

IRVINGTON OFF BROADWAY CONDOMINIUM

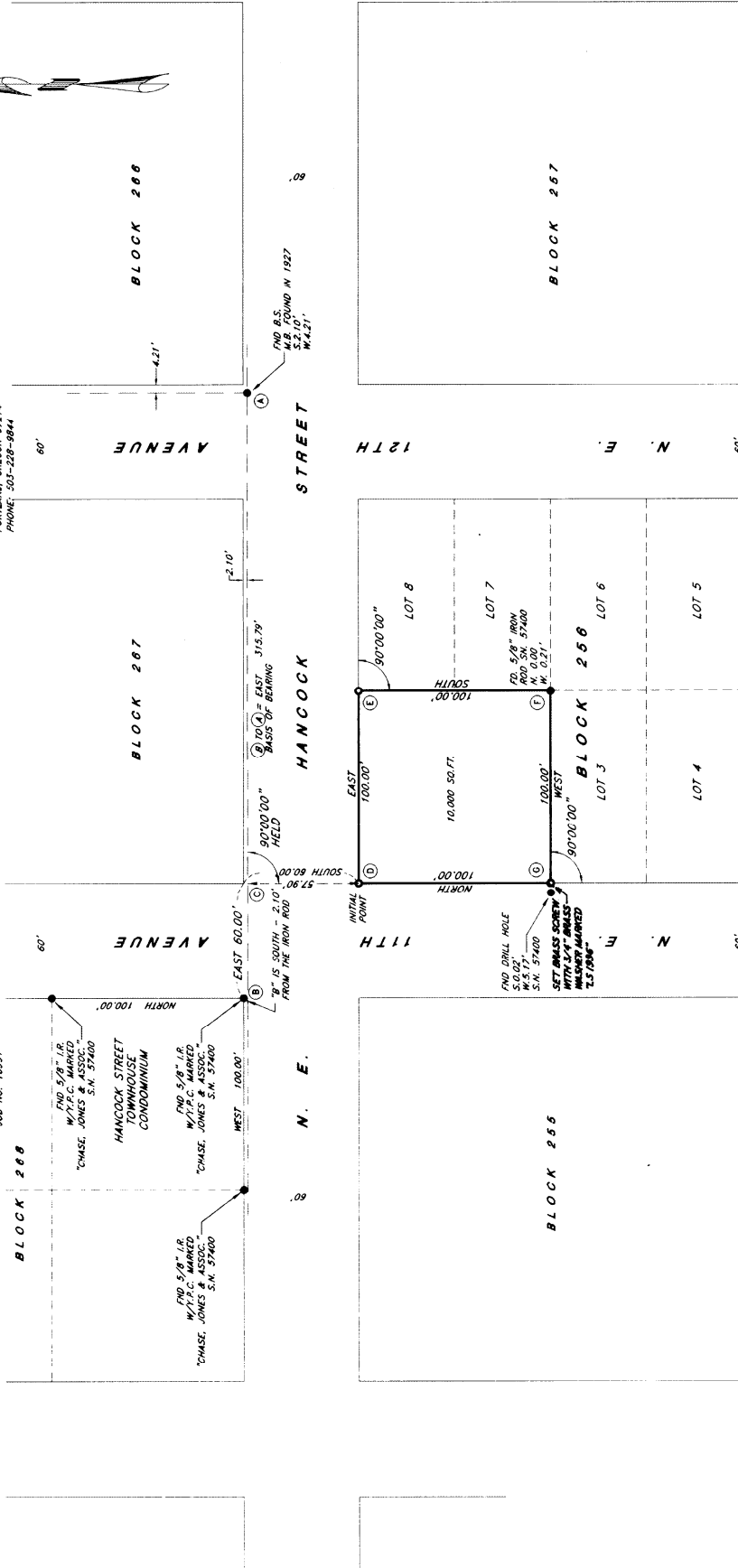
BOOK 1260 PAGE 27

LOTS 1 & 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND"

SITUATED IN THE S. W. 1/4 SECTION 26, T. 1 N., R. 1 E., W. 4
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

SURVEYED, SEPTEMBER 23, 2003
SCALE: 1" = 40'
JOB NO. 10891

BY: CHASE, JONES & ASSOCIATES, INC.
718 S.E. 17TH AVENUE
PORTLAND, OREGON 97214
PHONE: 503-226-8844



THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

REGISTERED PROFESSIONAL LAND SURVEYOR
Eric D. Jones
OREGON LICENSE NO. 1986
ERIC D. JONES
EXPIRES: 6-30-05

- SHEET INDEX
1. BOUNDARY SURVEY
 2. BASEMENT FLOOR PLANS
 3. FIRST FLOOR PLANS
 4. SECOND FLOOR PLANS
 5. ELEVATION VIEWING
 6. UTILITIES, SURVEYORS CERTIFICATE, APPROVALS, COMPLETION CERTIFICATE

N. E. SCHUYLER STREET

N. E. 11TH STREET

N. E. 12TH STREET

- N. E. SCHUYLER STREET
- N. E. 11TH STREET
- N. E. 12TH STREET

BOUNDARY SURVEY
SHEET 1 OF 6

- LEGEND**
- = 5/8" I.R. FROM ROD SET WITH YELLOW PLASTIC CAP MARKED "CHASE, JONES & ASSOC. INC." OR MONUMENT
 - = FOUND MONUMENT AS SHOWN
 - W/1/2 P.C. = WITH YELLOW PLASTIC CAP
 - I.R. = IRON ROD
 - G.C.E. = GENERAL COMMON ELEMENT
 - L.C.E. = LIMITED COMMON ELEMENT
 - S.F. = SQUARE FEET
 - S.N. = SURVEY NUMBER MULTNOMAH COUNTY SURVEY RECORD
 - M.B. = MARSHALL BRGS
 - FD. = FOUND

IRVINGTON OFF BROADWAY CONDOMINIUM

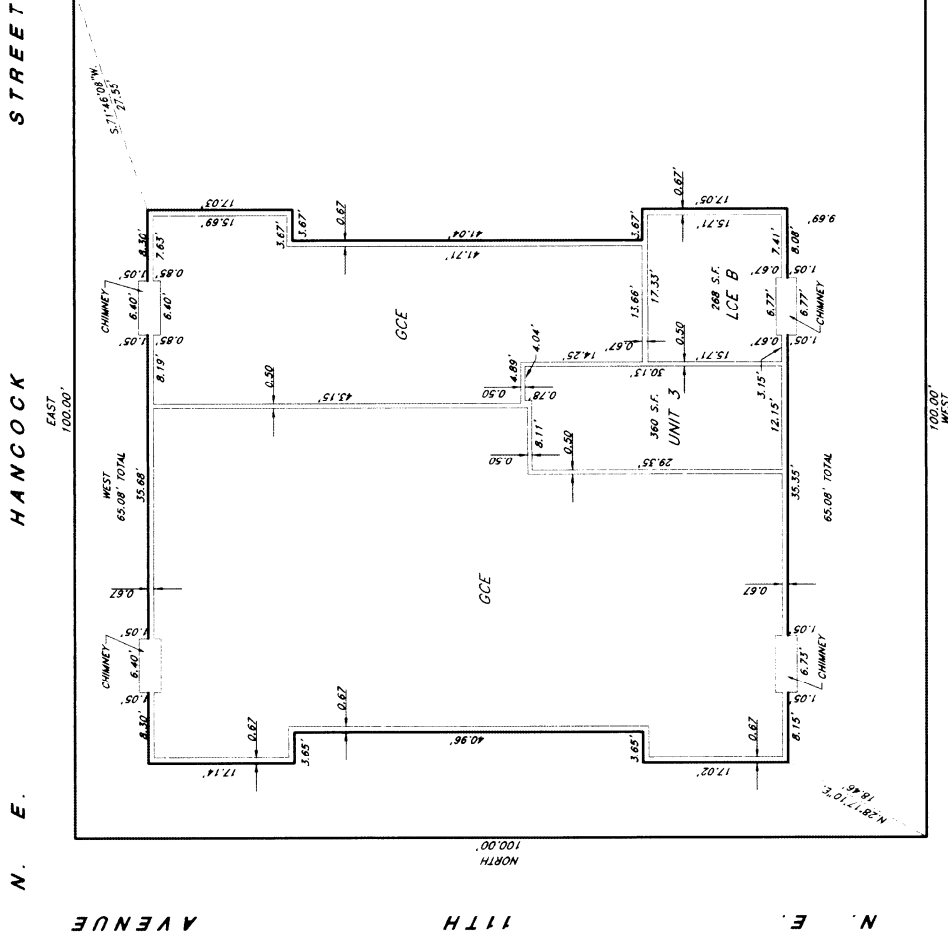
BOOK 1260 PAGE 28

LOTS 1 & 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND"

SITUATED IN THE S. W. 1/4 SECTION 26, T. 1 N., R. 1 E., W. 4.
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

SURVEYED, SEPTEMBER 23, 2003
SCALE: 1" = 10'
JOB NO. 10991

BY: CHASE, JONES & ASSOCIATES, INC.
716 S.E. 17TH AVENUE
PORTLAND, OREGON 97214
PHONE: 503-238-8444



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REGISTERED PROFESSIONAL LAND SURVEYOR

Eric D. Jones

OREGON
JULY 15, 1982
ERRIC D. JONES
1996
EXPIRES: 5-30-05

SHEET INDEX

1. BOUNDARY SURVEY
2. BASEMENT FLOOR PLANS
3. SECOND FLOOR PLANS
4. ELEVATION VIEWS
5. APPROVALS, COMPLETION CERTIFICATE

NOTES

1. ALL BUILDING LINES ARE PARALLEL OR PERPENDICULAR
2. G.C.E. = GENERAL COMMON ELEMENT
3. L.C.E. = LIMITED COMMON ELEMENT
3. S.F. = SQUARE FEET

BASEMENT FLOOR PLANS
SHEET 2 OF 6

IRVINGTON OFF BROADWAY CONDOMINIUM

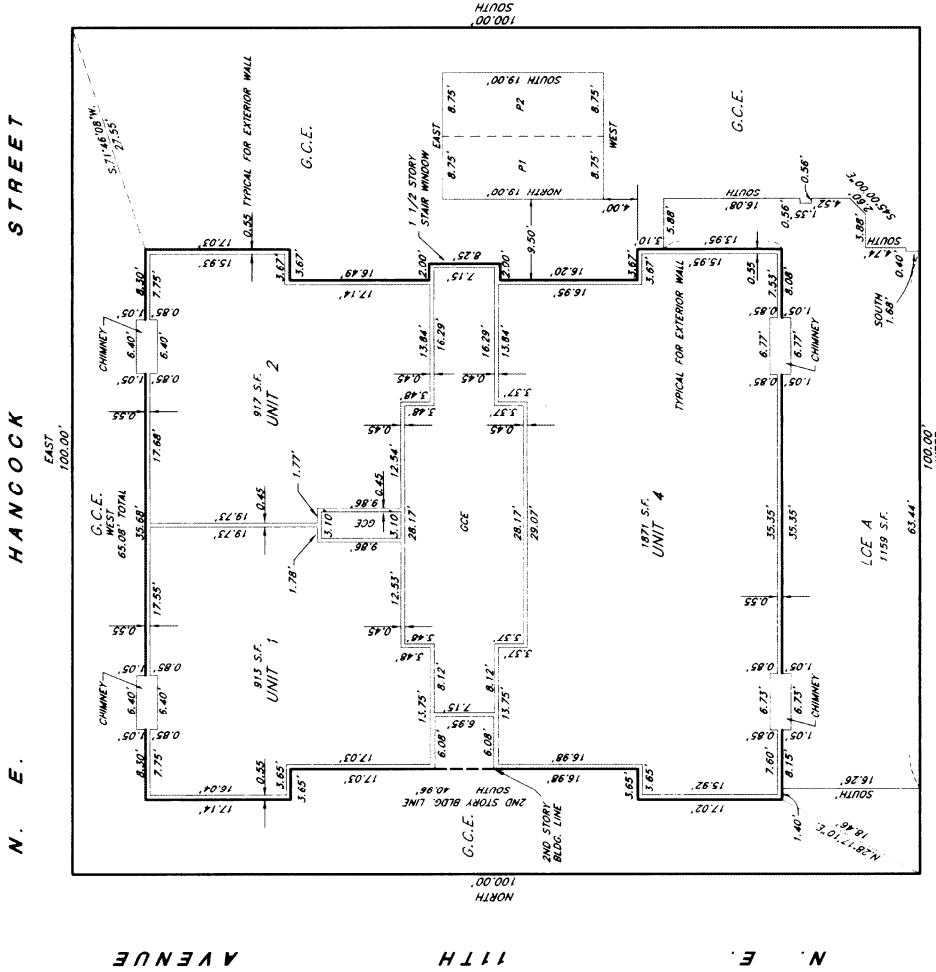
BOOK 1260 PAGE 29

LOTS 1 & 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND"

SITUATED IN THE S. W. 1/4 SECTION 26, T. 1 N. R. 1 E., W. 4.
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

SURVEYED: SEPTEMBER 23, 2003
SCALE: 1" = 10'
JOB NO. 10391

BY: CHASE, JONES & ASSOCIATES, INC.
716 S.E. 11TH AVENUE
PORTLAND, OREGON 97214
PHONE: 503-228-5844



- SHEET INDEX**
1. BASEMENT SURVEY
 2. BASEMENT FLOOR PLANS
 3. FIRST FLOOR PLANS
 4. SECOND FLOOR PLANS
 5. ELEVATION SHEETS
 6. DECLARATION, SURVEYORS CERTIFICATE, APPROVALS, COMPLETION CERTIFICATE

- NOTES**
1. ALL BUILDING LINES AND L.C.E. LINES ARE PARALLEL OR PERPENDICULAR EXCEPT AS SHOWN.
 2. G.C.E. = GENERAL COMMON ELEMENT
 3. L.C.E. = LIMITED COMMON ELEMENT
 4. S.F. = SQUARE FEET
 5. P1 & P2 = LCE PARKING SPACES

THIS DRAWING IS AN EXACT COPY OF THE ORIGINAL.

REGISTERED PROFESSIONAL LAND SURVEYOR
Eric B. Jones

OREGON
JULY 16, 1982
ERIC B. JONES
EXPIRES: 6-30-05

FIRST FLOOR PLANS
SHEET 3 OF 6

IRVINGTON OFF BROADWAY CONDOMINIUM

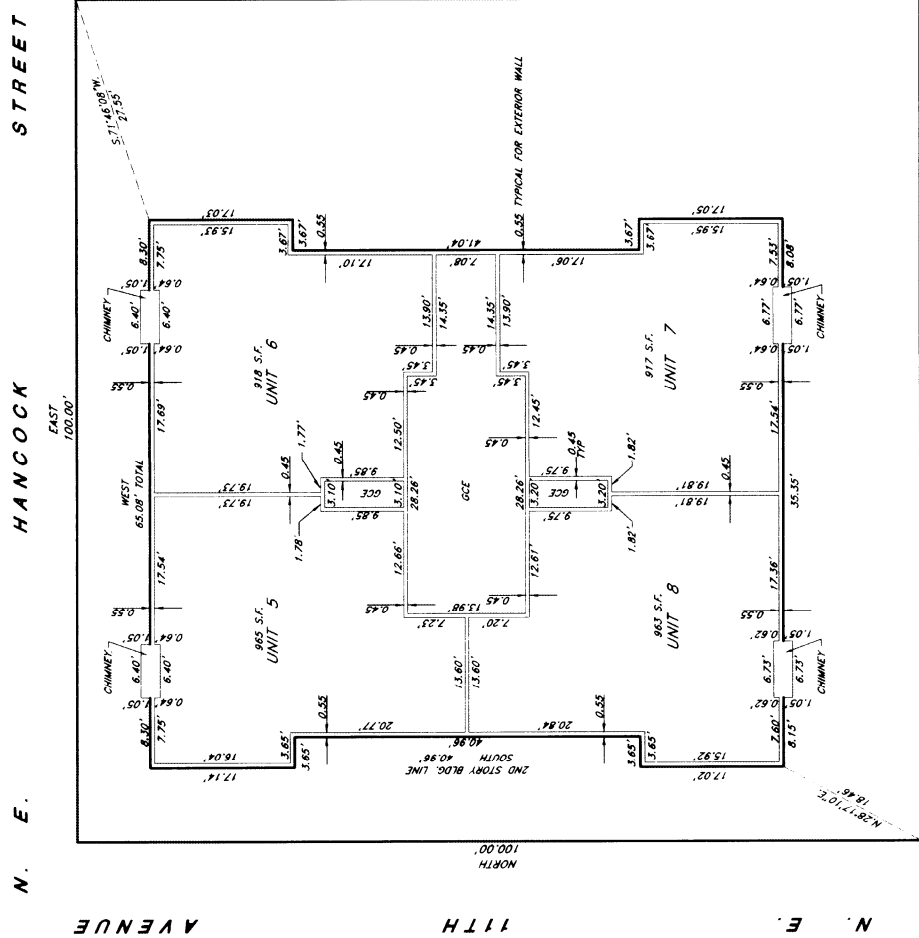
BOOK 1260 PAGE 30

LOTS 1 & 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND"

SITUED IN THE S. W. 1/4 SECTION 26, T. 1 N., R. 1 E., W. 4.
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

SURVEYED, SEPTEMBER 23, 2003
SCALE: 1" = 10'
JOB NO. 10891

BY: CHASE, JONES & ASSOCIATES, INC.
716 S.E. 11TH AVENUE
PORTLAND, OREGON 97214
PHONE: 503-228-3844



- SHEET INDEX**
1. BOUNDARY SURVEY
 2. SECOND FLOOR PLANS
 3. FIRST FLOOR PLANS
 4. SECOND FLOOR PLANS
 5. DECLARATION, SURVEYORS CERTIFICATE
 6. APPROVALS, COMPLETION CERTIFICATE

- NOTES**
1. ALL BUILDING LINES ARE PARALLEL OR PERPENDICULAR
 2. G.C.E. = GENERAL COMMON ELEMENT
 3. S.F. = SQUARE FEET

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REGISTERED PROFESSIONAL LAND SURVEYOR
Eric D. Jones

OREGON
ERIC D. JONES
1996
EXPIRES: 6-30-05

SECOND FLOOR PLANS
SHEET 4 OF 8

IRVINGTON OFF BROADWAY CONDOMINIUM

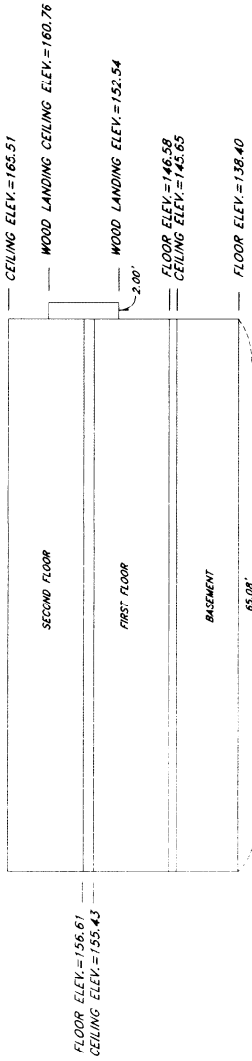
BOOK 1260 PAGE 31

LOTS 1 & 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND"

SITUATED IN THE S. W. 1/4 SECTION 26, T. 1 N., R. 1 E., W. 4
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

SURVEYED, SEPTEMBER 23, 2003
SUB NO. 10981

BY: CHASE, JONES & ASSOCIATES, INC.
1700 COMMERCIAL AVENUE, SUITE 1100
PORTLAND, OREGON 97201
PHONE: 503-228-8844



SOUTH VIEW
(LOOKING NORTH)

- SHEET INDEX**
1. BOUNDARY SURVEY
 2. BASEMENT FLOOR PLANS
 3. FIRST FLOOR PLANS
 4. SECOND FLOOR PLANS
 5. ELEVATION VIEWS
 6. DECLARATION, SURVEYORS' CERTIFICATE, APPROVALS, COMPLETION CERTIFICATE

DATUM

BENCH MARK: CITY OF PORTLAND B.M. NO. 1029 BRASS CAP LOCATED 5' SOUTH OF
14TH AVENUE & N.E. SCHULTER STREET
ELEVATION = 150.13

THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

REGISTERED PROFESSIONAL LAND SURVEYOR

Eric D. Jones

OREGON
JULY 16, 1983
ERRIC D. JONES
1998
EXPIRES: 6-30-05

IRVINGTON OFF BROADWAY CONDOMINIUM

BOOK 1260 PAGE 32

LOTS 1 & 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND"
SITUATED IN THE S. W. 1/4 SECTION 26, T. 1 N., R. 1 E., W. 4.
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS: THAT WHATHOOT LLC, DOES HEREBY MAKE, ESTABLISH AND DECLARE, THE ANNEKED MAP OF "IRVINGTON OFF BROADWAY CONDOMINIUM", AS DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, TO BE A CONDOMINIUM AS DEFINED BY THE OREGON CONDOMINIUM ACT. WHATHOOT LLC DOES HEREBY CONVEY AND TO THE OPERATION OF THE OREGON CONDOMINIUM ACT AS LAID OUT IN CHAPTER 100 OF THE OREGON REVISED STATUTES. THE PROPERTY AND IMPROVEMENTS DESCRIBED ON THE PLAT ARE SUBJECT TO THE PROVISIONS OF OREGON REVISED STATUTES 100.005 TO 100.025.

SURVEYED: SEPTEMBER 23, 2003
JOB NO. 10891

BY: CHASE, JONES & ASSOCIATES, INC.
PORTLAND, OREGON 97214
PHONE: 503-228-8844

Walter Longcor
WALTER LONGCOR - MEMBER
WHATHOOT LLC

ACKNOWLEDGEMENT

STATE OF OREGON } S.S.
COUNTY OF MULTNOMAH }

THIS INSTRUMENT WAS ACKNOWLEDGED BY ME ON 10/6/03 October 6, 2003

William A. Gerbert
NOTARY SIGNATURE

WILLIAM A. GERBERT
NOTARY PUBLIC-OREGON

COMMISSION NO. A346202

MY COMMISSION EXPIRES May 24, 2005

SURVEYOR'S CERTIFICATE

I, ERIC D. JONES, DO HEREBY CERTIFY THAT I HAVE CAREFULLY SURVEYED AND MARKED THE PROPERTY MONUMENTS AND LOTS SHOWN ON THE ATTACHED CONDOMINIUM PLAT SAID BEING LOTS 1 AND 2, BLOCK 256, "HOLLADAY'S ADDITION TO EAST PORTLAND," SITUATED IN T. 1 N., R. 1 E., W. 4, CITY OF PORTLAND, MULTNOMAH CO., OREGON, IN THE S.W. 1/4 OF SECTION 26, BEGINNING AT THE INITIAL POINT MARKED BY A 5/8" X 1/2" IRON ROD WITH YELLOW PLASTIC CAP MARKED "CHASE, JONES & ASSOC., INC. SET AT THE N.W. CORNER OF SAID LOT 1, CHASE, JONES & ASSOC., INC. FOUND AT THE SOUTHWEST CORNER OF BLOCK 256, SAID HOLLADAY'S ADDITION, THENCE EAST ALONG THE NORTH LINE OF SAID BLOCK 256 A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING, THENCE SOUTHWEST ALONG THE WEST LINE OF SAID LOT 2, 100.00 FEET TO THE SOUTH LINE OF SAID LOT 2, 100.00 FEET TO THE SOUTH LINE OF SAID LOT 1 AND 100.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 2, 100.00 FEET TO AND SOUTH THEREFROM, THENCE NORTH ALONG THE WEST LINES OF SAID LOTS 1 AND 2, 100.00 TO THE INITIAL POINT.

THE ABOVE DESCRIBED TRACT CONTAINS 10,000 SQUARE FEET MORE OR LESS.

COMPLETION CERTIFICATE

I, ERIC D. JONES, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT OF "IRVINGTON OFF BROADWAY CONDOMINIUM" FULLY AND ACCURATELY DEPICTS THE BOUNDARIES OF THE UNITS AND OF THE BUILDINGS AND THAT CONSTRUCTION OF THE UNITS AND BUILDINGS, AS DEPICTED ON SUCH PLAT, HAS BEEN COMPLETED.

DATED THIS 23rd DAY OF September, 2003

Eric D. Jones
ERIC D. JONES - P.L.S. NO. 1996

THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

REGISTERED LAND SURVEYOR

Eric D. Jones
OREGON
JULY 16, 1992
ERRIC 1996
EXPIRES: 6-30-05

- SHEET INDEX
1. BOUNDARY SURVEY
 2. CONDOMINIUM PLANS
 3. FIRST FLOOR PLANS
 4. SECOND FLOOR PLANS
 5. DECLARATION
 6. DECLARATION SURVEYOR'S CERTIFICATE
 7. APPROVALS, COMPLETION CERTIFICATE

APPROVALS

APPROVED THIS 17th DAY OF October, 2003

Steve E. O'Neil - Deputy
COUNTY SURVEYOR
MULTNOMAH COUNTY, OREGON

ALL TAXES, FEES, ASSESSMENTS, OR OTHER CHARGES AS PROVIDED BY O.R.S. 100.110 HAVE BEEN PAID AS OF October 17th, 2003

DIRECTOR,
DIVISION OF ASSESSMENT & TAXATION
MULTNOMAH COUNTY, OREGON

BY: *[Signature]*
DEPUTY

STATE OF OREGON }
COUNTY OF MULTNOMAH }

I DO HEREBY CERTIFY THAT THE ATTACHED CONDOMINIUM PLAT WAS RECEIVED FOR RECORD AND RECORDED

Oct. 17th, 2003 AT 1:49 P.M.

IN BOOK 1260 ON PAGES 27-32
COUNTY RECORDING OFFICE

BY: *[Signature]*
DEPUTY

DOCUMENT NO. 2003-249071

WHEN RECORDED, RETURN TO:
VIAL • FOTHERINGHAM LLP
7000 S.W. Varns Street
Portland, Oregon 97223-8006
(503) 684-4111

Recorded in MULTNOMAH COUNTY, OREGON
C. Swick, Deputy Clerk
E41 26 ATKLM
Total : 146.00
2003-249072 10/17/2003 01:49:16pm

**DECLARATION
OF CONDOMINIUM OWNERSHIP
FOR
IRVINGTON OFF BROADWAY
CONDOMINIUM**

240

10-17-03

TABLE OF CONTENTS
DECLARATION OF CONDOMINIUM OWNERSHIP
For
IRVINGTON OFF BROADWAY CONDOMINIUM

RECITALS 1

ARTICLE 1 - DEFINITIONS 1

 1.1 "Association" 1

 1.2 "Bylaws" 1

 1.3 "Condominium" 1

 1.4 "Declarant" 1

 1.5 "Declaration" 1

 1.6 "Eligible Mortgage Insurer or Guarantor" 1

 1.7 "Eligible Mortgage Holder" 1

 1.8 "Mortgage" and "Mortgagee" 2

 1.9 "Percent of Owners or Unit Owners" or "Percentage of Owners or Unit
 Owners" 2

 1.10 "Plat" 2

 1.11 "Turnover Meeting" 2

 1.12 Incorporation by Reference 2

ARTICLE 2 - DESCRIPTION OF PROPERTY 2

ARTICLE 3 - NAME OF CONDOMINIUM 2

ARTICLE 4 - UNITS 2

 4.1 General Description of Buildings 2

 4.2 General Description, Location and Designation of Units 2

 4.3 Boundaries of Units 3

ARTICLE 5 - GENERAL COMMON ELEMENTS 3

ARTICLE 6 - LIMITED COMMON ELEMENTS 4

 6.1 Designation 4

 6.2 Transfer 4

**ARTICLE 7 - ALLOCATION OF UNDIVIDED INTEREST IN
COMMON ELEMENTS** 4

10-17-03

ARTICLE 8 - COMMON PROFITS AND EXPENSES; VOTING	
8.1	Allocation of Common Profits and Expenses 4
8.2	Allocation of Voting Rights 5
ARTICLE 9 - USE OF PROPERTY 5	
ARTICLE 10 - MAINTENANCE OF COMMON ELEMENTS	
10.1	General Common Elements Maintenance 5
10.2	Limited Common Element Maintenance 5
10.3	Water Heaters 5
ARTICLE 11 - STORAGE LOCKERS	
11.1	General Common Elements 6
11.2	Assignment 6
11.3	Master List 6
11.4	Removal or Alteration of Storage Lockers 6
ARTICLE 12 - SERVICE OF PROCESS 6	
ARTICLE 13 - THE ASSOCIATION OF UNIT OWNERS	
13.1	Organization 6
13.2	Membership; Board of Directors 6
13.3	Powers, Duties 7
13.4	Adoption of Bylaws, Appointment of Interim Board of Directors; Designation of Manager 7
13.5	Duration and Termination of Initial Agreements 7
13.6	Commonly Used Furniture 7
ARTICLE 14 - RIGHTS OF MORTGAGEES	
14.1	Notice of Action 7
14.2	Termination 8
14.3	Amendment 8
14.4	Additional Approvals 9
14.5	Additional Rights 10
14.6	Approval of Veterans Administration 11
14.7	Request for Approval of Mortgagee 11
ARTICLE 15 - EASEMENTS	
15.1	In General 11
15.2	Right of Entry 11
15.3	Encroachments 12
15.4	Easement Over Limited Common Elements 12
15.5	Easements for Declarant 13

10-17-03

15.6	Granting of Easements and Other Interests by Association	13
ARTICLE 16 - DECLARANT CONTROL		14
ARTICLE 17 - CHANGES TO BOUNDARIES AND PARTITIONS		
17.1	Removal or Alterations of Partitions; Creation of Apertures	14
17.2	Relocation of Boundaries	15
ARTICLE 18 - AMENDMENT		
18.1	How Proposed	16
18.2	Approval Required	16
18.3	Execution; Approval and Recording	16
ARTICLE 19 - SEVERABILITY		17
ARTICLE 20 - APPLICABILITY		17
ARTICLE 21 - COMPLIANCE		17
ARTICLE 22 - CONFLICTING PROVISIONS		17
ARTICLE 23 - ENFORCEMENT		
23.1	Right to Enforce	17
23.2	Waiver, Precedent and Estoppel	17
ARTICLE 24 - INTERPRETATION		18
EXHIBIT A Legal Description		
EXHIBIT B Unit Square Footage; Allocation of Interest in Common Elements, Common Expenses, Profits and Voting Rights		

10-17-03

**DECLARATION
OF CONDOMINIUM OWNERSHIP
FOR
IRVINGTON OFF BROADWAY CONDOMINIUM**

THIS DECLARATION, made this ___ day of _____, 2003, by Whatahoot, LLC, an Oregon limited liability company ("**Declarant**"), pursuant to the provisions of the Oregon Condominium Act.

Declarant proposes to create a condominium, to be known as Irvington Off Broadway Condominium, which will be located in the City of Portland, Multnomah County, Oregon. The purpose of this Declaration is to submit the land, all buildings, improvements, structures, easements and any rights and appurtenances thereto to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act, ORS Chapter 100.

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

**ARTICLE 1
DEFINITIONS**

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

1.1 "**Association**" means Irvington Off Broadway Condominium Association established pursuant to Article 13 below.

1.2 "**Bylaws**" means the Bylaws of the Association adopted pursuant to Section 13.4 below and recorded simultaneously with this Declaration, as they may be amended from time to time.

1.3 "**Condominium**" means the land, buildings, improvements submitted by this Declaration and all easements, rights, and appurtenances belonging thereto.

1.4 "**Declarant**" means Whatahoot, LLC, an Oregon limited liability company, its successors and assigns.

1.5 "**Declaration**" means this Declaration as the same may hereafter be amended.

1.6 "**Eligible Mortgage Insurer or Guarantor**" means an insurer or governmental guarantor of a first mortgage on a unit who has requested notice of certain matters from the Association in accordance with Section 14.1 below.

1.7 "**Eligible Mortgage Holder**" means a holder of a first mortgage on a unit who

10-17-03

has requested notice of certain matters from the Association in accordance with Section 14.1 below, but shall not include a contract vendor.

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

1.9 **"Percent of Owners or Unit Owners" or "Percentage of Owners or Unit Owners"** means the percent of the voting rights allocated under Section 8.2 below.

1.10 **"Plat"** means the plat of Irvington Off Broadway Condominium recorded simultaneously with this Declaration.

1.11 **"Turnover Meeting"** means the meeting provided for under Article 16 below in accordance with ORS 100.210.

1.12 **Incorporation By Reference.** Except as otherwise provided in this Declaration, each of the terms used herein that are defined in ORS 100.005, a part of the Oregon Condominium Act, shall have the meanings set forth in such section.

ARTICLE 2
DESCRIPTION OF THE PROPERTY

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

ARTICLE 3
NAME OF CONDOMINIUM

The name by which the Condominium shall be known is **"Irvington Off Broadway Condominium."**

ARTICLE 4
UNITS

4.1 **General Description of Buildings.** The Condominium consists of a two-story building with basement containing eight (8) units. The building has a concrete foundation and is of wood frame construction with stucco exterior and composition roof.

4.2 **General Description, Location, and Designation of Units.** The Condominium consists of eight (8) units. The dimensions, designation, and location of each unit are shown on the

10-17-03

Plat. The area of each of the units is shown on the attached **Exhibit B**.

4.3 Boundaries of Units.

(a) Each unit shall be bounded by the interior surfaces of its perimeter and bearing walls, floors, ceilings, windows and window frames, doors and door frames and trim. The unit shall include all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of its finished surfaces and the exterior surfaces so described except those portions of the walls, floors or ceilings that materially contribute to the structural or shear capacity of the Condominium. All other portions of the exterior walls, floors or ceilings and interior load bearing partitions shall be a part of the common elements. In addition, each unit shall include the following:

(1) All spaces, non-bearing interior partitions, fireplaces (except chimneys and flues) and all other fixtures and improvements within the boundaries of the unit; and

(2) All outlets of utility and communication service lines, including, but not limited to, power (including circuit breakers), light, gas, hot and cold water, heating, refrigeration, air conditioning, and waste disposal, security, cable television and telephone, within the boundaries of the unit, but shall not include any part of the lines or ducts themselves.

(b) Interpretation. In interpreting deeds, mortgages, deeds of trust, and other instruments for any purpose whatsoever, or in connection with any matter, the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original Plat shall be conclusively presumed to be the boundaries regardless of settling, rising, or lateral movement of the building and regardless of variances between boundaries as shown on the Plat and those of the actual building or buildings.

ARTICLE 5
GENERAL COMMON ELEMENTS

The general common elements consist of all portions of the Condominium that are not part of a unit or a limited common element, including the following:

5.1 The land, yards, courtyard, pathways, sidewalks, walkways, driveway, fences, masonry walls and grounds.

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

5.3 Roofs, foundations, subfloors, windows, window frames, exterior building doors and door frames, unit entrance doors and door frames, bearing walls, perimeter walls, beams, columns and girders to the interior surfaces thereof.

10-17-03

5.4 All other elements of the building and the Condominium necessary or convenient to their existence, maintenance, and safety, or normally in common use.

ARTICLE 6
LIMITED COMMON ELEMENTS

6.1 Designation. The following shall constitute limited common elements, the use of which shall be restricted to the units to which it pertains:

(a) LCE A as shown on the Plat, including patio, gate, and any other improvements, except fences enclosing the limited common element area, which shall pertain to Unit 4.

(b) LCE B as shown on the Plat which shall pertain to Living Unit 4.

(c) Parking spaces designated P1 and P2 as shown on the Plat each of which shall pertain to Unit 4.

6.2 Transfer.

(a) LCE B, P1 and P2 may be transferred so as to pertain to a different unit by an amendment to this Declaration executed by the owner and any mortgagee of the unit to which the limited common element previously pertained and by the owner of the unit to which the limited common element is being transferred in accordance with ORS 100.515(5).

(b) The transfer shall be effective upon the recording of the amendment in the Records of Multnomah County, Oregon, after approval by the Multnomah County Assessor, if required by ORS 100.110.

ARTICLE 7
ALLOCATION OF UNDIVIDED INTEREST
IN COMMON ELEMENTS

Each unit is entitled an undivided percentage ownership interest in the common elements as shown on attached **Exhibit B**. The undivided interests is allocated according to the ratio by which the approximate square footage of each unit bears to the total square footage of all units as shown on attached **Exhibit B**.

ARTICLE 8
COMMON PROFITS AND EXPENSES: VOTING

8.1 Allocation of Common Profits and Expenses.

10-17-03

(a) Except as provided in Subsection (b) of this section, the common profits derived from, and the common expenses of the Condominium, shall be allocated to the owner of each unit according to the allocation of undivided interest of the unit in the common elements as provided in Article 7 above as shown on attached **Exhibit B**. Amounts may be rounded to the nearest dollar.

(b) Owners shall be responsible for owner share, if affected, of the deductible for the master insurance policy of the Association as provided in Section 10.2 of the Bylaws. The share of an owner shall be determined by the ratio by which the approximate square footage of the affected unit bears to the total square footage of all affected units.

8.2 **Allocation of Voting Rights.** Each unit shall be entitled to a vote in the affairs of the Association and for the purpose of this Declaration based upon the allocation of undivided interest of each unit in the common elements as provided in Article 7 above as shown on attached **Exhibit B**. The method of voting shall be as specified in the Bylaws.

ARTICLE 9 USE OF PROPERTY

Each unit shall be used for residential purposes as described in the Bylaws. Additional use limitations are contained in the Bylaws and in rules and regulations adopted pursuant to the Bylaws by which all owners are bound.

ARTICLE 10 MAINTENANCE OF COMMON ELEMENTS

10.1 **General Common Element Maintenance.** The necessary work to maintain, repair, or replace the general common elements shall be the responsibility of the Board of Directors of the Association and shall be carried out as provided in the Bylaws.

10.2 **Limited Common Element Maintenance.** The owner of the unit to which the limited common element pertains shall be responsible to maintain, repair and replace the limited common element and shall be liable for damage to units or common elements resulting from a failure to maintain, repair and replace the limited common element except for any landscaping required under Section 15.4(c) below. The Association shall be responsible to maintain, repair or replace any landscaping required under Section 15.4(c).

10.3 **Water Heaters.** The water heaters located within LCE B shall be owned by the Association which shall be responsible for their maintenance, repair and replacement. The cost of the maintenance, repair and replace of water heaters shall be charged to all the unit owners as a common expense in accordance with Section 8.1 above.

10-17-03

ARTICLE 11
STORAGE LOCKERS

11.1 General Common Elements. All storage lockers currently located in the general common element basement area (eight (8) standard size and two (2) small size) are general common elements intended for the use of owners subject to such rules and regulations as the Board of Directors may adopt by resolution pursuant to Section 8.2 of the Bylaws.

11.2 Assignment. Subject to Section 11.4 below, each unit shall be assigned the use of at least one (1) numbered or designated standard size storage locker by the Board of Directors. The assignment shall be in the sole discretion of the Board of Directors. However, the Board may not subsequently by rule or other action change a storage locker assignment without giving the owner of the affected unit at least thirty (30) days written notice of the intended action.

11.3 Master List. The Board of Directors shall maintain a Master Storage Locker List which lists each unit and the assigned storage locker.

11.4 Removal or Alteration of Storage Lockers. Nothing in this article shall grant the owner of a unit a perpetual right to the use of a storage locker. The Board in its sole discretion may remove, alter or replace storage lockers. However, no such action may be taken without giving the owners of the affected units at least thirty (30) days written notice of the intended action and no action may deny fewer than all owners of units the use of a storage locker.

ARTICLE 12
SERVICE OF PROCESS

The designated agent to receive service of process in cases provided in ORS 100.550(1) is named in the Condominium Information Report which has been filed in accordance with ORS 100.250(1)(a).

ARTICLE 13
THE ASSOCIATION OF UNIT OWNERS

13.1 Organization. Upon the recording of this Declaration, an association of unit owners shall be organized to serve as a means through which the unit owners may take action with regard to the administration, management, and operation of the Condominium. The name of the Association shall be "Irvington Off Broadway Condominium Association." The Association shall be an incorporated association in accordance with Section 1.5 of the Bylaws.

13.2 Membership: Board of Directors. Each unit owner shall be a member of the Association. The affairs of the Association shall be governed by a Board of Directors as provided in the Bylaws.

10-17-03

13.3 **Powers and Duties.** The Association shall have such powers and duties as may be granted to it by the Oregon Condominium Act, including each of the powers set forth in ORS 100.405(4) as such statute may be amended to expand the scope of association powers, together with such additional powers and duties afforded by this Declaration, the Bylaws and the Oregon Nonprofit Corporation Act, ORS Chapter 65.

13.4 **Adoption of the Bylaws; Appointment of Interim Board; Designation of Manager; Commonly Used Furniture.**

(a) **Adoption of Bylaws.** Concurrently with the execution and recording of this Declaration, the Declarant has adopted Bylaws for the Association.

(b) **Appointment of Interim Board of Directors.** Not later than conveyance of the first unit, Declarant will appoint an interim Board of Directors of the Association, which directors shall serve until their successors have been elected at the Turnover Meeting as provided in Article 16 below and the Bylaws. The interim Directors may appoint a manager or managing agent for the Condominium on behalf of the Association, and the manager or managing agent shall have complete authority to assume full control and responsibility for the management, operation, and maintenance of the Condominium from the date of its formation at the expense of the Association.

13.5 **Duration and Termination of Initial Agreements.** Any management, service, or employment agreement entered into prior to the Turnover Meeting which is made directly by or on behalf of the Association, the Board of Directors, or the unit owners shall be for a term not in excess of three (3) years, and may be terminated without penalty by the Association or the Board of Directors upon not less than thirty (30) days written notice given not more than sixty (60) days after the Turnover Meeting under ORS 100.210.

13.6 **Commonly Used Furniture.** All furniture located in the general common elements of the Condominium as of the date of recording of this Declaration is the property of Declarant. Declarant reserves the right to remove any of such furniture at any time provided reasonable notice has been given in writing to the Board of Directors. The Board of Directors, including the interim Board of Directors, on behalf of the Association, may purchase any of the furniture owned by Declarant from Association funds as long as the purchase price does not exceed the fair market value.

ARTICLE 14
RIGHTS OF MORTGAGEES

14.1 **Notice of Action.** Upon written request to the Association identifying the name and address of the holder, insurer or guarantor and the unit number or address of the unit on which it has (or insures or guarantees) the mortgage, any such Eligible Mortgage Holder or Eligible Insurer or Guarantor shall be entitled to timely written notice of the following:

10-17-03

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

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

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

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

14.2 Termination.

(a) The approval of Eligible Mortgage Holders holding mortgages on units which have at least sixty-seven percent (67%) of the voting rights of units subject to mortgages held by Eligible Mortgage Holders shall be required to terminate the legal status of the project as a condominium for reasons other than substantial destruction or condemnation of the property.

(b) Except where a greater percent is required by the Oregon Condominium Act, the approval of unit owners who represent at least sixty-seven percent (67%) of the voting rights and by Eligible Mortgage Holders representing at least fifty-one percent (51%) of the units subject to mortgages held by Eligible Mortgage Holders shall be required to terminate the legal status of the Condominium after substantial destruction or condemnation occurs.

14.3 Amendment.

(a) Except when a greater percent is required by the Declaration or Bylaws, or a greater or lesser percent is required by the Oregon Condominium Act, the consent of the owners of units holding at least sixty-seven percent (67%) of the voting rights and the approval of Eligible Mortgage Holders holding mortgages on units which have at least fifty-one percent (51%) of the voting rights of the units subject to mortgages held by Eligible Mortgage Holders shall be required for an amendments of a material nature to the Declaration or Bylaws. Any amendment to the Declaration or Bylaws which changes any of the following shall constitute a material change:

- (1) Voting rights;
- (2) Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens or the priority of such liens;
- (3) Reduction in reserves for maintenance, repair and replacement of the common elements;

10-17-03

- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interests in the general or limited common elements, or rights to their use;
- (6) The boundaries of any unit;
- (7) Convertibility of units into common elements or of common elements into units;
- (8) Expansion or contraction of the condominium or the addition or annexation or withdrawal of property to or from the Condominium;
- (9) Hazard or fidelity insurance requirements;
- (10) Imposition of any restrictions on the leasing of units;
- (11) Imposition of any restrictions on the right of a unit owner to sell or transfer his or her unit;
- (12) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than specified in this Declaration or the Bylaws;
- (13) Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
- (14) Any provisions that expressly benefit mortgage holders, insurers or guarantors.

(b) An addition or amendment to the Declaration or Bylaws shall not be considered material for purposes of Subsection (b) of this section if it is for the purpose of correcting technical errors, or for clarification only.

14.4 **Additional Approvals.** In addition to any other approvals required by the Oregon Condominium Act, this Declaration or the Bylaws, prior written approval of two-third of the holders of first Mortgages on units in the Condominium (based upon one vote for each first Mortgage owned) or unit owners (other than Declarant) must be obtained for the following:

- (a) Abandonment or termination of the Condominium regime.
- (b) Any change in the pro rata interest or obligation of any individual unit for:
 - (1) Purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or

10-17-03

common elements. (2) Determining the pro rata share of ownership of each unit in the

(c) The partition or subdivision of any unit.

(d) Abandonment, partition, subdivision, encumbrance, sale or transfer of the common elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause.

(e) Use of hazard insurance proceeds for losses to any condominium property, whether to units or to common elements, for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the units or common elements of the condominium project.

14.5 **Additional Rights.** In addition to the approvals and rights required or specified in this article, a mortgagee (or beneficiary of a trust deed or vendor and including guarantors) shall have the following rights:

(a) Right to Examine Books and Records. All mortgagees shall have the right to examine the books and records of the Association or the Condominium property upon reasonable notice and at reasonable times.

(b) Right to Annual Reports. All mortgagees shall, upon written request, be entitled to receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association.

(c) Right to Written Notice of Meetings. The Association shall give all mortgagees, upon written request, written notice of all meetings of the Association, and the mortgagees shall be permitted to designate a representative to attend all the meetings.

(d) Right to Notice of Default. Any first mortgagee, upon written request, will be entitled to written notification from the Association of any default in the performance by the owner of the mortgaged unit of any obligation under this Declaration, the Bylaws or rules and regulations adopted pursuant thereto which is not cured within sixty (60) days.

(e) Mortgagee's Rights Upon Failure to Maintain.

(1) If the mortgagee of any unit determines that the Board of Directors is not providing an adequate maintenance, repair and replacement program for the common elements, the mortgagee, at its option, may give notice to the Board by delivering the same to the registered agent, setting forth the particular defect which it believes exists in the maintenance, repair and replacement program.

10-17-03

(2) If the specified defects are not corrected within ninety (90) days subsequent to receipt of the notice, then the mortgagee, upon written notice to the registered agent that it is exercising its proxy rights, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each unit on which it holds a mortgage on all business coming before the meetings. The proxy rights shall continue until the defects listed on the notice are corrected.

14.6 **Approval of Veterans Administration.** If the Condominium has been approved by the Veterans Administration, the condominium regime, including the Declaration or Bylaws, may not be amended or merged with a successor condominium regime without the prior written approval of the Veterans Administration.

14.7 **Request for Approval of Mortgagee.** Any mortgagee who receives a written request to approve amendments to this Declaration or the Bylaws, or any other action to be taken by the Board of Directors, the Association or owners, any termination, additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days shall, after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, return receipt requested, be deemed to have approved the request.

ARTICLE 15 EASEMENTS

15.1 In General.

(a) Each unit has an easement in and through each other unit and the common elements for all support elements and utility, wiring, heat and service elements, and for reasonable access thereto, as required to effectuate and continue proper operation of the Condominium. In addition, each unit and all the common elements are specifically subject to easements as required for the electrical wiring and plumbing for each unit.

(b) Each unit owner has an unrestricted right of ingress and egress to his or her unit. This right is perpetual and passes with the ownership of the unit.

(c) The specific mention or reservation of any easement in this Declaration does not limit or negate the general easement for common elements reserved by law.

15.2 Right of Entry.

(a) A unit owner shall grant the right of entry to the Board of Directors of the Association, managing agent, manager, or any other person authorized by the Board of Directors, in the case of any emergency originating in or threatening his or her unit or other Condominium property, whether or not the owner is present at the time.

10-17-03

(b) A unit owner shall also permit such persons to enter his or her unit for the purpose of performing installations, alterations, or repairs to any common element and for the purpose of inspection to verify that the unit owner is complying with the restrictions and requirements described in this Declaration and the Bylaws, provided requests for entry are made in advance and the entry is at a time convenient to the owner.

(c) Pursuant to rules adopted by resolution of the Board of Directors:

(1) Owners and occupants of units may be required to provide a key to the unit to the Board or other person authorized by the Board to be used in the case of an emergency affecting the unit or common elements. Any adopted rules shall provide appropriate means to protect the security of units.

(2) Distribution of building entrance keys to persons other than owners or occupants of units may be reasonably restricted or limited.

15.3 Encroachments.

(a) Pursuant to ORS 100.520, each unit and all common elements shall have an easement over all adjoining units and common elements for the purpose of accommodating any present or future encroachment as a result of engineering errors, construction, reconstruction, repairs, settlement, shifting, or movement of any portion of the property, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of the encroaching units and common elements so long as the encroachments shall exist, and except as otherwise provided in Subsection (b) of this section, the rights and obligations of owners shall not be altered in any way by the encroachment.

(b) The easement described under Subsection (a) of this section does not relieve a unit owner of liability in case of willful misconduct of a unit owner or relieve the Declarant or any contractor, subcontractor, or materialman of liability for failure to adhere to the Plat.

(c) The encroachments described in subsection (a) of this Section 15.3 shall not be construed to be encumbrances affecting the marketability of title to any unit.

15.4 Easement Over Limited Common Elements.

(a) Owners shall have an easement over LCE B for the purpose of maintenance, repair and replacement of water heaters located within LCE B.

(b) Owners shall have an easement over Limited Common Element P-1 and P-2 for the purpose of ingress and egress to the general common element courtyard and other portions of the general common elements.

10-17-03

(c) Owners and the Association shall have an easement for the installation, maintenance and replacement of landscaping along the easterly boundary of P-2 to the extent landscaping is required by City of Portland.

15.5 **Easements for Declarant.** The Declarant and the Declarant's agents, successors, and assigns shall have an easement over and upon the common elements as may be reasonably necessary for the purpose of completing or making repairs to existing structures and carrying out sales and rental activities necessary or convenient for the sale or rental of units.

15.6 **Granting of Easements and Other Interest by Association.**

(a) Pursuant to ORS 100.405(5), the Association shall have the authority to execute, acknowledge, deliver, and record on behalf of the unit owners, leases, easements, rights-of-way, licenses, and other similar interests affecting the common elements and consent to vacation of roadways within and adjacent to the Condominium.

(b) Subject to Subsections (d) and (e) of this Section 15.6, the granting of a lease, easement, right of way, license or other similar interest shall first be approved by at least seventy-five percent (75%) of the unit owners as required by ORS 100.405, except:

(1) The granting of a lease, easement, right of way, license or other similar interest affecting the general common elements for a term of two years or less requires only the approval of a majority of the Board of Directors.

(2) The granting of a lease, easement, right of way, license or other similar interest affecting the general common elements for a term of more than two years to a public body, as defined in ORS 174.109, or to a utility or a communications company for underground installation and maintenance of power, gas, electric, water or other utility and communication lines and services requires only the approval of a majority of the Board of Directors.

(3) The granting of a lease, easement, license or other similar interest to an owner for the exclusive use of a part of the general common elements to which the owner's unit provides primary access requires only the approval of a majority of the Board of Directors. If the approval by the board includes the right of the owner to make improvements to the general common elements to which the owner is being granted exclusive use, ORS 100.535 applies to the general common elements to the same extent that ORS 100.535 applies to a unit, including the right of the Board under ORS 100.535 to require an owner, at owner's expense, to submit an opinion of a registered architect or registered professional engineer that the proposed improvement will not impair the structural integrity or mechanical systems of the Condominium.

(4) The consent to vacation of roadways within and adjacent to the Condominium must be approved first by at least a majority of unit owners present voting in person or by proxy at a duly constituted meeting of the Association called for the purpose.

10-17-03

(c) No interest shall be granted pursuant to this Section 15.6 with regard to a limited common element unless the owners and mortgagees of the units having the right to use the limited common element consent to and join in the instrument granting the interest.

(d) The instrument granting any interest or consent pursuant to this Section 15.6 shall be executed by the chairperson and secretary of the Association, and any owners and mortgagees required by subsection (c) of this section, and acknowledged in the manner provided for acknowledgment of such instruments by such officers, and shall state that the grant or consent was approved, if appropriate, by at least the percent of owners required by ORS 100.405(6).

(e) The approvals required under Subsection (b) of this Section 15.6 are intended to comply with ORS 100.405(6) in effect as of the recording of this Declaration. To the extent ORS 100.405(6) is amended to reduce any approval requirements stated in Subsection (b) of this section, ORS 100.405(6), as amended, shall apply to Subsection (6) of this section.

ARTICLE 16 DECLARANT CONTROL

The Declarant shall assume full administrative control through an appointed interim Board of Directors. The interim Board shall serve until the Turnover Meeting, which shall be held within ninety (90) days of the earlier of three (3) years from the date of conveyance of the first unit in the Condominium to a person other than the Declarant or the date the Declarant has sold or conveyed seventy-five percent (75%) of the total number of units.

ARTICLE 17 CHANGES TO UNIT BOUNDARIES AND PARTITIONS

17.1 Removal or Alterations of Partitions: Creation of Apertures.

(a) Pursuant to ORS 100.535, after acquiring an adjoining unit, or an adjoining part of an adjoining unit, a unit owner may submit a written request to the Board of Directors for permission to remove or alter any intervening partition or to create apertures therein even if the partition, in whole or in part, is a common element.

(b) The Board of Directors shall approve the change unless it determines within forty-five (45) days of the written request that the proposed change will impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

(c) The Board of Directors may require the unit owner, at owner's own expense, to submit an opinion of a registered architect or registered professional engineer that the proposed change will not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

(d) The Board or any agent appointed by the Board may supervise the work

10-17-03

necessary to effect the removal of partitions or creation of apertures under this section.

(e) Removal of partitions or creation of apertures under this section is not an alteration of boundaries subject to the requirements of Section 17.2 below.

(f) Expenses incurred in conjunction with an alteration as set forth in this section shall be borne by the affected unit owners.

17.2 Relocation of Boundaries.

(a) Pursuant to ORS 100.130, the boundaries between adjoining units, including any intervening common elements, may be relocated or eliminated by an amendment to this Declaration. The owners of the affected units shall submit to the Board of Directors a proposed amendment which shall:

- (1) State that the Declaration is being amended pursuant to this section;
- (2) Identify the units involved;
- (3) State any reallocations of common element interest, voting rights, common expenses liability and right to common profits in accordance with Paragraph (2) of this subsection; and
- (4) Contain words of conveyance.

(b) The Board of Directors shall approve the amendment unless it determines within forty-five (45) days of submission of the proposed amendments that the reallocations are unreasonable or the relocation or elimination will impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium or the amendment otherwise does not conform to the requirements of the Oregon Condominium Act.

(c) The Board of Directors may require the owners of the affected units to submit an opinion of a registered architect or registered professional engineer that the proposed relocation will not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

(d) The Board or any agent appointed by the Board may supervise the work necessary to effect the boundary relocation or elimination.

(e) The amendment shall be executed by the owners and mortgagees of the affected units, certified by the chairperson and secretary of the Association as being adopted in accordance with ORS 100.130 and this Declaration, approved as required by law and recorded in the Deed Records of Multnomah County, Oregon. A plat necessary to show the altered boundaries between the adjoining units shall be prepared, approved and recorded as required by the Oregon

10-17-03

Condominium Act.

(f) Any expenses incurred under this Section 17.2 shall be charged to the owners of the units requesting the boundary relocation or elimination.

ARTICLE 18
AMENDMENT

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

18.2 **Approval Required.**

(a) Except as may be otherwise provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if the amendment is approved by unit owners holding seventy-five percent (75%) of the voting rights of the Condominium and by mortgagees to the extent required by Article 14 above.

(b) Notwithstanding subsection (a) of this section, the Declarant's prior written consent shall also be required for any amendment so long as Declarant owns at least one unit, but no such consent shall be required after the period of Declarant control provided for in Article 16 above, except to the extent the Declarant is a unit owner.

(c) Except as may otherwise be permitted by the Oregon Condominium Act, no amendment may change the allocation of undivided interest in the common elements or the method of determining liability for common expenses, the method of determining right to common profit or the method of determining voting rights of any unit unless the amendment has been approved by the owners and mortgagees of the affected unit.

18.3 **Execution: Approval and Recording.** The amendment or the Declaration as amended shall be:

(a) Executed and certified by the chairperson and secretary of the Association as being adopted in accordance with this Declaration and the provisions of the Oregon Condominium Act;

(b) Approved by the Real Estate Commissioner, Multnomah County assessor and tax collector, if the approvals are required by the Oregon Condominium Act; and

(c) Effective upon recording in the Deed Records of Multnomah County, Oregon.

10-17-03

ARTICLE 19
SEVERABILITY

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

ARTICLE 20
APPLICABILITY

Each unit owner, including Declarant as to any unsold unit, shall be subject to all of the rights and duties assigned to unit owners under the terms of the Declaration and Bylaws.

ARTICLE 21
COMPLIANCE

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

ARTICLE 22
CONFLICTING PROVISIONS

Subject to ORS 100.122 and 100.100, if a conflict arises between or among the provisions of the Declaration, the Articles of Incorporation of the Association, the Bylaws, and any administrative rules and regulations, the provisions of the Declaration shall be paramount to those of the Articles, the Bylaws, and the rules and regulations; the Articles will be paramount to the Bylaws and the rules and regulations and those of the Bylaws will be paramount to the rules and regulations, except to the extent the Declaration, Bylaws and Articles are inconsistent with the Oregon Condominium Act.

ARTICLE 23
ENFORCEMENT

23.1 **Right to Enforce.** The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Additional enforcement remedies are contained in the Bylaws.

23.2 **Waiver, Precedent and Estoppel.** No restriction, condition, obligation, or provision contained in this Declaration or in the rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or by any owner by reason of any

10-17-03

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.

ARTICLE 24
INTERPRETATION

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.

10-17-03

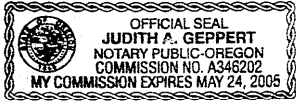
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 28 day of October, 2003.

WHATAHOOT, LLC, an Oregon limited liability company

By: Keenan Longcor
Keenan Longcor, Sole Member

STATE OF OREGON)
) ss
County of Washington)

The foregoing instrument was acknowledged before me on 10/6/03,
by Keenan Longcor, Sole Member of Whatahoot, LLC, an Oregon limited liability company, in its
behalf.



Judith A. Geppert
NOTARY PUBLIC FOR OREGON
My Commission Expires: 5/24/05

10-17-03

GOVERNMENTAL APPROVALS

The foregoing Declaration is approved pursuant to ORS 100.110 this 17th day of October, 2003.

**MULTNOMAH COUNTY ASSESSOR AND
TAX COLLECTOR**

By: *Brian DeMarco*

The foregoing Declaration is approved pursuant to ORS 100.110 this 14th day of October, 2003 and in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two (2) years from this date.

**SCOTT W. TAYLOR
REAL ESTATE COMMISSIONER**

By: *Brian DeMarco*
Brian DeMarco

10-17-03

**EXHIBIT A
LEGAL DESCRIPTION**

Lots 1 and 2, Block 256, HOLLADAY'S ADDITION TO EAST PORTLAND, situated in the Southwest one-quarter of Section 26, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the initial point marked by a 5/8 inch by 30 inch iron rod with a yellow plastic cap marked "Chase, Jones & Assoc. Inc." set at the Northwest corner of said Lot 1, which bears East 60.00 feet and South 60.00 feet from a 5/8 inch iron rod with a yellow plastic cap marked "Chase, Jones & Assoc." found at the Southeast corner of Block 268, HOLLADAYS ADDITION; thence East along the North line of said Block 256, a distance of 100.00 feet to the Northeast corner of said Lot 1; thence South along the East lines of said Lots 1 and 2, a distance of 100.00 feet to the Southeast corner of said Lot 2; thence West along the South line of said Lot 2, a distance of 100.00 feet to the Southwest corner thereof; thence North along the West lines of said Lots 1 and 2, a distance of 100.00 feet to the initial point.

10-17-03

EXHIBIT B
UNIT SQUARE FOOTAGE; ALLOCATION OF INTEREST IN
COMMON ELEMENTS, COMMON EXPENSES,
PROFITS AND VOTING RIGHTS

UNIT NO.	SQUARE FOOTAGE	SHARE OF COMMON EXPENSES PROFITS	VOTING RIGHTS	PERCENT INTEREST COMMON ELEMENTS
1	913	11.67%	11.67	11.67
2	917	11.72%	11.72	11.72
3	360	4.60%	4.60	4.60
4	1871	23.91%	23.91	23.91
5	965	12.34%	12.34	12.34
6	918	11.73%	11.73	11.73
7	917	11.72%	11.72	11.72
8	963	12.31%	12.31	12.31
TOTAL	7824	100%	100	100%

10-17-03

WHEN RECORDED, RETURN TO:
VIAL • FOTHERINGHAM LLP
7000 S.W. Varns Street
Portland, Oregon 97223
(503) 684-4111

Recorded in MULTNOMAH COUNTY, OREGON
C. Swick, Deputy Clerk ATKLM
C06 48
Total : 256.00

2003-249073 10/17/2003 01:49:16pm

**BYLAWS
OF
IRVINGTON OFF BROADWAY
CONDOMINIUM ASSOCIATION**

483

10-17-03

TABLE OF CONTENTS

**BYLAWS
OF
THE IRVINGTON OFF BROADWAY CONDOMINIUM ASSOCIATION**

ARTICLE I - PLAN OF OWNERSHIP

1.1	Name and Location	1
1.2	Purposes	1
1.3	Applicability of Bylaws	1
1.4	Composition of the Association	1
1.5	Incorporation	1
1.6	Definitions	1

ARTICLE II - VOTING

2.1	Voting	1
2.2	Determination of Membership in the Association	2
2.3	Proxies, Absentee Ballots and Rights of Mortgagees	2
2.4	Fiduciaries and Joint Owners	3
2.5	Landlords and Contract Vendors	3
2.6	Quorum of Unit Owners	3
2.7	Binding Vote	4

ARTICLE III - MEETINGS OF THE ASSOCIATION

3.1	Place of Meeting	4
3.2	Initial Meeting	4
3.3	Turnover Meeting	4
3.4	Annual Meetings	6
3.5	Special Meetings	6
3.6	Notice of Meetings	7
3.7	Order of Business	7
3.8	Meeting Procedure	7
3.9	Written Ballot In Lieu of a Meeting	8
3.10	Action Without a Meeting	10

ARTICLE IV - BOARD OF DIRECTORS

4.1	Number and Qualification	10
4.2	Interim Directors	10
4.3	Election and Term of Office	10
4.4	Vacancies	10
4.5	Removal of Directors	11
4.6	Powers and Duties	11

10-17-03

4.7	Specific Powers and Duties	11
4.8	Management Agent	12
4.9	Contracts Entered into by Declarant or Interim Board	12
4.10	Organizational Meeting	13
4.11	Regular and Special Meetings	13
4.12	Meeting Procedure	13
4.13	Open Meetings; Executive Sessions	13
4.14	Meetings by Telephonic or Electronic Communication	14
4.15	Notice to Owners of Meetings of Board	14
4.16	Waiver of Notice	14
4.17	Quorum and Acts	14
4.18	Compensation of Directors	15
4.19	Standards of Conduct	15
4.20	Liability and Indemnification of Directors, Officers, Manager, or Managing Agent	15
4.21	Fidelity Bond	15
4.22	Insurance	15

ARTICLE V - OFFICERS

5.1	Designation and Qualification	16
5.2	Election and Vacancies	16
5.3	Removal of Officers	16
5.4	Chairperson	16
5.5	Secretary	16
5.6	Treasurer	16
5.7	Directors as Officers	16
5.8	Standards of Conduct	16
5.9	Compensation of Officers	16

ARTICLE VI - BUDGET, EXPENSES AND ASSESSMENTS

6.1	Budget	17
6.2	Periodic Assessment	17
6.3	Determination of Assessments	17
6.4	Association Accounts	18
6.5	Assessment of Unit Owners	18
6.6	Major Maintenance and Replacement Reserve Account	20
6.7	Special or Extraordinary Assessments	22
6.8	Default in Payment of Assessments; Enforcement of Lien	23
6.9	Priority of Lien: Prior Mortgages	24
6.10	Deeds in Lieu of Foreclosure	24
6.11	Liability for Unpaid Assessments	24
6.12	Interest, Late Payment Charge and Collection Costs	24
6.13	Budget Summary and Statement of Assessments	24

10-17-03

**ARTICLE VII - MAINTENANCE, REPAIR AND REPLACEMENTS AND ADDITIONS,
ALTERATIONS OR IMPROVEMENTS OF THE CONDOMINIUM PROPERTY**

7.1 Maintenance, Repair and Replacement 26
7.2 Additions, Alterations or Improvements 27

**ARTICLE VIII - RESTRICTIONS AND REQUIREMENTS RESPECTING USE OF
CONDOMINIUM PROPERTY**

8.1 Restrictions and Requirements 27
8.2 Association Rules and Regulations 31

ARTICLE IX - COMPLIANCE AND ENFORCEMENT

9.1 Compliance 32
9.2 Abatement and Enjoining of Violations 32
9.3 Disputes Between Association and Owners 33
9.4 Costs and Fees 33

ARTICLE X - INSURANCE

10.1 Types of Insurance 34
10.2 Insurance by Unit Owners 35
10.3 Policies 35
10.4 Provisions 36
10.5 Deductible/Owner and Tenant Insurance 36

ARTICLE XI - DAMAGE AND DESTRUCTION

11.1 Insurance Proceeds Sufficient to Cover Loss 37
11.2 Insurance Proceeds Insufficient to Cover Loss 37
11.3 Damage Due to Unit Owner 38

ARTICLE XII - CONDEMNATION 38

ARTICLE XIII - AMENDMENTS TO BYLAWS

13.1 How Proposed 39
13.2 Adoption 39
13.3 Execution; Approval and Recording 39

ARTICLE XIV - RECORDS AND AUDITS


14.1 General Records 39
14.2 Records of Receipts and Expenditures 40
14.3 Assessment Roll 40
14.4 Payment of Vouchers 40
14.5 Fiscal Year 40
14.6 Financial Reports and Audits 40
14.7 Notice of Sale, Mortgage, Rental or Lease 41

10-17-03

14.8 Inspection of Records by Unit Owners 41

ARTICLE XV - MISCELLANEOUS

15.1 Notices 42
15.2 Waiver, Precedent and Estoppel 42
15.3 Invalidation; Number; Captions 42
15.4 Conflicts 42


10-17-03

**BYLAWS
OF
IRVINGTON OFF BROADWAY
CONDOMINIUM ASSOCIATION**

**ARTICLE I
PLAN OF CONDOMINIUM OWNERSHIP**

1.1 **Name and Location.** These are the Bylaws of Irvington Off Broadway Condominium Association ("Association"). Irvington Off Broadway Condominium (the "Condominium") is located in the City of Portland, Multnomah County, Oregon, and has been submitted to the provisions of the Oregon Condominium Act (ORS Chapter 100) by a Declaration of Condominium Ownership (the "Declaration") recorded simultaneously herewith in the Records of Multnomah County, Oregon. The location of the Condominium is more specifically described in the Declaration.

1.2 **Purposes.** The Association is formed under the provisions of the Oregon Condominium Act to serve as the means through which the unit owners may take action with regard to administration, management, and operation of the Condominium.

1.3 **Applicability of Bylaws.** The Association, all unit owners, the Declarant and its successors and assigns, and all persons using the Condominium property shall be subject to these Bylaws and to all rules and regulations which may be promulgated hereunder.

1.4 **Composition of the Association.** The Association shall be composed of all the unit owners of the Condominium, including Whatahoot, LLC, an Oregon limited liability company ("Declarant"), and the Association, itself, to the extent any of these own any unit or units of the Condominium.

1.5 **Incorporation.** 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.

1.6 **Definitions.** The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws. In addition, all definitions as found in ORS 100.005 shall be applicable unless stated otherwise in these Bylaws.

**ARTICLE II
VOTING**

2.1 **Voting.** Each unit shall be allocated a vote in the affairs of the Association in

10-17-03

accordance with Section 8.2 of the Declaration. The Declarant shall be entitled to vote as the unit owner of any then existing units retained by the Declarant, and the Board of Directors shall be entitled to vote on behalf of any unit which has been acquired by or on behalf of the Association, except the Board of Directors shall not be entitled to vote on behalf of acquired unit in any election of directors.

2.2 Determination of Membership in the Association.

(a) Upon recordation of a conveyance or contract to convey a unit, the grantee or purchaser named in the conveyance or contract (unless otherwise provided in the 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.

(b) Unit ownership shall be determined, for all purposes of the Declaration and these Bylaws, and the administration of the Condominium, from the record of unit ownership maintained by the Association. The record shall be established by the unit owner filing with the Association a copy of the deed or land sale contract for the unit, to which shall be affixed the certificate of the recording officer of Multnomah County, Oregon, showing the date and place of recording of the deed or contract. Notwithstanding the foregoing, the Declarant shall be the owner of all previously unsold units although no deed or land sale contract, with respect to the units, has been filed with the Association.

2.3 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 must be in writing, dated and signed by the owner and must 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 to the Association.

(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 3.9 below.

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

10-17-03

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

(c) Mortgagee Rights.

(1) An owner may pledge or assign 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 has given written notice of the pledge or assignment to the Board of Directors.

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

2.4 Fiduciaries and Joint Owners.

(a) An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any unit owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided that the person satisfies the secretary that he or she is the executor, administrator, guardian, or trustee holding the unit in such capacity.

(b) Whenever any unit is owned by two or more persons jointly, according to the records of the Association, the vote (or consent) of the unit may be exercised by any one of the owners then present, in the absence of protest by a co-owner. In the event of 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 (or consent) of the unit shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.5 Landlords and Contract Vendors.

(a) Unless otherwise expressly stated in the rental agreement or lease, all voting rights allocated to a unit shall be exercised by the landlord if the rental agreement or lease has an original term of ten (10) years or less, or by the tenant if the rental agreement or lease has an original term of more than ten (10) years.

(b) Unless otherwise stated in the contract, all voting rights allocated to a unit shall be exercised by the vendee of any land sale contract on the unit.

2.6 Quorum of Unit Owners.

(a) At any meeting of the Association, owners representing the voting rights of four (4) units, present in person or by proxy or absentee ballot if permitted under Section 2.3(b) above, shall constitute a quorum.

10-17-03

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

(c) If any meeting of members cannot be organized because of a lack of quorum, the owners who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.7 **Binding Vote.** The vote of owners representing a majority of the voting rights, present, in person, or by proxy or absentee ballot if permitted under Section 2.3(b) above, at a meeting at which a quorum is constituted, shall be binding upon all unit owners for all purposes except where a higher percentage vote is required by law, by the Declaration, or by these Bylaws.

ARTICLE III MEETINGS OF THE ASSOCIATION

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

3.2 **Initial Meeting.** The initial meeting of the Association shall be the first annual meeting of the Association pursuant to the provisions of Section 3.4 below, unless the Turnover Meeting is called by the Declarant prior to the date of the first annual meeting, in which case the initial meeting of the Association shall be the Turnover Meeting.

3.3 **Turnover Meeting.** The Declarant shall call the Turnover Meeting pursuant to the provisions of Section 3.6 below in accordance with Article 16 of the Declaration. The purpose of the meeting shall be to organize the Association and to elect directors. If the Turnover Meeting is not called within the time specified, the meeting may be called and notice given by any unit owner or first mortgagee of a unit. At the Turnover Meeting:

(a) The Declarant shall relinquish control of the administration of the Association of unit owners and the unit owners shall assume the control;

(b) The unit owners shall elect a Board of Directors in accordance with the Bylaws of the Condominium; and

(c) The Declarant shall deliver to the Association all property of the unit owners and Association held or controlled by the Declarant including, but not limited to, the following items if applicable:

(1) The original or a photocopy of the recorded Declaration and Bylaws and any supplements and amendments thereto.

10-17-03

- (2) A copy of the Articles of Incorporation.
- (3) The minute books, including all minutes and other books and records of the Association.
- (4) The reserve study, updates described in ORS 100.175 and other sources of information that serve as a basis for calculating reserves in accordance with ORS 100.175(8).
- (5) Any rules and regulations which have been promulgated.
- (6) Resignations of officers and members of the interim Board of Directors.
- (7) A report of the present financial condition of the Association. The report shall consist of a balance sheet and an income and expense statement for the preceding twelve (12) month period or the period following the recording of the Declaration, whichever period is less.
- (8) The Association's funds or control thereof, including, but not limited to, funds for reserve required under ORS 100.530(3)(b) and any bank signature cards.
- (9) All tangible personal property that is property of the Association and an inventory of the property.
- (10) A copy of the following, if available:
- A. The as-built architectural, structural, engineering, mechanical, electrical, and plumbing plans.
 - B. The original specifications indicating thereon all material changes.
 - C. The plans for underground site service, site grading, drainage, and landscaping together with cable television drawings.
 - D. Any other plans and information relevant to future repair or maintenance of the property.
- (11) Insurance policies.
- (12) Copies of any occupancy permits which have been issued for the Condominium.
- (13) Any other permits issued by governmental bodies applicable to the

10-17-03

Condominium in force or issued within one (1) year prior to the date the unit owners assume control of the administration of the Association.

(14) A list of the general contractor and subcontractors responsible for construction or installation of the major plumbing, electrical, mechanical, and structural components of the common elements.

(15) A roster of unit owners and their addresses and telephone numbers, if known, as shown on the records of the Declarant.

(16) Leases of the common elements and any other leases to which the Association is a party.

(17) Employment or service contracts in which the Association is one of the contracting parties or service contracts in which the Association or the unit owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charges of the person performing the service.

(18) Any other contracts to which the Association is a party.

(d) In order to facilitate an orderly transition during the three (3) month period following the Turnover Meeting, the Declarant or an informed representative shall be available to meet with the Board of Directors on at least three (3) mutually acceptable dates to review the documents delivered under Subsection (c) of this section.

(e) If the Declarant has complied with this section, unless the Declarant otherwise has sufficient voting rights as a unit owner to control the Association, the Declarant shall be relieved of any further responsibility for the administration of the Association except as unit owner of any unsold unit.

3.4 **Annual Meetings.** The Association shall hold at least one meeting of the owners each calendar year. Unless otherwise provided by a resolution adopted by the Board of Directors, the annual meeting of the Association shall be held during the month of September of each year at such place and at such hour as the chairperson may designate. If the chairperson fails to designate a date by the 31st of August of any year, the annual meeting shall be held the third Monday of September at 7:00 p.m. in the lobby area of the Condominium. The annual meeting shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting. The method for calling all meetings is set forth Section 3.6 below.

3.5 **Special Meetings.** Special meetings of the Association may be called by the chairperson or secretary or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from at least three (3) unit owners stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

Page 6 - BYLAWS - Irvington Off Broadway Condominium Association

10-17-03

3.6 **Notice of Meetings.**

(a) Notice of all meetings of the Association shall be given by the chairperson or secretary or other person authorized by resolution of the Board of Directors. All notices must be in writing and must:

(1) State the date, time and place of the meeting.

(2) State the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes or any proposal to remove a director or officer of the Association.

(3) Be mailed or hand delivered to the mailing address of each unit or to the mailing address designated in writing by the owner, and to all mortgagees that have requested notice, not less than ten (10) or more than fifty (50) days before the date of the meeting. Proof of the mailing shall be given by the affidavit of the person giving the notice.

(b) 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.

3.7 **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.

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

Page 7 - BYLAWS - Irvington Off Broadway Condominium Association

10-17-03

(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.

3.9 **Written Ballot In Lieu of a Meeting.**

(a) Action By Written Ballot. At the discretion of the Board of Directors, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association, 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. Action by written ballot may not substitute for the Turnover Meeting, the annual meeting of the Association or a meeting held to remove a director pursuant to Section 4.5 below.

(b) Form and Effect of Ballot.

(1) The written ballot shall 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

10-17-03

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 must 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 must 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 (3) days before written ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the owners petition the Board of Directors requesting the secrecy procedure, a written ballot must be accompanied by:

- (A) A secrecy envelope;
- (B) A return identification envelope to be signed by the owner; and
- (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 must be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots. 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 the 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 the required percentage has not been met.

(3) Except as provided in Paragraph (4) of this subsection, 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

10-17-03

examined or counted before the deadline for returning ballots has passed.

3.10 **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 3.9 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 IV
BOARD OF DIRECTORS

4.1 **Number and Qualification.**

(a) The affairs of the Association shall be governed by a Board of Directors composed of up to three (3) interim directors as provided in Section 4.2 below. Subsequent to the Turnover Meeting, the Board shall consist of three (3) directors as elected as provided in Sections 4.3 below.

(b) Except for interim directors, all directors must be a unit owner or the co-owner of a unit. However, multiple owners of the same unit 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 unit.

4.2 **Interim Directors.** Upon the recording of this Declaration, the Declarant shall appoint an interim board of up to three (3) directors, who shall serve until replaced by the Declarant or their successors have been elected by the unit owners as provided in Section 4.3 below.

4.3 **Election and Term of Office.** At the Turnover Meeting called by the Declarant, the interim directors shall resign and three (3) successors shall be elected by a majority vote of the owners present in person or by proxy or absentee ballot if permitted under Section 2.3(b) above, provided a quorum is present. Directors shall hold office for a term of one (1) year or until their respective successors have been elected by the unit owners. Election shall be by plurality.

4.4 **Vacancies.** Vacancies on the Board of Directors, caused by any reason other than the removal of a director by a vote of the Association, shall be filled for the balance of the term of

10-17-03

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 the person was elected by the other directors to serve.

4.5 **Removal of Directors.** At any annual or special meeting, other than a meeting by ballot, any one or more of the directors, other than interim directors, may be removed, with or without cause, by a majority of the owners present in person or by proxy, at a duly constituted meeting. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any director whose removal has been proposed by the owners may be given an opportunity to be heard at the meeting.

4.6 **Powers and Duties.** The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association, except such powers and duties as by law or by the Declaration or these Bylaws may not be delegated to the Board of Directors by the owners.

4.7 **Specific Powers and Duties.** The powers and duties to be exercised by the Board of Directors shall include, but shall not be limited to, the following:

- (a) **Maintenance of Condominium.** Care, upkeep, and supervision of the Condominium, the Association property and the general common elements and limited common elements, if any, for which the Association has maintenance responsibilities;
- (b) **Bank Accounts.** Opening of bank accounts on behalf of the Association and designating the signatories required therefor;
- (c) **Reserves.** Establishing and maintaining replacement Reserve accounts and other reserves as required by the Oregon Condominium Act or these Bylaws and such other reserve accounts as are permitted by these Bylaws.
- (d) **Assessment Collection.** Designation and collection of assessments from the owners in accordance with these Bylaws, the Declaration, and the Oregon Condominium Act.
- (e) **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.
- (f) **Personnel.** Designation and dismissal of the personnel necessary for the maintenance and operation of the Condominium, the general common elements, and the limited common elements.
- (g) **Annual Financial Statement.** The preparation and distribution of annual financial statement of the Condominium to each unit owner in accordance with Section 14.6 below.

10-17-03

(h) Rules. Promulgation, adoption, amendment and enforcement of administrative rules and regulations governing the details of operation and use of units and the common elements and rules of conduct for unit owners, employees, and invitees.

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

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

(k) Real Estate Agency Annual Report. The filing of the Annual Report and any amendments to the Condominium Information Report with the Real Estate Agency in accordance with ORS 100.250.

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

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

(n) Association Records. Compliance by the Association with ORS 100.480 relating to maintenance of Association records and maintenance of copies suitable for duplication of the documents specified in ORS 100.480 and Section 14.8 below.

(o) Association Mailing Address. Maintenance of a current mailing address for the Association.

(p) Committees. Establishment of committees and appointment of members thereof as the Board of Directors in its sole judgement deem necessary or appropriate to assist the Board in its duties.

4.8 Management Agent. The Board of Directors, including the Interim 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 4.7 above.

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

10-17-03

4.10 **Organizational Meeting.** The first meeting of a newly-elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the directors at the meeting at which the directors were elected. No notice of the meeting shall be necessary to the newly elected directors or owners in order to legally hold the meeting provided a majority of the newly elected directors are present.

4.11 **Regular and Special Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Special meetings of the Board of Directors may be called by the chairperson of the Board of Directors or by a majority of the Board of Directors. Notice of any special meeting must be given to each director, personally or by mail, telephone, telegraph, or other means approved by the Board, at least ten (10) days prior to the day named for the meeting. The notice must state the time, place, and purpose of the meeting.

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

(a) Meetings of the Board of Directors 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 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.

4.13 **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 unit 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 chairperson 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;

10-17-03

- (3) The negotiation of contracts with third parties;
- (4) Collection of unpaid assessments; and
- (5) Any other matters permitted under ORS 100.420 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 chairperson 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.

4.14 Meetings by Telephonic or Electronic Communication. In the case of an emergency or as otherwise permitted under ORS 100.420, 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.

4.15 Notice to Owners of Meetings of Board. For other than emergency meetings, notice of each Board of Directors meeting must be posted at a place or places on the property at least three (3) days prior to the meeting, or notice must be provided by a method otherwise reasonably calculated to inform the unit owners of the meeting.

4.16 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.

4.17 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 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

10-17-03

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.

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

4.19 **Standards of Conduct.** In the performance of their duties, members of the Board of Directors shall be governed by ORS 100.417 and ORS 65.357, 65.361 and 65.369.

4.20 **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 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. 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 duties.

4.21 **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 the bonds shall be paid by the Association.

4.22 **Insurance.** The Board of Directors shall obtain the insurance required in Article X 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 unit owners. The Board of Directors shall conduct an annual insurance review which, if appropriate, shall include an appraisal of all improvements contained in the Condominium.

10-17-03

ARTICLE V
OFFICERS

5.1 **Designation and Qualification.** The principal officers of the Association shall be a chairperson, a secretary, and a treasurer, all of whom shall be elected by the directors. The directors may appoint any such other officers as in their judgment may be necessary. The Board may vote to combine the offices of secretary and treasurer. The chairperson shall be a member of the Board of Directors, but the other officers need not be directors or unit owners.

5.2 **Election of Officers.** 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 4.10 above or any Board of Directors' meeting thereafter. The officers shall hold office at the pleasure of the Board of Directors. If any office shall become vacant, the Board shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

5.3 **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.

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

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

5.6 **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.

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

5.8 **Standards of Conduct.** In the performance of their duties, officers shall be governed by ORS 100.417 and ORS 65.377.

5.9 **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 unit owners. The board of directors may fix any

10-17-03

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

ARTICLE VI
BUDGET, EXPENSES AND ASSESSMENTS

6.1 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, and assess the common expenses to each unit owner in the allocation set forth in the Declaration as provided in these Bylaws. 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.

6.2 Periodic Assessment.

(a) The Board of Directors, on behalf of the Association, shall assess the unit owners, from time to time and at least annually, and shall take prompt action to collect from a unit owner any assessment due which remains unpaid for more than thirty (30) days from the due date for its payment.

(b) Until the Turnover Meeting, unit owners shall assessed monthly for regular assessments of the Association. Thereafter, the Board of Directors may, by a majority vote of the Board, establish a different assessment schedule. No change to the assessment schedule may become effective unless affected owners have been given at least thirty (30) days' written notice of the change.

6.3 Determination of Assessments. The assessment of units must include the following items which shall be common expenses:

(a) Expenses of administration;

(b) Expenses of maintenance, repair, or replacement of general common elements or any other portions of the condominium required to be maintained by the Association pursuant to the Declaration or Bylaws;

(c) Cost of insurance or bonds obtained in accordance with these Bylaws;

(d) Reserve for major maintenance and replacements as set forth in Section 6.6 below;

(e) Any deficit in common expenses for any prior period;

10-17-03

(f) Expenses specified in Section 10.3 of the Declaration.

(g) The cost of utilities for the common elements and other utilities that have a common meter or that are commonly billed.

(h) Any other items properly chargeable as an expense of the Association.

6.4 Association Accounts.

(a) The Association shall maintain two (2) primary 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:

(1) General Operating Expense Account.

(2) Major Maintenance and Replacement Reserve Account, as provided in Section 6.6 below.

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

6.5 Assessment of Unit Owners.

(a) Obligation to Pay.

(1) 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.

(A) Regular Assessments for the following:

(i) Operating Expenses permitted under Section 6.3 above relating to the operation of the Condominium which expenses may include items other than those specified in Section 6.3(d) above.

(ii) Reserve Expense required under Section 6.3(d) above

(B) Special or Extraordinary Assessments as provided in Section 6.7 below.

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

(2) Assessments may not be waived due to limited or non-use of common elements, and no unit owner may offset amounts owing or claimed to be owing by the Association

10-17-03

or Declarant to the unit owner against the unit owner's obligation to pay assessments.

(3) Subject to subsection (d) and (f) below, the Declarant shall be assessed as the unit owner of any unsold unit, but the assessment may be prorated between the Declarant and the purchaser to the date of sale of the unit.

(b) Initial Working Capital Fund.

(1) The Declarant shall establish an initial working capital fund in a amount equal to three (3) months of estimated regular association assessments for each unit. At the time of the initial sale of each unit, the purchaser shall make an initial contribution to the working capital of the Association equal to two (2) months' regular Association assessment for the unit. The initial contribution shall be in addition to the regular monthly common expense assessment and shall not be considered as an advance payment of regular assessments.

(2) Not later than thirty (30) days after the Turnover Meeting, the Declarant shall pay the contribution for all unsold units, but may obtain reimbursement for such sums from the purchaser upon the sale of each unit; and

(3) Declarant may not use the working capital fund to defray any of Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association. If the assessments are reduced pursuant to the authority granted to the Declarant under Paragraph 6.5(e) below, the initial deposit to the Association equal to three (3) months of assessments shall be based on the projected amount of the monthly assessment after substantial or full occupancy of the units, rather than the reduced assessment.

(c) Commencement of Regular Monthly Assessments. Subject to Subsections (d) and (e) of this section, monthly regular assessments shall commence upon the closing of the first unit in the Condominium.

(d) Commencement of Assessment for Replacement Reserves.

(1) The portion of the regular monthly assessments allocated for major maintenance and replacement reserves as described in Section 6.6 below shall commence to accrue upon the closing of the sale of the first unit in the Condominium.

(2) Declarant may elect to defer payment of the maintenance and replacement reserve assessment to the Association for each unit owned by Declarant until the closing of the sale of such unit. However, Declarant may not defer payment of accrued assessments for reserves beyond the Turnover Meeting or if the Turnover Meeting is not held, the date the owners assume administrative control of the Association. The deferral shall not apply to Declarant's obligation to pay regular operating expense assessments.

10-17-03

(3) Declarant shall deposit the balance due the Association within thirty (30) days after the date due specified in paragraph (2) of this subsection.

(e) Deferral of Commencement or Reduction of Assessments.

(1) Election to Defer. Pursuant to ORS 100.530(5), the Declarant may elect to defer commencement of all or part of the assessments attributable to common operating expenses as to all units in the Condominium. If the Declarant so elects to defer commencement of all or part of the assessments, Declarant shall pay as they accrue and be responsible for all or part of the common operating expenses attributable to the Condominium or which assessments have been deferred until assessments commence for all common expenses.

(2) Notice of Commencement. The Declarant shall give not less than ten (10) days' written notice to all affected unit owners prior to the commencement of assessments if such deferral occurs. Thereafter, each owner, including the Declarant, shall pay the assessments to the Association

(3) Temporary Reduction of Assessments. If the common operating expenses are temporarily less than projected by the Declarant because some or most of the units are not yet sold or occupied, the Declarant shall have the authority to reduce temporarily the assessment to reflect the lower expenses of the Condominium. Any reduction shall not alter the amount of the initial contribution to the working capital fund required by Subsection (b) above.

6.6 Major Maintenance and Replacement Reserve Account.

(a) Establishment of the Reserve Account. The Declarant shall establish a reserve account for major maintenance and replacement of those common elements 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 common elements include exterior painted surfaces, and for such other items as may be required by the Declaration or these Bylaws. The reserve fund need not include:

(1) Items that could reasonably be funded from operating assessments;

or

(2) A reserve for the water heaters or limited common elements for which maintenance and replacements are the responsibility of one or more unit owners.

(b) Funding of Reserve Account.

(1) The reserve account shall be funded by assessments against individual units assessed for maintenance of items for which the reserve account is being established. The sums shall be included in the monthly regular assessment for the units, except as provided in Section 6.5(d) above. The reserve portion of the initial assessment determined by the Declarant shall be based on:

10-17-03

- (A) The reserve study described in Subsection (c) of this section;
- (B) The statement described in ORS 100.655(1)(g); or
- (C) Other reliable information.

(2) The books and records of the Association shall reflect the amounts owing from the Declarant for all the assessments for reserves.

(c) Determination of Reserve Account: Reserve Study.

(1) The Board of Directors of the Association 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) After the Turnover Meeting, the Board of Directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses if the Board has adopted a resolution, which may be an annual

10-17-03

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. Following the second year after the Association has assumed administrative responsibility for the Condominium at the Turnover Meeting:

(1) By an affirmative vote of at least seventy-five percent (75%) of the owners, the Association may elect to reduce or increase future assessments for the reserve account; and

(2) The Association may, 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 units.

6.7 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 the general common elements if sufficient funds are not available from the General Operating Expense Account or replacement reserve account 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 common elements 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 five thousand dollars (\$5,000).

Page 22 - BYLAWS - Irvington Off Broadway Condominium Association

10-17-03

6.8 **Default in Payment of Assessments; Enforcement of Lien.** If an Assessment levied by the Association is not paid within thirty (30) days after its due date (which shall be established by resolution of the Board of Directors), the Assessment shall become delinquent and shall be subject to interest, late payment charges and collection costs as set forth in Section 6.12 below. In addition, the Association may exercise any or all of the following remedies:

(a) Association Lien.

(1) Whenever the Association levies any assessment against a unit, the Association shall have a lien upon the unit and the undivided interest in the common elements appertaining to the unit for any unpaid Assessments as provided in ORS 100.450. 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 Multnomah County, Oregon which shall be in the form and include the information specified in ORS 100.450. 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 100.450.

(1) In any suit brought by the Association to foreclose a lien on a unit because of unpaid Assessments, the owner shall be required to pay a reasonable rental for the use of the unit during the pendency of the suit; and the plaintiff in 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 unit 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 unit.

(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.

10-17-03

6.9 **Priority of Lien: Prior Mortgages.** The priority of the lien of the Association against a unit for Assessments shall be governed by ORS 100.450.

6.10 **Deeds in Lieu of Foreclosure.** A deed in lieu of foreclosure accepted by the holder of a first mortgage or beneficiary of a first deed of trust in respect to a unit shall have the effect specified in ORS 100.465 and 100.475.

6.11 **Liability for Unpaid Assessments.**

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

(b) Subject to Section 6.9 above, where the purchaser of a unit obtains title to the unit 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 unit which became due prior to the acquisition of title by the purchaser. The unpaid assessments shall be a common expenses of all units owners including the purchaser and successors and assigns of purchaser.

6.12 **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 Condominium 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 unit granted by the Oregon Condominium Act is instituted, and at trial or any appeal therefrom). All such expenses shall be an additional Assessment against the owner's unit.

6.13 **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

10-17-03

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, Board of Directors shall provide a Statement of Assessment Account which shall 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 Subsection (c) of this section if the Association has commenced litigation.

(c) Statement for Prospective Purchasers.

(1) Subject to Paragraph (2) of this subsection, in a voluntary conveyance of a unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the unit to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the seller the amount paid by the grantee thereof.

(2) Upon request of an owner or owner's agent, for the benefit of a prospective purchaser, the Board of Directors shall make and deliver a written statement of the unpaid assessments against the prospective grantor or the unit effective through a date specified in

10-17-03

the statement, and the grantee in that case shall not be liable for any unpaid assessments against the grantor not included in the written statement.

ARTICLE VII
MAINTENANCE, REPAIR AND REPLACEMENT
AND ADDITIONS, ALTERATIONS
OR IMPROVEMENTS OF CONDOMINIUM PROPERTY

7.1 **Maintenance, Repair and Replacement.** Except as otherwise provided herein for damage or destruction caused by casualty, maintenance, repair and replacement to the units and common elements shall be as provided in this section.

(a) **Units.**

(1) All maintenance of and repairs to any unit shall be made by the owner who shall keep the unit in good order, condition, and repair and shall do all redecorating, painting, and staining which at any time may be necessary to maintain the good appearance and condition of the unit.

(2) Each unit owner shall be responsible for the maintenance, repair, or replacement of finished floors, any plumbing, heating, or air conditioning fixtures, telephones, fans, circuit breakers, lighting fixtures and lamps, fireplace (except flue and chimney), refrigerators, dishwashers, ranges, or other appliances and accessories that may be in or connected with owner's unit.

(b) **Common General Elements.** All maintenance, repairs, and replacements to the general common elements shall be made by the Association and shall be charged to all the unit owners as a common expense in accordance with Section 8.1 of the Declaration.

(c) **Limited Common Element.** Each owner of a unit shall be responsible to maintain, repair and replace the limited common elements appurtenant to the owner's unit as provided in Section 10.2 of the Declaration and shall be liable for damage to units and common elements resulting from a failure to maintain, repair and replace the same.

(d) **Failure to Maintain.** The Board of Directors, by resolution, may adopt required inspection and maintenance schedules for items which, if not inspected and maintained properly, could result in damage to other units or the common elements. If any owner fails to perform any maintenance required by this section, the Board, acting on behalf of the Association and following the procedures set forth in Section 9.2 below, may cause the maintenance to be performed at the expense of the unit owner and assess the cost of the maintenance and repair to the unit owner. The remedy shall be in addition to the other remedies set forth in Section 9.2 below.

10-17-03

7.2 Additions, Alterations, or Improvements.

(a) Permitted Improvements or Alterations. Subject to Subsection (b) of this section, a unit owner may make any improvement or alteration to owner's unit that does not impair the structural integrity or mechanical systems of the Condominium or lessen the support of any portion of the Condominium.

(b) Consent Required for Certain Repairs, Alteration and Other Work.

(1) A unit owner shall make no repair or alteration or perform any other work on the unit which would jeopardize the soundness or safety of the property, reduce its value, impair any easement or hereditament, or increase the common expenses of the Association unless the consent of the Board of Directors and all other unit owners affected is first obtained.

(2) A unit owner may not change the appearance of the general common elements or the exterior appearance of a unit without permission of the Board of Directors.

ARTICLE VIII
RESTRICTIONS AND REQUIREMENTS
RESPECTING USE OF CONDOMINIUM PROPERTY

8.1 Restrictions and Requirements. The following restrictions and requirements are in addition to all other restrictions and requirements contained in the Declaration and these Bylaws:

(a) Residential Use.

(1) No commercial activities of any kind shall be carried on in any unit or in any other portion of the Condominium without the consent of the Board of Directors in accordance with Paragraph (2) of this subsection except activities relating to the rental or sale of units. However, this subsection shall not be construed so as to prevent or prohibit a unit owner from:

- (A) Maintaining owner's professional personal library;
- (B) Keeping owner's personal business or professional records or accounts;
- (C) Handling owner's personal business or professional telephone calls; or
- (D) Conferring with business or professional associates, clients, or customers, in owner's unit.

10-17-03

(2) An owner may submit a written request to the Board of Directors for approval to conduct commercial activities not otherwise permitted under this subsection. The Board, in its sole discretion, may permit an activity, including a home office, only if clients, customers, vendors and employees do not regularly visit the Condominium or the type of activity will not unreasonably disturb other owners or occupants of units.

(3) The Board may adopt by resolution an application and approval procedure and rules necessary to implement this subsection.

(b) Use of General Common Elements.

(1) The general common elements shall be used for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of units. The use, operation and maintenance of the general common elements shall be subject to rules adopted by resolution of the Board of Directors. The general common elements shall not be obstructed, damaged or unreasonably interfered with by any unit owner. No owner may place or store any barbecue, grill or other equipment of any kind in the general common element courtyard area with barbecue without the approval of the Board of Directors.

(2) The general common element courtyard area with barbecue is intended for the use of all owners. However, the Board may permit owners to reserve the use of the courtyard area for reasonable periods for appropriate events that will not disturb other owners. Reservations must be pursuant to a reservation system adopted by resolution of the Board.

(c) Animals.

(1) Except with the prior written approval of the Board of directors as provided in Paragraph (2) of this subsection, no animals (including birds, fish, reptiles, rodents, livestock and poultry of any kind) may be raised, bred or kept in any unit.

(2) The Board of Directors, in its sole discretion, may permit dogs, cats, birds, fish and other household pets to be kept in a unit. When reviewing an application for approval, the Board may consider the number of animals, the animal's size (by weight, height or other characteristic), breed or species or any other relevant criteria to minimize the possibility of violations of this subsection, Sections 8.1(d) and (j) or other provision of these Bylaws or the Declaration, including that a pet successfully complete an obedience training program such as the Canine Good Citizen program offered by the American Kennel Club.

(3) Animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other unit owners.

(4) The owner of a dog or cat must carry or keep the dog or cat on a leash or keep it confined in the unit or its appurtenant limited common element. No cat, dog or other permitted household pet may be allowed to run free.

10-17-03

(5) Any inconvenience, damage or unpleasantness caused by animals shall be the responsibility of the respective owner thereof, and owners shall be responsible for the removal of all debris of their animals.

(6) The Board may require the removal of any animal or which the Board in the exercise of reasonable discretion finds disturbing other unit owners unreasonably, and may exercise this authority for specific animals even though other animals are permitted to remain.

(7) The keeping of dogs, cats or other household pets within the Condominium shall be subject to all applicable rules and regulations promulgated by the Board from time to time and all local ordinances.

(8) Pursuant to Section 8.2 below, the Board of Directors shall adopt by resolution rules to implement this subsection. The resolution must include an application and approval procedure and a definition of "household pet."

(d) Rubbish and Trash. No part of the Condominium may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the common elements except in a sanitary container as specified by the Association. All waste and garbage must be promptly and periodically removed.

(e) Offensive Activities. No noxious, offensive, or unsightly conditions are permitted upon any portion of the Condominium; nor may anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

(f) Unlawful Activities. No unlawful use shall be made of the Condominium or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

(g) Parking.

(1) Common Elements. No vehicles of any kind, including, but not limited to passenger vehicles (including automobiles, minivans and sports utility vehicles), trucks, motorcycles and campers, motor homes or other recreational vehicles, or boats or trailers of any kind may be parked or stored upon any common element including the general common element driveway, except temporarily for the purpose of loading and unloading as permitted by rules adopted by resolution of the Board under Paragraph (4) of this subsection.

(2) Limited Common Element Parking Spaces. No vehicles of any kind may be parked or stored in limited common element P-1 or P-2 except for passenger vehicles (including sports utility vehicles and vans) and light trucks (vehicles with single rear axles and single rear wheels) which are operable.

10-17-03

(3) Street. No owner or occupant of a unit may park or store any truck, except a light truck (vehicle with single rear axles and single rear wheels) in operable condition, camper, motor home or other recreational vehicle or boat or trailer in the public right-of-way adjacent to the boundaries of the Condominium. This paragraph is in addition to the provisions of Chapter 16.30, Code of the City of Portland, Oregon.

(4) Rules and Regulations. The Board, pursuant to Section 8.2 of this section, may adopt rules and regulations necessary to enforce this section. The rules may include the right to tow vehicles or equipment parked or stored in violation of this subsection and charge the towing and storage costs to the owner.

(5) Definitions. The definition of vehicle types contained in Chapter 33.910.030, Code of the City of Portland, Oregon, shall apply to this subsection.

(h) Windows, Decks, Patios, Outside Walls, Clothes Lines and Clothing and Materials.

(1) In order to preserve the attractive appearance of the Condominium, the Board of Directors may, pursuant to rules adopted by resolution under Section 8.2 below, regulate the nature of items which may be placed in or on windows and any patios or decks as to be visible from other units, the common elements or outside the Condominium. The rules may prohibit the placement of window air conditioning units.

(2) No clothes lines, clothes racks, or other apparatus on which clothes, rags, or similar items are exposed for the purpose of drying or airing shall be located on the property except within the boundaries of the units or enclosed LCE A. No garments, rugs, rags, laundry, or other clothing or materials shall be allowed to hang from the windows or from any of the facades of the properties.

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

(j) Noise Disturbance. Residents shall exercise extreme care about making noises or the use of musical instruments, radios, televisions, amplifiers or other electronic equipment that may disturb other residents. The Board of Directors may adopt by resolution rules to ensure noise created by residents does not unreasonably disturb other residents.

(k) Antennas and Service Facilities. No owner, resident, lessee, or person shall install wiring for electrical or telephone installation, television or radio antenna, machines, or air conditioning units on the exterior of the properties or that protrude through the walls or the roof of any unit or building on the properties except as authorized by the Association.

10-17-03

(L) Leasing and Rental of Units.

(1) Except as provided in Paragraph (2) of this subsection, the rental or lease of a unit shall be in accordance with this paragraph.

(A) The rental or lease of a unit for occupancy by tenants other than by the unit owner shall be for a period of not less than thirty (30) consecutive days.

(B) Upon the commencement of the lease period, the unit owner shall provide the Board of Directors written notice of the lease and also that the tenant has been provided with copies by the unit owner of the Declaration, Bylaws, any amendments thereto, and all rules and regulation promulgated by the Board of Directors in effect.

(C) If the unit owner fails to provide the tenant with copies of the documents specified in Paragraph (2) of this subsection, the Association shall provide the documents to the tenant and charge the copy expenses to the unit owner as part of the owner's assessments.

(D) All lease agreements shall contain a clause stating that a failure to abide by the Declaration, Bylaws, any amendments thereto, and the rules and the regulations of the Association, shall result in a breach of the lease agreement.

(E) If the Board of Directors finds that a lessee or tenant has violated any provisions of this Declaration, the Bylaws or the rules and regulations, the Board of Directors may require that the owner terminate the lease or rental agreement.

(2) The minimum thirty (30) consecutive day rental or lease period prescribed in Paragraph (1)(A) of this subsection does not apply to Unit 3. Paragraphs (1)(B) through (E) of this subsection only apply if Unit 3 is rented or leased for a period of not less than six (6) consecutive months.

(m) Increase in Insurance. Nothing shall be done or kept in any unit or in the common elements which will increase the cost of insurance to the Association required under Article X below. No owner shall permit anything to be done or kept in owner's unit or in the common elements which will result in cancellation of insurance on any unit or any part of the common elements.

8.2 Association Rules and Regulations.

(a) Adoption. In addition to the restrictions and requirements in Section 8.1 above, the Board of Directors from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the units and common elements as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the condominium property and the management and administration of the Association, including the interpretation of the Declaration and Bylaws.

Page 31 - BYLAWS - Irvington Off Broadway Condominium Association

10-17-03

(b) Modification. Action by the Board 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.

(c) Distribution of Copies. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the secretary promptly to each unit owner and shall be binding upon all unit owners and occupants of all units from the date of delivery.

ARTICLE IX
COMPLIANCE AND ENFORCEMENT

9.1 Compliance. Each owner, tenant or occupant of a unit shall comply with the provisions of the Declaration, these Bylaws and the rules and regulations adopted pursuant thereto and the Oregon Condominium Act. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved owner.

9.2 Abatement and Enjoining of Violations.

(a) The violation of any rule or regulation adopted pursuant to these Bylaws or the breach of any Bylaw contained herein or of any provision of the Declaration shall give the Board of Directors, subject to section 9.3 below, acting on behalf of the Association, the right in addition to any other rights set forth in these Bylaws:

(1) To enter the unit in which or as to which the violation exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty of any manner of trespass;

(2) To enjoin, abate, or remedy such thing or condition by appropriate legal proceedings; or

(3) To levy reasonable fines after giving notice and an opportunity to be heard if the fine levied is based on a schedule of fines contained in the Declaration, these Bylaws, or an amendment thereto, or based on a resolution adopted by the Board of Directors or the Association that is mailed or delivered to each unit. Fines shall be treated in the same manner as Assessments and collectable as provided in Article VI above.

(b) Any expense incurred by the Association in remedying the default, damage incurred by the Association or unit owners, or fines so levied shall be assessed against the offending unit as a common expense and enforced as provided in Article VI above.

10-17-03

(c) Any aggrieved unit owner may bring an action to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

9.3 **Disputes Between Association and Owners.**

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

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

(c) If a qualified dispute resolution program exists within Multnomah County and an offer to use the program is not made as required under Subsection (a) of this section, litigation or an administrative proceeding may be stayed for 30 days upon a motion of the non-initiating party. If the litigation or administrative action is stayed under this subsection, both parties shall participate in the dispute resolution process.

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

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

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

9.4 **Costs and Fees.** The offending unit owner shall be liable to the Association for a reasonable administrative fee as established by the Board of Directors, and all costs and attorneys' fees incurred by the Association, whether or not legal proceedings are instituted and including attorneys' fees at trial, in arbitration or on appeal, or petition for review, together with any expense incurred by the Association in remedying the default, damage incurred by the Association or unit

10-17-03

owners, or fines so levied. The sums shall be assessed against the offending unit as an Assessment and enforced as provided in Article VI above.

**ARTICLE X
INSURANCE**

10.1 **Types of Insurance.** The Board of Directors shall obtain and maintain at all times and shall pay for out of common expense funds the following insurance:

(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 general common elements. The policy or policies shall name the Association and the unit owners as insured as their interest in the common elements may appear and shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each unit, if any.

(b) **Liability Insurance.**

(1) A policy or policies insuring the Association, the Board of Directors, unit owners and managing agent, if any, against liability to the public or to the owners of units and of common elements and their invitees or tenants incident to the ownership or use of the property. There may be excluded from the policy or policies coverage of a unit owner (other than as a member of the Association or the Board of Directors) for liability arising out of acts or omission of the unit owner and liability incident to the ownership or use of the part of the property as to which the unit owner has the exclusive use or occupancy.

(2) Limits of liability under the 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

10-17-03

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 units 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 ("Fannie Mae").

(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.

10.2 Insurance by Unit Owners. Each unit owner shall be responsible for obtaining and maintaining, at owner's own expense, the insurance specified in this section.

(a) Insurance covering owner's property not insured under Subsection 10.1(a) above and against his or her liability not covered under Subsection 10.1 (b) above in accordance with this section, unless the Association agrees otherwise.

(b) Personal effects fire and comprehensive personal liability and premises.

(c) Owners shall purchase insurance policies insuring their units and appurtenant limited common elements for the deductible amount under the Association's policies.

(d) Owners of all units shall procure and maintain comprehensive liability policies having combined limits of not less than \$50,000 for each occurrence. The insurance shall provide coverage for, but not limited to, the negligent acts of the owner and tenant and their guests or other occupants of the unit for damage to the common elements and other units and the personal property of others located therein.

(e) If requested in writing by the Association, an owner or tenant shall file of copy of each policy required under this section with the Association within thirty (30) days.

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

10-17-03

(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 unit owners, or upon demand of any mortgage, to an insurance trustee acceptable to the Association and mortgagees of units.

(c) Each unit owner shall be required to notify the Board of Directors of all improvements made by the owner to owner's unit, the value of which is in excess of Ten Thousand Dollars (\$10,000). Nothing in this Subsection (c) shall permit an owner to make improvements without first obtaining the approval of the Board of Directors pursuant to Section 7.2 above.

10.4 **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, unit owners and their respective servants, agents, and guests.

(b) A provision that the master policy on the Condominium 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 Condominium 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 owners' policies from consideration, and a waiver of the usual proration clause with respect to such policies.

(e) A rider on the master policy patterned after "Use and Occupancy" insurance which will provide relief from monthly assessments while a unit is uninhabitable by the payment of the Condominium expenses thereof and any other fixed costs including, but not limited to, taxes, rent, insurance, and mortgage payments. The proceeds from any casualty policy, whether held by the Association or a unit owner, payable with respect to any loss or damage to the common elements, shall be held in trust for the benefit of all insured as their interest may appear.

10.5 **Deductible/Owner and Tenant Insurance.**

(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 X. In determining the deductible under the policies, the Board,

10-17-03

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 Association shall have no responsibility to procure or assist in procuring property loss insurance for any owner or tenant for:

(1) Damage to a unit or limited common elements not covered by the Association's policy (because of the deductible amount or because the claim for loss or damage is one not normally covered by fire and property loss insurance policies with extended coverage endorsements); or

(2) For any damage or loss to the owner's or tenant's personal property.

(c) 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.

(d) Unit owners shall require tenants to obtain and maintain tenant homeowner insurance.

ARTICLE XI DAMAGE AND DESTRUCTION

11.1 **Insurance Proceeds Sufficient to Cover Loss.** In case of fire, casualty, or any other damage and destruction the insurance proceeds of the master policy, if sufficient to reconstruct the buildings damaged or destroyed, shall be applied to such reconstruction. Reconstruction of the damaged or destroyed buildings, as used in this paragraph, means restoring the buildings to substantially the same condition in which they existed prior to the fire, casualty, or disaster with each unit; and the common element having the same vertical and horizontal boundaries as before. The reconstruction shall be accomplished under the direction of manager or the Board of Directors.

11.2 **Insurance Proceeds Insufficient to Cover Loss.**

(a) Subject to Subsection (b) below, if the insurance proceeds are insufficient to reconstruct the damaged or destroyed buildings, the damage to or destruction of the buildings shall be promptly repaired and restored by the manager or the Board of Directors using the proceeds of insurance, if any, on the buildings for that purpose. All the unit owners shall be liable for assessment for any deficiency for the reconstruction, such deficiency to take into consideration as the owner's contribution any individual policy insurance proceeds provided by the owner.

(b) If three-fourths (3/4) or more in value of all the buildings are destroyed or substantially damaged and if the owners of at least three-fourths (3/4) of the units do not, voluntarily

10-17-03

within sixty (60) days after the destruction or damage make provision for reconstruction, the manager or the Board of Directors shall record with the County Recorder an amendment to the Declaration which shall cause removal of the Condominium from the provisions of ORS Chapter 100. The amendment shall be executed, acknowledged and contain the information required by ORS 100.600. Upon the recording of the amendment, the condominium property and the interest of each unit owner shall be treated in the following manner:

- (1) The Condominium property shall be deemed to be owned in common by the owners.
- (2) The respective interest of each unit owner in the property shall be determined by the provisions of ORS 100.610, which are in effect on the date the Condominium Declaration is recorded.
- (3) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interests of the owners in the property.
- (4) The Condominium shall be subject to an action for partition at the suit of any owner. If a decree of partition orders the sale of the Condominium property, the net proceeds of sale, together with the net proceeds of the policies of insurance on the Condominium, if any, shall be considered as one fund and shall be divided among all of the owners in proportion to their respective undivided interest in the common elements after first paying, out of the respective shares of the owners to the extent the share is sufficient for the purpose, all liens on the undivided interest in the project owned by each owner.

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

ARTICLE XII **CONDEMNATION**

The Board of Directors shall have the sole authority to negotiate with any public or private body or person having the power of eminent domain; and to sue or defend in any litigation, involving such bodies or persons with respect to the common elements of the Condominium, and shall assist any unit owner whose unit or a part thereof is the subject of any condemnation or eminent domain proceeding. However, nothing in this or any document or agreement relating to the Condominium shall be construed to give a unit owner or any party priority over the rights of the first mortgagees of any Condominium units in the case of a distribution to the unit owner of any condemnation awards for losses to or a taking of a unit or the common elements.

10-17-03

ARTICLE XIII
AMENDMENTS

13.1 **How Proposed.** Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by unit owners holding thirty percent (30%) or more 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.

13.2 **Adoption.** Amendments may be approved by the Association at a duly constituted meeting or written ballot in lieu of a meeting in accordance with Section 3.9 above conducted for such purpose or by action without a meeting under Section 3.10 above. A vote of a majority of the unit owners is required for approval of any amendment except:

(a) In accordance with ORS 100.415(20), in the case of any provision required to be in the Declaration under ORS 100.105 that is included in these Bylaws, the voting requirements for amending the Declaration shall also govern the amendment of the provision in these Bylaws.

(b) Any amendments relating to age restrictions, pet restrictions, limitations on the number of persons who may occupy units and limitations on the rental or leasing of units shall require the approval of at least seventy-five percent (75%) of the unit owners. Any such amendment must be reasonable in light of all of the facts and circumstances that affect the Condominium at the time the amendment is made.

(c) Any amendment must be approved by the Declarant, in writing, as long as Declarant owns at least one unit in the Condominium.

13.3 **Execution: Approval: Recording.** An amendment shall not be effective until certified by the chairperson and secretary of the Association as being adopted in accordance with these Bylaws and ORS 100.410 and recorded as required by law. Any amendment adopted within five (5) years after the recording of these Bylaws shall be approved by the Real Estate Commissioner, to the extent required by the Oregon Condominium Act.

ARTICLE XIV
RECORDS AND AUDITS

14.1 **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 the Board of Directors.

Page 39 - BYLAWS - Irvington Off Broadway Condominium Association

10-17-03

(c) The Board of Directors shall maintain a list of owners entitled to vote at meetings of the Association and a list of all mortgagees of units.

(d) The Association shall retain within this state the documents, information and records delivered to the Association in accordance with Section 3.3(c) above and all other 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 specified in Section 3.3(c)(9), if received, 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.

14.2 **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 Condominium: itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The records and the vouchers authorizing the payments must be available for examination by the unit owners and mortgagees during normal business hours in accordance with Section 14.8 below.

14.3 **Assessment Roll.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each unit. The account shall designate the unit 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.

14.4 **Payment of Vouchers.** The Treasurer shall pay all vouchers up to One Thousand Dollars (\$1,000) signed by the chairperson, 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 chairperson.

14.5 **Fiscal Year.** Unless otherwise provided by resolution adopted by the Board of Directors, the fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

14.6 **Financial Reports and Audits.**

(a) **Annual Financial Statement.** Within ninety days after the end of the fiscal year, the Board of Directors shall:

(1) Prepare or cause to be prepared an annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year; and

10-17-03

(2) Distribute to each unit owner a copy of the annual financial statement and to all mortgagees of units who have requested in writing a copy.

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

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

14.8 Inspection of Records by Unit Owners.

(a) Except as otherwise provided in ORS 100.480, all documents delivered to the Association by the Declarant pursuant to Section 3.3 above and all other records of the Association shall be reasonably available for examination by an owner and any Mortgagee of a unit 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 or supplements thereto, and rules and regulations of the Association currently in effect.

(2) The most recent financial statement prepared pursuant to ORS 100.480

(3).

(3) The current operating budget of the Association.

(4) The reserve study required by ORS 100.175.

(5) Any other records required by ORS 100.480.

(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.

10-17-03

ARTICLE XV
MISCELLANEOUS

15.1 **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.** All notices to any unit owner shall be sent to such address as may have been designated by owner, from time to time, in writing to the Board of Directors, or if no address has been designated, then to the owner's unit. If a unit is jointly owned or the unit has been sold under a land sale contract of sale, notice shall be sent to a single address, of which the secretary has been notified in writing by the parties. If no address has been given to the secretary in writing, then mailing to the unit shall be sufficient.

15.2 **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 or an owner 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.

15.3 **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.

15.4 **Conflicts.** These Bylaws are intended to comply with the Oregon Condominium Act and the Declaration. In case of any irreconcilable conflict the statute and the Declaration shall control over these Bylaws or any rules and regulations adopted hereunder.

THEREFORE, Whatahoot, LLC, an Oregon limited liability company hereby adopts these Bylaws on behalf of Irvington Off Broadway Condominium Association and certify that they will be recorded simultaneously with the Declaration and Plat for said Condominium in the Deed Records of Multnomah County.

10-17-03

DATED this 6th day of October, 2003.

DECLARANT:
WHATAHOOT, LLC, an Oregon limited liability company

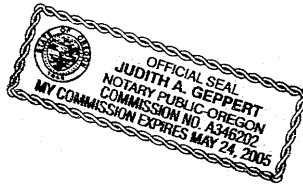
By *Keenan Longcor*
Keenan Longcor, Sole Member

STATE OF OREGON)

County of Witmanah)

The foregoing instrument was acknowledged before me on 10/6/03
by Keenan Longcor, Sole Member of Whatahoot, LLC, an Oregon limited liability company.

Judith A. Geppert
Notary Public For Oregon
My commission expires: 5/24/05



10-17-03

After Recording Return to:
Vial Fotheringham LLP
7000 SW Varns Street
Portland, OR 97223

Recorded in MULTNOMAH COUNTY, OREGON
C. Swick, Deputy Clerk
C59 5 ATTDS
Total : 41.00

2004-161320 09/01/2004 04:09:50pm

LAWYERS 04-AD92 133

AMENDMENT TO
DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
IRVINGTON OFF BROADWAY
CONDOMINIUM
(CREATING A RIGHT OF FIRST REFUSAL)

This Amendment to Declaration of Condominium Ownership for Irvington Off Broadway Condominium is made this 16 day of August, 2004 by the Irvington Off Broadway Condominium Association ("Association").

RECITALS

A. Association is the Irvington Off Broadway Condominium Association formed pursuant to the following documents:

Declaration of Condominium Ownership for Irvington Off Broadway Condominium recorded October 17, 2003 as Document No. 2003-249072, Records of Multnomah County, Oregon (the "Declaration") and

Bylaws of Irvington Off Broadway Condominium Association recorded October 17, 2003 as Document No. 2003-249073, Records of Multnomah County, Oregon (the "Bylaws").

B. Pursuant to Article 18 of the Declaration and ORS 100.200(5), with the consent or approval of all owners, Association hereby amends the Declaration in the manner set forth below.

NOW, THEREFORE, the Declaration is amended as follows:

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9-1-04

RECORDED BY OREGON TITLE AS AN ACCOMMODATION ONLY AND LIABILITY IS ACCEPTED FOR THE CONDITION OF TITLE OFF FOR THE VALIDITY, SUFFICIENCY, OR EFFECT OF THIS DOCUMENT.

- I. Article 25 as set forth below is added to the Declaration.

ARTICLE 25
RIGHT OF FIRST REFUSAL

No owner of a unit may transfer a unit except by complying with the provisions of this Article 25. As used in this article, "transfer a unit" means to sell, assign, lease (for a term exceeding thirty-six (36) months, including options) or sublease a unit, or any portion or interest therein; and "owner" includes a lessee of a lease for a term exceeding thirty-six (36) months, including options.

25.1 **Written Offer to Declarant.** Subject to Section 25.6 below, any owner of a unit desiring to transfer a unit shall give the Declarant the right of first refusal to purchase a unit. The owner shall deliver to the Declarant at its address as shown in the records of the Association a written offer setting forth the price or rent and terms upon which the owner is willing to transfer the unit.

25.2 **Duration of Offer.** The Declarant shall have thirty (30) days after receipt of the written offer to accept the offer by notifying the owner in writing of the acceptance.

25.3 **Owner's Right Upon Declarant's Failure to Exercise Right of First Refusal.** If the Declarant does not exercise Declarant's right of first refusal by accepting the offer within the 30-day period, the unit owner making the offer may, at the expiration of the thirty (30) day period and at any time within ninety (90) days after the expiration of such period, transfer the unit to a person upon the terms specified in the offer given pursuant to Section 25.1 above. The price or rent of the transfer may not be less, nor the terms more favorable than, those set forth in the offer.

25.4 **Failure of Owner to Transfer Unit.** If the unit owner does not transfer the unit within the ninety day period described in Section 25.3 above or wishes to change the terms of the offer, the unit owner may not transfer the unit without again complying with this article.

25.5 **Proof of Termination of Offer and Right of First Refusal.**

(a) A termination of offer and right of first refusal executed and acknowledged by the Declarant in a recordable format stating that the provisions of this article as set forth above have been met by an owner, or have been duly waived by the Declarant, and that the rights of the Declarant under this article have terminated, shall be conclusive upon the Declarant in favor of all persons who rely thereon in good faith.

(b) The Declarant shall promptly furnish the termination of offer and right of first refusal described in subsection (a) of this section to any owner who has in fact complied with the provisions of this article or in respect to whom the provisions of this article have been waived upon a written request.

25.6 **Exceptions to Right of First Refusal: Expiration of Right.**

(a) The right of first refusal to purchase a unit provided in this article shall not apply to:

- (1) A conveyance by gift, devise or inheritance.
- (2) A transfer to a spouse or any children, parents, brothers or sisters, or any one or more of them.
- (3) A transfer to the unit owner of an adjoining unit for the purposes specified in Article 17 of the Declaration.
- (4) A transfer to any trustee of a trust, the sole beneficiary or beneficiaries of which are the owner, spouse or children of the owner, or any one or more of them.
- (5) A transfer to any person, partnership or corporation that has acquired, or succeeds to, the business of the unit owner, or to any corporation into which or with which a corporate unit owner merges or consolidates, or which acquires all of the assets of any such corporate unit owner, or to any corporation which is a subsidiary of any unit owner or any corporation or partnership in which the transferring unit owner has a twenty percent (20%) or greater ownership interest.
- (6) Acquisition of a unit by a mortgagee, whether by foreclosure or by deed in lieu of foreclosure, or the subsequent transfer by the mortgagee, or the acquisition by a purchaser at a foreclosure sale.
- (7) Acquisition of a unit at judicial or execution sale (other than a sale described in Subsection (a)(6) of this section) and the subsequent transfer of the acquired unit.

(b) **Expiration of Declaration's Right of First Refusal.** Declarant's right of first refusal to purchase a unit under this article and the requirement of an owner under Section 25.1 above shall expire upon whichever of the following is first to occur:

- (1) The date Declarant no longer owns a unit in the Condominium.
- (2) The execution and recording by Declarant of a notice of relinquishment and termination of rights reserved under this article in the Records of Multnomah County, Oregon. The notice shall be in a recordable form and shall include a statement that Declarant is relinquishing Declarant's right of first refusal to purchase a unit under this article and that an owner is no longer required to comply with Section 25.1 above.
- (3) December 31, 2028.

25.7 **Non-Compliance.** If any transfer of a unit is made or attempted without complying with the provisions of this article, the transfer shall be voidable by Declarant if a legal proceeding to void the transfer is filed in a court of competent jurisdiction in Multnomah County, Oregon within six (6) months of the date of recording of the instrument of transfer in the Records of Multnomah County, Oregon.

II. Article 24 is amended to read:

The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. 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 this Declaration.

**IRVINGTON OFF BROADWAY
CONDOMINIUM ASSOCIATION**

By: Keenan Longcor
Keenan Longcor, Chairperson

By: Sally Longcor
Sally Longcor, Secretary

CERTIFICATION

The undersigned Chairperson and Secretary of Irvington Off Broadway Condominium Association hereby certify that the within Amendment to Declaration of Condominium Ownership for Irvington Off Broadway Condominium has been approved as provided in Article 18 of the Declaration and ORS 100.135 and 100.200(5).

**IRVINGTON OFF BROADWAY
CONDOMINIUM ASSOCIATION**

By: Keenan Longcor
Keenan Longcor, Chairperson

By: Sally Longcor
Sally Longcor, Secretary

9-1-04

STATE OF OREGON)
) ss
County of MULTNOMAH)

The foregoing instrument was acknowledged before me this 16th day of AUGUST, 2004 by Keenan Longcor, Chairperson, and Sally Longcor, Secretary, of Irvington Off Broadway Condominium Association, on its behalf.



Sean F. Hamilton
Notary Public for Oregon
My Commission Expires: 2/10/2008

GOVERNMENTAL APPROVALS

The foregoing Amendment to Declaration of Condominium Ownership Irvington Off Broadway Condominium is approved pursuant to ORS 100.110 this 25 day of August 2004 and in accordance with ORS 100.110(7), this approval shall automatically expire if this amendment is not recorded within two (2) years from this date.

Scott W. Taylor
OREGON REAL ESTATE COMMISSIONER

By: Brian DeMarco
Brian DeMarco

The foregoing Amendment to Declaration of Unit Ownership for Irvington Off Broadway Condominium is approved pursuant to ORS 100.110 this 15th day of SEPTEMBER 2004.

MULTNOMAH COUNTY ASSESSOR

By: Gaylene

9-1-04