

After recording return to:  
Vial Fotheringham LLP  
7000 SW Varns St  
Portland, OR 97223-8003

**NOTICE OF PLANNED COMMUNITY  
UNDER ORS 94.572**

**NAMED OF ASSOCIATION**

This Notice of Planned Community is recorded pursuant to ORS 94.572(8) for Ochoco West Property Owner's Association, an Oregon nonprofit corporation (the "Association").

**PROPERTY WITHIN THE JURISDICTION OF THE ASSOCIATION**

The following property is subject to the jurisdiction of the Association and subject to specific provisions of the Oregon Planned Community Act:

Golden Horseshoe Ranch Homes Unit 1 recorded July 6, 1965 in the Plat Records of Crook County, Oregon.

**GOVERNING DOCUMENTS**

Ochoco West is a planned community governed by the following documents recorded in the Records of Crook County, Oregon:

Declaration of Reservations and Restrictions recorded September 16, 1966 in Book 95, Page 216, in the Deed Records of Crook County.

Ochoco West Property Owners' Association Declaration of Protective Covenants" recorded July 17, 1983 as microfilm #69355.

Bylaws of Ochoco West Property Owner's Association recorded concurrently with this Notice of Planned Community Under ORS 94.572.

Plat of Golden Horseshoe Ranch Homes Unit 1 recorded July 6, 1965 in the Plat Records of Crook County, Oregon.

**APPLICABLE PROVISIONS OF  
THE OREGON PLANNED COMMUNITY ACT**

As of January 1, 2002, Ochoco West is a planned community and subject to the Oregon Planned Community Act as provided in ORS 94.572(1)(a). The statutes specified in ORS 94.572(1)(a) are applicable to Ochoco West Property Owner's Association to the extent those statutes are consistent with the governing documents set forth above.

**OCHOCO WEST PROPERTY OWNERS'S ASSOCIATION**

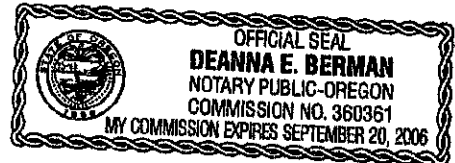
*Donald R. Petrusse*  
President  
4-14-04  
Date

*Paul E. Hoberg*  
Secretary  
4/14/04  
Date

STATE OF OREGON )  
County of Crook ) ss

This instrument was acknowledged before me on April 14, 2004 by Donald R. Petrusse as President of the Ochoco West Property Owners' Association and by Paul E. Hoberg as Secretary of the Ochoco West Property Owners' Association.

*Deanna E. Berman*  
Deanna E. Berman, Notary Public - State of Oregon  
My Commission Expires 09/20/2006



**BYLAWS  
OF  
OCHOCO WEST PROPERTY OWNERS' ASSOCIATION**

These Bylaws of Ochoco West Property Owners' Association are made this 29th day of September 2003 by Ochoco West Property Owner's Association, an Oregon nonprofit corporation ("Association").

**RECITALS**

A. Golden Horseshoe Ranch Unit 1 (also known as "**Ochoco West**") is a Planned Community located in Crook County, Oregon, established pursuant to the following documents:

Declaration of Protective Covenants, recorded July 11, 1983 as MF #69355, Records of Crook County, Oregon ("**Declaration**").

Plat of Golden Horseshoe Ranch Unit 1 recorded July 6, 1965 in the Plat Records of Crook County, Oregon ("**Plat**").

B. As of January 1, 2002, Ochoco West is a Class II Planned Community and subject to the provisions of the Oregon Planned Community Act (ORS 94.550 to 94.783) as provided in ORS 94.572.

C. Association is the association of owners formed pursuant to the Declaration and ORS chapter 61, the Oregon nonprofit corporation law then in effect, the articles of incorporation of which were filed April 30, 1981 in the office of the Oregon Corporation Commissioner and restated by Restated Articles of Incorporation of Ochoco West Property Owners' Association filed June 20, 1983. The Restated Articles of Incorporation were decreed to be binding on all lots and lot owners in Ochoco West by Order of the Crook County Circuit Court entered May 1<sup>st</sup>, 1984, in Case No. 13620.

D. The Association is now subject to ORS chapter 65, the current Oregon Nonprofit Corporation Act, and the Oregon Planned Community Act to the extent provided for under ORS 94.572.

D. The Association has not adopted bylaws as required under ORS 65.061.

**NOW, THEREFORE**, pursuant to ORS 94.630(1)(a) and 65.061, the Board of Directors, on behalf of the Association, adopts the Bylaws set forth below.

**ARTICLE I**  
**DEFINITIONS**

When used in these Bylaws the following terms shall have the following meanings:

1.1 **“Articles of Incorporation”** means Restated Articles of Incorporation of the Ochoco West Property Owners’ Association filed July 20, 1983, in the office of the Oregon Corporation Commissioner.

1.2 **“Assessment”** means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the provisions of the Declaration or these Bylaws or the provision of ORS 94.550 to 94.783.

1.3 **“Association”** means Ochoco West Property Owners’ Association or “Corporation,” as defined under Section 1 of the Declaration.

1.4 **“Association Property”** means any real property or interest in real property located outside the Planned Community which is acquired, held, maintained or possessed by the Association.

1.5 **“Bylaws”** means these Bylaws as they may be amended from time to time.

1.6 **“Common Expenses”** means expenditures made by or financial liabilities incurred by the Association.

1.7 **“Common Property”** means any real property or interest in real property within the Planned Community which is owned, maintained, held or leased by the Association or owned as tenants in common by the lot owners.

1.8 **"Declaration"** means Declaration of Protective Covenants, recorded July 11, 1983 as Document No. 98-08418, Records of Crook County, Oregon.

1.9 **"Lot"** means a lot numerically designated on the plat of Golden Horseshoe Ranch Unit No.1 recorded July 6, 1965 in Volume 24, Page 8, Plat Records of Crook County, Oregon.

1.10 **"Mortgage"** and **"Mortgagee"** mean, respectively, a recorded mortgage, trust deed, or contract of sale and the holder, beneficiary, or vendor of such instrument.

1.11 **"Percent of Owners"** or **"Percentage of Owners"** means the percent of the voting rights allocated under Section 3.1 below.

1.12 **"Planned Community"** means Golden Horseshoe Ranch Unit No.1 recorded July 6, 1965 in Volume 24, Page 8, Plat Records of Crook County, Oregon.

1.13 **Incorporation By Reference.** Except as otherwise provided in these Bylaws, each of the terms used in these Bylaw that are defined in ORS 94.550, a part of the Oregon Planned Community Act, shall have the meanings set forth in such section unless the context clearly indicates a different meaning.

## ARTICLE II

### **PLAN OF OWNERSHIP; DEFINITIONS**

2.1 **Name and Location.** These are the Bylaws of Ochoco West Property Owners' Association ("Association"). Ochoco West is a Class II Planned Community, consisting of 526 lots, located in the Crook County, Oregon, subject to those provisions of the Oregon Planned Community Act (ORS 94.550 to 94.783) specified in ORS 94.572. The Planned Community is more specifically described as follows:

Golden Horseshoe Ranch Unit 1 recorded July 6, 1965 in Vol. 24, Page 8, Plat Records of Crook County, Oregon.

2.2 **Purposes.** The Association is formed under the provisions of the Declaration and Oregon Planned Community Act to serve as the means through which the Owners may take action with regard to administration, management, and operation of the Planned Community.

2.3 **Powers and Duties.** The Association shall have such powers and duties as may be granted to it by the Oregon Planned Community Act, including each of the powers set forth in ORS 94.630 as such statute may be amended to expand the scope of association powers, together with such additional powers and duties afforded by the Declaration, these Bylaws, Articles of Incorporation and the Oregon Nonprofit Corporation Act, ORS Chapter 65.

2.4 **Applicability of Bylaws.** The Association and all Owners and all persons using the Planned Community property shall be subject to these Bylaws and to all rules and regulations which may be promulgated hereunder.

2.5 **Composition of the Association.** The Association shall be composed of all the lot Owners in the Planned Community and the Association, itself, to the extent it owns any lot or lots in the Planned Community.

2.6 **Incorporation.**

(a) The Association shall be incorporated under the Oregon Nonprofit Corporation Act. The Articles of Incorporation shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the Bylaws of the incorporated Association. The name of the Association shall be Ochoco West Property Owners' Association.

(b) In the event the Association shall at any time be dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers and obligations of the incorporated association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, which vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any such successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the incorporated association as if they had been made to constitute the governing documents of the unincorporated association.

### ARTICLE III

#### VOTING

3.1 **Voting.** Each Lot shall be allocated one vote in the affairs of the Association as provided in the Restated Articles of Incorporation. The Board of Directors shall be entitled to vote on behalf of any Lot which has been acquired by or on behalf of the Association, except the

Board of Directors shall not be entitled to vote such Lots in any election of directors.

3.2 **Determination of Membership in the Association.**

(a) Upon recording of a conveyance or contract to convey a Lot, the grantee or purchaser named in the conveyance or contract shall automatically be a member of the Association and shall remain a member of the Association until such time as the person's ownership ceases for any reason. The rights, obligations and other entitlements granted to or imposed upon an owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of ownership, but termination of ownership shall not discharge an owner from obligations incurred prior to termination.

(b) Ownership shall be determined, for all purposes of the Declaration and these Bylaws, and the administration of the Planned Community, from the record of ownership maintained by the Association. The record shall be established by the Owner filing with the Association a copy of the deed or land sale contract for the Lot, to which shall be affixed the certificate of the recording officer of Crook County, Oregon, showing the date and place of recording of the deed or contract.

(c) The Board of Directors shall cause to be issued a certificate of membership in the Association to each owner as provided in Article IV of the Articles of Incorporation.

3.3 **Proxies, Absentee Ballots and Rights of Mortgagees.**

(a) **Proxies**

(1) A vote may be cast in person or by proxy. A proxy given by an owner to any person who represents the owner at meetings of the Association shall be in writing, dated and signed by such owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board of Directors.

(2) No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than a year after the date of execution.

(3) No proxy shall be valid if it purports to be revocable without

notice.

(4) An owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 4.7 below.

(5) Every proxy shall automatically cease upon sale of the Lot by its owner.

(b) Absentee Ballots. At the discretion of the Board of Directors, a vote may be cast by absentee ballot.

(c) Mortgage Rights.

(1) An Owner may pledge or assign the owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the owner is entitled hereunder and to exercise the owner's voting rights from and after the time that the Mortgagee shall have given written notice of the pledge or assignment to the Board of Directors.

(2) Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

### 3.4 Fiduciaries and Joint Owners.

(a) Fiduciaries. 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 the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity.

(b) Joint Owners. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the 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 a 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 the Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

### 3.5 Quorum of Owners.

(a) At any meeting of the Association, owners holding twenty percent (20%) of the voting rights, present in person or by proxy, or absentee ballot if permitted under Section 3.3(b) above, shall constitute a quorum.

(b) The subsequent ratification of an owner, in the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an owner or owners.

(c) If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. For each adjourned meeting, the quorum requirement shall be reduced by one-fourth (1/4) of the quorum requirement of the previous meeting. The adjournment provisions of this subsection (c) do not apply to action by written ballot in lieu of a meeting under Section 4.7 below.

3.6 **Binding Vote.** The vote of the holders of more than fifty percent (50%) of the voting rights present, in person or by proxy or absentee ballot if permitted under Section 3.3(b) above, at a meeting at which a quorum is constituted shall be binding upon all s for all purposes except where

a higher percentage vote is required by law, the Declaration, or these Bylaws.

## ARTICLE IV

### MEETINGS OF THE ASSOCIATION

4.1 **Place of Meeting.** The Association shall hold meetings at such suitable place convenient to the owners as may be designated by the Board of Directors from time to time.

4.2 **Annual Meetings.** The Association shall hold at least one meeting of the owners each calender year. The annual meetings of the Association shall be held on or about March 1<sup>st</sup> of each year at such hour as the president may designate, or if the president should fail to designate a date by the 31<sup>st</sup> of January, then on March 15<sup>th</sup> of each year. The annual meetings shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

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

4.4 **Notice of Meetings.**

(a) Notice of all meetings of the Association stating the date, time and place and the objects for which the meeting is being called, shall be given by the president or secretary. All notices shall be in writing and mailed to each owner at his or her address as it appears on the books of the Association and to any first mortgagee requesting such notice in writing not less than ten (10) days nor more than fifty (50) days prior to the date of the meeting, except as otherwise provided in the Declaration.

(b) Proof of such mailing shall be given by the affidavit of the person giving the notice.

(c) Notice of the meetings may be waived by any owner before or after meetings.

(d) 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 the adjournment takes place.

4.5 **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.

4.6 **Meeting Procedure.** Unless other rules of order are adopted by resolution of the Board of Directors:

(a) Meeting of the Association shall be conducted according to the latest edition of Robert's Rules of Order published by the Robert's Rules Association.

(b) A decision of the Association may not be challenged because the appropriate rules of order were not used unless a person entitled to be heard was denied the right to be heard and raised an objection at the meeting in which the right to be heard was denied.

(c) A decision of the Association is deemed valid without regard to procedural errors related to the rules of order one year after the decision is made unless the error appears on the face of a written instrument memorializing the decision.

4.7 **Action By Written Ballot In Lieu of a Meeting.**

(a) **Action By Written Ballot.** At the discretion of the Board of Directors, any action, except election or removal of directors, that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association, subject to the requirements of Subsection (d) of this section, delivers a written ballot to every owner that is entitled to vote on the matter not less than twenty (20) days prior to the date on which the ballots must be received by the Association in order to be counted.

(b) **Form and Effect of Ballot**

(1) The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(2) A written ballot may not be revoked.

(c) Information Required in Ballot Solicitations. All solicitations for votes by written ballot must:

(1) State the number of responses needed to meet any applicable quorum requirements and the total percentage of votes needed for approval.

(2) Specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of the following unless the vote is pursuant to the secrecy procedure described in Subsection (d) of this section:

(A) The date on which the Association has received a sufficient number of approving ballots to pass the proposal;

(B) The date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage; or

(C) A date certain on which all ballots must be returned to be counted.

(d) Secrecy Procedure.

(1) The Board of Directors must provide owners with at least ten (10) days' notice before written ballots are mailed or otherwise delivered. The notice shall be delivered in the manner prescribed by the Board and must inform the owners that if at least three (3) days before written ballots are scheduled to be mailed or otherwise distributed, which date shall be stated, at least ten percent (10%) of the owners petition the Board of Directors requesting the secrecy procedure, the procedure specified in Paragraph (2) of this subsection must be followed.

(2) If at least three 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 the secrecy procedure, a written ballot must be accompanied by:

(A) A secrecy envelope;

and (B) A return identification envelope to be signed by the owner;

(C) Instructions for marking and returning the ballot.

(e) Determination of Vote. The outcome of a vote by written ballot in lieu of a meeting shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

(1) 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 owners has voted and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected.

(2) If approval of a proposed action otherwise would require a meeting at which a specified percentage of 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.

(3) Except as provided in Subsection (e)(4) of this Section 4.7, 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.

(4) Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(f) Owner Notification of Ballot Results. Each owner shall be notified within ten (10) days after the ballots have been counted, by mail or other delivery of written notice, of the results of the ballot meeting or that a quorum of ballots was not returned.

#### 4.8 Action Without a Meeting.

(a) Any action that may be taken at any annual, regular or special meeting of the Association, may be taken without a meeting and without solicitation of written ballots pursuant to Section 3.8 above, if the action is taken by all of the owners entitled to vote on the action.

(b) The action must be evidenced by one or more written consents describing the action taken, signed by all of the owners entitled to vote on the action, and delivered to the Association for inclusion in the minutes or filing with the Association records.

(c) Action taken under this section is effective when the last owner signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

## **ARTICLE V**

### **BOARD OF DIRECTORS**

#### **5.1 Number and Qualification.**

(a) Number. The affairs of the Association shall be governed by a Board of Directors composed of five (5) directors as provided in Section 5.2 below.

(b) Qualifications. All directors shall be an owner or the co-owner of a Lot. However, multiple owners of the same lot may not serve as directors simultaneously. An officer or employee of a corporation, a partner of a partnership, a trustee of a trust, a personal representative of an estate or an employee of a trust or estate, may serve on the Board if the corporation, partnership, trust or estate owns a lot.

#### **5.2 Election and Term of Office.**

(a) Election. At the Annual Meeting held in accordance with Section 4.2 above, at which a quorum is present, five (5) directors shall be elected by a majority of the owners present in person or by proxy or absentee ballot if permitted under Section 3.3(b) above..

(b) Term. Directors shall hold office for a term of one (1) year or until their respective successors have been elected by the Owners. Election shall be by plurality.

5.3 **Vacancies.** Vacancies on the Board of Directors, caused by any reason other than the removal of director by a vote of the Association pursuant to Section 5.4 below, shall be filled for the balance of the term of each directorship by vote of a majority of the remaining directors even though they may constitute less than a quorum. Each person so elected shall be a director until a successor is elected upon expiration of the term for which such person was elected by the other directors to serve.

5.4 **Removal of Directors.** At any annual or special meeting, other than a meeting by written ballot conducted pursuant to Section 4.8 above, any one or more of the directors may be removed, with or without cause, by a majority of the owners present in person or by proxy, at a duly constituted meeting and a successor may be elected at that meeting or at any other duly constituted meeting of the Association to fill the vacancy thus created. The notice of any such meeting shall state that the removal is to be considered. Any director whose removal has been proposed by the Owners may be given an opportunity to be heard at the meeting.

5.5 **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

5.6 **Other Duties.** In addition to duties imposed by the Declaration, these Bylaws or by resolutions of the Association, the Oregon Planned Community Act, as it may be amended from time to time to increase the scope of Association powers, the Oregon Nonprofit Corporation Act or other applicable law, the Board of Directors shall have authority to carry out and be responsible for the following matters:

(a) **Maintenance of Common Property and Association Property.** Care, upkeep, and supervision of any Common Property in accordance with the Declaration, these Bylaws;

(b) **Association Accounts.** Establishing and maintaining the accounts described in Section 7.5 below.

(c) **Assessment Collection.** Designation and collection of assessments from the owners in accordance with these Bylaws, the Declaration, and the Oregon Planned Community Act.

(d) **Budget/Voucher System.** Establishment of a budget for payment of all

Common Expenses of the Association, and institution and maintenance of a voucher system for payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of the Association's funds.

(e) Personnel. Designation and dismissal of the personnel necessary for the maintenance and operation of the Planned Community.

(f) Financial Statement. The preparation and distribution of annual financial statement of the Planned Community to each owner in accordance with Section 11.5 below.

(g) Rules. Promulgation, adoption, and amendment of administrative rules and regulations governing the details of operation and use of the Common Property and Association Property and rules of conduct for owners, employees, and invitees which shall be consistent with the restrictions, limitations and requirements of the Declaration.

(h) Enforcement. Enforcement by legal means of the provisions of the Declaration, these Bylaws and any rules and regulations adopted thereunder and Oregon Planned Community Act,

(i) Insurance. Obtaining and maintaining insurance policies and payment of premiums therefor as a Common Expense in respect to the Common Property or Association Property as more specifically provided in Article IX below.

(j) Insurance Review. At least annually, the review of the insurance coverage of the Association as provided in Article IX below.

(k) Annual Report. The filing of the Annual Report with the Oregon Secretary of State in accordance with ORS chapter 65.

(l) Income Tax Return. Preparation or causing to be prepared and filed any required income tax returns or forms.

(m) Copies of Documents. Compliance by the Association with ORS 94.670 relating to maintenance of Association records and maintenance of copies suitable for duplication of the documents specified in ORS 94.670.

(n) Appointment of Committees. Establishment of such committees and appointment of members thereof pursuant to a resolution of the Board of Directors, as the Board in its sole judgement deem necessary or appropriate to assist the Board in its duties.

5.7 Management Agent. The Board of Directors may employ a management agent, to be compensated in an amount established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed in Section 5.6 above.

5.8 Organizational Meeting.

(a) Location, Date and Time. The first meeting of a newly-elected Board of Directors shall be held within ten (10) days of election at such place, date and time as shall be fixed by the directors at the meeting at which the directors were elected and no notice shall be necessary to owners or to the newly elected directors in order to legally hold the meeting providing a majority of the elected directors are present.

(b) Procedure and Business. Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary, regardless of whether the outgoing president or secretary is as member of the newly constituted board. At the organizational meeting, the Board of Directors shall elect officers in accordance with Section 6.2 below and may conduct any other Association business.

5.9 Regular and Special Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Special meetings of the Board of Directors may be called by the president or secretary or on the written request of at least two (2) Directors. Notice of any regular or special meeting shall be given to each director, personally or by mail, including electronic mail if approved by the Board, telephone, or telegraph at least ten (10) days prior to the day named for the meeting and must state the time, place, and purpose of the meeting.

5.10 Meeting Procedure. Unless other rules of order are adopted by resolution of the Board of Directors:

(a) Meeting of the Board of Directors shall be conducted according to the last edition of Robert's Rules of Order published by the Robert's Rules Association.

(b) A decision of the Board of Directors 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.

(c) A decision of the Board of Directors 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.

#### 5.11 **Open Meetings; Executive Sessions.**

(a) **Open Meetings.** Except as provided in Subsection (b) of this section, all meetings of the Board of Directors shall be open to lot owners. However, no owner shall have a right to participate in the Board of Directors meeting unless the owner is also a member of the Board. The president shall have the authority to exclude an owner who disrupts the proceedings at a Board meeting.

(b) **Executive Sessions.** In the discretion of the Board, the following matters may be considered in executive session:

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

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

(3) The negotiation of contracts with third parties;

(4) Collection of unpaid assessments; and

(5) Any other matters permitted under ORS 94.640 as it may be amended from time to time.

(c) **Executive Session Procedure.**

(1) Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board votes to meeting in executive session, the president or other 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. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

(2) A contract or an action considered in executive session does not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

5.12 **Meetings by Telephonic or Electronic Communication.** If permitted under ORS 94.640, meetings of the Board of Directors may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Board of Directors participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

5.13 **Notice to Owners of Meetings of Board.** For other than emergency meetings, notice of each Board of Directors meeting must be given to any owner who has requested in writing to be given notice of meetings of the Board. Notice to owners shall be as provided under Section 5.9 above.

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

5.15 **Quorum and Acts .** At all meetings of the Board of Directors a majority of the existing directors shall constitute a quorum for the transaction of business and the acts of the majority of the directors present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

5.16 **Compensation of Directors.** No director may be compensated in any manner, except for out-of-pocket expenses, unless the compensation is approved by a binding vote of the owners

5.17 **Standards of Conduct.** In the performance of their duties, members of the Board of Directors shall be governed by ORS 94.640 and ORS 65.357, 65.361 and 65.369.

5.18 **Liability and Indemnification of Directors, Officers, Manager, or Managing Agent.**

(a) The directors and officers shall not be liable to the Association for any mistake of judgment, negligence, or otherwise except for their own willful misconduct or bad faith.

(b) The Association shall indemnify and hold harmless each director and officer and the manager or managing agent, if any, against all contractual liability to others arising out of contracts made by the Board of Directors, officers, manager, or managing agent on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these Bylaws.

(c) Each director and officer and the manager or managing agent, if any, 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, officer, manager or managing agent and shall be indemnified upon any reasonable settlement thereof; provided, however, there shall be no indemnity if the director, officer, manager, or managing agent is adjudged guilty of willful nonfeasance, misfeasance, or malfeasance in the performance of his or her duties.

5.19 **Fidelity Bond.** The Board of Directors shall require any person or entity, including, but not limited to, employees of any professional manager who handles or is responsible for Association funds, to furnish such fidelity bond as the Board of Directors deem adequate. The premiums on such bonds shall be paid by the Association.

5.20 **Insurance.** The Board of Directors shall obtain the insurance required in Article IX below. In addition, the Board of Directors, in its discretion, may obtain such other insurance as it deems necessary to protect the interests of the Association or Owners. The Board of Directors shall conduct an annual insurance review in accordance with Section 5.6(j) above.

## **ARTICLE VI**

### **OFFICERS**

6.1 **Designation and Qualification.** The principal officers of the Association shall be a president, a secretary, and a treasurer, all of whom shall be Owners or co-owners. The directors may designate the office of assistant treasurer, assistant secretary, or any such other office as in their judgment may be necessary. The president shall be a member of the Board of Directors, but the other officers need not be directors or owners.

6.2 **Election and Vacancies.** The officers of the Association may be elected by the Board of Directors at the organizational meeting of each new board held in accordance with Section 5.8 above or any Board of Directors' meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes 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.

6.3 **Removal of Officers.** Officers shall hold office at the pleasure of the Board of Directors. Upon an affirmative vote of a majority of the members of the Board of Directors any officer may be removed, either with or without cause.

6.4 **President.** The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. The president shall have all of the general powers and duties which are usually vested in the office of president of an association.

6.5 **Secretary.** The secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association, have charge of such books and papers as the Board of Directors may direct, and in general, perform all the duties incident to the office of secretary.

6.6 **Treasurer.** The treasurer shall have responsibility for the Association's funds and securities not otherwise held by the managing agent, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board of Directors.

6.7 **Directors as Officers.** Any director may be an officer of the Association.

6.8 **Compensation of Officers.** No officer who is a member of the Board of Directors may receive any compensation from the Association for acting as an officer, unless the

compensation is authorized by a binding vote of the owners. The Board of Directors may fix any compensation to be paid to any officers who are not also directors.

6.9 **Standards of Conduct.** In the performance of their duties, officers shall be governed by ORS 94/640 and ORS 65.377.

## **ARTICLE VII**

### **ASSESSMENTS**

#### **7.1 Budget.**

(a) **Adoption.** The Board of Directors shall, from time to time and at least annually, prepare a budget for the Association, estimate the Common Expenses expected to be incurred, less any previous over assessment. If the Board of Directors fails to adopt an annual budget, the last adopted budget shall continue in effect.

(b) **Budget Summary.** Within thirty (30) days after adopting the annual budget for the Association, the Board of Directors shall provide a summary of the budget to all owners.

7.2 **Determination of Assessments.** The assessment of lots may include the following items which shall be Common Expenses:

- (a) Expenses of administration;
- (b) Expenses of maintenance, repair, or replacement of roads or any other portions of the Planned Community required to be maintained by the Association pursuant to the Declaration or these Bylaws or by law;
- (c) Cost of insurance or bonds obtained in accordance with these Bylaws;
- (d) Reserve for major maintenance and replacements if established under Section 7.5 below;

- (e) Any deficit in Common Expenses for any prior period;
- (f) The cost of utilities for Common Property or Association Property and other utilities that have a common meter or that are commonly billed.
- (g) Cost of maintenance, repair or replacement of Association Property as the Board may determine to be reasonable and in the best interest of the Association.
- (h) Expenses permitted under Article III of the Articles of Incorporation.
- (i) Any other items properly chargeable as an expense of the Association.

7.3 **Assessment of Lots.** The Board of Directors, on behalf of the Association, shall assess the owners, from time to time and at least annually. Common Expenses shall be allocated equally among all lots.

7.4 **Obligation to Pay Assessments.**

(a) All unit owners shall be obliged to pay the following types of assessments imposed by the Board of Directors on behalf of the Association pursuant to these Bylaws and the Declaration.

(1) Regular Assessments for the following:

(A) Operating Expenses permitted under Section 7.2 above relating to the operation of the Planned Community which expenses may include items other than those specified in Section 7.2(d) above.

(B) Reserve expense if required under Section 7.6 below.

(2) Special or Extraordinary Assessments as provided in Section 7.7 below.

(3) Assessments for any other charges levied by the Association.

(b) Assessments may not be waived due to limited or non-use of Common Property or Association Property, and no lot owner may offset amounts owing or claimed to be owing by the Association to the owner against the owner's obligation to pay assessments.

7.5 **Association Accounts.** The Association shall maintain the following accounts and such other accounts as the Board of Directors deems necessary to manage the Association's funds. These accounts shall be identified as the:

(a) General Operating Expense Account ("Operating Account"); and

(b) Major Maintenance and Replacement Reserve Account ("Reserve Account") if required under Section 7.6 below.

(c) The above accounts shall have allocated to them, those amounts from Assessments deemed necessary by the Board for the purposes set forth in these Bylaws.

7.6 **Major Maintenance and Replacement Reserve Account.**

(a) **Establishment of the Reserve Account.** The Board of Directors may establish a Reserve Account for major maintenance and replacement of all items of Common Property or Association Property all or part of which would normally require replacement in more than three (3) or less than thirty (30) years, for exterior painting if the an Common Property or Association Property includes exterior painted surfaces, for other items, whether or not involving Common Property or Association Property, if the Association has responsibility to maintain the items and for such other items as may be required by the Declaration or these Bylaws. The amounts assessed shall take into account the estimated remaining life of the items for which the reserve is created and the current replacement cost of such items. Reserve accounts shall be governed by ORS 94.595. The reserve fund need not include those items:

(1) That could reasonably be funded from operating expenses.; or

(2) For which one or more owners are responsible for maintenance and replacement under the provisions of the Declaration or these Bylaws.

(b) **Funding of Reserve Account.** Any Reserve Account established shall be funded by assessments against individual lots assessed for maintenance of items for which the reserve account is being established which sums may be included in the periodic Assessment for

the lots. Any Assessment for reserves shall be based on:

- (1) The reserve study described in Subsection (c) of this section; or
- (2) Other sources of reliable information.

(c) Determination of Reserve Account: Reserve Study.

(1) If a Reserve Account is established, the Board of Directors annually shall conduct a reserve study, or review and update an existing study, to determine reserve account requirements and may:

(A) Adjust the amount of payments as indicated by the study or update; and

(B) Provide for other reserve items that the Board of Directors in its discretion, may deem appropriate.

(2) The reserve study shall include:

(A) Identification of all items for which reserves are to be established;

(B) The estimated remaining useful life of each item as of the date of the reserve study;

(C) An estimated cost of maintenance, repair or replacement of each item at the end of its useful life; and

(D) A 30-year plan with regular and adequate contribution, adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.

(d) Use of Reserve Fund

(1) The Reserve Account shall be used only for the purposes for which the reserves have been established and is to be kept separate from other funds.

(2) The Board of Directors may borrow funds from the Reserve Account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds.

(3) 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 within a reasonable time of any unpaid borrowed funds.

(4) The Reserve Account may be invested by the Board of Directors subject to normal prudent investment standards.

(e) Reduction, Increase or Elimination of Fund. If a Reserve Account has been established, the Association may:

(1) By an affirmative vote of at least seventy-five percent (75%) of the Owners, elect to reduce or increase future assessments for the Reserve Account; and

(2) On an annual basis by a unanimous vote, elect not to fund the Reserve Account.

(f) Reserve Fund Association Property. Assessments paid into the Reserve Account shall be the property of the Association and are not refundable to owners. Owners may treat their outstanding share of the Reserve Account as a separate item in any agreement for the sale of their lots.

7.7 Special or Extraordinary Assessments. The Board of Directors shall have the power to levy special assessments against an owner or owners in the following manner for the following purposes:

(a) To correct a deficit in the operating budget by a vote of a majority of the Board.

(b) To collect amounts due to the Association from an owner for breach of the owner's obligations under the Declaration, these Bylaws, or the rules and regulations of the Association, by a vote of a majority of the Board.

(c) To maintain, repair or replace Common Property or Association Property if sufficient funds are not available from the Operating Account or Reserve Account if established under Section 6.6 above by a vote of a majority of the Board.

(d) To make capital acquisitions, additions or improvements to the Planned Community or Association Property by a vote of at least seventy-five percent (75%) of the owners present, in person or proxy, at a meeting called for that purpose if the amount of the expenditure will exceed twenty-five thousand dollars (\$25,000).

7.8 **Default in Payment of Assessments.** If an Assessment levied by the Association is not paid within thirty (10) days after its due date, the Assessment shall become delinquent and shall be subject to interest, late payment charges and collection costs as provided under ORS 94.630 and Section 7.11 below. In addition, the Association, subject to the requirements of ORS 94.630(4), shall have and may exercise any remedy available under the Declaration, the Oregon Planned Community or by other law or equity, including the following:

(a) **Association Lien.**

(1) Whenever the Association levies any assessment against a lot, the Association shall have a lien upon the lot for any unpaid Assessments as provided in ORS 94.709. Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. No further recording of a claim of lien for Assessments or notice of a claim of lien is required to perfect the Association's lien.

(2) At any time any Assessment or installment thereof is delinquent, the Association, by and through the Board of Directors or any management agent, may record a notice of lien in the Deed Records of Crook County, Oregon which shall be in the form and include the information specified in ORS 94.709. The Association must record a notice of lien before any suit to foreclosure may proceed as provided in Subsection (b) of this section.

(b) **Foreclosure of Lien.** The Association, by and through the Board of Directors or any management agent, may file a suit to foreclose the lien, notice of which was recorded under Subsection (a) of this section, as provided in ORS 94.709.

(1) In any suit brought by the Association to foreclose a lien on a lot because of 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 the foreclosure suit shall be entitled to the appointment of a receiver to collect the rental.

(2) The Board of Directors, acting on behalf of the Association, shall have the power to purchase the lot at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to (except for the election of a director), convey, or otherwise deal with the lot.

(c) Suit or Action. The Association may bring an action to recover a money judgment for unpaid Assessments under the Declaration or these Bylaws without foreclosing or waiving the lien described in Subsection (a) of this section. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

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

7.9 **Priority of Lien; Prior Mortgages.** The priority of the lien of the Association against a lot for Assessments shall be governed by ORS 94.709.

7.10 **Liability for Unpaid Assessments.**

(a) A lot owner shall be personally liable for all assessments imposed on the lot owner or assessed against the lot.

(b) Subject to ORS 94.723, where the purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or trust deed, the purchaser and the successors and assigns of purchaser shall not be liable for any assessments against the lot which became due prior to the acquisition of title by the purchaser. The unpaid assessments shall be a Common Expense of all lot owners including the purchaser and successors and assigns of purchaser.

7.11 **Interest, Late Payment Charge and Collection Costs.** If any Assessment imposed or levied by the Association pursuant to the provisions of the Declaration, these Bylaws or the Oregon Planned Community Act is not paid within thirty (30) days after its due date, the owner shall be obligated to pay:

(a) Interest from the due date of the Assessment, or such other date as may be specified by resolution of the Board, at the rate of twelve percent (12%) per annum or at such greater rate, not to exceed the maximum lawful rate, if any, as may be established by a resolution of the Board of Directors, from time to time, after a copy of any adopted resolution has been delivered to owners.

(b) A late charge for each Assessment not paid when due as may be established by a resolution of the Board of Directors, not to exceed ten (10) percent of the unpaid Assessment, after a copy of the resolution has been delivered to owners.

(c) All expenses incurred by the Association in collecting unpaid Assessments including attorneys' fees (whether or not an action is brought against the owner or whether or not a suit to foreclose the lien upon the lot granted by the Oregon Planned Community Act is instituted, and at trial or any appeal therefrom). All such expenses shall be an additional Assessment against the owner and owner's lot.

#### 7.12 **Budget Summary and Statement of Assessments.**

(a) Statement of Assessments Payable. The Board of Directors shall advise each owner in writing of the amount of Assessments payable by the owner. The Board shall promptly provide any owner who makes a request in writing with a written statement of the owner's unpaid Assessments.

(b) Budget Summary. Within thirty (30) days after adopting the annual budget, the Board of Directors shall provide a summary of the budget on which Assessments are based to all owners. The Board shall promptly provide any owner who makes a request in writing with a copy of the budget and, if requested, to the owner's Mortgagee.

(c) Statement of Assessment Account.

(1) Subject to Paragraph (2) of this subsection, within ten (10) business days of receipt of a written request by an owner to provide a Statement of Assessment Account, the Board of Directors shall provide the statement which must contain the following information:

(A) The amount of Assessment due from the owner and unpaid at the time the request was received, including:

- (i) Regular and special Assessments
- (ii) Fines and other charges;
- (iii) Accrued interest; and
- (iv) Late payment charges.

(B) The percentage rate at which interest accrues on Assessments that are not paid when due.

(C) The percentage rate used to calculate the charges for late payments or the amount of a fixed charge for late payment.

(2) The Association is not required to comply with Paragraph (1) of this subsection if the Association has commenced litigation.

## **ARTICLE VIII**

### **RULES AND REGULATIONS**

8.1 **Adoption of Rules and Regulations.** In addition to the restrictions and requirements in of the Declaration and these Bylaws, the Board of Directors from time to time may, by resolution, adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the lots, and Common Property and Association Property as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Planned Community.

8.2 **Modification.** Such action may be modified by vote of not less than seventy-five percent (75%) of the voting rights present, in person or by proxy, at any meeting, the notice of which shall have stated that the modification or revocation of rules and regulations will be under consideration.

8.3 **Distribution of Copies.** A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation, shall be delivered by the secretary promptly to each owner and shall be binding upon all owners and occupants of all lots from the date of delivery.

**ARTICLE IX**  
**INSURANCE**

9.1 **Types of Insurance.** For the benefit of the Association and owners the Board of Directors shall obtain and maintain at all times and shall pay as a Common Expense the following insurance to the extent available at reasonable cost.

(a) **Property Damage Insurance.** Property insurance covering loss or damage from occurrences including, but not limited to, fire, vandalism, and malicious mischief with extended coverage endorsement; and such other coverage such as flooding and earthquake, which the Association may deem desirable, for not less than the full insurable replacement value of the Common Property or Association Property. The policy or policies shall name the Association and the owners as insured as their interest may appear and shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each lot, if any.

(b) **Liability Insurance.**

(1) A policy or policies insuring the Association, the Board of Directors, owners, and managing agent, if any, against liability to the public or to the owners and their invitees or tenants incident to the ownership, supervision, control or use of the Planned Community, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from the policy or policies coverage of an owner (other than as a member of the Association or the Board of Directors) for liability arising out of acts or omission of the owner and liability incident to the ownership or use of the part of the property as to which such owner has the exclusive use or occupancy.

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

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

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

(d) Fidelity Insurance.

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

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

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

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

9.2 Insurance by Owners. Each owner and tenant shall be responsible for obtaining, at his or her own expense, the insurance set forth below.

(a) Owners are required to purchase policies insuring their lots, including person property, for any loss or damage. Tenants are required to insure their own personal property for any loss or damage. Insurance maintained by the Association may not be brought into contribution with insurance bought by owners and their mortgagees.

(b) Owners and tenants of all lots shall procure and maintain comprehensive liability policies having combined limits of not less than \$500,000 for each occurrence. The insurance shall provide coverage for, but not limited to, the negligent acts of the owner and tenants and their guests or other occupants of the lot for damage to the Common Property, Association Property and other lots and the personal property of others located therein. Owners

shall be responsible for notifying their tenants of the insurance requirements of this section.

(c) The policies required under this section shall name the Association as an additional insured.

9.3 **Policies.** Insurance obtained by the Association shall be governed by the following provisions:

(a) All policies shall be written with the State of Oregon or a company licensed to do business in the State of Oregon and holding a Commissioner's rating of "A" and a size rating of "AAA" or better by the Best's Insurance Reports, current at the time the insurance is written.

(b) All losses under policies hereafter in force regarding the property shall be settled exclusively with the Board of Directors or its authorized representative. Proceeds of the policies shall be paid to the Association as trustee for the owners, or upon demand of any Mortgagee, to an insurance trustee acceptable to the Association and Mortgagees of lots.

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

(a) A waiver of subrogation by the insurer as to any claims against the Board of Directors, manager, owners and their respective servants, agents, and guests.

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

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

(d) A provision that any "no other insurance" clause in the master policy exclude individual owner's policies from consideration, and a waiver of the usual proration clause with respect to such policies.

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

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

9.5 **Deductibles; Copies of Owners' Policies.**

(a) The Board of Directors shall determine the amount of the deductible for property loss insurance policies, as well as other insurance policies required to be procured by the Association under this Article. In determining the deductible under the policies, the Board, among other factors, shall take into consideration the availability, cost, and loss experience of the Association. In this regard, as in other Board responsibilities, the Board members shall exercise their reasonable business judgment.

(b) The Board of Directors shall notify all owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Board of Directors shall give at least thirty (30) days notice to the owners of any increase in the deductible proposed in renewal or replacement insurance policies.

(c) Within thirty days (30) of receipt of a written request by the Board of Directors, owners shall file a copy of each policy required under this Article with the Association.

**ARTICLE X**

**AMENDMENTS TO THE BYLAWS**

10.1 **How Proposed.** Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by owners holding at least thirty percent (30%) of the voting rights. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon.

10.2 **Adoption.** Amendments may be approved by the Association at a duly constituted meeting or meeting by written ballot in lieu of a meeting conducted pursuant to Section 4.8 above for such purpose. A vote of at least a majority of the Owners participating in a properly convened meeting, held for such purpose, is required for approval of any amendment.

10.3 **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 the Oregon Planned Community Act, acknowledged and recorded in the Records of Crook County, Oregon.

## **ARTICLE XI**

### **RECORDS AND AUDITS**

The Association shall maintain within the State of Oregon all documents, information and other records of the Association in accordance with ORS 94.640 in the manner prescribed by a resolution adopted by the Board of Directors.

#### **11.1 General Records.**

(a) The Board of Directors and managing agent or manager, if any, shall keep detailed records of the actions of the Board of Directors and managing agent or manager; minutes of the meetings of the Board of Directors; and minutes of the meeting of the Association.

(b) The Board of Directors shall maintain a Book of Resolutions containing the rules, regulations, and policies adopted by the Association and Board of Directors.

(c) The Board of Directors shall maintain a list of Owners and a list of all Mortgagees of Lots. The list of Owners shall specify whether the Owner is an Owner in Good Standing or a Suspended Owner.

(d) The Association shall retain within this state all records of the Association for not less than the period specified in ORS 65.771 or any other applicable law, except that:

(1) The documents described in ORS 94.616(3)(o), if available, must be maintained as permanent records of the Association.

(2) Proxies and ballots must be retained for one year from the date of determination of the vote.

11.2 **Records of Receipts and Expenditures** The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Planned Community, itemizing the maintenance and repair expenses of the Common Property or Association Property and any other expenses incurred.

11.3 **Assessment Roll**. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each lot. The account shall designate the lot number, the name and address of the owner or owners, the amount of each Assessment against the owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

11.4 **Payment of Vouchers**. The Treasurer shall pay all vouchers up to One Thousand Dollars (\$1,000) signed by the president, managing agent, manager, or other person authorized by resolution of the Board of Directors. Any voucher in excess of \$1,000 shall require the signature of the president.

11.5 **Financial Reports and Audits**.

(a) An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all owners and to all mortgagees of lots who have requested the same in writing within ninety (90) days after the end of each fiscal year.

(b) From time to time the Board of Directors, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association and furnish copies thereof to the owners and Mortgagees of Lots. At any time any owner or mortgagee may, at such owner's or Mortgagees own expense, cause an audit or inspection to be made of the books and records of the Association.

11.6 **Inspection of Records by Owners**.

(a) Except as otherwise provided in ORS 94.670, all records of the Association shall be reasonably available for examination by an owner and any Mortgagee of a lot pursuant to rules adopted by resolution of the Board of Directors.

(b) The Board of Directors shall maintain a copy, suitable for the purposes of duplication, of the following:

(1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association;

(2) The most recent financial statement prepared pursuant to ORS 94.670(3);

(3) The current operating budget of the Association.

(4) Any other records required by ORS 94.670.

(c) The Association, within ten (10) business days after receipt of a written request by an owner, shall furnish the requested information required to be maintained under Subsection (b) of this section.

(d) The Board of Directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

11.7 **Notice of Sale or Mortgage.** Immediately upon the sale or Mortgage of any lot, the owner shall promptly inform the secretary or manager of the name and address of the purchaser, vendee or Mortgagee.

## **ARTICLE XII**

### **COMPLIANCE**

These Bylaws are intended to comply with the Planned Community Act and the Declaration. In case of any irreconcilable conflict, such statute and document shall control over these Bylaws or any rules and regulations adopted hereunder.

## **ARTICLE XIII**

### **MISCELLANEOUS**

13.1 **Notices.**

(a) **Association.** All notices to the Association or 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.

(b) **Owners.**

(1) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board of Directors, or if no address has been designated, then to the owner's lot.

(2) If a lot is jointly owned or the lot has been sold under a land sale contract, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the lot shall be sufficient.

13.2 **Waiver, Precedent and Estoppel.** No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

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

