prohibited.** Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

3.4 **Regular and Special Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors and in accordance with the provisions of ORS 100.420. Special meetings of the Board may be called by the President and must be called by the Secretary at the written request of at least one Director. Notice of any special meeting shall be given to each Director, personally or by mail, telephone, electronic mail or other generally accepted means of communication at least seven (7) days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. All meetings of the Board shall be open to Owners. Such meetings may be conducted by electronic or telephonic communication.

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

3.6 **Quorum and Act of Board.** At all meetings of the Board of Directors, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board present at a meeting at which a quorum is present shall constitute the act of the Board. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any

such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.7 **Removal.** At any regular or special meeting of Owners, any one or more of the Board members may be removed with or without cause by a majority of the Owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. The notice of any such meeting shall state that such removal is to be considered, and any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

3.8 **Resignation.** Any Director may resign at any time by sending a written notice of such resignation to the office of the Association, addressed to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary.

3.9 **Vacancies.** Vacancies in the Board caused by any reason other than the removal of a member thereof by a vote of the Owners shall be filled by vote of a majority of the remaining members at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board for the remainder of the term of the member creating such vacancy and until a successor shall be elected at the next annual meeting of the Owners.

3.10 **Compensation.** No Director shall receive any compensation from the Association for acting as such, but shall be reimbursed for reasonable out-of-pocket expenses.

3.11 **Liability and Indemnification of Directors, Officers, Manager or Managing Agent.** The Directors and officers shall not be liable to the Association or the Owners for any mistake of judgment, negligence, or otherwise except for their own willful misconduct or bad faith. The Association shall indemnify and hold harmless each Director and officer unless such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these Bylaws. Each Director and officer shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed upon them in connection with any proceeding to which they may be a party, or which they may become involved by reason of being or having been a Director or officer and shall be indemnified upon any reasonable settlement thereof; provided, however, there shall be no indemnity if the Director, or officer is adjudged guilty of willful nonfeasance, misfeasance or malfeasance in the performance of their duties.

3.12 **Insurance.** The Board of Directors shall comply with the insurance requirements in Section 8 of these Bylaws. In addition, the Board, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association, Board or Owners.

ARTICLE 4 OFFICERS

4.1 **Designation.** The principal officers of the Association shall be the President, Secretary, and Treasurer, each of whom shall be elected by the Board. The Board of Directors may appoint other officers as in its judgment may be desirable. All officers must be Owners, or members of their family, fiduciaries, beneficiaries or Mortgagees (and in the case of Lots owned by corporations or partnerships, the offices may be held by Directors, officers, shareholders, partners or employees of such organizations).

4.2 **Election.** The officers of the Association shall be elected annually by the Board at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board and until their successors are elected and qualified. If any office becomes vacant, the Board shall elect a successor to fill the unexpired term at any regular Board meeting, or at any special meeting of the Board called for such purpose.

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

4.4 **President.** The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Owners and of the Board and shall have all of the general powers and duties which are usually incident to the office of the chief executive officer of an association, including, but not limited to, the power to appoint committees from time to time as may, in the President's discretion, be appropriate to assist in the conduct of the affairs of the Association.

4.5 **Secretary.** The Secretary shall keep minutes of all proceedings of the Board and minutes of all Association meetings. The Secretary shall attend to the giving and serving of all notices to the Owners and Directors and other notices required by law. Association records shall be kept by the Secretary, except for those of the Treasurer. The Secretary shall perform all other duties incident to the office of secretary of an association as may be required by the Directors or the President. In addition, the Secretary shall act as Vice President, taking the place of the President and performing such duties whenever the President is absent or unable to act, unless the Directors have appointed a Vice President.

4.6 **Treasurer.** The Treasurer shall be responsible for Association funds and securities and shall be responsible for supervising the managing agent and causing the same to keep full and accurate financial records and books of account showing all receipts and disbursements necessary for the preparation of all required financial statements. The Treasurer shall review the reports and statements provided by the managing agent with respect to the deposit of all funds and other valuable effects in such depositories as may from time to time be designated by the Board, and the disbursement of Association funds in accordance with the

approved Association budget and any special authorizations from the Board for unbudgeted items. The Treasurer shall in general perform all other duties incident to the office of treasurer of an association and such other duties as may be assigned by the Board. The Treasurer shall cause all assessments to be deposited in a separate bank account in the name of the Association and all expenses of the Association to be paid from that account.

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

4.8 **Compensation of Officers.** No officer who is a member of the Board, other than the Secretary and Treasurer, shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the Owners. The Board may fix any reasonable compensation to be paid to the Secretary, Treasurer and any officers who are not also Directors.

ARTICLE 5 BUDGET, EXPENSES AND ASSESSMENTS

5.1 **Budget.** The Board shall from time to time, but in no event less frequently than once every twelve (12) months, prepare a budget for the Association, estimate the Common Property and Commonly Maintained Property expenses expected to be incurred, less any previous over-assessment, and assess such expenses to each Owner in the method as set forth herein and in the Declaration. The budget shall reflect comparable figures for the prior year as to all items therein. Except as otherwise provided herein, the Board shall advise each Owner in writing of the amount of common expenses payable by that Owner, and furnish copies of each budget and amended budget on which such common expenses are based to all Owners and, if requested, to their Mortgagees, at least fourteen (14) days prior to the annual meeting of the Association. Failure to deliver a copy of any budget or amended budget to each Owner shall not affect the liability of any Owner for any such assessment. Nothing herein contained shall be construed as restricting the right of the Board to, at any time, in their sole discretion, levy any additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

5.2 **Reserve Fund.** A Reserve Account shall be established and administered by the Association as provided in the Declaration.

5.3 **Determination of Common Expenses.** Except as otherwise provided herein, common expenses equally assessable to all Lots shall include but not be limited to ("**Common Expenses**"):

- 5.3.1 Expenses of administration.
- 5.3.2 Cost of insurance or bonds obtained in accordance with these Bylaws.
- 5.3.3 A general operating fund ("**Operating Fund**").
- 5.3.4 A Reserve Account as required by the PCA and as more fully described in the Declaration.
- 5.3.5 Any deficit in common expenses for any prior period, and any accrued interest or late charges thereon.
- 5.3.6 Utilities for the Common Property and other utilities not separately metered or charged.
- 5.3.7 Expenses, if any, of any services of any person or firm to act on behalf of the Owners in connection with any matter where the respective interests of the Owners are deemed by the Board to be similar and non-adverse to each other.
- 5.3.8 Fees for professional management services.
- 5.3.9 Cost of maintenance, repair, replacement and upkeep of all the Common Property and Commonly Maintained Property, provided that if such repairs, maintenance, replacement or upkeep are necessitated due to the actions or negligence of one or more Owners, or relate to the Exterior Elements of any Lot, then the cost thereof shall be specially assessed against the Owners who committed the damage or the Owners of such benefited Lots, as the case may be, as reasonably determined by the Board.
- 5.3.10 Any other materials, supplies, labor, services, maintenance, repairs, alterations or assessments which the Board is required to secure or pay for, pursuant to the terms of the Declaration or these Bylaws or that in its opinion are necessary or proper for the maintenance and operation of the Development or for the enforcement of these restrictions, and which the Board determines should be assessed to the Owners under this Section 5.3.
- 5.3.11 The discharge of any lien or encumbrance against the Common Property, as opposed to a particular Owner's Lot. Where one or more Owners are responsible for the existence of such lien or encumbrance, they shall be jointly and severally liable for the cost of discharging it, which cost shall be specifically assessed to the responsible Owners.
- 5.3.12 Any other items properly chargeable as an expense of the Association, including, without limitation, any easements encumbering the Condominium.

5.4 **Assessment of Common Expenses.** All Owners shall be obliged to pay on a monthly basis in advance all Common Expenses assessed to them by the Board pursuant to these Bylaws and the Declaration, including amounts applicable to the Reserve Account. Assessments may not be waived due to limited use or nonuse of Common Property or Commonly Maintained Property and no Owner may claim an offset against assessments for failure of the Board to perform its obligations. The Board, on behalf of the Association, shall assess the Common Expenses against the Owners from time to time, and at least annually, and shall take prompt action to collect from Owners any Common Expenses due which remains

unpaid by any Owner for more than thirty (30) days from the due date for its payment (except as provided above for the Declarant).

5.5 **Operating and Contingency Funds.** The Board may establish in the name of the Association an Operating Fund for the Association. The Board may also build up and maintain a reasonable reserve for contingencies and replacements not otherwise covered herein. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year may be charged against such reserve. If the estimated cash requirement proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a further assessment of Common Expenses. The Board shall serve notice of such further assessment on all Owners by a statement in writing giving the amount and reasons therefore.

5.6 **Special Assessments.** The Board may levy special assessments as provided in the Declaration. Additionally, the Board may levy against any Owner any cost authorized herein, including but not limited to: (i) the cost of maintenance, repair, replacement or upkeep of any Common Property or Commonly Maintained Property that was occasioned by the intention, negligent or extraordinary overuse of that Owner, as well as (ii) the cost of maintenance, repair, replacement or upkeep of the Exterior Elements on the Owner's Lot. The expense of any action by the Association to enforce and fulfill the requirements of these Bylaws or the Declaration with respect to any Lot and its associated elements shall be charged to said Owner as a special assessment. Any such special assessment shall be a lien against the Owner's Lot with the same force and effect as if the charge were a part of the ordinary assessments of Common Expenses attributable to the Owner's Lot.

5.7 **Statement of Common Expenses.** In accordance with ORS 100.480(4), the Board must within ten (10) days of an Owner's written request provide any Owner a written statement of that Owner's due and unpaid assessments as of the time the request was received including but not limited to (i) regular and special assessments, (ii) fines and other charges, (iii) accrued interest and the method used to calculate it, and (iv) late payment charges and the method used to calculate it. The Association need not provide such a statement 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.

5.8 **Default in Payment of Assessments.**

5.8.1 In the event of delinquency or default by any Owner in paying to the Association any assessment of Common Expenses or special assessment (the "Assessment") authorized herein, such Owner will be obligated to pay interest on such Assessment from the due date thereof, at the rate of eighteen percent (18%) per annum or the maximum legal rate of interest permitted by Oregon law, whichever is less, together with all expenses, including attorneys' fees, whether or not legal proceedings are commenced and both at trial and on appeal incurred by the Association in collecting such unpaid expenses together with all expenses,

including attorneys' fees, incurred by the Association in any proceeding brought to collect on such Assessment.

5.8.2 The Board may also establish and impose charges for late payments of assessments, attorney fees for collection of assessments and, after giving notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations, provided that any such charge or fine is based on a schedule Set forth in resolution adopted by the Board or the Association that is delivered to each Lot or mailed to each owner and the address designated by each owner for the receipt of any notice with respect to the Development.

5.8.3 The Board has the right and duty to recover for the Association any Assessment, together with interest thereon, late charges, if any, and expenses of the proceeding, including attorneys' fees, by an action brought against such Owner or by foreclosure of the lien upon the Lot granted by the PCA. The Board must notify the holder of any first mortgage upon a Lot of any default not cured within thirty (30) days of the date of notice of default.

5.9 **Acceleration of Assessments.** In the event any monthly assessment attributable to a particular Lot remains delinquent for more than sixty (60) days, the Board may, upon fifteen (15) days written notice to the Owner of such Lot, accelerate and demand immediate payment of all, or such portion as the Board determines, of all Assessments and other charges which the Board reasonably determines will become due during the next succeeding twelve (12) months with respect to each Lot.

5.10 **Foreclosure of Liens for Unpaid Common Expenses.** In any action brought by the Association to foreclose a lien on a Lot because of one or more unpaid Assessments, the Owner shall be required to pay a reasonable rental for the use of the Lot during the pendency of the suit, and the plaintiff in such foreclosure suit shall be entitled to the appointment of a receiver to collect such rental. The Board, acting on behalf of the Association, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the Lot. An action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing any lien securing the same. The remedies provided herein are cumulative, and the Association may pursue any of them, as well as any other remedies which may be available under law, although not expressed herein.

5.11 **Lien Priority.** Any lien of the Association against a Lot for Assessments shall have the priority provided in the PCA in relation to other tax and assessment liens, and any prior Mortgage or Trust Deed of record.

5.12 **First Mortgages; Liability of Subsequent Owner.** Any lien of the Association against a Lot for an Assessment shall be subordinate to tax and assessment liens and any first Mortgage of record, unless there has been compliance with all requirements of ORS 100.450(7).

Where the purchaser or Mortgagee of a Lot obtains title to the Lot as a result of foreclosure of a first Mortgage or by deed in lieu of office closure, such purchaser or Mortgagee and his successors and assigns shall not be liable for any of the Assessments chargeable to such Lot which became due prior to the acquisition of title to such Lot by such purchaser or Mortgagee except to the extent provided in ORS 100.475(2); provided, in the case of a deed in lieu of foreclosure, that the Mortgagee complies with the requirements of ORS 100.465(1); and provided further that any sale or transfer of a Lot pursuant to a foreclosure shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot from the lien of, any Assessment thereafter becoming due. 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 to the time of grant of conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

5.13 **Liability of Owners.** Notwithstanding any provision herein to the contrary, An Owner shall be liable for the expenses for any maintenance, repair, replacement or upkeep of any Common Property or Commonly Maintained Property rendered necessary by that Owner's act, neglect or carelessness or by that of any member of the Owner's family, or the Owner's guests, employees, invitees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation. The expense of any maintenance, repair, replacement or upkeep required, as provided herein, shall be charged to said Owner as a specific assessment, which shall be a lien against such.

5.14 **Violation by Owners; Remedies.** Subject to any limitations contained in the Declaration, the violation of any Rules or Regulations adopted by the Board, or the breach of any covenant or provision contained in the Declaration or the Bylaws shall give the Board the rights set forth in the Declaration and the right: (i) to enter upon that part of the Lot where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board or its agents shall not thereby be deemed guilty in any manner of trespass and (ii) to enjoin, abate or remedy by appropriate legal proceedings the continuance of any breach. All expenses of the Board in connection with such violation and such action or proceedings, including engineering, architectural and other professional fees and costs, court costs and attorneys' fees and any other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the rate provided herein, shall be charged to and assessed against such defaulting Owner. The Board shall have a lien for all of the same upon the Lot of such defaulting Owner and upon all of his additions and improvements thereto. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. Any violations by an Owner of the Declaration, Bylaws, or Association Rules and Regulations that are deemed by the Board to be a hazard to public health or safety may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the offending Owner as a specific assessment, which shall be a lien against the offending Owner's Lot. Any

violation or breach by an Owner's tenant, occupant, agent, invitee, licensee or employee shall be deemed a violation or breach of the Owner.

5.15 **No Waiver.** The failure of the Association or of an Owner to enforce any right, provisions, covenant or condition, which may be granted by any of the provisions of the Declaration, the Bylaws, or any Association Rules and Regulations, shall not constitute a waiver of the right of the Association or Owner to enforce such right, provision, covenant or condition in the future. The receipt by the Board of payment of any assessment from an Owner, with knowledge of any such violation or breach, shall not be deemed a waiver of such violation or breach; and no waiver by the Board or any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board. This Section also extends to the Declarant or Declarant's managing agent exercising the power of the Board during the initial period of operation of the Association.

ARTICLE 6 RECORDS AND AUDITS

6.1 **General Records.** The Board shall keep detailed records of the actions of the Board and minutes of Board and Association meetings. The Board shall maintain a list of Owners entitled to vote at Association meetings and a list of all Mortgagees of Lots. The Board shall maintain, at the office of the Association, a copy suitable for duplication of the following: the Declaration, the Bylaws, any Rules and Regulations and any amendments thereto, the most recent annual financial statement of the Association, the current operating budget of the Association, and any other documents required by the PCA to be so maintained. Such documents shall be made reasonably available for inspection and duplication by Owners, Mortgagees, and prospective purchasers of Lot upon written request therefrom. All Association documents and records shall be maintained within the State of Oregon at all times.

6.2 **Records of Receipts and Expenditures.** The Board or its designee shall keep detailed, accurate records in chronological order of receipts and expenditures affecting the Common Property and Commonly Maintained Property, itemizing maintenance and repair expenses. Such records and the budgets authorizing the payments shall be available for examination by the Owners and Mortgagees during normal business hours.

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

6.4 **Annual Reports and Audits.** An annual financial statement of the Association, consisting of at least a balance sheet and income and expense statement for the preceding fiscal year, shall be rendered by the Board and delivered to all Owners and to all Mortgagees of Lots

who have requested the same, within ninety (90) days after the end of each fiscal year. The Treasurer of the Association shall file required state and federal tax returns based upon the annual financial statements. An Annual Report shall be filed each year with the Oregon Real Estate Agency as required under ORS 100.415(13), 100.250(b) and 100.260(2). At any time any Owner or Mortgagee may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

6.5 **Notice of Sale, Mortgage, Rental or Lease.** Immediately upon the closing of any sale, mortgage, rental or lease of any Lot, the Owner shall promptly inform the Secretary of the name and address of the purchaser, mortgagee, lessee, or tenant. The foregoing notification requirement is in addition to any notice required in the Declaration.

ARTICLE 7 OCCUPATION AND USE

7.1 **Generally.** The Lots may be occupied and used only in compliance with the Declaration and such other restrictions and terms as provided herein.

7.2 **Effect on Insurance.** Nothing shall be done or kept in or on the Common Property which will increase the rate of insurance on the Common Property without the prior written consent of the Board. No Owner shall permit anything to be done or kept in or on the Common Property which will result in the cancellation of insurance on the Common Property or which would be in violation of the law.

7.3 **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon the Development, Lot, Common Property or any part thereof, nor shall anything be done or placed in, on or under any part of the Development or any Lot or Common Property which unreasonably interferes with or jeopardizes the enjoyment of the Development, or which is a source of unreasonable annoyance to residents or neighbors. No unlawful use shall be made of the Development or any part thereof, and all laws, zoning ordinances, regulations or any other legal requirements of all governmental authorities having jurisdiction thereof ("**Legal Requirement**") shall be strictly complied with. Each Owner shall pay and shall defend, save harmless, and indemnify the Board, the Association, and each other Owner against all liability, loss or damage which any of them respectively shall suffer by reason of any Owner's contest or, or any noncompliance with, a Legal Requirement, including attorneys' fees and other expenses incurred. If any Owner conducts any activity or fails to comply with any Legal Requirement that increases the insurance premiums on insurance carried by the Association, or for which the Association is directly or indirectly responsible, such Owner shall pay such increased premium to the Association, upon demand, and if not so paid, such amount shall bear interest after the date of such demand at the rate provided herein.

7.4 **Association Rules and Regulations.** The Board is empowered to pass, amend or revoke detailed administrative rules and regulations necessary or convenient from time to time in accordance with the Declaration.

ARTICLE 8 INSURANCE

8.1 **Association Insurance Coverage.** The Board shall obtain and maintain at all times as a Common Expense the insurance required by the PCA and such additional insurance that the Board deems advisable, which shall include but not be limited to the following:

8.1.1 **Fire and Extended Coverage Insurance.** The Board shall obtain and maintain at all times a policy or policies of property insurance covering fire and other risks covered under special form "all-risk" coverage (including vandalism, malicious mischief, sprinkler leakage, debris removal, cost of demolition, windstorm, and water damage endorsements,) in an amount as near as practicable to the full insurable replacement value (without deduction for depreciation) of any improvements on the Common Property. The Board shall be named as the insured in such policy or policies and, as trustee for the benefit of Owners and Mortgagees as their interests may appear. All such policies shall contain the standard mortgage clause, or equivalent endorsement, that is commonly accepted by private institutional mortgage investors in the area in which the Development is located. The Board shall cause certificates of insurance to be issued to each Lot Owner and Mortgagee upon request. All insurance shall be obtained from an insurance carrier rated A- (and rated as in Class IX or better financial condition) by Best's Insurance Reports or equivalent rating service, and licensed to do business in the State of Oregon.

8.1.2 **Commercial General Liability Insurance.** The Board shall at all times maintain commercial general liability insurance insuring the Association, Lot Owners, Board, Declarant, and its managing agent against liability to the public or to individual Lot Owners. Such insurance shall include liability for water damage, liability for damage to property of others, contractual liability, non-owned automobile liability, and liability for maintenance or use of the Common Property. The liability under which insurance must be determined by the Board after consultation with insurance consultants, but not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and/or property damage arising out of a single occurrence (such policy limits to be reviewed at least annually by the Board and increased in its discretion).

8.1.3 **Worker's Compensation Insurance.** The Board shall obtain and maintain at all times a policy or policies of worker's compensation insurance to the extent required by applicable laws.

8.1.4 **Insurance Against Loss.** The Board shall obtain and maintain at all times insurance against loss of or to personal property of the Association by fire, theft, and other causes, with deductible provisions as the Board deems reasonably advisable.

8.1.5 **Other Insurance.** The Board shall maintain such other insurance as the Board deems advisable.

8.2 **Owner's Insurance Coverage.** Each Owner at his/her own expense shall maintain adequate casualty insurance covering such Owner's Lot and all improvements thereon for their full insurable value. Any such policy or policies of insurance shall contain waivers of subrogation against the Association, its manager, agents, employees and servants, and against the other Owners and any members of their households, except for vehicle impact, arson and fraud. Each Owner shall file a copy of such individual policy or policies with the Board within thirty (30) days after written request from the Board.

8.3 **Insurance Proceeds.** Insurance proceeds for damage or destruction to any part of the Common Property shall be paid to the Board on behalf of the Association, which must segregate such proceeds from other funds of the Association for use and payment as provided in the Bylaws and the Declaration. The Association, acting through its Board, has the sole authority to purchase and maintain appropriate insurance (including the collection and disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all necessary documents and the performance of all other acts necessary to accomplish such purpose) as attorney-in-fact of all Owners, and any insurer may accept a release and discharge of liability made by the Board on behalf of the named insureds under the policy. The Board's authority to act as attorney-in-fact of the Owners for such purpose is coupled with an interest and is irrevocable.

ARTICLE 9 AMENDMENTS TO BYLAWS

9.1 **How Proposed.** Amendments to the Bylaws shall be proposed by either a majority of the Board or by any Owner. The proposed amendment must be in writing and shall be included in the notice of any meeting at which action is to be taken thereon. No amendment may conflict with the Declaration unless the Declaration is also amended.

9.2 **Adoption.** A resolution adopting a proposed Bylaws amendment may be offered by either the Board or Owners and may be approved by the Owners at a meeting called for this purpose. Owners not present at the meeting considering such amendment may express their approval in writing or by proxy delivered to the Board at or prior to such a meeting. Subject to the provisions of the Declaration and these Bylaws otherwise, any resolution shall be approved by Owners holding at least fifty-one percent (51%) of the votes of the Lots, except for amendments changing voting requirements and occupancy or use restrictions which shall require approval by all Owners and except that any provision of these Bylaws that is required to

be in the Declaration may be amended only in accordance with the requirements governing the amendment of the Declaration.

9.3 **Execution and Recording.**

A Bylaw amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws, approved by the Oregon Real Estate Commissioner if required by law, and recorded as required by law.

**ARTICLE 10
MISCELLANEOUS**

10.1 **Notices.** All notices to the Association or Board shall be sent to the principal office of the Association or to such other address as the Board may hereafter designate from time to time by written notice thereof to each Owner. All notices to any Owner shall be sent to such home or business address, facsimile number or electronic mail address as may have been designated by that Owner from time to time, in writing, to the Board, or if no address has been designated, then to the Owner's Lot. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first class postage paid. If sent by electronic mail or facsimile, such notice shall be deemed delivered one business day after sending by such means, unless the sender is notified of failure of such delivery by such means.

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

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

10.4 **Action Without a Meeting.**

Any action which the PCA, Declaration or Bylaws require or permit the Owners or Board to take at a meeting may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all Owners or Directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the Owners or Board, shall be filed in the Association minutes.

10.5 **Conflicts; Severability.** Each term and provision of these Bylaws shall be valid and enforceable to the fullest extent permitted by law. If any term or provision of these Bylaws or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, whether under the PCA or otherwise, the remainder of these Bylaws and the

application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby. These Bylaws are intended to comply with the PCA and the Declaration. In case of any irreconcilable conflict, the PCA and the Declaration shall control over these bylaws, any amendments hereto or any Rules and Regulations adopted hereunder.

10.6 **Rules of Order.** Robert's Rules of Order (latest edition) shall govern the conduct of Association and Board proceedings when not in conflict with the Declaration, the Articles, these Bylaws or Oregon law. A decision of the Association or its Board may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied. A decision of the Association or its Board is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

10.7 **Liability Survives Termination.** The sale or other disposition of a Lot shall not relieve or release any former Owner from any liability or obligation incurred or in any way connected to said ownership, nor shall such termination impair any rights or remedies which the Association may have against such former Owner arising out of or in any way connected with such ownership and the covenants and obligations incident thereto.

The undersigned Declarant of the subject property has caused these Bylaws to be executed.

City Center Development Partners Corp
an Oregon corporation

By: Nathaniel A. Palmer
Its: President
Date: _____

STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me on this __ day of _____, 202__
by Nathaniel A. Palmer, President of City Center Development Partners Corp, an Oregon Corporation.

NOTARY PUBLIC FOR _____
My Commission Expires: _____