

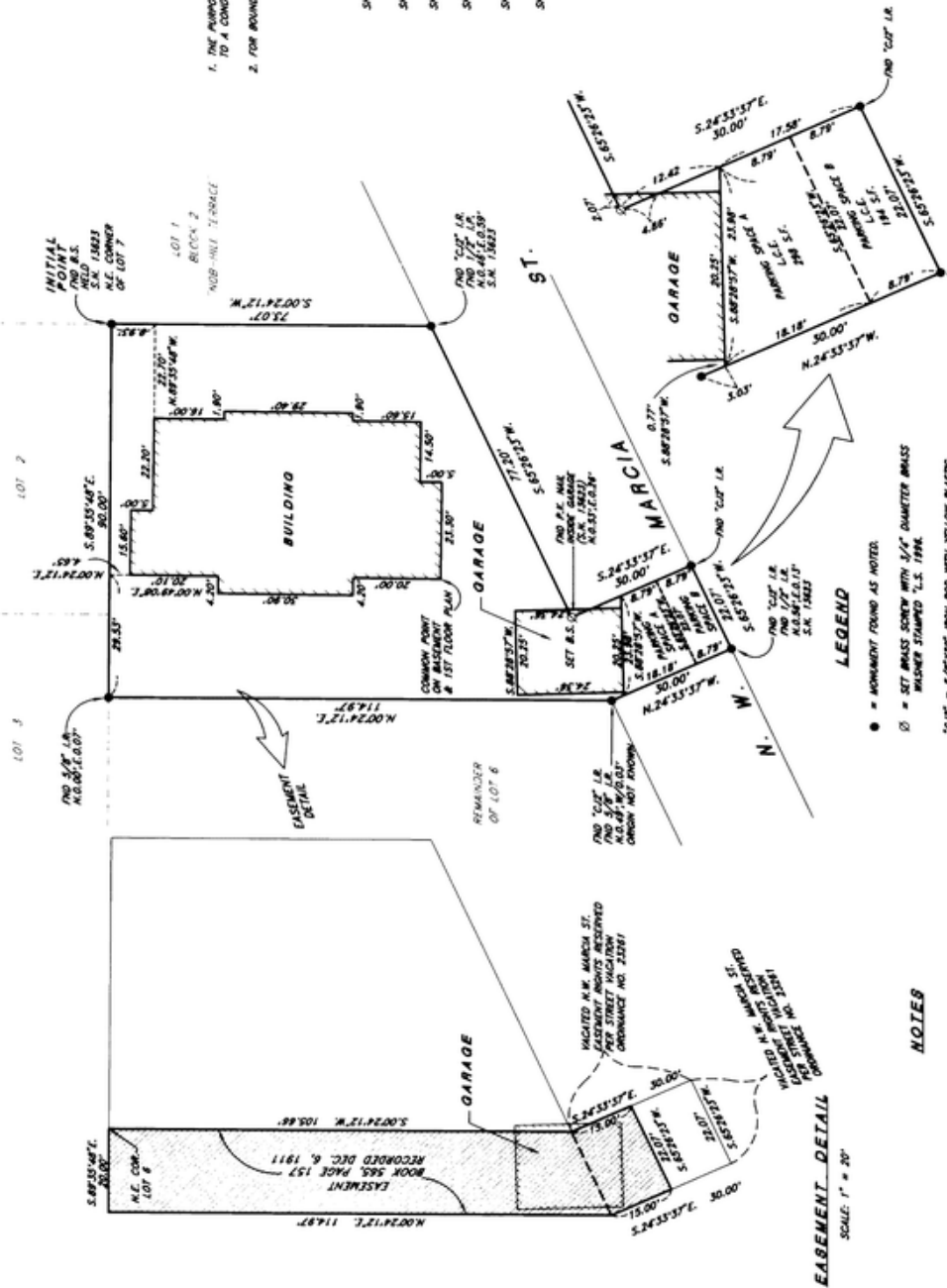
# MARCIA TOWNHOUSE CONDOMINIUMS

A REPLAT OF LOT 7 AND EAST 20 FEET OF LOT 6, BLOCK 2, "NOB - HILL TERRACE" AND OTHER LANDS

SITUATED IN THE N. E. 1/4 SECTION 32, T. 1 N., R. 1 E., W. 4 W. CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

DATE: AUGUST 17, 1989  
SCALE: 1" = 20'  
JOB NO. 10146

BY: CHASE, JONES & ASSOCIATES, INC.  
1100 N. W. 10TH AVE.  
PORTLAND, OREGON 97214  
PHONE: (503) 228-8644



EASEMENT DETAIL  
SCALE: 1" = 20'

### NOTES

1. THERE IS NO OCCUPABLE GEODETIC CONTROL MONUMENT WITHIN ONE-HALF MILE OF THIS PLAT.
2. PROPERTY AREA = 8124 S.F. = 0.21 ACRES

### LEGEND

- = MONUMENT FOUND AS NOTED.
- ⊗ = SET BRASS SCREW WITH 3/4" DIAMETER MASS WELDER STAMPED "L.S. 1986"
- ⊕ = 3/8" DIA. IRON ROD WITH YELLOW PLASTIC CAP MARKED "CHASE, JONES & ASSOC."
- = FOUND
- ⊖ = IRON PIV
- ⊙ = IRON ROD
- ⊗ = LIMITED COMMON ELEMENT
- S.A. = SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS.
- S.F. = SQUARE FEET

### PARKING DETAIL

SCALE: 1" = 10'

### NARRATIVE

1. THE PURPOSE OF THIS SURVEY WAS TO CONVERT THE EXISTING BUILDING TO A CONDOMINIUM.
2. FOR BOUNDARY SURVEY SEE S.A. 56819

### SHEET INDEX

- SHEET 1 ..... BOUNDARY SURVEY, BUILDING LOCATIONS & EASEMENTS
- SHEET 2 ..... FIRST & SECOND FLOOR PLAN
- SHEET 3 ..... THIRD FLOOR PLAN & ELEVATION VIEW
- SHEET 4 ..... BASEMENT FLOOR PLAN
- SHEET 5 ..... ELEVATION VIEW
- SHEET 6 ..... DECLARATION, ACKNOWLEDGEMENT, CERTIFICATES & APPROVALS.

THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

Eric D. Jones

EX. G-70-81

# MARCIA TOWNHOUSE CONDOMINIUMS

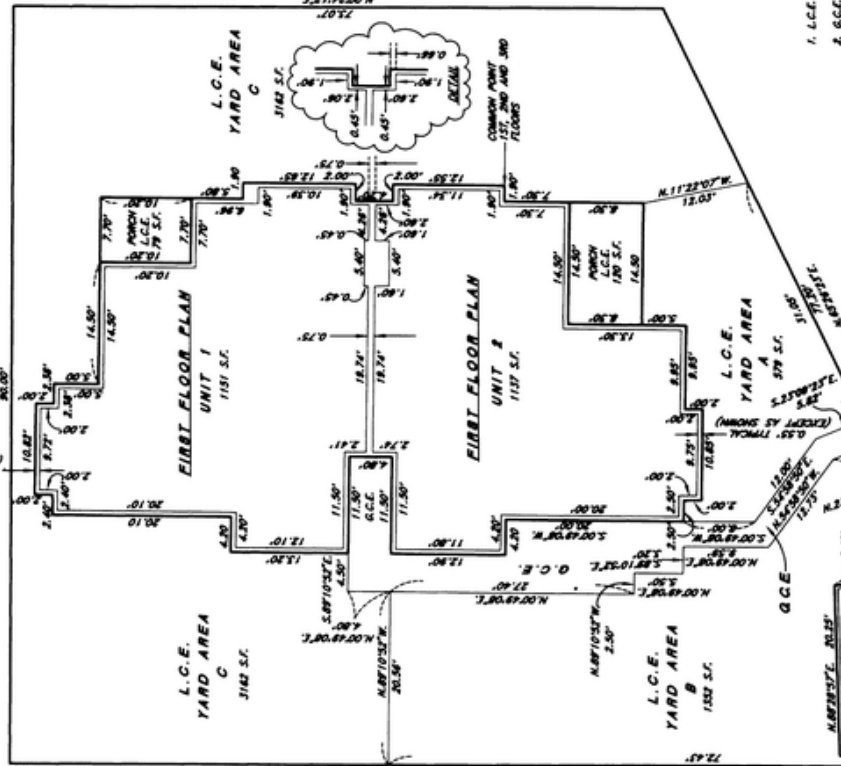
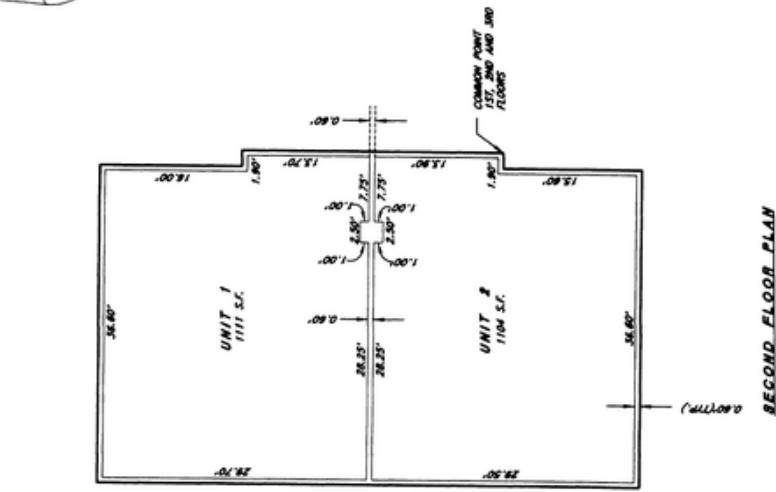
PLAT BOOK 17445 PAGE 91

A REPLAT OF LOT 7 AND EAST 50 FEET OF LOT 8, BLOCK 5, "NOB-HILL TERRACE"

SITUATED IN THE N.E. 1/4 SECTION 35, T. 1 N., R. 1 E., W. 4 W.  
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

DATE: AUGUST 17, 1989  
SCALE: 1" = 10'  
JOB NO. 101149

BY: CHASE, JONES & ASSOCIATES, INC.  
718 S.E. 117th AVE.  
PORTLAND, OREGON 97216  
PHONE: (503) 228-8844

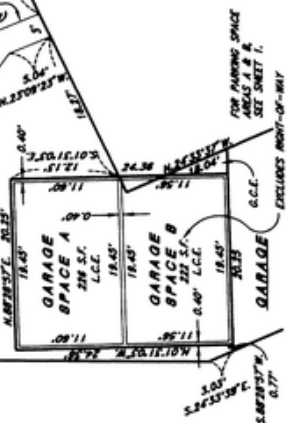


- NOTE**
1. L.C.E. = LIMITED COMMON ELEMENT
  2. G.C.E. = GENERAL COMMON ELEMENT
  3. ALL UNIT AND WALL LINES ARE PERPENDICULAR AND PARALLEL.
  4. S.F. = SQUARE FEET

*Carrie D. Jones*

THIS DRAWING IS AN EXACT COPY OF THE ORIGINAL.

6.1. 6-70-70



# MARCIA TOWNHOUSE CONDOMINIUMS

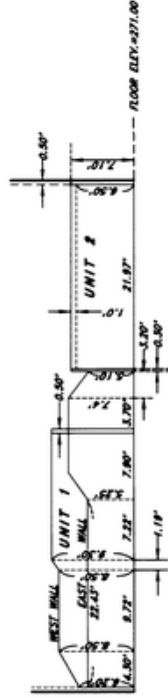
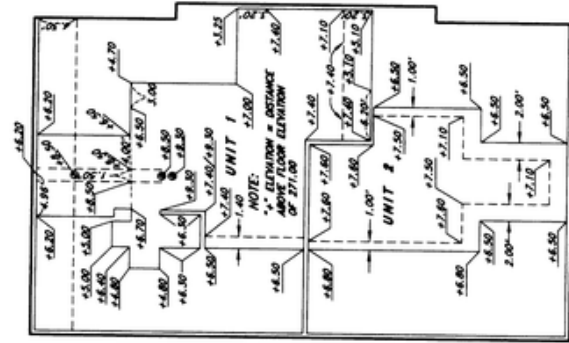
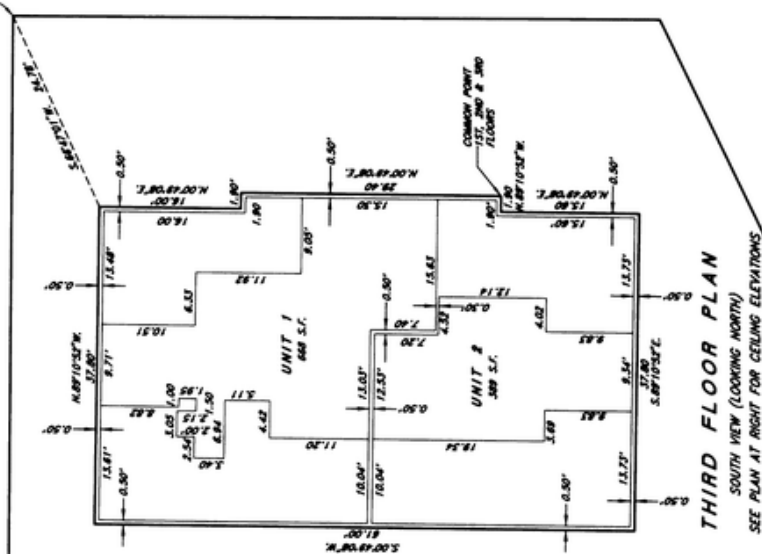
A REPLAT OF LOT 7 AND EAST 20 FEET OF LOT 8, BLOCK 2, "MOB - HILL TERRACE" AND OTHER LANDS

SITUATED IN THE N. E. 1/4 SECTION 32, T. 1 N., R. 1 E., W. 4. CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

DATE: AUGUST 17, 1999  
 DRAWN BY: J. J. JONES  
 JOB NO. 10148

BY: CHASE, JONES & ASSOCIATES, INC.  
 1700 S.W. TERRY AVENUE  
 PORTLAND, OREGON 97214  
 PHONE: (503) 228-8644

N.E. CORNER  
 MARCIA TOWNHOUSE  
 CONDOMINIUMS



**NOTE**  
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 2. G.C.E. = GENERAL COMMON ELEMENT  
 3. ALL UNIT AND HALL LINES ARE PERPENDICULAR AND PARALLEL.  
 4. S.F. = SQUARE FEET

**BENCH MARK**

ELEVATIONS BASED ON: CITY OF PORTLAND B.M. NO. 45 LOCATED AT THE S.E. CORNER OF EAST OF PARK 25TH PLACE & N.E. CORNER OF EAST OF PARK 25TH PLACE & N.E. CORNER OF 31<sup>ST</sup> AVENUE - ELEVATION = 174.00

*Chase Jones*

THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

ET. 6-20-01

**THIRD FLOOR PLAN AND ELEVATION VIEW SHEET 3 OF 6**

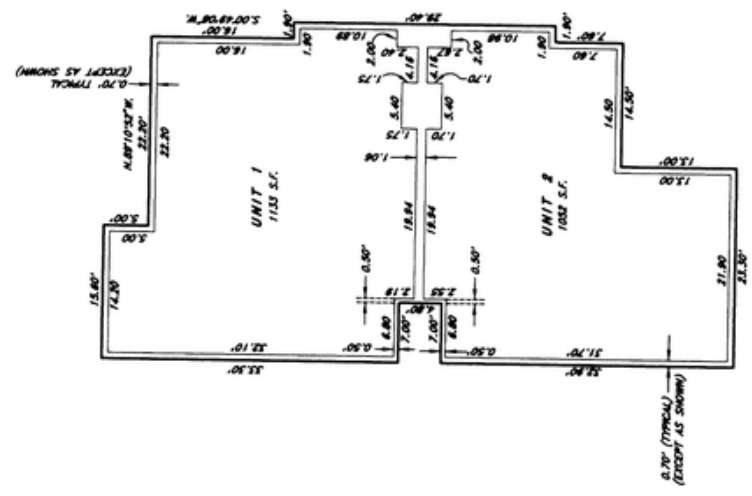
# MARCIA TOWNHOUSE CONDOMINIUMS

A REPLAT OF LOT 7 AND EAST 20 FEET OF LOT 6, BLOCK 2, "NOB - HILL TERRACE"

AND OTHER LANDS  
SITUATED IN THE N.E. 1/4 SECTION 32, T. 1 N., R. 1 E., W. 4  
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

DATE: AUGUST 17, 1989  
DRAWN BY: [Signature]  
JOB NO. 10148

BY: CHASE, JONES & ASSOCIATES, INC.  
718 S.E. 117th AVE.  
PORTLAND, OREGON 97216  
PHONE: (503) 328-8844



THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

Ernie D. Jones  
E.S. 6-70-01

**NOTE**

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4. S.F. = SQUARE FEET

**BASEMENT FLOOR PLAN**

# MARCIA TOWNHOUSE CONDOMINIUMS

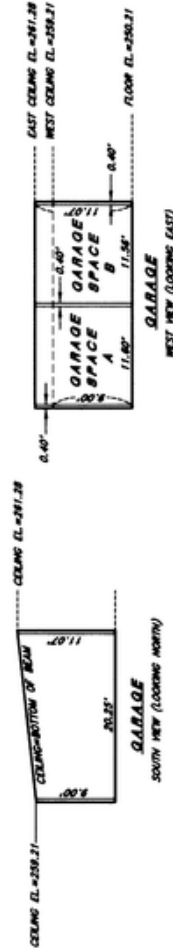
A REPEAT OF LOT 7 AND EAST 90 FEET OF LOT 8, BLOCK 2, "NOB - HILL TERRACE"  
AND OTHER LANDS  
SITUATED IN THE N. E. 1/4 SECTION 32, T. 1 N., R. 1 E., W. 4  
CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

DATE: AUGUST 17, 1989  
SCALE: 1" = 10'  
JOB NO. 10148

BY: CHASE, JONES & ASSOCIATES, INC.  
716 S.E. 11TH AVE.  
PORTLAND, OREGON 97214  
PHONE: (503) 238-8844



ELEVATION VIEW  
WEST VIEW (LOOKING EAST)



**NOTE**

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2. G.C.E. = GENERAL COMMON ELEMENT
3. ALL UNIT AND WALL LINES ARE PERPENDICULAR AND PARALLEL.

**BENCH MARK**

ELEVATIONS BASED ON CITY OF PORTLAND B.M. NO. 45 LOCATED AT THE S.E. CORNER (7' EAST) OF N.W. 30TH PLACE & N.W. LOVEJOY ST. ELEVATION (T.L.) = 178.04.

THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

*Chris S. Jones*

Ch. 4-30-09

# MARCIA TOWNHOUSE CONDOMINIUMS

PLAT BOOK 1245 PAGE 103

A REPLAT OF LOT 7 AND EAST 20 FEET OF LOT 6, BLOCK 2, "NOB - HILL TERRACE" AND OTHER LANDS

SITUATED IN THE N.E. 1/4 SECTION 32, T. 1 N., R. 1 E., W. 4. CITY OF PORTLAND - MULTNOMAH COUNTY, OREGON

## DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS: THAT BARBARA Z. DRINKA, TRUSTEE OF THE BARBARA Z. DRINKA REVOCABLE TRUST DATED 2-27-97, HAS HEREBY DECLARED THE PROVISIONS OF THE BARBARA Z. DRINKA REVOCABLE TRUST DATED 2-27-97 TO BE HEREBY AFFIRMED AND CONFIRMED IN FULL FORCE AND EFFECT. AND THAT SHE HAS HEREBY DECLARED THAT SHE HAS HEREBY AFFIRMED AND CONFIRMED IN FULL FORCE AND EFFECT THE REVOCABLE TRUST AGREEMENT AND DECLARATION OF TRUST DATED 2-27-97 AND APPROVED BY HER AND THE PROVISIONS OF OREGON REVISED STATUTES 100.005 TO 100.025.

*Barbara Z. Drinka*  
 BY: BARBARA Z. DRINKA  
 TRUSTEE OF THE BARBARA Z. DRINKA  
 REVOCABLE TRUST DATED 2-27-97

DATE: AUGUST 12, 1999  
 JOB NO. 10149

BY: CHASE, JONES & ASSOCIATES, INC.  
 515 S.W. 5TH AVE.  
 PORTLAND, OREGON 97214  
 PHONE: (503) 228-8844

## ACKNOWLEDGEMENT

STATE OF OREGON } S.S.  
 COUNTY OF Mult. }

BE IT REMEMBERED: THAT ON THIS 28th DAY OF Feb 2000 BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, PERSONALLY APPEARED BARBARA Z. DRINKA, WHO AFTER BEING FIRST DULY SWORN, UNDER OATH, DID SAY THAT SHE IS THE REVOCABLE PERSON NAMED AND ASSUMED IN THE FOREGOING INSTRUMENT AND THAT HER SIGNATURE AFFIXED TO SAID INSTRUMENT IS HER OWN AND THAT SHE IS AT LEAST 18 YEARS OF AGE.

*Barbara Z. Drinka*  
 BY: *Barbara Z. Drinka*  
 NOTARY PUBLIC FOR THE STATE OF OREGON  
 MY COMMISSION EXPIRES: 11-8-06



## SURVEYOR'S CERTIFICATE

I, ERIC D. JONES, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LANDS REPRESENTED ON THE ANNEXED MAP OF "MARCH TOWNHOUSE CONDOMINIUMS", BEING LOT 7 AND THE EAST 20 FEET OF LOT 6, BLOCK 2, "NOB-HILL TERRACE" CONDOMINIUMS, BEING PART OF SECTION 32, T. 1 N., R. 1 E., W. 4, WILLAMETTE METROPOLITAN CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, THE BOUNDARY BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT BEING A BRASS SPOKE MARKING THE NORTHEAST CORNER OF LOT 7, BLOCK 2 OF THIS TOWNHOUSE; THENCE S. 89° 51' 12" W. ALONG THE EAST LINE OF SAID LOT 7, A DISTANCE OF 72.07 FEET TO THE POINT OF BEGINNING; THENCE S. 89° 51' 12" W. ALONG SAID NORTH-OF-WAY LINE 72.00 FEET; THENCE S. 89° 51' 12" W. 30.00 FEET TO THE SOUTHERLY NORTH-OF-WAY LINE OF SAID STREET; THENCE S. 89° 51' 12" W. ALONG SAID SOUTHERLY NORTH-OF-WAY LINE 32.07 FEET; THENCE N. 89° 51' 12" W. 30.00 FEET; THENCE N. 89° 51' 12" W. 14.87 FEET TO THE POINT OF BEGINNING; THENCE N. 89° 51' 12" W. 30.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PROPERTY CONTAINS AN AREA OF 8,124 SQUARE FEET OR 0.21 ACRES MORE OR LESS.

## APPROVALS

APPROVED THIS 9th DAY OF MARCH, 2000  
 MULTNOMAH COUNTY SURVEYOR

BY: *Spencer S. Gipe* DEPUTY

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY P.L.C. 100.170 HAVE BEEN PAID AS OF THIS 14th DAY OF MARCH, 2000

DIRECTOR, DIVISION OF ASSESSMENT & TAXATION  
 MULTNOMAH COUNTY, OREGON  
 BY: *Janice Smith*

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

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

RECORDED THIS 14th DAY OF MARCH, 2000  
 AT 3:40 P.M. IN BOOK 1245 PAGES 98-103

COUNTY RECORDING OFFICE

BY: *J. Thompson*  
 DOCUMENT NO. 2000-039575

## COMPLETION CERTIFICATE

I, ERIC D. JONES, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT OF "MARCH TOWNHOUSE CONDOMINIUMS" FULLY AND ACCURATELY DEPICTS THE BOUNDARIES OF THE UNITS OF THE BUILDING AND THAT CONSTRUCTION OF THE SAID UNITS AND BUILDING AS DEPICTED ON SUCH PLAT, HAS BEEN COMPLETED.

DATED THIS 28th DAY OF February, 2000  
 BY: *Eric D. Jones*  
 ERIC D. JONES - P.L.S. NO. 1984

THIS TRACING IS AN EXACT COPY OF THE ORIGINAL.

*Eric D. Jones*

EX. G. 3-0-97

*This document is being re-recorded to combine the  
Condominium Declaration and Cylsus into one document.*

AFTER RECORDING RETURN TO:  
JONATHAN V. BARG, P.C.  
ATTORNEY AT LAW  
One SW Columbia  
Suite 1880  
Portland, Oregon 97258

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk  
Total : 184.00  
2000-035576 03/14/2000 03:40:00pm ATYAT  
E41 18 REG SLR DCR OLIS  
90.00 3.00 10.00 1.00

CONDOMINIUM DECLARATION  
FOR  
MARCIA TOWNHOUSE CONDOMINIUMS

This Declaration submits to the provisions, restrictions, and limitations of the Oregon Condominium Act real property here described (the "Real Property") and all improvements now existing or to be constructed on such real property, to be known as MARCIA TOWNHOUSE CONDOMINIUMS.

**Recitals, Intent, and Purpose**

Barbara T. Drinka, Trustee of the Barbara T. Drinka Revocable Living Trust ("Declarant") is the owner in fee simple of the Real Property described below, and desires to submit the Real Property to the condominium form of ownership, to be converted, handled, and used in the manner provided by the Oregon Condominium Act.

NOW, THEREFORE,

**Declaration**

Declarant hereby declares on behalf of itself, its successors, grantees, and assigns, as well as to any and all persons having, acquiring, or seeking to have or acquire any interest of any nature whatsoever in and to any part of the Real Property, as follows:

1. **Definitions.** Except as otherwise provided or modified by this Section 1, the terms contained here have the meaning set forth in the Oregon Condominium Act, ORS 100.005 et seq., and the statute and its definitions are incorporated here. As used in this Declaration and in the bylaws (the "Bylaws") of the Marcia Townhouse Condominiums Association (the "Association"), the following terms have the following meanings:

1.1 **Association** means and refers to the Marcia Townhouse Condominium Association, which will be an unincorporated association.

1.2 **Condominium** means the Real Property, all buildings and structures constructed on it and all improvements made to it, and all easements, rights, and appurtenances belonging to it, all of which are here submitted to the provisions of the Oregon Condominium Act.

PAGE 1 - CONDOMINIUM DECLARATION FOR MARCIA TOWNHOUSE CONDOMINIUMS  
drinka/declaration.3

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk  
Total : 215.00  
2000-040037 03/23/2000 10:39:52am ATLJH  
E41 43 RRF  
215.00

43  
18

1.3 **Mortgage** means a recorded first mortgage, first trust deed, or first contract of sale that creates a first lien against a Unit, and "Mortgage Holder" means the holder, beneficiary, or vendor of such a mortgage, trust deed, or contract of sale, but only when the holder, beneficiary, or vendor notifies the Association in writing of the existence of the mortgage and gives the Association a current name and mailing address.

1.4 **Unit** means the airspace encompassed by the undecorated interior surface of the perimeter walls, floors, and ceilings, which is owned in fee simple by each owner of a Condominium Unit and which is more specifically described in Section 3.2 below.

2. **Real Property Description.** The Real Property that is submitted here to the Oregon Condominium Act is located in City of Portland, Multnomah County, Oregon, and is more particularly described on Exhibit A. Each owner holds fee simple title to the Unit and on undivided interest in the common elements pertaining to it when Declarant conveys the property to the owner. Before such conveyance, Declarant holds fee simple title to all Units and the appertaining common elements.

3. **Name; Unit Description.**

3.1 **Name.** The Real Property will be known as Marcia Townhouse Condominiums.

3.2 **Boundaries of Units.** Each Unit is bounded by the interior surfaces of its perimeter walls, floors, ceilings, windows and window frames, doors and door frames, and trim. The Units 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 building. All other portions of the exterior walls, floors, or ceilings are a part of the common elements. In addition, each Unit includes the following:

(a) All spaces, nonbearing interior partitions, windows, window frames, exterior doors, door frames, and all other fixtures and improvements within the boundaries of the Unit; and

(b) All outlets of utility service lines, including, but not limited to, power, light, hot and cold water, heating, refrigeration, air conditioning, and waste disposal within the boundaries of the Unit, but does not include any part of the lines or ducts themselves.

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 plans here will 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 being recorded simultaneously with this Declaration and those of the actual building or buildings.

(c) Notwithstanding any other provision of this Declaration (i) the third floor of Unit number 2 is bounded by horizontal planes varying from 6.5 to 7.6 feet above the floor, as set forth on the plat, and (ii) in the event the owner of such Unit desires to renovate the third floor of the Unit, the owner of Unit number 1 shall be obligated to execute amendments to the Declaration, Bylaws and Plat which provide for modification of the definitions of Unit for Unit number 2 and the adjacent general common elements as is reasonably necessary to accomplish renovation of Unit number 2 to make it functional for use as living space, comparable (in terms of functionality) to the third floor of Unit number 1. If consent of the Mortgage Holders is required under Section 12.7 with respect to such amendment of the Declaration or any other condominium document, the owner of Unit number 1 shall use diligent efforts to obtain the consent of the Mortgage Holders of such Unit, if any, to the amendment. Additionally, the owner of Unit number 1 shall otherwise cooperate in all respects (through the execution of documents or instruments or through other act reasonably requested by the owner of Unit number 2) in connection with such renovation, provided that the owner of Unit number 1 shall not be required to bear any expense.

**3.3 Building Description and Unit Designation.** The Real Property has two (2) buildings on it, one of which contains the Marcia Townhouse Condominium Units. The Units are in townhouse configuration with Unit number 1 located at the north side of the building and Unit number 2 located at the south side of the building. Unit number 1 has three stories and a basement, with a total area of 4,063 square feet. Unit number 2 has two stories, an attic which, as of the date of this Declaration, is not habitable living space, and a basement, with a total area of 3,682 square feet (including the attic).

The building in which the garage spaces are situated has one story and includes two (2) garage areas located within it, both of which areas are limited common elements described under Section 5.

Both of the buildings are wood frame construction on concrete foundations with stucco and cement siding and composition roofs.

Each Unit has been allocated an undivided 50% ownership interest in the common elements. Each Unit's interest in the common elements shall be inseparable from the Unit and any conveyance, encumbrance, judicial sale, or other transfer voluntary or involuntary of an undivided interest in the common elements shall be void when the Unit to which that interest is allocated is also transferred

#### **4. General Common Elements.**

**4.1 Definition.** The general common elements consist of all portions of the Condominium that are not part of a Unit or a limited common element, including, without limitation, the following:

- (a) The land;
- (b) The foundations, columns, girders, beams, supports, bearing walls, main walls and roofs;
- (c) Installations of lines, pipes and other installations relating to utility services, such as power, water, and waste disposal, up to the outlets within any Units;
- (d) The landscape sprinkler system serving the yard area, including the automatic timer for such system (and all wires related to such timer) which is located on the exterior wall of the building between the exterior doors to the basement.
- (e) The walk which runs from Marcia Street to the exterior door of the basement, along the west side of the building in which the Units are located.
- (f) All apparatus and installations existing for common use; and
- (g) All other elements of any building that are necessary or convenient to its existence, maintenance, and safety or that are normally in common use.

**4.2 Maintenance, Repair, and Replacement of General Common Elements; Liability for Common Expense.** The cost of maintenance, repair, and replacement of the general common elements is a common expense, and the performance of such work is the responsibility of the Association, except as follows:

- (a) any damage caused by the negligence or intentional act of an owner or his or her invitee, guest, tenant, or servant will be repaired by the Association at the owner's sole cost and expense;
- (b) the cost of maintenance, repair and replacement of any pipes, wires, lines or other utility lines, wires and other installations serving only one Unit shall be the responsibility of the owner of such Unit;
- (c) although repair, maintenance, and replacement of exterior doors and door frames (including patio and garage doors), windows and window frames, and skylights and skylight frames (if any) is the responsibility of individual owners, exterior painting is the responsibility of the Association. Common expenses will be assessed and apportioned among the owners as set forth in Section 10.6 below;
- (d) each owner must pay the expense to maintain the garage door adjoining the garage space limited common elements assigned to the owner's Unit, except that exterior painting will be performed at the expense of the Association;
- (e) the cost of maintenance, repair and replacement of all portions of the sprinkler system serving only one limited common element yard area shall be the responsibility of the owner of

such Unit;

(f) to the extent otherwise provided in this Declaration.

**4.3 Income from General Common Elements.** All income derived from the general common elements will be income of the Association.

**5. Limited Common Elements.** The following constitute limited common elements, the use of which is restricted to the Units to which they pertain:

**5.1 Definitions.**

(a) Each of the porches and connected stairs adjacent to the front door to each Unit, is a limited common element appertaining to the Unit that it adjoins as shown on the plat.

(b) Each of the two garage spaces is a limited common element. Garage space A, located at the north end of the garage building, appertains to Unit number 2 and garage space B, located at the south end of the garage building, appertains to Unit number 1.

(c) The two exterior parking spaces on the brick area adjacent to the garage building. Parking space A, located immediately south of the garage building, appertains to Unit number 1 and parking space B, located in the southeast corner of the Real Property, appertains to Unit number 2.

(d) The entire yard and all walks within such yard areas (except for the walk which runs from Marcia Street to the exterior door to the basement and is a general common element), is divided into three separate limited common elements areas, yard areas A, B and C. Yard areas A and B appertain to Unit number 2 and Yard area C appertains to Unit number 1. Yard area A is located along Marcia Street, immediately south of the Unit number 2, and includes lawn and planted areas; yard area B is located west of Unit number 2, comprises the south portion of the backyard, and includes lawn, planted areas and the brick patio. Yard area C is located west, north and east of Unit number 1 and includes the walkway and planted areas on the east side of the building in which the units are located, extending to Marcia, and lawn and planted areas in the north portion of the backyard.

**5.2 Maintenance, Repair, and Replacement of Limited Common Elements; Liability for Common Expense.** Except as otherwise specifically provided in this Declaration, the cost of maintenance, repair, and replacement of the limited common elements will be an expense of the owner to which such limited common elements appertain and the performance of the work will be the responsibility of the Association, except as follows:

(a) any damage caused by the negligence or intentional act of an owner of the other Unit or his or her invitee, guest, tenant, or servant will be repaired by the Association at the owner's sole cost and expense;

(b) the maintenance, repair and replacement of the yard areas (but not including the walks within such yard areas) shall be performed by and at the expense of the owner of the Unit to which each such area pertains;

(c) the sprinkler system serving the yard areas is supplied with water which is charged approximately equally to the water and sewer utility accounts of each Unit. Accordingly, when the yard area appertaining to Unit number 1 is watered, approximately one half of such water usage is charged to each of the Units and when the yard area appertaining to Unit number 2 is watered, approximately one half of such water usage is charged to each of the Units. The automatic sprinkler timer for the system serves both limited common elements assigned to each Unit. The scheduling of the system shall be determined by agreement of the owners, which agreement shall be based upon the reasonable needs of the owners to irrigate their respective yard areas.

(d) each owner shall be responsible for keeping all limited common elements appertaining to his or her unit in neat and clean condition.

**5.3 Use of Garage Areas and Parking Spaces.** The limited common element garage areas must be used only for parking vehicles, recreational vehicles, and equipment, or storage of nonhazardous and nonflammable materials. The garage door to each such area shall be kept closed except when necessary to enter or exit the garage or to otherwise use the garage consistent with this Section 5.3. The exterior limited common element parking area must be used only for parking vehicles (not including recreational vehicles, trailers or boats). Each owner must use the limited common element garage area and exterior parking area assigned to such owner's unit for parking the primary household vehicles. No owner shall park any vehicle, or permit any of his/her Unit or any guest or invitees to park any vehicles on Marcia Street within 20 feet of the garage building, in order to allow vehicles parked in the garage areas and exterior parking area sufficient area to turn around.

**6. [INTENTIONALLY DELETED]**

**7. Voting.** The owner of each Unit is entitled to one vote per Unit. "Majority" or "Majority of Unit Owners" means the owners of more than 50% of the voting rights allocated to the Units by the Declaration. The calling and conducting of meetings of the Association and the exercise of voting rights is controlled by Articles 2 and 3 of the Bylaws.

**8. Use of Property.**

**8.1 General.** Each Unit may be used for residential purposes

only. The common elements may be used for furnishing services and facilities to Unit owners. Every Unit owner has an easement to enjoy and use the general common elements in the manner for which they were intended. Additional restrictions and regulations are set forth in the Bylaws and rules or regulations adopted pursuant to the provisions of the Bylaws.

**8.2 Rules and Regulations Promulgated by the Association.**

The Board of Directors has the authority from time to time to promulgate such rules and regulations as the Board may deem to be in the best interests of the Association. No person may use the common elements, the Units or any part thereof in any manner contrary to or inconsistent with the rules and regulations.

**8.3 Right of Ingress and Egress.** Each Unit owner has a perpetual right of ingress and egress to and from the Owner's Unit. This right passes to all successors in interest to the Unit when the Unit is transferred voluntarily, involuntarily, or by operation of law. Any attempt to transfer voluntarily or involuntarily any common element ownership interest separately from the transfer of the Unit to which such interest pertains will be void.

**9. Contracts and Leases.** All contracts or leases that are entered into before the turnover meeting (including any management contract) must be terminable without penalty by the Association or the Board of Directors on not less than 30 days' written notice to the other party by the Association, given not later than 60 days after the turnover meeting. However, any such contracting or leasing party may request the Association to affirm the continuation of any such agreement for the balance of its stated term. Affirmation by the Association after transfer of control extinguishes all termination rights of the Association under this Section.

**10. Bylaws; Association; Management.**

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

**10.2 Association; Membership.** The name of the Association shall be Marcia Townhouse Condominium Association. Each owner of a Unit in the Condominium must be a member of the Association, and membership is limited to Unit owners only. The Association, which shall be organized when the Declaration and the Bylaws are recorded, serves as a means through which the Unit owners may take action with regard to the administration, management, and operation of the Condominium.

**10.3 Management; Board of Directors.** The affairs of the Association must be governed by a Board of Directors as provided in the Bylaws. The Board of Directors shall elect officers consisting of a chairperson, secretary, and treasurer, and such

other officers as the Board of Directors deems prudent or convenient. Pursuant to the provisions of the Bylaws and the Oregon Condominium Act, the Board of Directors may adopt administrative rules and regulations governing details of the operation, maintenance, and use of the Condominium property. The Board of Directors may contract with a professional manager or management firm to manage some or all of the affairs of the Association.

**10.4 Interim Board and Officers.** The Declarant has reserved control over the administration of the Association by reserving the right in the Bylaws to appoint an interim Board of Directors to manage the Condominium until the turnover meeting. The turnover meeting must be held within 90 days after the earlier of the following dates: the date on which both of the Units in the Condominium have been conveyed to persons other than Declarant or the date on which three years have elapsed since the date of the first conveyance of a Unit in the Condominium to a person other than Declarant. The members of the interim Board must also serve as the interim officers. Barbara Drinka shall initially serve as the only member of the interim board.

**10.5 Powers and Duties of the Association.** The Association and the Board of Directors have the powers and duties granted to them by this Declaration, the Bylaws, and ORS 100.405(4), and all other provisions of the Oregon Condominium Act.

**10.6 Covenant to Pay Assessments; Liability for Common Expense.** Each owner hereby covenants to pay to the Association annual assessments for common expenses as more fully provided in the Bylaws. No owner may avoid liability for assessments by abandonment of his or her Unit, or by nonuse of the common elements. Except as otherwise provided in this Declaration or the Bylaws, each Unit and the owner thereof is liable for the common expense and funding of the replacement reserves, in the same percentage as the percentage of ownership in the common elements allocated to such Unit. No offset against any assessment will be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties. Assessments must be levied against all Units not later than the first day of the month next following the date when the first Unit is conveyed to a person other than Declarant.

**10.7 Delegation.** Nothing in this Declaration may be construed to prohibit the Association or the Board of Directors from delegating to persons, firms, or corporations of its choice the performance of such duties as may be imposed on the Association or the Board of Directors by this Declaration, the Bylaws, Association rules or regulations, or applicable law.

**11. Service of Process.** The designated agent to receive service of process in cases set forth in ORS 100.550(1) must be named in the Condominium Information Report, which must be filed with the Oregon Real Estate Agency in accordance with ORS

100.250(1).

**12. Mortgage Holder.** If a conflict arises between this Section 12 and other provisions of this Declaration, the provisions of this Section 12 prevail. The terms "Mortgage" and "Mortgage Holder" are defined in Section 1 above.

**12.1 Notice of Action.** On the written request of a Mortgage Holder, insurer, or guarantor to the Association, identifying the name and address of the person and the Unit number or address of the Unit on which a Mortgage has been placed, the Mortgage Holder, insurer, or guarantor is entitled to timely notice of the following:

(a) Any condemnation loss or casualty loss that affects either a material portion of the Condominium or any 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 a Mortgage;

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

(d) Any proposed action that would require the consent of a specified percentage of eligible Mortgage holders.

**12.2 Mortgage Holder Exempt from Certain Restrictions.** Any Mortgage Holder that comes into possession of the Unit pursuant to the remedies provided in the Mortgage, by foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, is exempt from any "right of first refusal" or other restriction on the sale or rental of the mortgaged Unit, including, but not limited to, restrictions on the age of Unit occupants and restrictions on the posting of signs pertaining to the sale or rental of the Unit. However, Mortgage Holders are not exempt from the restriction that Units cannot be rented for periods of fewer than 30 days.

**12.3 Subordination of Association Lien to Mortgage; Discharge of Lien upon Foreclosure.** The lien of the Association shall be subordinate to any first Mortgage and to other liens that have priority pursuant to the applicable law except as provided in ORS 100.450. Any first Mortgage Holder that comes into possession of the Unit pursuant to the remedies provided in the Mortgage, by foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, and any purchaser at the foreclosure sale of a first Mortgage, must take the property free of any claims for unpaid assessments or charges against the mortgaged Unit that accrue before the Mortgage Holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units, including the mortgaged Unit).

**12.4 Professional Management.** On the written request of holders of first Mortgages that represent at least 51% of the

votes of mortgaged Units in the Condominium, the Board of Directors must employ a professional manager to manage the affairs of the Association. Without the prior written approval of the holders of first Mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, the Association may not terminate professional management and assume self-management of the Condominium. Additionally, if professional management has previously been required by any Mortgage Holder, any such decision to establish self-management requires prior consent of the owners of Units to which 67% of the votes in the Association are allocated. Any agreement for professional management must provide that the management contract may be terminated for cause on 30 days' written notice.

**12.5 Consent of Mortgage Holders to Change Percentage**

**Ownership in Common Elements.** The Unit owners may not reallocate the percentage of interest in the common elements attributable to any Unit without the prior written approval of holders of first Mortgages that represent at least 51% of the votes of mortgaged Units with respect to which the percentage of ownership is proposed to be altered. Nothing in this Section 12.5 may be construed to give the owners, the Association, or the Board of Directors any specific authority to alter such percentage of ownership and, if any attempt is made to do so, full compliance must be made with the Declaration, the Bylaws, and the Oregon Condominium Act.

**12.6 Consent of Mortgage Holders Required to Terminate**

**Project.** Except with respect to termination of the Condominium as a result of destruction, damage, or condemnation, any termination of the Condominium requires the prior written approval of holders of first Mortgages that represent at least 67% of the votes of mortgaged Units in the Condominium. However, consent will be deemed given if a Mortgage Holder does not object in writing within 30 days after notice of the proposed termination. Additionally, any such terminations must be carried out by the owners pursuant to provisions of the Declaration, the Bylaws, and the Oregon Condominium Act, and must be carried out only after vote of the owners, as provided in such provisions.

**12.7 Limited Right of Amendment.** Except on the written

approval of holders of first Mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, no amendment that adds to or amends any material provision that establishes, provides for, governs, or regulates any of the following may be made to the Declaration or the Bylaws:

- (a) Voting rights;
- (b) Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens or subordination of liens, or the priority of common elements;
- (c) Reductions in reserves for maintenance, repair, and replacement of common elements;
- (d) Responsibility for maintenance and repairs;



- (e) Reallocation of interests in the general or limited common elements, or rights to their use;
- (f) Redefinition of any Unit boundaries;
- (g) Convertibility of Units into common elements or vice versa;
- (h) Expansion or contraction of the Condominium project, or the addition, annexation, or withdrawal of property to or from the Condominium project;
- (i) Hazard or fidelity insurance requirements;
- (j) Imposition of any restrictions on the leasing of Units;
- (k) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (l) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in the documents; or
- (m) Any provisions that expressly benefit Mortgage Holders, insurers, or guarantors.

The provisions of this Section are intended to limit only the right of the Unit owners, the Board of Directors, and the Association to amend the Declaration and the Bylaws, and are not intended to give any such parties any specific rights to effect any amendments. Any amendments to the Declaration or the Bylaws must be made only on full compliance with the provisions of the Declaration, the Bylaws, and the Oregon Condominium Act relating to the procedure and percentage of votes required for amendment. An addition or amendment to the Declaration or the Bylaws will not be considered to be material so as to require the consent or approval of Mortgage Holders, if its purpose is to correct technical errors or to clarify.

**12.8 Request for Approval of Mortgage Holders.** Any Mortgage Holder that receives a written request to approve additions or amendments to the Declaration or the Bylaws, or any other action to be taken by the Board of Directors, the Association, or Unit owners will be deemed to have given such approval unless the Mortgage Holder delivers or posts a negative response within 30 days after receipt of the request.

**12.9 Proxy Held by Mortgage Holder in Certain Cases.** A Mortgage Holder that reasonably believes that the Association has failed to maintain the common elements to prevent excessive wear and tear may attend a meeting of the Association and may cast the vote of the Mortgagor of the Unit on which the Mortgage Holder holds a Mortgage if the proposal under consideration concerns painting or otherwise maintaining the common elements, including imposing special assessments necessary to pay for such maintenance. However, such right arises only if the Mortgage Holder reasonably believes that the Association has failed to maintain the common elements in sufficient manner to prevent excessive wear and tear.

**12.10 Right to Examine Documents.** The Association must make available to Unit owners, lenders, and Mortgage Holders

current copies of the Declaration, the Bylaws, the Articles of Incorporation, other rules concerning the Condominium, and the books, records, and financial statements of the Association. The Association has the right to impose a reasonable charge for any copies requested by owners, prospective purchasers, lenders, or Mortgage Holders.

**12.11 Right to Receive Annual Reports.** On written notice, any Mortgage Holder is entitled to a financial statement for the immediately preceding fiscal year, free of charge to the parties so requesting. The financial statement must be furnished within a reasonable time following the request.

**12.12 Right to Receive Written Notice of Meetings.** On a Mortgage Holder's written request, the Association must give all Mortgage Holders written notice of all meetings of the Association, and the Mortgage Holders must be permitted to designate a representative to attend all such meetings.

**12.13 List of Mortgage Holders.** The Association must maintain at all times a list of Mortgage Holders who have given the Association notice on any matter described in Section 12 of this Declaration, which list shall include their names, addresses, the Units and mortgagors affected, and the matters with respect to which the Mortgage Holders have requested notice, provided that the information has been furnished to the Association by the owners or their Mortgage Holders.

**13. Amendments to Declaration.** Except when a larger percentage of approval is required by law, this Declaration may be amended from time to time by approval of Unit owners holding 75% or more of the voting rights as otherwise set forth in this Declaration. However, this Declaration must not be amended to reduce or eliminate the rights of any Mortgage Holder without all such Mortgage Holders' prior written consent.

**13.1 Declarant's Approval Required.** Declarant's prior written consent is required for any amendment to this Declaration until the earlier of the following dates: the date on which 75% or more of the Units in the Condominium have been conveyed to owners other than Declarant and the date on which three years have elapsed since the first conveyance of a Unit in the Condominium. However, even thereafter, no amendment may limit or reduce any of Declarant's special rights, whether reserved here or otherwise provided by law. No amendment may change the size, location, percentage of interest in the common elements, method of determining liability for common expenses, right to common profits, or voting power of any Unit unless the amendment has been approved by the owners and the Mortgage Holders of the affected Unit.

**13.2 Recordation/County Assessor and Commissioner Approval Required.** An amendment to the Declaration takes effect when recorded in the Deed Records of Multnomah County, Oregon, certified to by the chairperson and secretary of the Association

and approved by the County Assessor and the Real Estate Commissioner. Approval by the Commissioner is not required for an amendment to a declaration transferring the right of use of a limited common element pursuant to ORS 100.515(5).

**14. Subdivision.** No Unit may be subdivided into divisions of any nature.

**15. Authority to Grant Easements, Rights-of-Way, Licenses, and Other Similar Interests/Encroachments.**

**15.1 General.** The Association shall have the authority to grant, execute, acknowledge, deliver, and record on behalf of the unit owners, easements, rights-of-way, licenses, and other similar interests affecting the general common elements and limited common elements and parking units. The granting of any such interest shall first be approved by at least seventy-five (75%) of the Unit owners. The instrument granting any such interest shall be executed by the chairperson and secretary of the Association and acknowledged in the manner provided for acknowledgment of such instruments by such officers and shall state that such grant was approved by at least seventy-five percent (75%) of the Unit owners.

**15.2 Utility Easements; Dedications.** Anything in this Declaration to the contrary notwithstanding, Declarant has the right to execute, deliver, and record on behalf of the Association and the Unit owners such documents as may be required to grant easements, rights-of-way, and licenses over the common elements for the installation, maintenance, and repair of public utilities serving the Condominium or adjacent property. Declarant also has the right to execute, deliver, and record on behalf of the Association and the Unit owners such deeds and other documents as may be required to convey, dedicate, or grant easements, rights-of-way, or licenses over common elements, as may be required by any government or governmental agency to complete development of the Condominium. To effect the intent of this Section 15, each Unit owner, by acceptance of a deed or contract to a Unit, whether or not it is expressed in the deed or contract, for the owner and the owner's successors in interest, irrevocably appoints Barbara Drinka, of Portland, Oregon, or his nominee, as his lawful attorney-in-fact for the purpose of executing any and all documents required or permitted to be executed hereunder. The power of attorney and the rights under this section expire when Declarant no longer owns a Unit or three years from the date this Declaration is recorded, whichever is earlier.

**15.3 Encroachments.** There is an easement for any encroachment of the common elements on any Unit or an

encroachment of any Unit on the common elements or another Unit arising from the original construction, reconstruction, authorized repair, shifting, settling, or other movement of any portion of the condominium improvements. Such easements exist indefinitely and may be terminated only by the voluntary act of the party who benefits from the easement.

**16. Declarant's Special Rights.** Declarant has the following special rights:

**16.1 "For Sale" and "For Rent" Signs.** Declarant may maintain "For Sale" and/or "For Rent" signs on the Condominium property.

**16.2 Common Element Maintenance by the Association.** The Association must maintain all common elements in a clean and attractive condition. If the Association fails to do so, Declarant may perform such maintenance at the expense of the Association.

**16.3 Declarant's Easements.** Declarant and its agents and employees have an easement on and over the common elements for the completion of any portion of the Condominium, including furnishing and decorating any Unit, sales office, or model, and the right to store materials on the common elements at reasonable places and for reasonable lengths of time.

**16.4 Declarant's Other Special Rights.** The rights reserved to Declarant in this Section 16 in no way limit any other special rights that Declarant, as a declarant, may have, whether pursuant to the Oregon Condominium Act or otherwise. On the expiration of any or all such special rights, Declarant will have the same rights as any other owner in the Condominium with respect to such ownership.

**16.5 Assignment of Declarant's Rights.** Declarant has the right to assign any and all of its rights, including, without limitation, Declarant's special rights, as set forth in this Section 16, or to share such rights with one or more other persons exclusively, simultaneously, or consecutively.

**16.6 Expiration of Declarant's Special Rights.** Unless otherwise provided, Declarant's special rights, as reserved in this Section 16, expire on the conveyance by Declarant of the last Unit owned by Declarant or three years after the first conveyance of a Unit in the Condominium, whichever is earlier.

## **17. General Provisions.**

**17.1 Interpretation.** The rights and obligations of all members of the Association and any person dealing with the Association or any of its members with respect to matters pertaining to the Declaration, the Articles of Incorporation, any Supplemental Condominium Declaration, or the Bylaws must be interpreted in accordance with and governed by the laws of the State of Oregon.

**17.2 Severability.** Each provision of the Declaration, any

Supplemental Condominium Declaration, the Articles of Incorporation, and the Bylaws is independent and severable. The invalidity or partial invalidity of any provision must not affect any of the remaining portions of that or any other provision of this Declaration or the Bylaws.

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

**17.4 Legal Proceedings.** Failure to comply with any of the terms of the Declaration, any Supplemental Condominium Declaration, the Articles of Incorporation, the Bylaws and any rules or regulations adopted thereunder is grounds for relief, which may include, without limitation, fining the noncomplying owner, bringing an action to recover money due, damages or a suit for injunctive relief, or an action to foreclose a lien, or any combination. Relief may be sought by the Association, the Board of Directors, an officer, a professional manager or management firm, or, if appropriate, by an aggrieved Unit owner.

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

**17.6 Compliance.** Each Unit owner must comply with the provisions of the Declaration, any Supplemental Condominium 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.

**17.7 Conflicting Provisions.** If a conflict arises between or among the provisions of the Declaration, the Articles of Incorporation of the Association, the Bylaws, and any administrative rules and regulations, the provisions of the

Declaration must be paramount to those of the Articles, the Bylaws, and the rules and regulations, and the Articles will be paramount to the Bylaws and the rules and regulations, and those of the Bylaws will be paramount to the rules and regulations. For purposes of this Section 17.7, the term "Declaration" includes all amendments to this Declaration and Supplemental Declarations, and the term "Bylaws" includes all amendments to the Bylaws.

**17.8 Section and Paragraph Captions.** Section and paragraph captions shall not be deemed to be a part of this Declaration unless the context otherwise requires. In construing this Declaration, if the context so requires, the singular shall be taken to mean and to include the plural, the masculine and feminine shall be taken to mean and to include the neuter, and, generally, all grammatical changes shall be made, assumed, and implied to make the provisions hereof apply equally to individuals, trusts, estates, personal representative, trustees, and corporations.

**17.9 Arbitration.** In the event of a dispute between the owners of the Units in regard to the rights and duties of the owners and/or the association, pursuant to this declaration, then, upon written request of one owner addressed to the other owner, the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction, including the award of attorneys' fees and costs. If the dispute or claim involves a sum not in excess of the jurisdictional limit of the Small Claims Court in Multnomah County, Oregon, the owner shall have the option of taking the matter to Small Claims Court in such county in lieu of binding arbitration.

The undersigned Declarant of the subject property has caused this Declaration to be executed on 12-28, 1999.

Barbara T. Drinka  
BARBARA T. DRINKA, Trustee of  
the Barbara T. Drinka Revocable  
Living Trust

STATE OF OREGON                    )  
  ) ss. Dec 28, 1999  
County of Multnomah            )

Personally appeared before me the above-named Barbara T. Drinka, who, being duly sworn, did say that she is trustee fo the Barbara T. Drinka Revocable Living Trust, and that said instrument was signed in behalf of that trust; and she acknowledged that instrument to be its voluntary act and deed.



Margo M. Erickson  
Notary Public for Oregon

The foregoing Declaration is approved pursuant to ORS 100.110 this 14th day of March, 2000, and, in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two years from this date.

SCOTT W. TAYLOR,  
REAL ESTATE COMMISSIONER

By: Brian DeMarco  
Brian DeMarco

The foregoing Declaration is approved pursuant to ORS 100.110 MARCH 14, 2000.

MULTNOMAH COUNTY ASSESSOR

By: [Signature]

**EXHIBIT A**

**LEGAL DESCRIPTION**

Beginning at a brass screw marking the Northeast corner of Lot 7, Block 2 of NOB-HILL TERRACE, in the City of Portland, County of Multnomah and State of Oregon; thence South 0° 24' 14" West along the East line of said Lot 7 a distance of 73.07 feet to the Northerly right-of-way line of N.W. Marcia St.; thence South 65° 26' 20" West along said right-of-way 77.20 feet; thence South 24° 33' 42" East 30.00 feet to the Southerly right-of-way line of said street; thence South 65° 26' 17" West along said Southerly line 22.07 feet; thence North 24° 33' 39" West 30.00 feet; thence North 0° 24' 11" East 114.97 feet to a point in the North line of Lot 6 of said Block 2; thence South 89° 35' 47" East along said North line and the North line of Lot 7 a distance of 90.00 feet to the point of beginning.



**Exhibit B to Declaration of Marcia Townhouse Condominiums**

After Recording, Return to:  
JONATHAN V. BARG, P.C.  
ATTORNEY AT LAW  
One SW Columbia Street  
Suite 1880  
Portland, Oregon 97258

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk

Total : 139.00

2000-035577 03/14/2000 03:40:00pm ATYAT

C06	25	REC	SLR	DOR	OLIS
		125.00	3.00	10.00	1.00

**BYLAWS  
OF  
MARCIA TOWNHOUSE CONDOMINIUMS**

**ARTICLE 1  
PLAN OF UNIT OWNERSHIP**

**1.1 Unit Ownership.** The condominium, located in the City of Portland, County of Multnomah, State of Oregon, known as Marcia Townhouse Condominiums, is submitted to the provisions of ORS 100.005 et seq., the Oregon Condominium Act, by the Declaration and these Bylaws.

**1.2 Bylaws Applicability.** The provisions of these Bylaws are applicable to the Marcia Townhouse Condominium Association ("Association") and the entire management structure thereof. (The term "Condominium" as used here includes the land.)

**1.3 Personal Application.** All present or future owners, tenants, future tenants, or their employees, or any other person that might use the facilities of the Condominium in any manner, are subject to the regulations set forth in these Bylaws. The acquisition, mere occupancy, or rental of any of the Units of the Condominium constitutes acceptance and ratification of these Bylaws and agreement to comply with all the provisions of them.

**1.4 Definitions.** Except as otherwise provided below, the terms herein shall have the meaning set forth in the Oregon Condominium Act, ORS 100.005 et seq., as supplemented by the Declaration, and those statutes and definitions are incorporated herein by this reference.

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

**2.1 Membership in the Association.** On recording a conveyance or contract to convey a Unit, the grantee or purchaser named in the conveyance or contract automatically is a member of the Association and remains a member of the Association until the person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the Condominium, Unit ownership is determined on the basis of the records maintained by the Association. The record must be established by the Unit owner

filing with the Association a copy of the deed to or land sale contract for his or her Unit, to which must be affixed the certificate of the recording officer of the County of Multnomah, Oregon, showing the date and place of recording of the deed or contract. No person may be recognized as a Unit owner unless a copy of the deed or contract showing him or her to be the current owner or contract purchaser of a Unit has been filed with the Association as provided above. Notwithstanding the foregoing, Declarant is the owner of all previously unsold Units, although no deed or land sale contract, with respect to such Units, has been filed with the Association. The Association shall be an unincorporated association.

**2.2 Voting.** The owner or co-owner of each Unit is entitled to one vote per Unit. The calling and conducting of meetings of the Association and the exercise of voting rights are controlled by Articles 2 and 3 of the Bylaws.

**2.3 Majority of Owners.** As used in these Bylaws, the term "majority of owners" means the owners holding all of the voting rights allocated to the Unit owners in accordance with the Declaration and Section 2.2 above.

**2.4 Quorum.** Except as otherwise provided in these Bylaws, the presence in person, by proxy, or by ballot of owners holding all of the outstanding votes in the Condominium, as defined in Section 2.2, constitutes a quorum.

**2.5 Proxies; Ballots.** Votes may be cast in person, by proxy, or by written ballot. Proxies must be filed with the secretary of the Association ("Secretary") before or during the appointed meeting. The proxies may require the holder to cast a vote for or against any special proposal set out in the notice calling the meeting. In the sole discretion of the Board of Directors, a meeting of the Association may be held by ballot rather than at a formal gathering.

**2.6 Authority to Vote.** All owners, including those who have leased their premises to a third party, must be entitled to vote. An owner's right to vote may not be revoked. A purchaser under a land sale contract who is entitled to immediate possession of the Unit is deemed to be the owner, unless otherwise provided in the contract.

**2.7 Fiduciaries and Joint Owners.** An executor, administrator, guardian, or trustee may vote in person, by proxy, or by ballot, at any meeting of the Association with respect to any Unit owned or held by him or her in such capacity, whether or not the Unit has been transferred to his or her name; provided that he or she satisfies the Secretary that he or she is the executor, administrator, guardian, or trustee holding the Unit in such capacity. Whenever any Unit is owned by two or more persons jointly according to the records of the Association, the vote 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 such protest, no one co-owner will be entitled to vote without the approval of all

co-owners. In the event of such disagreement and such protest, the vote of such Unit must be disregarded completely in determining the proportion of votes given with respect to such matter.

**2.8 Actions by Association; Legal Meeting.** Except as otherwise provided in the Declaration, these Bylaws or the Oregon Condominium Act, decisions and resolutions of the Association must require approval by a majority of owners present at any legal meeting. For purposes of these Bylaws, a legal meeting is a formal meeting duly called pursuant to these Bylaws at which a quorum is present in person or by proxy, or a ballot meeting where the number of owners casting written ballots constitutes a quorum.

### **ARTICLE 3**

#### **ADMINISTRATION**

**3.1 Association Responsibilities.** The owners of the Units constitute the members of the Association, which has the responsibility of administering the project, approving the annual budget, establishing and collecting assessments, and arranging for the operation, management, and maintenance of the Condominium, including negotiating and contracting with and supervising any person, persons, or business entity with respect to such matters.

**3.2 Place of Meetings.** Formal meetings of the Association will be held at the principal office of the Condominium or such other place that is convenient to the owners as may be designated by the Board of Directors.

**3.3 Turnover Meeting.** The turnover meeting (which constitutes the initial organizational meeting) must be held within 90 days after the earlier of the following: the date on which both of the Units have been conveyed to persons other than the Declarant or the date on which three years have elapsed since the first conveyance of a Unit to someone other than Declarant. The turnover meeting must be called by notice to all Unit owners of the time, place, and purpose thereof not less than seven, nor more than 50, days before the meeting. If Declarant does not call the meeting within the time specified, the meeting may be called and notice given by a Unit owner.

At the turnover meeting, Declarant must relinquish control of the administration of the Association and the Unit owners must assume control and elect a board of directors ("Board of Directors") in accordance with the provisions of Article 4 of these Bylaws. Additionally, Declarant must deliver to the Association the items specified in the Oregon Condominium Act to be turned over by Declarant at the turnover meeting. To facilitate an orderly transition, during the three-month period following the turnover meeting, Declarant or an informed representative must be available to meet with the Board of Directors on at least three mutually acceptable dates to review the documents delivered to the Association as required by the Oregon Condominium Act and as referred to above.

**3.4 Annual Meetings.** The first annual meeting of the

Association must be held during the calendar year following the calendar year during which the turnover meeting is held, and its date must be set by action of the Board of Directors. This meeting, the date of which may be changed from time to time, at the discretion of the Board of Directors, must be held annually under the rules and regulations as set out in the Bylaws. At such meetings, new members of the Board of Directors must be elected by the owners in accordance with the requirements of Section 4.6 of these Bylaws, to replace directors whose terms have expired. The owners may also transact such other business of the Association as may properly come before them. Notice of an annual meeting shall be given to the owners in accordance with Section 3.6 below.

**3.5 Special Meetings.** The chairperson of the Association ("Chairperson") shall have authority to call a special meeting on his or her own accord. The Chairperson must call a special meeting of the owners if so directed by resolution of the Board of Directors or on the presentation to the Secretary of a written demand signed by one of the owners. All meetings called because of petition of Unit owners must be held at a formal gathering and not by ballot, and must be held within 60 days after receipt of the petition. The notice of any special meeting must state the time and place of the meeting and its purpose. No business, except as stated in the notice, may be transacted at a special meeting unless by consent of all the owners of the Units or as otherwise set out in these Bylaws. Notice of a special meeting shall be given to the owners in accordance with Section 3.6 below.

**3.6 Notice of Meetings.** The Secretary must mail by first-class or certified mail, or must hand-deliver, a notice of each annual or special meeting, stating its purpose and the time and place where it is to be held, to each owner of record at least seven, but not more than 50, days before the meeting or the date when ballots for a ballot meeting must be returned. The Secretary must hand-deliver or mail by first-class or certified mail written ballots for ballot meetings to each owner of record not less than 20 days before the date on which the ballots must be received by the Association in order to be counted. The mailing must be to the owner's address last given to the Secretary in writing by the Unit owner or his or her vendee. If Unit ownership is split or the Unit has been sold on a contract, notice must be sent to a single address, of which the Secretary has been notified in writing by such parties. If no address has been given to the Secretary in writing, then mailing to the Condominium Unit will be sufficient. The mailing of a notice in the manner provided in this Section will be considered notice served.

**3.7 Ballot Meetings.** Any action that may be taken at any annual or special meeting of the Unit owners may be taken without a meeting if the Association delivers a written ballot to every Unit owner entitled to vote on the matter. The ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

**3.8 Order of Business.** The order of business at all meetings of the owners of Units must be as follows unless the Board of Directors sets a different agenda:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of the preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

#### ARTICLE 4

##### BOARD OF DIRECTORS

**4.1 Number and Qualification.** The affairs of the Association must be governed by a Board of Directors composed of two (2) persons, each of whom must be an owner or a co-owner of a Unit. An officer or employee of a corporation, a trustee of a trust, a personal representative of an estate, or an employee of a trust or estate may serve on the Board of Directors if the corporation, trust, or estate owns a Unit.

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

**4.3 Other Duties.** In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors has authority to carry out and is responsible for the following matters:

**4.3.1** Caring for, maintaining, and supervising the management of the Condominium and the general common elements, limited common elements and Association property, if any, for which the Association has maintenance responsibilities, and assigning, supervising assignments, or approving any assignment of the use of any common element, general or limited, as may be required by the Declaration.

**4.3.2** 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.

**4.3.3** Designating and collecting regular and special assessments from the owners, in accordance with these Bylaws, the Declaration, and the Oregon Condominium Act.

**4.3.4** Establishing a budget for payment of all common expenses of the Association and instituting and maintaining a system for such payment as may be reasonably necessary to prevent any misuse of Association funds.

**4.3.5** Obtaining and maintaining insurance policies and

paying premiums out of the common expense funds with respect to both the common elements, Association property, if any, and individual Units as more specifically provided in Article 8 of these Bylaws.

**4.3.6** Designating and dismissing the personnel necessary for the maintenance and operation of the Condominium, the general common elements, and the limited common elements, if any.

**4.3.7** Causing the preparation and distribution of annual financial statements of the Condominium to each of the Unit owners as more specifically provided in Article 12 of these Bylaws.

**4.3.8** Adopting and amending administrative rules and regulations governing the details of operation and use of the common elements and Association property, if any, including a fine structure for violations of these Bylaws, the Declaration, or any rules or regulations promulgated thereunder.

**4.3.9** Causing the Association to comply with ORS 100.480 relating to maintenance of documents delivered to the Association by Declarant and maintenance and distribution of financial statements and to maintain copies suitable for duplication of the following: the Declaration, the Bylaws, the Association rules and regulations and any amendments thereto, the most recent annual financial statement, and the current operating budget of the Association.

**4.3.10** Causing the Association to file an Annual Report with the Oregon Real Estate Agency, as provided in ORS 100.250 and ORS 100.260.

**4.3.11** Reviewing on an annual basis the insurance coverage of the Association.

**4.3.12** Causing the Association to comply with ORS 100.480, pursuant to which all assessments of the Association are required to be maintained in a bank account in the name of the Association, and separate from the funds of Declarant and others.

**4.3.12** Causing the Association to file all necessary federal, state and local tax returns of the Association.

**4.4 Management Agent.** The Board of Directors may employ a management agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board must authorize, including, but not limited to, the duties listed in Section 4.3 above. Any such management contract must be cancelable without penalty on 90 days' written notice. Any management contract entered into by Declarant before the turnover meeting may be canceled by the Board of Directors elected at the turnover meeting on 30 days' written notice given not later than 60 days after the turnover meeting.

**4.5 Interim Director.** On filing the Declaration submitting the Condominium to the Oregon Condominium Act, Declarant must appoint an interim director (who need not be owners of Units), who must serve as the sole director until replaced by Declarant or such director's successors have been elected by the Unit owners at the

turnover meeting as here provided.

**4.6 Election and Term of Office.** At the turnover meeting, on agreement by vote of the owners, the Board of Directors may be elected. The owner(s) of each Unit shall have the right to designate one director. The two nominees so designated will be Directors serving a two-year term. At the expiration of the initial term of office of each respective Director, his or her successor must be designated (again, with the owner(s) of each Unit designating one director) to serve a term of two years. The Association may increase or decrease the number of Directors and length of terms for which each is elected on amendment of this Section 4.6.

**4.7 Vacancies.** Vacancies on the Board of Directors must be filled by the owner(s) of the Unit designated to select such director.

**4.8 Intentionally deleted.**

**4.9 Organizational Meeting.** The first meeting of a newly elected Board of Directors must be held within 10 days after its election at such place as must be fixed by the Directors at the meeting at which the Directors were elected, and no notice need be given to the newly elected Directors to hold such meeting legally, providing that a majority of the newly elected Directors are present.

**4.10 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as determined, from time to time, one of the Directors, but must be held no less often than semi-annually. Notice of regular meetings of the Board of Directors may be called by the Chairperson on three days' notice to each Director, given personally or by mail, telephone, facsimile, telegraph, or other similarly reliable method, which notice must state the time, place (as provided above) and purpose of the meeting.

**4.11 Special Meetings.** Special meetings of the Board of Directors may be called by the Chairperson or Secretary or on the written request of one Director. Special meetings of the Board of Directors may be called on three days' notice to each Director, given personally or by mail, telephone, facsimile, or telegraph, which notice must state the time, place (as provided above) and purpose of the meeting.

**4.12 Waiver of Notice to Directors.** Before, at, or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and the waiver will be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him or her of the time and place of the meeting. If all the Directors are present at any meeting of the Board, no notice to Directors is required and any business may be transacted at the meeting.

**4.13 Board of Directors' Quorum.** At all meetings of the Board of Directors, both of the Directors shall constitute a quorum for

the transaction of business.

**4.14 Board of Directors' Meetings Open to All Association Members.** All meetings of the Board of Directors must be open to all members of the Association, except that, at the discretion of the Board of Directors, the following matters may be considered in executive session: (a) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (b) personnel matters, including salary negotiations and employee discipline; and (c) the negotiation of contracts with third parties. No Association member has a right to participate in the Board of Directors' meetings unless the member is also a member of the Board of Directors. The Chairperson has authority to exclude any Association member who disrupts the proceedings at a meeting of the Board of Directors.

**4.15 Intentionally Deleted.**

**4.16 Telephonic Meetings.** In an emergency, telephonic meetings may be held by the Board of Directors. Such telephonic meetings must be carried on by means of a "conference call" in which each Director may speak with any of the other Directors. The Directors must keep telephone numbers on file with the Chairperson to be used for telephonic meetings. No notice to either Directors or Association members is required for a telephonic meeting of the Board of Directors to be held for any emergency action.

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

**ARTICLE 5  
OFFICERS**

**5.1 Designation.** The principal officers of the Association must be a chairperson, a secretary, and a treasurer, all of whom must be elected by the Directors.

**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 or any Board meeting thereafter and shall hold office at the pleasure of the Board.

**5.3 Removal of Officers.** On an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor must be elected at any regular or special meeting of the Board of Directors.

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



the Association.

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

**5.6 Treasurer.** The treasurer of the Association ("Treasurer") must have responsibility for Association funds and securities not otherwise held by the managing agent, and must be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The treasurer must be responsible for the deposit of all money 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.

#### ARTICLE 6

##### OBLIGATIONS OF THE OWNERS

**6.1 Assessments.** All owners must be obligated to pay annual assessments imposed by the Association to meet all the Condominium's common expenses, which shall include premiums for insurance required or permitted under Article 8 of these Bylaws. In the discretion of the Board of Directors, the assessments may be made payable semiannually, quarterly, or monthly. An annual assessment must be charged beginning when Declarant first conveys a Unit to a Unit owner. Before that time, Declarant must pay all operating expenses of the Condominium. All of the reserve accounts set up pursuant to these Bylaws must be funded by allocation and payment from the assessment of Unit owners. The assessment of all Unit owners who may be benefitted by expenditure of reserve funds may be increased as necessary, so the reserve fund in question can be maintained in an amount sufficient to meet the needs for which such fund was established.

Except as otherwise provided in the Declaration or these Bylaws, each Unit must be liable for the common expense in the same percentage as the percentage of ownership in the common elements allocated to such Unit.

The assessment of Units must include the following items, which must be common expenses:

**6.1.1 Expense Items:**

- (a) Expenses of administration.
- (b) Expenses of maintenance, repair, or replacement of the general common elements and those limited common elements which, under the Declaration are to be maintained by the Association.
- (c) Any deficit in common expenses for any prior period.
- (d) The cost of insurance or bonds obtained in accordance with these Bylaws.
- (e) The cost of any professional management, if required by

mortgage holders or desired by the Board of Directors.

(f) Legal, accounting, and other professional fees.

(g) Any other items that are properly chargeable as an expense of the Association.

**6.1.2 Reserve Items:**

(a) Reserve Account. A reserve account must be established for the purpose of (i) effecting replacements of structural elements, mechanical equipment, and other common elements of the Condominium that will normally require replacement in more than three years and less than 30 years, (ii) painting of exterior painted surfaces of the common elements, and (iii) maintaining such other reserves as may be required under the Declaration or these Bylaws or that the Board of Directors, in its discretion, may deem appropriate. Payment into this account is deemed a contribution to capital improvement as and when made. Pursuant to provisions of the Oregon Condominium Act, Declarant has established a reserve account for the purposes set forth above. The reserve accounts for replacement and repainting must be funded by assessment against the same Units that are assessed for the maintenance of the items for which the reserve account is established. Accordingly, the reserve account for replacement and repainting of those general common elements and limited common elements, the maintenance of which is provided by assessment against all owners, must be created by assessment against all owners. The reserve account for replacement and repainting of those limited common elements, the maintenance of which is provided by assessment of fewer than all Units, shall be created by assessment only against the specific Units responsible for the maintenance of such limited common elements.

The Board of Directors must prepare a schedule of the common elements having a remaining useful life of more than three and less than 30 years, together with the current replacement cost of such common elements and of the remaining useful life of paint on the exterior painted surfaces of the common elements, together with the current cost of repainting such surfaces. The amount of the periodic payments to the reserve account must be adjusted at regular intervals and in all events, annually, to recognize changes in remaining useful lives and replacement costs over time. Except as otherwise provided in the Oregon Condominium Act and in the preceding paragraph, the reserve account must be used only for replacement and repainting of common elements and must be kept separate from other funds.

The Board of Directors shall annually conduct a reserve study, or review and update an existing study, of the common elements to determine the reserve account requirements. The reserve study shall comply with the requirements of ORS Section 100.175 and shall include: (1) identification of all items for which reserves are to be established, (2) the estimated remaining useful life of each item as of the date of the reserve study, (3) the estimated cost of maintenance, repair or replacement of each item at the end of its useful life, and (4) a 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned

on reserves, to meet the maintenance, repair and replacement schedule.

(b) General Operating Reserve. The Board of Directors must create and maintain a general operating reserve account by allocation and payment thereto monthly of an amount determined by the Board of Directors. This account must be used to pay expenses that exceed budgeted amounts. The initial working capital required by Section 6.2.1 must be deposited into operating reserve account.

(c) Special Reserves. Such other special reserve funds may be set up by the Directors by special assessments of the Unit owners who benefit thereby as may be required by the Declaration or otherwise determined by the Association to be appropriate, including a reserve fund for any lease payments.

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

**6.2 Initial Assessment.** The amount of the initial assessment due from Unit owners other than Declarant must be determined by Declarant. The amount of the annual assessment thereafter must be subject to review and modification by the Board of Directors. Except as otherwise provided below, the assessment for all Units must be payable from the date of the closing of the first Unit to be sold by Declarant.

**6.2.1 Contribution to Working Capital.** At closing, each purchaser must contribute to the Association a sum equal to one-sixth of the annual assessments, with respect to the Unit being purchased, as a one-time contribution to the working capital of the Association. Within 60 days after the first conveyance by Declarant of the first Unit in the Condominium, Declarant must make such contribution with respect to all Units in the Condominium that have not yet been conveyed to a purchaser. If Declarant has made such contribution, no further contribution must be required to the Association, but each purchaser must reimburse Declarant at closing for the amount of the contribution made by Declarant with respect to the Unit conveyed to the purchaser. The working capital contribution must be allocated to the general operating reserve provided in Section 6.1.2(b) above. The working capital contribution is in addition to regular assessments and must not be used as a prepayment of assessments by any Owner. Declarant may not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficits while Declarant is in control of the Association.

**6.2.2 Procedures.** If Declarant pays all the operating

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

**6.3 Special Assessments.** The Board of Directors has the power to levy special assessments against an owner or all owners.

**6.4 Payment of Assessments.** Subject to the provisions of Sections 6.2 and 6.3, from the date of the closing of the first Unit sale, Declarant must:

(a) Pay assessments due for operating expenses on the unsold Unit; and

(b) Pay assessments due for reserves on the unsold Unit or, at Declarant's option, pay or require the Unit owner to pay all accrued reserve assessments against the Unit at the time of the initial sale to the Unit owner. However, such reserve accrual must not be for a period longer than two years after the Declaration is recorded.

**6.5 Adoption of Budget; Determination of Fiscal Year; Filing of Income Tax Returns.**

**6.5.1 Adoption of Budget.** At least 60 days before the beginning of each fiscal year, the Board of Directors must adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair, and replacement of the common elements (including painting of exterior painted surfaces of the common elements) and those parts of the Units for which the Association is responsible for maintaining, repairing, and replacing, and the cost of wages, materials, insurance premiums, services, supplies, and other expenses that may be declared to be common expenses pursuant to the Oregon Condominium Act, the Condominium instruments, or a resolution of the Association and that will be required during the ensuing fiscal year for the administration, operation, maintenance, and repair of the Condominium and the rendering to the Unit owners of all related services.

The budget also must include such reasonable amounts as the Board of Directors considers necessary to provide working capital and such general operating reserve accounts, contingency, and other reserve accounts as the Board determines. The amount designated for replacement reserves must be adjusted annually to reflect current replacement cost and remaining useful life. At least 30 days before the beginning of each fiscal year and within 30 days after the budget is adopted by the Board of Directors, the Board of Directors must send to each Unit owner a copy of the budget in a reasonably itemized form that sets forth the amount of the common expenses and any special assessment payable by each Unit owner. The budget must constitute the basis for determining each Unit owner's assessment

for the common expenses of the Condominium.

If the Board fails to adopt a budget for a fiscal year, the last adopted budget shall continue in effect until such time as the Board adopts a budget for the such year.

6.5.2 Intentionally Deleted.

6.5.3 Intentionally Deleted.

6.5.4 **Determination of Fiscal Year.** The fiscal year of the Association must be the calendar year unless otherwise determined by the Board of Directors.

6.5.5 **Filing of Income Tax Returns.** The Board of Directors, in its sole discretion, must determine the manner in which all necessary income tax returns are filed and of selecting any and all persons to prepare such tax returns.

6.6 **Default.** The failure of an owner to pay any assessment of the Association is a default by that owner of his or her obligations pursuant to these Bylaws and the Oregon Condominium Act and, in addition to the Association's other remedies provided in the Declaration, these Bylaws entitle the Association to declare the balance of the owner's annual assessment otherwise being paid in installments to be immediately due and payable in full. Interest must be charged on delinquent assessments the lower of 18% per annum or the highest rate permitted by applicable law.

The Association shall be entitled to a lien that may be enforced on compliance with the provisions of ORS 100.450. In any foreclosure suit by the Association with respect to the lien, the Association shall be entitled to collect reasonable rent from the defaulting owner for the use of his or her Unit or shall be entitled to the appointment of a receiver pursuant to ORS 100.460. Liability for all assessments, fines, charges, interest, fees (including attorney fees, whether or not a suit or an action is commenced), and other sums owing by the Unit owner pursuant to the Declaration, these Bylaws, the Oregon Condominium Act, and rules and regulations of the Association are the personal obligation of the Unit owner and may be enforced by suit for a money judgment, in addition to all other remedies of the Association. Any default by the owner in any provisions of these Bylaws or of the Oregon Condominium Act is deemed to be a default by the owner of any mortgage to which the owner is a party or to which the Unit is subject.

6.7 **Maintenance and Repair.**

6.7.1 **Owner's Duty to Maintain.** Every owner must perform promptly all maintenance and repair work that is needed within his or her own Unit to prevent any negative effect on the common elements of the Condominium or a part thereof belonging to other owners, and every owner must be responsible for the damages and liabilities that his or her failure to maintain and repair may cause, including, but not limited to, damage caused by plugged toilets and bath drains, overloaded electrical outlets, and clothes washer and dishwasher overflow.

**6.7.2 Owner's Expenses.** All repairs of internal installations of each Unit, such as water, lights, gas, power, sewage, telephones, air conditioners, heaters, and sanitary installations, doors, windows, lamps, and all other accessories and appliances belonging to the Unit area, must be at the sole expense of the owner of the Unit.

**6.7.3 Reimbursement of Association.** An owner must reimburse the Association for any expenditures incurred in repairing or replacing any common elements and/or facility that was damaged through the owner's fault and that is not otherwise covered by insurance policies carried by the owner or the Association for the owner's and the Association's benefit. In such circumstances, the insurance obtained by the owner is deemed to be the primary coverage.

**6.8 Easement for Maintenance; Encroachments.**

**6.8.1 Easement for Maintenance.** An easement for the benefit of the Association is hereby reserved in and through all Units and the common elements providing access at reasonable times and with reasonable notice for purposes of maintenance, repair, and replacement of the common elements. If, in the process of such repair and maintenance by the Association, it is necessary to alter or damage any Unit or common elements, such alterations or damages must be permitted without compensation, provided that the Unit and/or common elements are promptly restored to substantially their prior condition by the Association.

**6.8.2 Encroachment.** If any portion of the common elements encroaches on a Unit, or a Unit encroaches on any portion of the common elements, a valid easement exists for the encroachment and for the maintenance of the same, as long as the affected Unit or common element stands. If the affected Unit or common element or either is partially or totally destroyed and then rebuilt, the owners of the Units agree that minor encroachment of parts of the common elements due to such rebuilding must be allowed and an easement exists for that purpose.

**ARTICLE 7  
USE AND OCCUPANCY RESTRICTIONS;  
RULES OF CONDUCT**

The failure of an owner (his or her family, invitees, or tenants) to comply with the rules of conduct and restrictions set forth herein, in the Declaration, or others promulgated by the Board of Directors, is cause for which the Board of Directors may deny or restrict the owner's right to use any common element facility with respect to which the owner otherwise had a right of use.

**7.1 Use as Private Dwelling Only.** Each of the Units must be occupied as a single-family private dwelling by its owner or his or her tenants, visitors, and guests, and for no other purpose. Subject to compliance with applicable local ordinances and other

restrictions of record, an owner may use his or her Unit as a "home office" if clients, customers, vendors, and employees do not regularly visit the "home office." All common elements must be used in a manner conducive to such purpose. No Unit owner is permitted to lease his or her Unit for a period of 30 days. No Unit owner may lease less than the entire Unit. Any agreement to lease a Unit must provide that the terms of the lease are subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the tenant to comply with the terms of those documents is a default under the lease. Leasing of units is governed by Section 7.12 of these Bylaws.

**7.2 Restriction on Alteration to Unit.** No owner may make structural alterations or installations in his or her Unit without the prior written consent of the Board of Directors, which consent shall not be unreasonably withheld.

**7.3 Intentionally Deleted.**

**7.4 Pets.** No animals or fowl shall be raised, kept, or permitted within the Condominium, except domestic dogs, cats, or other household pets kept within a Unit. No more than one (1) dog shall be kept in a Unit. No dogs, cats or other pets shall be kept unless they are currently licensed in accordance with municipal or governmental ordinances, rules, and regulations, as applicable. No pets other than cats shall be permitted to run at large and no pets shall be kept, bred or raised for commercial purposes or in an unreasonable numbers per Unit. Any damage caused by such pets shall be the responsibility of the respective Owners thereof. No pets other than cats may be kept in the yard areas. At all times the Common Elements shall be free from pet debris and waste. A pet shall not be permitted outside of a Unit unless the pet is on a leash or being carried. Any pet which causes an unreasonable disturbance to other Owners or Unit occupants shall be removed from the Property.

**7.5 Appearance of Condominium Buildings.** No Unit owner may cause anything to be hung, displayed, or placed on the walls, railings, doors, windows, walkways, patios, porches, fences, or roof of the Condominium buildings or any other common element or otherwise change the appearance of any portion of the common elements without the prior written consent of the Board of Directors, except as follows: (i) a Unit owner may place on the porch of such owner's Unit outdoor furniture, plants and other items customarily placed in such locations in housing with values comparable to that of the Unit, (ii) the limited common element yard areas may be used for all customary residential yard purposes, subject to any other restrictions in the Declaration and Section 7.10 below, and (iii) the garage areas and parking spaces may be used for the uses indicated in the Declaration. No clothes lines or similar devices will be allowed on any part of the Condominium property without the prior written consent of the Board of Directors, except that Declarant may post reasonable signs advertising any unit for sale or rent in reasonable places on the

Condominium property.

**7.6 Nuisances.** No nuisances or any use or practice that is the source of annoyance to residents or that interferes with the peaceful possession and proper use of the property by its residents is allowed on the Condominium property. Residents must exercise extreme care about creating disturbances, making noises or using musical instruments, radios, televisions, and amplifiers that may disturb other residents. All parts of the Condominium must be kept in a clean and sanitary condition; no rubbish, refuse, or garbage is allowed to accumulate; and no fire or environmental hazard is allowed to exist. All garbage and trash must be placed inside disposal containers. No Unit owner may make or permit any use of his or her Unit or make any use of the common elements that would increase the cost of insurance on the Condominium property.

No owner may hang garments, towels, rugs, or similar items from any window, facade, deck, patio, fence, railing, balcony, or terrace of the Condominium.

**7.7 Improper, Offensive, or Unlawful Use.** No improper, offensive, or unlawful use be made of the Condominium property or any part of it; all valid laws, zoning ordinances, and regulations of governmental bodies having jurisdiction must be observed. The responsibility for meeting the requirements of governmental bodies for maintenance, modification, or repair of the Condominium property must be carried out and paid for in the same manner as the responsibility for the maintenance and repair of the property concerned.

**7.8 Restriction on Exterior Installations.** No owner, resident, or tenant may install wiring for electrical or telephone installation, exterior antennas, satellite dishes, machines, air conditioning units, or similar devices on the exterior of the Condominium building or cause them to protrude through the walls or the roof of the Condominium except as authorized by the Board of Directors. No window guards, awnings, or shades may be installed without the prior consent of the Board of Directors.

**7.9 Leasing/Renting Units.** A Unit owner may rent or lease his or her entire Unit for a period of not less than 30 days, provided that the occupancy is only by the tenant, his or her visitors, and guests. No rooms may be rented and no transient tenants may be accommodated. Tenants must always be under the control of and subject to the Declaration, the Bylaws, and the rules and regulations of the Association and the Board of Directors. All such leases must be in writing.

**7.10 Yard Maintenance.** A Unit owner must maintain all limited common element yard areas and walkways allocated to his or her Unit in neat and clean condition. All lawn areas shall be mowed regularly. Plants and trees shall be maintained in good condition and trimmed, as reasonably appropriate. The owner of Unit number 1 shall not permit any plants, trees or other vegetation within 1-1/2 feet of the east facing living room windows of Unit number 2



to exceed a height of four feet above the bottom of such windows.

**7.11 Additional Rules.** Rules and regulations concerning other use of the Condominium property, including a fine schedule for violation thereof, may be made and amended from time to time by the Association or the Board of Directors. Copies of such rules and regulations must be furnished to all Unit owners and residents of the Condominium on request.

## **ARTICLE 8 INSURANCE**

The Board of Directors must obtain and maintain at all times insurance of the type and kind and in the amounts here provided, including insurance for such other risks of a similar or dissimilar nature as are or hereafter customarily must be covered with respect to other condominiums similar in construction, and design; the insurance must be governed by the provisions in this section.

**8.1 Types of Insurance Policies.** For the benefit of the Association and the owners, the Board of Directors must obtain and maintain at all times, and must pay for out of the common expense funds, the following insurance to the extent that it is available at reasonable cost:

**8.1.1** A policy or policies of property insurance, including, but not limited to, fire, extended coverage, vandalism, and malicious mischief, for the full insurable replacement value, if available, of all Units and common elements, and such other fire and casualty insurance as the Board of Directors determines, to give substantially equal or greater protection to the owners and their mortgagees, as their respective interests appear, which policy or policies must provide for a separate loss payable endorsement in favor of the mortgage holder, if any, of each Unit. For the purposes of any policy or policies of fire insurance, the term "building" includes fixtures, installations, or additions comprising a part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual Condominium Units initially installed or replacement thereof, in accordance with the original Condominium plans and specifications, or installed by or at the expense of any Unit owner or owners.

**8.1.2** A policy or policies insuring the Association, its Board of Directors, the Unit owners individually, and the manager against any liability to the public or the owners of Units and their invitees or tenants, incident to the ownership, supervision, control, or use of the project. Limits of liability under such insurance must be not less than \$1 million per occurrence for bodily injuries and property damage. Such limit and coverage must be reviewed at least annually by the Board of Directors, which, in its discretion, may increase either. The policy or policies must be issued on a comprehensive liability basis and provide cross-liability endorsements wherein the rights of a named insured under the policy or policies must not be prejudiced with respect to

his or her action against another named insured.

**8.1.3** Workers' compensation insurance to the extent necessary to comply with any applicable laws.

**8.1.4** A fidelity bond naming such persons as may be designated by the Board of Directors as principals and the Association and the owners as obligees, for the amount determined by the Board of Directors. However, the Board of Directors must require that all officers and employees of the Association handling or responsible for Association funds obtain adequate fidelity bonds. The premiums on such bonds must be paid by the Association.

The Association will not be responsible for any loss or damage to personal property of any owner, whether stored on the common elements or in the owner's Unit; nor will the Association maintain any insurance coverage for such loss.

**8.2 Insurance Companies Authorized.** All policies must be written by a company licensed to do business in Oregon and holding a "Commissioner's rating" of "A+" and a size rating of "AAA," or better, by Best's Insurance Reports, or as may be otherwise acceptable to all mortgage holders and directors.

**8.3 Authority to Adjust Losses.** All losses under policies in force regarding the property must be settled exclusively with the Board of Directors or its authorized representative. However, when a first mortgage holder has been designated as a loss payee by a Unit owner and the first mortgage holder has requested the opportunity to exercise the rights provided by this Article 8, the mortgage holder must be entitled to settle losses as to the mortgaged Unit, provided that the loss that occurs is severable. Releases and proofs of loss must be executed by at least two directors.

**8.4 Value of Owner Improvements.** Each owner must inform the Board of Directors of the value of improvements made to his or her Unit in excess of \$1,000 so that the Board of Directors may make any desired adjustments in insurance coverage.

**8.5 Provisions in Insurance Policies.** The Board of Directors must make every effort to secure insurance policies that provide for the following:

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

**8.5.2** 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.

**8.5.3** 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.

**8.5.4** A provision that any "no other insurance" clause in the master policy exclude individual owners' policies and not otherwise

prevent such individual policies from providing coverage for damage to Units or common elements.

**8.6 Reconstruction Costs.** If the Association is required or elects to reconstruct any common element or Unit that has been damaged or destroyed, an affected Unit owner (i.e., the owner whose Unit or limited common element has been damaged or destroyed) must contribute to the Association all amounts received by the owner from property loss insurance policies to help pay for the repairs. To the extent that insurance proceeds are unavailable or unpaid when needed, the Association must assess the owner the amount of the Association's "deductible" under its policy to pay the cost of repairing or reconstructing the owner's Unit or limited common elements. The assessment must be both a personal obligation of the owner and a lien against the owner's Unit in the same manner as any other Association assessment.

**8.7 Insurance Deductible/Owner and Tenant Insurance.** The Board of Directors must 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 8. In determining the deductible under the policies, the Board must take into consideration, among other factors, the availability, cost, and loss experience of the Association. In this regard, as in other Board responsibilities, the Board members must exercise their reasonable business judgment.

The Association has no responsibility to procure or assist in procuring property loss insurance for any owner or tenant for (a) 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 (b) for any damage or loss to the owner's or tenant's personal property. Owners must be responsible for purchasing insurance policies insuring their units and appurtenant limited common elements for the deductible amount under the Association's policies and for insuring their own personal property for any loss or damage. Proof of such insurance coverage must be provided to the Association's Secretary by the Unit owner. Tenants must be responsible for insuring their own personal property for any loss or damage. The Board of Directors must notify all owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Board of Directors must give at least 30 days' notice to the owners of any increase in the deductible proposed in renewal or replacement insurance policies. Owners and tenants of all Units must procure and maintain comprehensive liability policies having combined limits of not less than \$50,000 for each occurrence. Such insurance must provide coverage for, without limitation, the negligent acts of the owner and tenant and their guests or other occupants of the Unit for damage to the general and limited common elements and other Units and the personal property of others located therein.

**8.8 Review of Insurance Policies.** At least annually, the Board of Directors must review all insurance carried by the Association, which review must include a consultation with a representative of the insurance carrier writing the master policy.

**8.9 Duplicate Coverage.** In the event of duplicate insurance coverage, the insurance policy obtained by the owners is deemed to be the primary coverage.

## ARTICLE 9

### DAMAGE AND DESTRUCTION

**9.1 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, must be applied to such reconstruction.

**9.2 Insurance Proceeds Insufficient to Cover Loss.** If the insurance proceeds are insufficient to reconstruct the damaged or destroyed buildings, the damage to or destruction of the buildings must be promptly repaired and restored by the manager or the Board of Directors, using the proceeds of insurance, if any, on the buildings for that purpose and all the Unit owners must be liable for assessment for any deficiency for such reconstruction, such deficiency to take into consideration as the owner's contribution any individual policy insurance proceeds provided by the owner. However, if three-fourths or more in value of all the buildings is destroyed or substantially damaged, and if the owners of at least 60% of the Units so vote, and on written approval of holders of first mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, the manager or Board of Directors must record with the County Recorder a notice setting forth such facts, and on the recording of the notice:

**9.2.1** The Condominium property is deemed to be owned in common by the owners.

**9.2.2** The respective interest of each Unit owner in the property must be determined by the provisions of ORS 100.610 that are in effect on the date that the Condominium Declaration is recorded.

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

**9.2.4** The Condominium must 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, must be considered as one fund and must be divided among all of the owners in proportion to their respective undivided interests, after first paying, out of the respective shares of the owners, to the extent such share is sufficient for the purpose, all liens on the undivided interest in the project

owned by each owner.

**9.3 Architectural Changes After Damage or Destruction.**

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

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

**ARTICLE 10  
CONDEMNATION**

The Board of Directors has 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 those bodies or persons with respect to the common elements of the Condominium, and must 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 may be construed to give a Unit owner or any party priority over the rights of the first mortgage holders of any Condominium Units in the case of a distribution to the Unit

owner of any such condemnation awards for losses to or a taking of a Unit and/or the common elements. If a condemning authority takes or acquires part or all of the common elements, the award or proceeds of settlement must be payable to the Association, or any trustee, for the use and benefit of the Unit owners and their mortgage holders as their interest may appear. The Board of Directors must distribute the proceeds of any such award or settlement on a reasonable and equitable basis among the Unit owners.

**ARTICLE 11  
AMENDMENTS TO BYLAWS**

These Bylaws may be amended by the owners holding a majority of the voting rights allocated to the Units. Any amendments adopted must be reduced to writing and certified by the Chairperson and Secretary of the Association to be the amendment so adopted by the Association. The amendment so certified must be recorded in the Deed Records of Multnomah County, Oregon. However, no amendment of these Bylaws reducing or eliminating the right of any first mortgagee may be made without the prior written consent of such first mortgagees, and no amendment of these Bylaws may be made without the consent of the Declarant as long Declarant owns any Unit in the Condominium. No such consent shall be required after conveyance to owners other than Declarant of 75% of the Units or three years after the first conveyance of a Unit in the Condominium, whichever is earlier, provided, however, that even thereafter, no amendment may limit Declarant's special rights, whether reserved in the Declaration, these Bylaws, or as otherwise provided by law. ANY AMENDMENTS TO THESE BYLAWS MADE WITHIN FIVE YEARS OF THE RECORDING DATE MUST BE APPROVED BY THE OREGON REAL ESTATE COMMISSIONER BEFORE RECORDING.

**ARTICLE 12  
RECORDS AND AUDITS**

**12.1 General Records.** The Board of Directors and the managing agent or manager, if any, must keep detailed records of the actions of the Board of Directors and the managing agent or manager, minutes of the meetings of the Board of Directors, and minutes of the meetings of the Association. The Board of Directors must maintain a list of owners entitled to vote at meetings of the Association and a list of all mortgage holders of Units insofar as those names have been provided to the Board by the owner or mortgage holder.

**12.2 Records of Receipts and Expenditures.** The Board of Directors or its designee must keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common elements, 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 mortgage holders during

convenient weekday hours.

**12.3 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 must designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessment comes due, the amounts paid on the account, and the balance due on the assessments.

**12.4 Payment of Common Expenses.** The Board of Directors shall authorize the Treasurer, the management agent, or another specified party, to pay all legitimate expenses of the Association. The payments must be made pursuant to the payment system instituted by the Board of Directors as described in Section 4.3.4 above.

**12.5 Audits.** At any time and at his or her own expense, any owner or mortgage holder may cause an audit or inspection to be made of the books and records of the Association.

**12.6 Notice of Sale, Mortgage, Rental, or Lease.** Immediately on the sale, mortgage, rental or lease of any Unit, the Unit owner must promptly inform the Secretary or manager of the name and address of the purchaser, mortgage holder, or tenant. This obligation is in addition to those set forth in Section 7.11.

**12.7 Annual Report.** The Board of Directors must cause an Annual Report, including any amendments, to be filed with the Oregon Real Estate Agency, pursuant to the provisions of ORS 100.250 and ORS 100.260.

#### **ARTICLE 13 COMPLIANCE**

These Bylaws are intended to comply with the provisions of the Oregon Condominium Act, which are incorporated herein and to supplement the provisions of the Condominium Declaration. If any of the provisions here conflict with the provisions of the statutes, the statutory provisions apply. If any of the provisions here conflict with the provisions of the Declaration, the provisions of the Declaration apply.

#### **ARTICLE 14 INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS**

The Association must indemnify any Director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the act that he or she is or was a Director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney fees), judgments,

finances, and amounts paid in settlement actually and reasonably incurred by the person in connection with the suit, action, or proceeding if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, does not of itself create a presumption that a person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his or her conduct was unlawful. Payment under this clause may be made while the claim, action, suit, or proceeding is pending subject only to the right of the Association to be reimbursed, should it be proved at a later time that the person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee, or agent have a right of contribution over and against all other Directors, officers, employees, or agents and members of the Association who participated with or benefited from the acts that created said liability.

**ARTICLE 15**  
**ASSESSMENT AND FINE COLLECTION COSTS;**  
**ARBITRATION**

Whether or not suit or action is commenced, Unit owners are obliged to pay reasonable fees and costs, including, but not limited to, attorney fees (whether or not suit or action is commenced) incurred in connection with efforts to collect delinquent and unpaid assessments, fines, and enforcement of the Declaration, Bylaws, or rules and regulations of the Association. In addition to the assessment for operating expenses and the funding of reserves, assessments may include fees, late charges, fines, and interest imposed pursuant to ORS 100.405(4)(i)-(k).

In the event of a dispute between the owners of the Units in regard to the rights and duties of the owners and/or the association pursuant to these bylaws, then, upon written request of one owner addressed to the other owner, the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction, including the award of attorneys' fees and costs. If the dispute or claim involves a sum not in excess of the jurisdictional limit of the Small Claims Court in Multnomah County, Oregon, the owner shall have the option of taking the matter to Small Claims Court in such county in lieu of binding arbitration.



**ARTICLE 16**  
**MISCELLANEOUS**

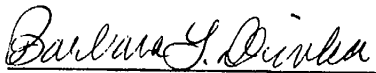
**16.1 Notices.** All notices to the Association or to the Board of Directors must be sent in care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may designate from time to time. All notices to any Unit owner must be sent to the address designated by the 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.

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

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

It is hereby certified that these Bylaws have been adopted by Barbara T. Drinka, Trustee of the Barbara T. Drinka Revocable Living Trust, Declarant of Marcia Townhouse Condominiums, and will be recorded in the Deed Records of Multnomah County, together with the Condominium Declaration for the Condominium, after the Declaration and Bylaws are approved by the Assessor of that County.


DATED: 12.28, 1999

  
\_\_\_\_\_  
BARBARA T. DRINKA, Trustee of  
the Barbara T. Drinka Revocable  
Living Trust

STATE OF OREGON            )  
                                  ) ss.    Dec 28, 1999  
County of Multnomah    )

Personally appeared BARBARA T. DRINKA who, being duly sworn, did say that she is, Trustee of the Barbara T. Drinka Revocable Living Trust, and that the foregoing instrument was signed by her in such capacity.



  
\_\_\_\_\_  
Notary Public for Oregon

**Exhibit B to Declaration of Marcia Townhouse Condominiums**

After Recording, Return to:  
JONATHAN V. BARG, P.C.  
ATTORNEY AT LAW  
One SW Columbia Street  
Suite 1880  
Portland, Oregon 97258

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk

Total : 139.00

2000-035577 03/14/2000 03:40:00pm ATYAT

C06	25	REC	SUR	DOR	OLIS
		125.00	3.00	10.00	1.00

**BYLAWS  
OF  
MARCIA TOWNHOUSE CONDOMINIUMS**

**ARTICLE 1  
PLAN OF UNIT OWNERSHIP**

**1.1 Unit Ownership.** The condominium, located in the City of Portland, County of Multnomah, State of Oregon, known as Marcia Townhouse Condominiums, is submitted to the provisions of ORS 100.005 et seq., the Oregon Condominium Act, by the Declaration and these Bylaws.

**1.2 Bylaws Applicability.** The provisions of these Bylaws are applicable to the Marcia Townhouse Condominium Association ("Association") and the entire management structure thereof. (The term "Condominium" as used here includes the land.)

**1.3 Personal Application.** All present or future owners, tenants, future tenants, or their employees, or any other person that might use the facilities of the Condominium in any manner, are subject to the regulations set forth in these Bylaws. The acquisition, mere occupancy, or rental of any of the Units of the Condominium constitutes acceptance and ratification of these Bylaws and agreement to comply with all the provisions of them.

**1.4 Definitions.** Except as otherwise provided below, the terms herein shall have the meaning set forth in the Oregon Condominium Act, ORS 100.005 et seq., as supplemented by the Declaration, and those statutes and definitions are incorporated herein by this reference.

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

**2.1 Membership in the Association.** On recording a conveyance or contract to convey a Unit, the grantee or purchaser named in the conveyance or contract automatically is a member of the Association and remains a member of the Association until the person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the Condominium, Unit ownership is determined on the basis of the records maintained by the Association. The record must be established by the Unit owner

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filing with the Association a copy of the deed to or land sale contract for his or her Unit, to which must be affixed the certificate of the recording officer of the County of Multnomah, Oregon, showing the date and place of recording of the deed or contract. No person may be recognized as a Unit owner unless a copy of the deed or contract showing him or her to be the current owner or contract purchaser of a Unit has been filed with the Association as provided above. Notwithstanding the foregoing, Declarant is the owner of all previously unsold Units, although no deed or land sale contract, with respect to such Units, has been filed with the Association. The Association shall be an unincorporated association.

**2.2 Voting.** The owner or co-owner of each Unit is entitled to one vote per Unit. The calling and conducting of meetings of the Association and the exercise of voting rights are controlled by Articles 2 and 3 of the Bylaws.

**2.3 Majority of Owners.** As used in these Bylaws, the term "majority of owners" means the owners holding all of the voting rights allocated to the Unit owners in accordance with the Declaration and Section 2.2 above.

**2.4 Quorum.** Except as otherwise provided in these Bylaws, the presence in person, by proxy, or by ballot of owners holding all of the outstanding votes in the Condominium, as defined in Section 2.2, constitutes a quorum.

**2.5 Proxies; Ballots.** Votes may be cast in person, by proxy, or by written ballot. Proxies must be filed with the secretary of the Association ("Secretary") before or during the appointed meeting. The proxies may require the holder to cast a vote for or against any special proposal set out in the notice calling the meeting. In the sole discretion of the Board of Directors, a meeting of the Association may be held by ballot rather than at a formal gathering.

**2.6 Authority to Vote.** All owners, including those who have leased their premises to a third party, must be entitled to vote. An owner's right to vote may not be revoked. A purchaser under a land sale contract who is entitled to immediate possession of the Unit is deemed to be the owner, unless otherwise provided in the contract.

**2.7 Fiduciaries and Joint Owners.** An executor, administrator, guardian, or trustee may vote in person, by proxy, or by ballot, at any meeting of the Association with respect to any Unit owned or held by him or her in such capacity, whether or not the Unit has been transferred to his or her name; provided that he or she satisfies the Secretary that he or she is the executor, administrator, guardian, or trustee holding the Unit in such capacity. Whenever any Unit is owned by two or more persons jointly according to the records of the Association, the vote 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 such protest, no one co-owner will be entitled to vote without the approval of all

co-owners. In the event of such disagreement and such protest, the vote of such Unit must be disregarded completely in determining the proportion of votes given with respect to such matter.

**2.8 Actions by Association; Legal Meeting.** Except as otherwise provided in the Declaration, these Bylaws or the Oregon Condominium Act, decisions and resolutions of the Association must require approval by a majority of owners present at any legal meeting. For purposes of these Bylaws, a legal meeting is a formal meeting duly called pursuant to these Bylaws at which a quorum is present in person or by proxy, or a ballot meeting where the number of owners casting written ballots constitutes a quorum.

### **ARTICLE 3 ADMINISTRATION**

**3.1 Association Responsibilities.** The owners of the Units constitute the members of the Association, which has the responsibility of administering the project, approving the annual budget, establishing and collecting assessments, and arranging for the operation, management, and maintenance of the Condominium, including negotiating and contracting with and supervising any person, persons, or business entity with respect to such matters.

**3.2 Place of Meetings.** Formal meetings of the Association will be held at the principal office of the Condominium or such other place that is convenient to the owners as may be designated by the Board of Directors.

**3.3 Turnover Meeting.** The turnover meeting (which constitutes the initial organizational meeting) must be held within 90 days after the earlier of the following: the date on which both of the Units have been conveyed to persons other than the Declarant or the date on which three years have elapsed since the first conveyance of a Unit to someone other than Declarant. The turnover meeting must be called by notice to all Unit owners of the time, place, and purpose thereof not less than seven, nor more than 50, days before the meeting. If Declarant does not call the meeting within the time specified, the meeting may be called and notice given by a Unit owner.

At the turnover meeting, Declarant must relinquish control of the administration of the Association and the Unit owners must assume control and elect a board of directors ("Board of Directors") in accordance with the provisions of Article 4 of these Bylaws. Additionally, Declarant must deliver to the Association the items specified in the Oregon Condominium Act to be turned over by Declarant at the turnover meeting. To facilitate an orderly transition, during the three-month period following the turnover meeting, Declarant or an informed representative must be available to meet with the Board of Directors on at least three mutually acceptable dates to review the documents delivered to the Association as required by the Oregon Condominium Act and as referred to above.

**3.4 Annual Meetings.** The first annual meeting of the

Association must be held during the calendar year following the calendar year during which the turnover meeting is held, and its date must be set by action of the Board of Directors. This meeting, the date of which may be changed from time to time, at the discretion of the Board of Directors, must be held annually under the rules and regulations as set out in the Bylaws. At such meetings, new members of the Board of Directors must be elected by the owners in accordance with the requirements of Section 4.6 of these Bylaws, to replace directors whose terms have expired. The owners may also transact such other business of the Association as may properly come before them. Notice of an annual meeting shall be given to the owners in accordance with Section 3.6 below.

**3.5 Special Meetings.** The chairperson of the Association ("Chairperson") shall have authority to call a special meeting on his or her own accord. The Chairperson must call a special meeting of the owners if so directed by resolution of the Board of Directors or on the presentation to the Secretary of a written demand signed by one of the owners. All meetings called because of petition of Unit owners must be held at a formal gathering and not by ballot, and must be held within 60 days after receipt of the petition. The notice of any special meeting must state the time and place of the meeting and its purpose. No business, except as stated in the notice, may be transacted at a special meeting unless by consent of all the owners of the Units or as otherwise set out in these Bylaws. Notice of a special meeting shall be given to the owners in accordance with Section 3.6 below.

**3.6 Notice of Meetings.** The Secretary must mail by first-class or certified mail, or must hand-deliver, a notice of each annual or special meeting, stating its purpose and the time and place where it is to be held, to each owner of record at least seven, but not more than 50, days before the meeting or the date when ballots for a ballot meeting must be returned. The Secretary must hand-deliver or mail by first-class or certified mail written ballots for ballot meetings to each owner of record not less than 20 days before the date on which the ballots must be received by the Association in order to be counted. The mailing must be to the owner's address last given to the Secretary in writing by the Unit owner or his or her vendee. If Unit ownership is split or the Unit has been sold on a contract, notice must be sent to a single address, of which the Secretary has been notified in writing by such parties. If no address has been given to the Secretary in writing, then mailing to the Condominium Unit will be sufficient. The mailing of a notice in the manner provided in this Section will be considered notice served.

**3.7 Ballot Meetings.** Any action that may be taken at any annual or special meeting of the Unit owners may be taken without a meeting if the Association delivers a written ballot to every Unit owner entitled to vote on the matter. The ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

**3.8 Order of Business.** The order of business at all meetings of the owners of Units must be as follows unless the Board of Directors sets a different agenda:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of the preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

#### ARTICLE 4

##### BOARD OF DIRECTORS

**4.1 Number and Qualification.** The affairs of the Association must be governed by a Board of Directors composed of two (2) persons, each of whom must be an owner or a co-owner of a Unit. An officer or employee of a corporation, a trustee of a trust, a personal representative of an estate, or an employee of a trust or estate may serve on the Board of Directors if the corporation, trust, or estate owns a Unit.

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

**4.3 Other Duties.** In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors has authority to carry out and is responsible for the following matters:

**4.3.1** Caring for, maintaining, and supervising the management of the Condominium and the general common elements, limited common elements and Association property, if any, for which the Association has maintenance responsibilities, and assigning, supervising assignments, or approving any assignment of the use of any common element, general or limited, as may be required by the Declaration.

**4.3.2** 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.

**4.3.3** Designating and collecting regular and special assessments from the owners, in accordance with these Bylaws, the Declaration, and the Oregon Condominium Act.

**4.3.4** Establishing a budget for payment of all common expenses of the Association and instituting and maintaining a system for such payment as may be reasonably necessary to prevent any misuse of Association funds.

**4.3.5** Obtaining and maintaining insurance policies and

paying premiums out of the common expense funds with respect to both the common elements, Association property, if any, and individual Units as more specifically provided in Article 8 of these Bylaws.

**4.3.6** Designating and dismissing the personnel necessary for the maintenance and operation of the Condominium, the general common elements, and the limited common elements, if any.

**4.3.7** Causing the preparation and distribution of annual financial statements of the Condominium to each of the Unit owners as more specifically provided in Article 12 of these Bylaws.

**4.3.8** Adopting and amending administrative rules and regulations governing the details of operation and use of the common elements and Association property, if any, including a fine structure for violations of these Bylaws, the Declaration, or any rules or regulations promulgated thereunder.

**4.3.9** Causing the Association to comply with ORS 100.480 relating to maintenance of documents delivered to the Association by Declarant and maintenance and distribution of financial statements and to maintain copies suitable for duplication of the following: the Declaration, the Bylaws, the Association rules and regulations and any amendments thereto, the most recent annual financial statement, and the current operating budget of the Association.

**4.3.10** Causing the Association to file an Annual Report with the Oregon Real Estate Agency, as provided in ORS 100.250 and ORS 100.260.

**4.3.11** Reviewing on an annual basis the insurance coverage of the Association.

**4.3.12** Causing the Association to comply with ORS 100.480, pursuant to which all assessments of the Association are required to be maintained in a bank account in the name of the Association, and separate from the funds of Declarant and others.

**4.3.12** Causing the Association to file all necessary federal, state and local tax returns of the Association.

**4.4 Management Agent.** The Board of Directors may employ a management agent, to be compensated in an amount established by the Board, to perform such duties and services as the Board must authorize, including, but not limited to, the duties listed in Section 4.3 above. Any such management contract must be cancelable without penalty on 90 days' written notice. Any management contract entered into by Declarant before the turnover meeting may be canceled by the Board of Directors elected at the turnover meeting on 30 days' written notice given not later than 60 days after the turnover meeting.

**4.5 Interim Director.** On filing the Declaration submitting the Condominium to the Oregon Condominium Act, Declarant must appoint an interim director (who need not be owners of Units), who must serve as the sole director until replaced by Declarant or such director's successors have been elected by the Unit owners at the

turnover meeting as here provided.

**4.6 Election and Term of Office.** At the turnover meeting, on agreement by vote of the owners, the Board of Directors may be elected. The owner(s) of each Unit shall have the right to designate one director. The two nominees so designated will be Directors serving a two-year term. At the expiration of the initial term of office of each respective Director, his or her successor must be designated (again, with the owner(s) of each Unit designating one director) to serve a term of two years. The Association may increase or decrease the number of Directors and length of terms for which each is elected on amendment of this Section 4.6.

**4.7 Vacancies.** Vacancies on the Board of Directors must be filled by the owner(s) of the Unit designated to select such director.

**4.8 Intentionally deleted.**

**4.9 Organizational Meeting.** The first meeting of a newly elected Board of Directors must be held within 10 days after its election at such place as must be fixed by the Directors at the meeting at which the Directors were elected, and no notice need be given to the newly elected Directors to hold such meeting legally, providing that a majority of the newly elected Directors are present.

**4.10 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as determined, from time to time, one of the Directors, but must be held no less often than semi-annually. Notice of regular meetings of the Board of Directors may be called by the Chairperson on three days' notice to each Director, given personally or by mail, telephone, facsimile, telegraph, or other similarly reliable method, which notice must state the time, place (as provided above) and purpose of the meeting.

**4.11 Special Meetings.** Special meetings of the Board of Directors may be called by the Chairperson or Secretary or on the written request of one Director. Special meetings of the Board of Directors may be called on three days' notice to each Director, given personally or by mail, telephone, facsimile, or telegraph, which notice must state the time, place (as provided above) and purpose of the meeting.

**4.12 Waiver of Notice to Directors.** Before, at, or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and the waiver will be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him or her of the time and place of the meeting. If all the Directors are present at any meeting of the Board, no notice to Directors is required and any business may be transacted at the meeting.

**4.13 Board of Directors' Quorum.** At all meetings of the Board of Directors, both of the Directors shall constitute a quorum for



the transaction of business.

**4.14 Board of Directors' Meetings Open to All Association Members.** All meetings of the Board of Directors must be open to all members of the Association, except that, at the discretion of the Board of Directors, the following matters may be considered in executive session: (a) consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation, or criminal matters; (b) personnel matters, including salary negotiations and employee discipline; and (c) the negotiation of contracts with third parties. No Association member has a right to participate in the Board of Directors' meetings unless the member is also a member of the Board of Directors. The Chairperson has authority to exclude any Association member who disrupts the proceedings at a meeting of the Board of Directors.

**4.15 Intentionally Deleted.**

**4.16 Telephonic Meetings.** In an emergency, telephonic meetings may be held by the Board of Directors. Such telephonic meetings must be carried on by means of a "conference call" in which each Director may speak with any of the other Directors. The Directors must keep telephone numbers on file with the Chairperson to be used for telephonic meetings. No notice to either Directors or Association members is required for a telephonic meeting of the Board of Directors to be held for any emergency action.

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

## ARTICLE 5

### OFFICERS

**5.1 Designation.** The principal officers of the Association must be a chairperson, a secretary, and a treasurer, all of whom must be elected by the Directors.

**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 or any Board meeting thereafter and shall hold office at the pleasure of the Board.

**5.3 Removal of Officers.** On an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor must be elected at any regular or special meeting of the Board of Directors.

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

the Association.

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

**5.6 Treasurer.** The treasurer of the Association ("Treasurer") must have responsibility for Association funds and securities not otherwise held by the managing agent, and must be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The treasurer must be responsible for the deposit of all money 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.

#### ARTICLE 6

##### OBLIGATIONS OF THE OWNERS

**6.1 Assessments.** All owners must be obligated to pay annual assessments imposed by the Association to meet all the Condominium's common expenses, which shall include premiums for insurance required or permitted under Article 8 of these Bylaws. In the discretion of the Board of Directors, the assessments may be made payable semiannually, quarterly, or monthly. An annual assessment must be charged beginning when Declarant first conveys a Unit to a Unit owner. Before that time, Declarant must pay all operating expenses of the Condominium. All of the reserve accounts set up pursuant to these Bylaws must be funded by allocation and payment from the assessment of Unit owners. The assessment of all Unit owners who may be benefitted by expenditure of reserve funds may be increased as necessary, so the reserve fund in question can be maintained in an amount sufficient to meet the needs for which such fund was established.

Except as otherwise provided in the Declaration or these Bylaws, each Unit must be liable for the common expense in the same percentage as the percentage of ownership in the common elements allocated to such Unit.

The assessment of Units must include the following items, which must be common expenses:

**6.1.1 Expense Items:**

- (a) Expenses of administration.
- (b) Expenses of maintenance, repair, or replacement of the general common elements and those limited common elements which, under the Declaration are to be maintained by the Association.
- (c) Any deficit in common expenses for any prior period.
- (d) The cost of insurance or bonds obtained in accordance with these Bylaws.
- (e) The cost of any professional management, if required by

mortgage holders or desired by the Board of Directors.

(f) Legal, accounting, and other professional fees.

(g) Any other items that are properly chargeable as an expense of the Association.

**6.1.2 Reserve Items:**

(a) Reserve Account. A reserve account must be established for the purpose of (i) effecting replacements of structural elements, mechanical equipment, and other common elements of the Condominium that will normally require replacement in more than three years and less than 30 years, (ii) painting of exterior painted surfaces of the common elements, and (iii) maintaining such other reserves as may be required under the Declaration or these Bylaws or that the Board of Directors, in its discretion, may deem appropriate. Payment into this account is deemed a contribution to capital improvement as and when made. Pursuant to provisions of the Oregon Condominium Act, Declarant has established a reserve account for the purposes set forth above. The reserve accounts for replacement and repainting must be funded by assessment against the same Units that are assessed for the maintenance of the items for which the reserve account is established. Accordingly, the reserve account for replacement and repainting of those general common elements and limited common elements, the maintenance of which is provided by assessment against all owners, must be created by assessment against all owners. The reserve account for replacement and repainting of those limited common elements, the maintenance of which is provided by assessment of fewer than all Units, shall be created by assessment only against the specific Units responsible for the maintenance of such limited common elements.

The Board of Directors must prepare a schedule of the common elements having a remaining useful life of more than three and less than 30 years, together with the current replacement cost of such common elements and of the remaining useful life of paint on the exterior painted surfaces of the common elements, together with the current cost of repainting such surfaces. The amount of the periodic payments to the reserve account must be adjusted at regular intervals and in all events, annually, to recognize changes in remaining useful lives and replacement costs over time. Except as otherwise provided in the Oregon Condominium Act and in the preceding paragraph, the reserve account must be used only for replacement and repainting of common elements and must be kept separate from other funds.

The Board of Directors shall annually conduct a reserve study, or review and update an existing study, of the common elements to determine the reserve account requirements. The reserve study shall comply with the requirements of ORS Section 100.175 and shall include: (1) identification of all items for which reserves are to be established, (2) the estimated remaining useful life of each item as of the date of the reserve study, (3) the estimated cost of maintenance, repair or replacement of each item at the end of its useful life, and (4) a 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned

on reserves, to meet the maintenance, repair and replacement schedule.

(b) General Operating Reserve. The Board of Directors must create and maintain a general operating reserve account by allocation and payment thereto monthly of an amount determined by the Board of Directors. This account must be used to pay expenses that exceed budgeted amounts. The initial working capital required by Section 6.2.1 must be deposited into operating reserve account.

(c) Special Reserves. Such other special reserve funds may be set up by the Directors by special assessments of the Unit owners who benefit thereby as may be required by the Declaration or otherwise determined by the Association to be appropriate, including a reserve fund for any lease payments.

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

**6.2 Initial Assessment.** The amount of the initial assessment due from Unit owners other than Declarant must be determined by Declarant. The amount of the annual assessment thereafter must be subject to review and modification by the Board of Directors. Except as otherwise provided below, the assessment for all Units must be payable from the date of the closing of the first Unit to be sold by Declarant.

**6.2.1 Contribution to Working Capital.** At closing, each purchaser must contribute to the Association a sum equal to one-sixth of the annual assessments, with respect to the Unit being purchased, as a one-time contribution to the working capital of the Association. Within 60 days after the first conveyance by Declarant of the first Unit in the Condominium, Declarant must make such contribution with respect to all Units in the Condominium that have not yet been conveyed to a purchaser. If Declarant has made such contribution, no further contribution must be required to the Association, but each purchaser must reimburse Declarant at closing for the amount of the contribution made by Declarant with respect to the Unit conveyed to the purchaser. The working capital contribution must be allocated to the general operating reserve provided in Section 6.1.2(b) above. The working capital contribution is in addition to regular assessments and must not be used as a prepayment of assessments by any Owner. Declarant may not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficits while Declarant is in control of the Association.

**6.2.2 Procedures.** If Declarant pays all the operating

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

**6.3 Special Assessments.** The Board of Directors has the power to levy special assessments against an owner or all owners.

**6.4 Payment of Assessments.** Subject to the provisions of Sections 6.2 and 6.3, from the date of the closing of the first Unit sale, Declarant must:

(a) Pay assessments due for operating expenses on the unsold Unit; and

(b) Pay assessments due for reserves on the unsold Unit or, at Declarant's option, pay or require the Unit owner to pay all accrued reserve assessments against the Unit at the time of the initial sale to the Unit owner. However, such reserve accrual must not be for a period longer than two years after the Declaration is recorded.

**6.5 Adoption of Budget; Determination of Fiscal Year; Filing of Income Tax Returns.**

**6.5.1 Adoption of Budget.** At least 60 days before the beginning of each fiscal year, the Board of Directors must adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair, and replacement of the common elements (including painting of exterior painted surfaces of the common elements) and those parts of the Units for which the Association is responsible for maintaining, repairing, and replacing, and the cost of wages, materials, insurance premiums, services, supplies, and other expenses that may be declared to be common expenses pursuant to the Oregon Condominium Act, the Condominium instruments, or a resolution of the Association and that will be required during the ensuing fiscal year for the administration, operation, maintenance, and repair of the Condominium and the rendering to the Unit owners of all related services.

The budget also must include such reasonable amounts as the Board of Directors considers necessary to provide working capital and such general operating reserve accounts, contingency, and other reserve accounts as the Board determines. The amount designated for replacement reserves must be adjusted annually to reflect current replacement cost and remaining useful life. At least 30 days before the beginning of each fiscal year and within 30 days after the budget is adopted by the Board of Directors, the Board of Directors must send to each Unit owner a copy of the budget in a reasonably itemized form that sets forth the amount of the common expenses and any special assessment payable by each Unit owner. The budget must constitute the basis for determining each Unit owner's assessment

for the common expenses of the Condominium.

If the Board fails to adopt a budget for a fiscal year, the last adopted budget shall continue in effect until such time as the Board adopts a budget for the such year.

**6.5.2 Intentionally Deleted.**

**6.5.3 Intentionally Deleted.**

**6.5.4 Determination of Fiscal Year.** The fiscal year of the Association must be the calendar year unless otherwise determined by the Board of Directors.

**6.5.5 Filing of Income Tax Returns.** The Board of Directors, in its sole discretion, must determine the manner in which all necessary income tax returns are filed and of selecting any and all persons to prepare such tax returns.

**6.6 Default.** The failure of an owner to pay any assessment of the Association is a default by that owner of his or her obligations pursuant to these Bylaws and the Oregon Condominium Act and, in addition to the Association's other remedies provided in the Declaration, these Bylaws entitle the Association to declare the balance of the owner's annual assessment otherwise being paid in installments to be immediately due and payable in full. Interest must be charged on delinquent assessments the lower of 18% per annum or the highest rate permitted by applicable law.

The Association shall be entitled to a lien that may be enforced on compliance with the provisions of ORS 100.450. In any foreclosure suit by the Association with respect to the lien, the Association shall be entitled to collect reasonable rent from the defaulting owner for the use of his or her Unit or shall be entitled to the appointment of a receiver pursuant to ORS 100.460. Liability for all assessments, fines, charges, interest, fees (including attorney fees, whether or not a suit or an action is commenced), and other sums owing by the Unit owner pursuant to the Declaration, these Bylaws, the Oregon Condominium Act, and rules and regulations of the Association are the personal obligation of the Unit owner and may be enforced by suit for a money judgment, in addition to all other remedies of the Association. Any default by the owner in any provisions of these Bylaws or of the Oregon Condominium Act is deemed to be a default by the owner of any mortgage to which the owner is a party or to which the Unit is subject.

**6.7 Maintenance and Repair.**

**6.7.1 Owner's Duty to Maintain.** Every owner must perform promptly all maintenance and repair work that is needed within his or her own Unit to prevent any negative effect on the common elements of the Condominium or a part thereof belonging to other owners, and every owner must be responsible for the damages and liabilities that his or her failure to maintain and repair may cause, including, but not limited to, damage caused by plugged toilets and bath drains, overloaded electrical outlets, and clothes washer and dishwasher overflow.

**6.7.2 Owner's Expenses.** All repairs of internal installations of each Unit, such as water, lights, gas, power, sewage, telephones, air conditioners, heaters, and sanitary installations, doors, windows, lamps, and all other accessories and appliances belonging to the Unit area, must be at the sole expense of the owner of the Unit.

**6.7.3 Reimbursement of Association.** An owner must reimburse the Association for any expenditures incurred in repairing or replacing any common elements and/or facility that was damaged through the owner's fault and that is not otherwise covered by insurance policies carried by the owner or the Association for the owner's and the Association's benefit. In such circumstances, the insurance obtained by the owner is deemed to be the primary coverage.

**6.8 Easement for Maintenance; Encroachments.**

**6.8.1 Easement for Maintenance.** An easement for the benefit of the Association is hereby reserved in and through all Units and the common elements providing access at reasonable times and with reasonable notice for purposes of maintenance, repair, and replacement of the common elements. If, in the process of such repair and maintenance by the Association, it is necessary to alter or damage any Unit or common elements, such alterations or damages must be permitted without compensation, provided that the Unit and/or common elements are promptly restored to substantially their prior condition by the Association.

**6.8.2 Encroachment.** If any portion of the common elements encroaches on a Unit, or a Unit encroaches on any portion of the common elements, a valid easement exists for the encroachment and for the maintenance of the same, as long as the affected Unit or common element stands. If the affected Unit or common element or either is partially or totally destroyed and then rebuilt, the owners of the Units agree that minor encroachment of parts of the common elements due to such rebuilding must be allowed and an easement exists for that purpose.

**ARTICLE 7**

**USE AND OCCUPANCY RESTRICTIONS;  
RULES OF CONDUCT**

The failure of an owner (his or her family, invitees, or tenants) to comply with the rules of conduct and restrictions set forth herein, in the Declaration, or others promulgated by the Board of Directors, is cause for which the Board of Directors may deny or restrict the owner's right to use any common element facility with respect to which the owner otherwise had a right of use.

**7.1 Use as Private Dwelling Only.** Each of the Units must be occupied as a single-family private dwelling by its owner or his or her tenants, visitors, and guests, and for no other purpose. Subject to compliance with applicable local ordinances and other

restrictions of record, an owner may use his or her Unit as a "home office" if clients, customers, vendors, and employees do not regularly visit the "home office." All common elements must be used in a manner conducive to such purpose. No Unit owner is permitted to lease his or her Unit for a period of 30 days. No Unit owner may lease less than the entire Unit. Any agreement to lease a Unit must provide that the terms of the lease are subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the tenant to comply with the terms of those documents is a default under the lease. Leasing of units is governed by Section 7.12 of these Bylaws.

**7.2 Restriction on Alteration to Unit.** No owner may make structural alterations or installations in his or her Unit without the prior written consent of the Board of Directors, which consent shall not be unreasonably withheld.

**7.3 Intentionally Deleted.**

**7.4 Pets.** No animals or fowl shall be raised, kept, or permitted within the Condominium, except domestic dogs, cats, or other household pets kept within a Unit. No more than one (1) dog shall be kept in a Unit. No dogs, cats or other pets shall be kept unless they are currently licensed in accordance with municipal or governmental ordinances, rules, and regulations, as applicable. No pets other than cats shall be permitted to run at large and no pets shall be kept, bred or raised for commercial purposes or in an unreasonable numbers per Unit. Any damage caused by such pets shall be the responsibility of the respective Owners thereof. No pets other than cats may be kept in the yard areas. At all times the Common Elements shall be free from pet debris and waste. A pet shall not be permitted outside of a Unit unless the pet is on a leash or being carried. Any pet which causes an unreasonable disturbance to other Owners or Unit occupants shall be removed from the Property.

**7.5 Appearance of Condominium Buildings.** No Unit owner may cause anything to be hung, displayed, or placed on the walls, railings, doors, windows, walkways, patios, porches, fences, or roof of the Condominium buildings or any other common element or otherwise change the appearance of any portion of the common elements without the prior written consent of the Board of Directors, except as follows: (i) a Unit owner may place on the porch of such owner's Unit outdoor furniture, plants and other items customarily placed in such locations in housing with values comparable to that of the Unit, (ii) the limited common element yard areas may be used for all customary residential yard purposes, subject to any other restrictions in the Declaration and Section 7.10 below, and (iii) the garage areas and parking spaces may be used for the uses indicated in the Declaration. No clothes lines or similar devices will be allowed on any part of the Condominium property without the prior written consent of the Board of Directors, except that Declarant may post reasonable signs advertising any unit for sale or rent in reasonable places on the



Condominium property.

**7.6 Nuisances.** No nuisances or any use or practice that is the source of annoyance to residents or that interferes with the peaceful possession and proper use of the property by its residents is allowed on the Condominium property. Residents must exercise extreme care about creating disturbances, making noises or using musical instruments, radios, televisions, and amplifiers that may disturb other residents. All parts of the Condominium must be kept in a clean and sanitary condition; no rubbish, refuse, or garbage is allowed to accumulate; and no fire or environmental hazard is allowed to exist. All garbage and trash must be placed inside disposal containers. No Unit owner may make or permit any use of his or her Unit or make any use of the common elements that would increase the cost of insurance on the Condominium property.

No owner may hang garments, towels, rugs, or similar items from any window, facade, deck, patio, fence, railing, balcony, or terrace of the Condominium.

**7.7 Improper, Offensive, or Unlawful Use.** No improper, offensive, or unlawful use be made of the Condominium property or any part of it; all valid laws, zoning ordinances, and regulations of governmental bodies having jurisdiction must be observed. The responsibility for meeting the requirements of governmental bodies for maintenance, modification, or repair of the Condominium property must be carried out and paid for in the same manner as the responsibility for the maintenance and repair of the property concerned.

**7.8 Restriction on Exterior Installations.** No owner, resident, or tenant may install wiring for electrical or telephone installation, exterior antennas, satellite dishes, machines, air conditioning units, or similar devices on the exterior of the Condominium building or cause them to protrude through the walls or the roof of the Condominium except as authorized by the Board of Directors. No window guards, awnings, or shades may be installed without the prior consent of the Board of Directors.

**7.9 Leasing/Renting Units.** A Unit owner may rent or lease his or her entire Unit for a period of not less than 30 days, provided that the occupancy is only by the tenant, his or her visitors, and guests. No rooms may be rented and no transient tenants may be accommodated. Tenants must always be under the control of and subject to the Declaration, the Bylaws, and the rules and regulations of the Association and the Board of Directors. All such leases must be in writing.

**7.10 Yard Maintenance.** A Unit owner must maintain all limited common element yard areas and walkways allocated to his or her Unit in neat and clean condition. All lawn areas shall be mowed regularly. Plants and trees shall be maintained in good condition and trimmed, as reasonably appropriate. The owner of Unit number 1 shall not permit any plants, trees or other vegetation within 1-1/2 feet of the east facing living room windows of Unit number 2

to exceed a height of four feet above the bottom of such windows.

**7.11 Additional Rules.** Rules and regulations concerning other use of the Condominium property, including a fine schedule for violation thereof, may be made and amended from time to time by the Association or the Board of Directors. Copies of such rules and regulations must be furnished to all Unit owners and residents of the Condominium on request.

## **ARTICLE 8 INSURANCE**

The Board of Directors must obtain and maintain at all times insurance of the type and kind and in the amounts here provided, including insurance for such other risks of a similar or dissimilar nature as are or hereafter customarily must be covered with respect to other condominiums similar in construction, and design; the insurance must be governed by the provisions in this section.

**8.1 Types of Insurance Policies.** For the benefit of the Association and the owners, the Board of Directors must obtain and maintain at all times, and must pay for out of the common expense funds, the following insurance to the extent that it is available at reasonable cost:

**8.1.1** A policy or policies of property insurance, including, but not limited to, fire, extended coverage, vandalism, and malicious mischief, for the full insurable replacement value, if available, of all Units and common elements, and such other fire and casualty insurance as the Board of Directors determines, to give substantially equal or greater protection to the owners and their mortgagees, as their respective interests appear, which policy or policies must provide for a separate loss payable endorsement in favor of the mortgage holder, if any, of each Unit. For the purposes of any policy or policies of fire insurance, the term "building" includes fixtures, installations, or additions comprising a part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual Condominium Units initially installed or replacement thereof, in accordance with the original Condominium plans and specifications, or installed by or at the expense of any Unit owner or owners.

**8.1.2** A policy or policies insuring the Association, its Board of Directors, the Unit owners individually, and the manager against any liability to the public or the owners of Units and their invitees or tenants, incident to the ownership, supervision, control, or use of the project. Limits of liability under such insurance must be not less than \$1 million per occurrence for bodily injuries and property damage. Such limit and coverage must be reviewed at least annually by the Board of Directors, which, in its discretion, may increase either. The policy or policies must be issued on a comprehensive liability basis and provide cross-liability endorsements wherein the rights of a named insured under the policy or policies must not be prejudiced with respect to

his or her action against another named insured.

**8.1.3** Workers' compensation insurance to the extent necessary to comply with any applicable laws.

**8.1.4** A fidelity bond naming such persons as may be designated by the Board of Directors as principals and the Association and the owners as obligees, for the amount determined by the Board of Directors. However, the Board of Directors must require that all officers and employees of the Association handling or responsible for Association funds obtain adequate fidelity bonds. The premiums on such bonds must be paid by the Association.

The Association will not be responsible for any loss or damage to personal property of any owner, whether stored on the common elements or in the owner's Unit; nor will the Association maintain any insurance coverage for such loss.

**8.2 Insurance Companies Authorized.** All policies must be written by a company licensed to do business in Oregon and holding a "Commissioner's rating" of "A+" and a size rating of "AAA," or better, by Best's Insurance Reports, or as may be otherwise acceptable to all mortgage holders and directors.

**8.3 Authority to Adjust Losses.** All losses under policies in force regarding the property must be settled exclusively with the Board of Directors or its authorized representative. However, when a first mortgage holder has been designated as a loss payee by a Unit owner and the first mortgage holder has requested the opportunity to exercise the rights provided by this Article 8, the mortgage holder must be entitled to settle losses as to the mortgaged Unit, provided that the loss that occurs is severable. Releases and proofs of loss must be executed by at least two directors.

**8.4 Value of Owner Improvements.** Each owner must inform the Board of Directors of the value of improvements made to his or her Unit in excess of \$1,000 so that the Board of Directors may make any desired adjustments in insurance coverage.

**8.5 Provisions in Insurance Policies.** The Board of Directors must make every effort to secure insurance policies that provide for the following:

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

**8.5.2** 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.

**8.5.3** 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.

**8.5.4** A provision that any "no other insurance" clause in the master policy exclude individual owners' policies and not otherwise

prevent such individual policies from providing coverage for damage to Units or common elements.

**8.6 Reconstruction Costs.** If the Association is required or elects to reconstruct any common element or Unit that has been damaged or destroyed, an affected Unit owner (i.e., the owner whose Unit or limited common element has been damaged or destroyed) must contribute to the Association all amounts received by the owner from property loss insurance policies to help pay for the repairs. To the extent that insurance proceeds are unavailable or unpaid when needed, the Association must assess the owner the amount of the Association's "deductible" under its policy to pay the cost of repairing or reconstructing the owner's Unit or limited common elements. The assessment must be both a personal obligation of the owner and a lien against the owner's Unit in the same manner as any other Association assessment.

**8.7 Insurance Deductible/Owner and Tenant Insurance.** The Board of Directors must 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 8. In determining the deductible under the policies, the Board must take into consideration, among other factors, the availability, cost, and loss experience of the Association. In this regard, as in other Board responsibilities, the Board members must exercise their reasonable business judgment.

The Association has no responsibility to procure or assist in procuring property loss insurance for any owner or tenant for (a) 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 (b) for any damage or loss to the owner's or tenant's personal property. Owners must be responsible for purchasing insurance policies insuring their units and appurtenant limited common elements for the deductible amount under the Association's policies and for insuring their own personal property for any loss or damage. Proof of such insurance coverage must be provided to the Association's Secretary by the Unit owner. Tenants must be responsible for insuring their own personal property for any loss or damage. The Board of Directors must notify all owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Board of Directors must give at least 30 days' notice to the owners of any increase in the deductible proposed in renewal or replacement insurance policies. Owners and tenants of all Units must procure and maintain comprehensive liability policies having combined limits of not less than \$50,000 for each occurrence. Such insurance must provide coverage for, without limitation, the negligent acts of the owner and tenant and their guests or other occupants of the Unit for damage to the general and limited common elements and other Units and the personal property of others located therein.

**8.8 Review of Insurance Policies.** At least annually, the Board of Directors must review all insurance carried by the Association, which review must include a consultation with a representative of the insurance carrier writing the master policy.

**8.9 Duplicate Coverage.** In the event of duplicate insurance coverage, the insurance policy obtained by the owners is deemed to be the primary coverage.

## ARTICLE 9

### DAMAGE AND DESTRUCTION

**9.1 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, must be applied to such reconstruction.

**9.2 Insurance Proceeds Insufficient to Cover Loss.** If the insurance proceeds are insufficient to reconstruct the damaged or destroyed buildings, the damage to or destruction of the buildings must be promptly repaired and restored by the manager or the Board of Directors, using the proceeds of insurance, if any, on the buildings for that purpose and all the Unit owners must be liable for assessment for any deficiency for such reconstruction, such deficiency to take into consideration as the owner's contribution any individual policy insurance proceeds provided by the owner. However, if three-fourths or more in value of all the buildings is destroyed or substantially damaged, and if the owners of at least 60% of the Units so vote, and on written approval of holders of first mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, the manager or Board of Directors must record with the County Recorder a notice setting forth such facts, and on the recording of the notice:

**9.2.1** The Condominium property is deemed to be owned in common by the owners.

**9.2.2** The respective interest of each Unit owner in the property must be determined by the provisions of ORS 100.610 that are in effect on the date that the Condominium Declaration is recorded.

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

**9.2.4** The Condominium must 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, must be considered as one fund and must be divided among all of the owners in proportion to their respective undivided interests, after first paying, out of the respective shares of the owners, to the extent such share is sufficient for the purpose, all liens on the undivided interest in the project

owned by each owner.

**9.3 Architectural Changes After Damage or Destruction.**

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

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

**ARTICLE 10  
CONDEMNATION**

The Board of Directors has 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 those bodies or persons with respect to the common elements of the Condominium, and must 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 may be construed to give a Unit owner or any party priority over the rights of the first mortgage holders of any Condominium Units in the case of a distribution to the Unit

owner of any such condemnation awards for losses to or a taking of a Unit and/or the common elements. If a condemning authority takes or acquires part or all of the common elements, the award or proceeds of settlement must be payable to the Association, or any trustee, for the use and benefit of the Unit owners and their mortgage holders as their interest may appear. The Board of Directors must distribute the proceeds of any such award or settlement on a reasonable and equitable basis among the Unit owners.

#### **ARTICLE 11**

##### **AMENDMENTS TO BYLAWS**

These Bylaws may be amended by the owners holding a majority of the voting rights allocated to the Units. Any amendments adopted must be reduced to writing and certified by the Chairperson and Secretary of the Association to be the amendment so adopted by the Association. The amendment so certified must be recorded in the Deed Records of Multnomah County, Oregon. However, no amendment of these Bylaws reducing or eliminating the right of any first mortgagee may be made without the prior written consent of such first mortgagees, and no amendment of these Bylaws may be made without the consent of the Declarant as long Declarant owns any Unit in the Condominium. No such consent shall be required after conveyance to owners other than Declarant of 75% of the Units or three years after the first conveyance of a Unit in the Condominium, whichever is earlier, provided, however, that even thereafter, no amendment may limit Declarant's special rights, whether reserved in the Declaration, these Bylaws, or as otherwise provided by law. ANY AMENDMENTS TO THESE BYLAWS MADE WITHIN FIVE YEARS OF THE RECORDING DATE MUST BE APPROVED BY THE OREGON REAL ESTATE COMMISSIONER BEFORE RECORDING.

#### **ARTICLE 12**

##### **RECORDS AND AUDITS**

**12.1 General Records.** The Board of Directors and the managing agent or manager, if any, must keep detailed records of the actions of the Board of Directors and the managing agent or manager, minutes of the meetings of the Board of Directors, and minutes of the meetings of the Association. The Board of Directors must maintain a list of owners entitled to vote at meetings of the Association and a list of all mortgage holders of Units insofar as those names have been provided to the Board by the owner or mortgage holder.

**12.2 Records of Receipts and Expenditures.** The Board of Directors or its designee must keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common elements, 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 mortgage holders during

convenient weekday hours.

**12.3 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 must designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessment comes due, the amounts paid on the account, and the balance due on the assessments.

**12.4 Payment of Common Expenses.** The Board of Directors shall authorize the Treasurer, the management agent, or another specified party, to pay all legitimate expenses of the Association. The payments must be made pursuant to the payment system instituted by the Board of Directors as described in Section 4.3.4 above.

**12.5 Audits.** At any time and at his or her own expense, any owner or mortgage holder may cause an audit or inspection to be made of the books and records of the Association.

**12.6 Notice of Sale, Mortgage, Rental, or Lease.** Immediately on the sale, mortgage, rental or lease of any Unit, the Unit owner must promptly inform the Secretary or manager of the name and address of the purchaser, mortgage holder, or tenant. This obligation is in addition to those set forth in Section 7.11.

**12.7 Annual Report.** The Board of Directors must cause an Annual Report, including any amendments, to be filed with the Oregon Real Estate Agency, pursuant to the provisions of ORS 100.250 and ORS 100.260.

#### **ARTICLE 13**

##### **COMPLIANCE**

These Bylaws are intended to comply with the provisions of the Oregon Condominium Act, which are incorporated herein and to supplement the provisions of the Condominium Declaration. If any of the provisions here conflict with the provisions of the statutes, the statutory provisions apply. If any of the provisions here conflict with the provisions of the Declaration, the provisions of the Declaration apply.

#### **ARTICLE 14**

##### **INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS**

The Association must indemnify any Director, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the act that he or she is or was a Director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney fees), judgments,



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finer, and amounts paid in settlement actually and reasonably incurred by the person in connection with the suit, action, or proceeding if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or with a plea of nolo contendere or its equivalent, does not of itself create a presumption that a person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his or her conduct was unlawful. Payment under this clause may be made while the claim, action, suit, or proceeding is pending subject only to the right of the Association to be reimbursed, should it be proved at a later time that the person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee, or agent have a right of contribution over and against all other Directors, officers, employees, or agents and members of the Association who participated with or benefited from the acts that created said liability.

**ARTICLE 15**  
**ASSESSMENT AND FINE COLLECTION COSTS;**  
**ARBITRATION**

Whether or not suit or action is commenced, Unit owners are obliged to pay reasonable fees and costs, including, but not limited to, attorney fees (whether or not suit or action is commenced) incurred in connection with efforts to collect delinquent and unpaid assessments, fines, and enforcement of the Declaration, Bylaws, or rules and regulations of the Association. In addition to the assessment for operating expenses and the funding of reserves, assessments may include fees, late charges, fines, and interest imposed pursuant to ORS 100.405(4)(i)-(k).

In the event of a dispute between the owners of the Units in regard to the rights and duties of the owners and/or the association pursuant to these bylaws, then, upon written request of one owner addressed to the other owner, the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction, including the award of attorneys' fees and costs. If the dispute or claim involves a sum not in excess of the jurisdictional limit of the Small Claims Court in Multnomah County, Oregon, the owner shall have the option of taking the matter to Small Claims Court in such county in lieu of binding arbitration.

**ARTICLE 16**  
**MISCELLANEOUS**

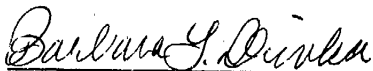
**16.1 Notices.** All notices to the Association or to the Board of Directors must be sent in care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board of Directors may designate from time to time. All notices to any Unit owner must be sent to the address designated by the 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.

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

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

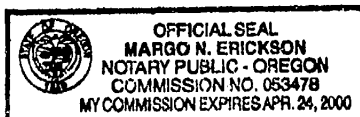
It is hereby certified that these Bylaws have been adopted by Barbara T. Drinka, Trustee of the Barbara T. Drinka Revocable Living Trust, Declarant of Marcia Townhouse Condominiums, and will be recorded in the Deed Records of Multnomah County, together with the Condominium Declaration for the Condominium, after the Declaration and Bylaws are approved by the Assessor of that County.

DATED: 12.28, 1999

  
\_\_\_\_\_  
BARBARA T. DRINKA, Trustee of  
the Barbara T. Drinka Revocable  
Living Trust

STATE OF OREGON            )  
                                  ) ss. Dec 28, 1999  
County of Multnomah    )

Personally appeared BARBARA T. DRINKA who, being duly sworn, did say that she is, Trustee of the Barbara T. Drinka Revocable Living Trust, and that the foregoing instrument was signed by her in such capacity.



  
\_\_\_\_\_  
Notary Public for Oregon

AFTER RECORDING RETURN TO:  
JONATHAN V. BARG, P.C.  
ATTORNEY AT LAW  
One SW Columbia  
Suite 1880  
Portland, Oregon 97258

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk  
Total : 184.00  
2000-035576 03/14/2000 03:40:00pm ATYAT  
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99.00 3.00 10.00 1.00

CONDOMINIUM DECLARATION  
FOR  
MARCIA TOWNHOUSE CONDOMINIUMS

This Declaration submits to the provisions, restrictions, and limitations of the Oregon Condominium Act real property here described (the "Real Property") and all improvements now existing or to be constructed on such real property, to be known as MARCIA TOWNHOUSE CONDOMINIUMS.

**Recitals, Intent, and Purpose**

Barbara T. Drinka, Trustee of the Barbara T. Drinka Revocable Living Trust ("Declarant") is the owner in fee simple of the Real Property described below, and desires to submit the Real Property to the condominium form of ownership, to be converted, handled, and used in the manner provided by the Oregon Condominium Act.

NOW, THEREFORE,

**Declaration**

Declarant hereby declares on behalf of itself, its successors, grantees, and assigns, as well as to any and all persons having, acquiring, or seeking to have or acquire any interest of any nature whatsoever in and to any part of the Real Property, as follows:

1. **Definitions.** Except as otherwise provided or modified by this Section 1, the terms contained here have the meaning set forth in the Oregon Condominium Act, ORS 100.005 et seq., and the statute and its definitions are incorporated here. As used in this Declaration and in the bylaws (the "Bylaws") of the Marcia Townhouse Condominiums Association (the "Association"), the following terms have the following meanings:

1.1 **Association** means and refers to the Marcia Townhouse Condominium Association, which will be an unincorporated association.

1.2 **Condominium** means the Real Property, all buildings and structures constructed on it and all improvements made to it, and all easements, rights, and appurtenances belonging to it, all of which are here submitted to the provisions of the Oregon Condominium Act.

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1.3 **Mortgage** means a recorded first mortgage, first trust deed, or first contract of sale that creates a first lien against a Unit, and "Mortgage Holder" means the holder, beneficiary, or vendor of such a mortgage, trust deed, or contract of sale, but only when the holder, beneficiary, or vendor notifies the Association in writing of the existence of the mortgage and gives the Association a current name and mailing address.

1.4 **Unit** means the airspace encompassed by the undecorated interior surface of the perimeter walls, floors, and ceilings, which is owned in fee simple by each owner of a Condominium Unit and which is more specifically described in Section 3.2 below.

2. **Real Property Description.** The Real Property that is submitted here to the Oregon Condominium Act is located in City of Portland, Multnomah County, Oregon, and is more particularly described on Exhibit A. Each owner holds fee simple title to the Unit and on undivided interest in the common elements pertaining to it when Declarant conveys the property to the owner. Before such conveyance, Declarant holds fee simple title to all Units and the appertaining common elements.

3. **Name; Unit Description.**

3.1 **Name.** The Real Property will be known as Marcia Townhouse Condominiums.

3.2 **Boundaries of Units.** Each Unit is bounded by the interior surfaces of its perimeter walls, floors, ceilings, windows and window frames, doors and door frames, and trim. The Units 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 building. All other portions of the exterior walls, floors, or ceilings are a part of the common elements. In addition, each Unit includes the following:

(a) All spaces, nonbearing interior partitions, windows, window frames, exterior doors, door frames, and all other fixtures and improvements within the boundaries of the Unit; and

(b) All outlets of utility service lines, including, but not limited to, power, light, hot and cold water, heating, refrigeration, air conditioning, and waste disposal within the boundaries of the Unit, but does not include any part of the lines or ducts themselves.

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 plans here will 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 being recorded simultaneously with this Declaration and those of the actual building or buildings.

(c) Notwithstanding any other provision of this Declaration (i) the third floor of Unit number 2 is bounded by horizontal planes varying from 6.5 to 7.6 feet above the floor, as set forth on the plat, and (ii) in the event the owner of such Unit desires to renovate the third floor of the Unit, the owner of Unit number 1 shall be obligated to execute amendments to the Declaration, Bylaws and Plat which provide for modification of the definitions of Unit for Unit number 2 and the adjacent general common elements as is reasonably necessary to accomplish renovation of Unit number 2 to make it functional for use as living space, comparable (in terms of functionality) to the third floor of Unit number 1. If consent of the Mortgage Holders is required under Section 12.7 with respect to such amendment of the Declaration or any other condominium document, the owner of Unit number 1 shall use diligent efforts to obtain the consent of the Mortgage Holders of such Unit, if any, to the amendment. Additionally, the owner of Unit number 1 shall otherwise cooperate in all respects (through the execution of documents or instruments or through other act reasonably requested by the owner of Unit number 2) in connection with such renovation, provided that the owner of Unit number 1 shall not be required to bear any expense.

**3.3 Building Description and Unit Designation.** The Real Property has two (2) buildings on it, one of which contains the Marcia Townhouse Condominium Units. The Units are in townhouse configuration with Unit number 1 located at the north side of the building and Unit number 2 located at the south side of the building. Unit number 1 has three stories and a basement, with a total area of 4,063 square feet. Unit number 2 has two stories, an attic which, as of the date of this Declaration, is not habitable living space, and a basement, with a total area of 3,682 square feet (including the attic).

The building in which the garage spaces are situated has one story and includes two (2) garage areas located within it, both of which areas are limited common elements described under Section 5.

Both of the buildings are wood frame construction on concrete foundations with stucco and cement siding and composition roofs.

Each Unit has been allocated an undivided 50% ownership interest in the common elements. Each Unit's interest in the common elements shall be inseparable from the Unit and any conveyance, encumbrance, judicial sale, or other transfer voluntary or involuntary of an undivided interest in the common elements shall be void when the Unit to which that interest is allocated is also transferred

#### **4. General Common Elements.**

**4.1 Definition.** The general common elements consist of all portions of the Condominium that are not part of a Unit or a limited common element, including, without limitation, the following:

- (a) The land;
- (b) The foundations, columns, girders, beams, supports, bearing walls, main walls and roofs;
- (c) Installations of lines, pipes and other installations relating to utility services, such as power, water, and waste disposal, up to the outlets within any Units;
- (d) The landscape sprinkler system serving the yard area, including the automatic timer for such system (and all wires related to such timer) which is located on the exterior wall of the building between the exterior doors to the basement.
- (e) The walk which runs from Marcia Street to the exterior door of the basement, along the west side of the building in which the Units are located.
- (f) All apparatus and installations existing for common use; and
- (g) All other elements of any building that are necessary or convenient to its existence, maintenance, and safety or that are normally in common use.

**4.2 Maintenance, Repair, and Replacement of General Common Elements; Liability for Common Expense.** The cost of maintenance, repair, and replacement of the general common elements is a common expense, and the performance of such work is the responsibility of the Association, except as follows:

- (a) any damage caused by the negligence or intentional act of an owner or his or her invitee, guest, tenant, or servant will be repaired by the Association at the owner's sole cost and expense;
- (b) the cost of maintenance, repair and replacement of any pipes, wires, lines or other utility lines, wires and other installations serving only one Unit shall be the responsibility of the owner of such Unit;
- (c) although repair, maintenance, and replacement of exterior doors and door frames (including patio and garage doors), windows and window frames, and skylights and skylight frames (if any) is the responsibility of individual owners, exterior painting is the responsibility of the Association. Common expenses will be assessed and apportioned among the owners as set forth in Section 10.6 below;
- (d) each owner must pay the expense to maintain the garage door adjoining the garage space limited common elements assigned to the owner's Unit, except that exterior painting will be performed at the expense of the Association;
- (e) the cost of maintenance, repair and replacement of all portions of the sprinkler system serving only one limited common element yard area shall be the responsibility of the owner of

such Unit;

(f) to the extent otherwise provided in this Declaration.

**4.3 Income from General Common Elements.** All income derived from the general common elements will be income of the Association.

**5. Limited Common Elements.** The following constitute limited common elements, the use of which is restricted to the Units to which they pertain:

**5.1 Definitions.**

(a) Each of the porches and connected stairs adjacent to the front door to each Unit, is a limited common element appertaining to the Unit that it adjoins as shown on the plat.

(b) Each of the two garage spaces is a limited common element. Garage space A, located at the north end of the garage building, appertains to Unit number 2 and garage space B, located at the south end of the garage building, appertains to Unit number 1.

(c) The two exterior parking spaces on the brick area adjacent to the garage building. Parking space A, located immediately south of the garage building, appertains to Unit number 1 and parking space B, located in the southeast corner of the Real Property, appertains to Unit number 2.

(d) The entire yard and all walks within such yard areas (except for the walk which runs from Marcia Street to the exterior door to the basement and is a general common element), is divided into three separate limited common elements areas, yard areas A, B and C. Yard areas A and B appertain to Unit number 2 and Yard area C appertains to Unit number 1. Yard area A is located along Marcia Street, immediately south of the Unit number 2, and includes lawn and planted areas; yard area B is located west of Unit number 2, comprises the south portion of the backyard, and includes lawn, planted areas and the brick patio. Yard area C is located west, north and east of Unit number 1 and includes the walkway and planted areas on the east side of the building in which the units are located, extending to Marcia, and lawn and planted areas in the north portion of the backyard.

**5.2 Maintenance, Repair, and Replacement of Limited Common Elements; Liability for Common Expense.** Except as otherwise specifically provided in this Declaration, the cost of maintenance, repair, and replacement of the limited common elements will be an expense of the owner to which such limited common elements appertain and the performance of the work will be the responsibility of the Association, except as follows:

(a) any damage caused by the negligence or intentional act of an owner of the other Unit or his or her invitee, guest, tenant, or servant will be repaired by the Association at the owner's sole cost and expense;

(b) the maintenance, repair and replacement of the yard areas (but not including the walks within such yard areas) shall be performed by and at the expense of the owner of the Unit to which each such area pertains;

(c) the sprinkler system serving the yard areas is supplied with water which is charged approximately equally to the water and sewer utility accounts of each Unit. Accordingly, when the yard area appertaining to Unit number 1 is watered, approximately one half of such water usage is charged to each of the Units and when the yard area appertaining to Unit number 2 is watered, approximately one half of such water usage is charged to each of the Units. The automatic sprinkler timer for the system serves both limited common elements assigned to each Unit. The scheduling of the system shall be determined by agreement of the owners, which agreement shall be based upon the reasonable needs of the owners to irrigate their respective yard areas.

(d) each owner shall be responsible for keeping all limited common elements appertaining to his or her unit in neat and clean condition.

**5.3 Use of Garage Areas and Parking Spaces.** The limited common element garage areas must be used only for parking vehicles, recreational vehicles, and equipment, or storage of nonhazardous and nonflammable materials. The garage door to each such area shall be kept closed except when necessary to enter or exit the garage or to otherwise use the garage consistent with this Section 5.3. The exterior limited common element parking area must be used only for parking vehicles (not including recreational vehicles, trailers or boats). Each owner must use the limited common element garage area and exterior parking area assigned to such owner's unit for parking the primary household vehicles. No owner shall park any vehicle, or permit any of his/her Unit or any guest or invitees to park any vehicles on Marcia Street within 20 feet of the garage building, in order to allow vehicles parked in the garage areas and exterior parking area sufficient area to turn around.

**6. [INTENTIONALLY DELETED]**

**7. Voting.** The owner of each Unit is entitled to one vote per Unit. "Majority" or "Majority of Unit Owners" means the owners of more than 50% of the voting rights allocated to the Units by the Declaration. The calling and conducting of meetings of the Association and the exercise of voting rights is controlled by Articles 2 and 3 of the Bylaws.

**8. Use of Property.**

**8.1 General.** Each Unit may be used for residential purposes



only. The common elements may be used for furnishing services and facilities to Unit owners. Every Unit owner has an easement to enjoy and use the general common elements in the manner for which they were intended. Additional restrictions and regulations are set forth in the Bylaws and rules or regulations adopted pursuant to the provisions of the Bylaws.

**8.2 Rules and Regulations Promulgated by the Association.**

The Board of Directors has the authority from time to time to promulgate such rules and regulations as the Board may deem to be in the best interests of the Association. No person may use the common elements, the Units or any part thereof in any manner contrary to or inconsistent with the rules and regulations.

**8.3 Right of Ingress and Egress.** Each Unit owner has a perpetual right of ingress and egress to and from the Owner's Unit. This right passes to all successors in interest to the Unit when the Unit is transferred voluntarily, involuntarily, or by operation of law. Any attempt to transfer voluntarily or involuntarily any common element ownership interest separately from the transfer of the Unit to which such interest pertains will be void.

**9. Contracts and Leases.** All contracts or leases that are entered into before the turnover meeting (including any management contract) must be terminable without penalty by the Association or the Board of Directors on not less than 30 days' written notice to the other party by the Association, given not later than 60 days after the turnover meeting. However, any such contracting or leasing party may request the Association to affirm the continuation of any such agreement for the balance of its stated term. Affirmation by the Association after transfer of control extinguishes all termination rights of the Association under this Section.

**10. Bylaws; Association; Management.**

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

**10.2 Association; Membership.** The name of the Association shall be Marcia Townhouse Condominium Association. Each owner of a Unit in the Condominium must be a member of the Association, and membership is limited to Unit owners only. The Association, which shall be organized when the Declaration and the Bylaws are recorded, serves as a means through which the Unit owners may take action with regard to the administration, management, and operation of the Condominium.

**10.3 Management; Board of Directors.** The affairs of the Association must be governed by a Board of Directors as provided in the Bylaws. The Board of Directors shall elect officers consisting of a chairperson, secretary, and treasurer, and such

other officers as the Board of Directors deems prudent or convenient. Pursuant to the provisions of the Bylaws and the Oregon Condominium Act, the Board of Directors may adopt administrative rules and regulations governing details of the operation, maintenance, and use of the Condominium property. The Board of Directors may contract with a professional manager or management firm to manage some or all of the affairs of the Association.

**10.4 Interim Board and Officers.** The Declarant has reserved control over the administration of the Association by reserving the right in the Bylaws to appoint an interim Board of Directors to manage the Condominium until the turnover meeting. The turnover meeting must be held within 90 days after the earlier of the following dates: the date on which both of the Units in the Condominium have been conveyed to persons other than Declarant or the date on which three years have elapsed since the date of the first conveyance of a Unit in the Condominium to a person other than Declarant. The members of the interim Board must also serve as the interim officers. Barbara Drinka shall initially serve as the only member of the interim board.

**10.5 Powers and Duties of the Association.** The Association and the Board of Directors have the powers and duties granted to them by this Declaration, the Bylaws, and ORS 100.405(4), and all other provisions of the Oregon Condominium Act.

**10.6 Covenant to Pay Assessments; Liability for Common Expense.** Each owner hereby covenants to pay to the Association annual assessments for common expenses as more fully provided in the Bylaws. No owner may avoid liability for assessments by abandonment of his or her Unit, or by nonuse of the common elements. Except as otherwise provided in this Declaration or the Bylaws, each Unit and the owner thereof is liable for the common expense and funding of the replacement reserves, in the same percentage as the percentage of ownership in the common elements allocated to such Unit. No offset against any assessment will be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties. Assessments must be levied against all Units not later than the first day of the month next following the date when the first Unit is conveyed to a person other than Declarant.

**10.7 Delegation.** Nothing in this Declaration may be construed to prohibit the Association or the Board of Directors from delegating to persons, firms, or corporations of its choice the performance of such duties as may be imposed on the Association or the Board of Directors by this Declaration, the Bylaws, Association rules or regulations, or applicable law.

**11. Service of Process.** The designated agent to receive service of process in cases set forth in ORS 100.550(1) must be named in the Condominium Information Report, which must be filed with the Oregon Real Estate Agency in accordance with ORS

100.250(1).

**12. Mortgage Holder.** If a conflict arises between this Section 12 and other provisions of this Declaration, the provisions of this Section 12 prevail. The terms "Mortgage" and "Mortgage Holder" are defined in Section 1 above.

**12.1 Notice of Action.** On the written request of a Mortgage Holder, insurer, or guarantor to the Association, identifying the name and address of the person and the Unit number or address of the Unit on which a Mortgage has been placed, the Mortgage Holder, insurer, or guarantor is entitled to timely notice of the following:

(a) Any condemnation loss or casualty loss that affects either a material portion of the Condominium or any 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 a Mortgage;

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

(d) Any proposed action that would require the consent of a specified percentage of eligible Mortgage holders.

**12.2 Mortgage Holder Exempt from Certain Restrictions.** Any Mortgage Holder that comes into possession of the Unit pursuant to the remedies provided in the Mortgage, by foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, is exempt from any "right of first refusal" or other restriction on the sale or rental of the mortgaged Unit, including, but not limited to, restrictions on the age of Unit occupants and restrictions on the posting of signs pertaining to the sale or rental of the Unit. However, Mortgage Holders are not exempt from the restriction that Units cannot be rented for periods of fewer than 30 days.

**12.3 Subordination of Association Lien to Mortgage; Discharge of Lien upon Foreclosure.** The lien of the Association shall be subordinate to any first Mortgage and to other liens that have priority pursuant to the applicable law except as provided in ORS 100.450. Any first Mortgage Holder that comes into possession of the Unit pursuant to the remedies provided in the Mortgage, by foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, and any purchaser at the foreclosure sale of a first Mortgage, must take the property free of any claims for unpaid assessments or charges against the mortgaged Unit that accrue before the Mortgage Holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units, including the mortgaged Unit).

**12.4 Professional Management.** On the written request of holders of first Mortgages that represent at least 51% of the

votes of mortgaged Units in the Condominium, the Board of Directors must employ a professional manager to manage the affairs of the Association. Without the prior written approval of the holders of first Mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, the Association may not terminate professional management and assume self-management of the Condominium. Additionally, if professional management has previously been required by any Mortgage Holder, any such decision to establish self-management requires prior consent of the owners of Units to which 67% of the votes in the Association are allocated. Any agreement for professional management must provide that the management contract may be terminated for cause on 30 days' written notice.

**12.5 Consent of Mortgage Holders to Change Percentage Ownership in Common Elements.** The Unit owners may not reallocate the percentage of interest in the common elements attributable to any Unit without the prior written approval of holders of first Mortgages that represent at least 51% of the votes of mortgaged Units with respect to which the percentage of ownership is proposed to be altered. Nothing in this Section 12.5 may be construed to give the owners, the Association, or the Board of Directors any specific authority to alter such percentage of ownership and, if any attempt is made to do so, full compliance must be made with the Declaration, the Bylaws, and the Oregon Condominium Act.

**12.6 Consent of Mortgage Holders Required to Terminate Project.** Except with respect to termination of the Condominium as a result of destruction, damage, or condemnation, any termination of the Condominium requires the prior written approval of holders of first Mortgages that represent at least 67% of the votes of mortgaged Units in the Condominium. However, consent will be deemed given if a Mortgage Holder does not object in writing within 30 days after notice of the proposed termination. Additionally, any such terminations must be carried out by the owners pursuant to provisions of the Declaration, the Bylaws, and the Oregon Condominium Act, and must be carried out only after vote of the owners, as provided in such provisions.

**12.7 Limited Right of Amendment.** Except on the written approval of holders of first Mortgages that represent at least 51% of the votes of mortgaged Units in the Condominium, no amendment that adds to or amends any material provision that establishes, provides for, governs, or regulates any of the following may be made to the Declaration or the Bylaws:

- (a) Voting rights;
- (b) Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens or subordination of liens, or the priority of common elements;
- (c) Reductions in reserves for maintenance, repair, and replacement of common elements;
- (d) Responsibility for maintenance and repairs;

- (e) Reallocation of interests in the general or limited common elements, or rights to their use;
- (f) Redefinition of any Unit boundaries;
- (g) Convertibility of Units into common elements or vice versa;
- (h) Expansion or contraction of the Condominium project, or the addition, annexation, or withdrawal of property to or from the Condominium project;
- (i) Hazard or fidelity insurance requirements;
- (j) Imposition of any restrictions on the leasing of Units;
- (k) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- (l) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in the documents; or
- (m) Any provisions that expressly benefit Mortgage Holders, insurers, or guarantors.

The provisions of this Section are intended to limit only the right of the Unit owners, the Board of Directors, and the Association to amend the Declaration and the Bylaws, and are not intended to give any such parties any specific rights to effect any amendments. Any amendments to the Declaration or the Bylaws must be made only on full compliance with the provisions of the Declaration, the Bylaws, and the Oregon Condominium Act relating to the procedure and percentage of votes required for amendment. An addition or amendment to the Declaration or the Bylaws will not be considered to be material so as to require the consent or approval of Mortgage Holders, if its purpose is to correct technical errors or to clarify.

**12.8 Request for Approval of Mortgage Holders.** Any Mortgage Holder that receives a written request to approve additions or amendments to the Declaration or the Bylaws, or any other action to be taken by the Board of Directors, the Association, or Unit owners will be deemed to have given such approval unless the Mortgage Holder delivers or posts a negative response within 30 days after receipt of the request.

**12.9 Proxy Held by Mortgage Holder in Certain Cases.** A Mortgage Holder that reasonably believes that the Association has failed to maintain the common elements to prevent excessive wear and tear may attend a meeting of the Association and may cast the vote of the Mortgagor of the Unit on which the Mortgage Holder holds a Mortgage if the proposal under consideration concerns painting or otherwise maintaining the common elements, including imposing special assessments necessary to pay for such maintenance. However, such right arises only if the Mortgage Holder reasonably believes that the Association has failed to maintain the common elements in sufficient manner to prevent excessive wear and tear.

**12.10 Right to Examine Documents.** The Association must make available to Unit owners, lenders, and Mortgage Holders

current copies of the Declaration, the Bylaws, the Articles of Incorporation, other rules concerning the Condominium, and the books, records, and financial statements of the Association. The Association has the right to impose a reasonable charge for any copies requested by owners, prospective purchasers, lenders, or Mortgage Holders.

**12.11 Right to Receive Annual Reports.** On written notice, any Mortgage Holder is entitled to a financial statement for the immediately preceding fiscal year, free of charge to the parties so requesting. The financial statement must be furnished within a reasonable time following the request.

**12.12 Right to Receive Written Notice of Meetings.** On a Mortgage Holder's written request, the Association must give all Mortgage Holders written notice of all meetings of the Association, and the Mortgage Holders must be permitted to designate a representative to attend all such meetings.

**12.13 List of Mortgage Holders.** The Association must maintain at all times a list of Mortgage Holders who have given the Association notice on any matter described in Section 12 of this Declaration, which list shall include their names, addresses, the Units and mortgagors affected, and the matters with respect to which the Mortgage Holders have requested notice, provided that the information has been furnished to the Association by the owners or their Mortgage Holders.

**13. Amendments to Declaration.** Except when a larger percentage of approval is required by law, this Declaration may be amended from time to time by approval of Unit owners holding 75% or more of the voting rights as otherwise set forth in this Declaration. However, this Declaration must not be amended to reduce or eliminate the rights of any Mortgage Holder without all such Mortgage Holders' prior written consent.

**13.1 Declarant's Approval Required.** Declarant's prior written consent is required for any amendment to this Declaration until the earlier of the following dates: the date on which 75% or more of the Units in the Condominium have been conveyed to owners other than Declarant and the date on which three years have elapsed since the first conveyance of a Unit in the Condominium. However, even thereafter, no amendment may limit or reduce any of Declarant's special rights, whether reserved here or otherwise provided by law. No amendment may change the size, location, percentage of interest in the common elements, method of determining liability for common expenses, right to common profits, or voting power of any Unit unless the amendment has been approved by the owners and the Mortgage Holders of the affected Unit.

**13.2 Recordation/County Assessor and Commissioner Approval Required.** An amendment to the Declaration takes effect when recorded in the Deed Records of Multnomah County, Oregon, certified to by the chairperson and secretary of the Association

and approved by the County Assessor and the Real Estate Commissioner. Approval by the Commissioner is not required for an amendment to a declaration transferring the right of use of a limited common element pursuant to ORS 100.515(5).

**14. Subdivision.** No Unit may be subdivided into divisions of any nature.

**15. Authority to Grant Easements, Rights-of-Way, Licenses, and Other Similar Interests/Encroachments.**

**15.1 General.** The Association shall have the authority to grant, execute, acknowledge, deliver, and record on behalf of the unit owners, easements, rights-of-way, licenses, and other similar interests affecting the general common elements and limited common elements and parking units. The granting of any such interest shall first be approved by at least seventy-five (75%) of the Unit owners. The instrument granting any such interest shall be executed by the chairperson and secretary of the Association and acknowledged in the manner provided for acknowledgment of such instruments by such officers and shall state that such grant was approved by at least seventy-five percent (75%) of the Unit owners.

**15.2 Utility Easements; Dedications.** Anything in this Declaration to the contrary notwithstanding, Declarant has the right to execute, deliver, and record on behalf of the Association and the Unit owners such documents as may be required to grant easements, rights-of-way, and licenses over the common elements for the installation, maintenance, and repair of public utilities serving the Condominium or adjacent property. Declarant also has the right to execute, deliver, and record on behalf of the Association and the Unit owners such deeds and other documents as may be required to convey, dedicate, or grant easements, rights-of-way, or licenses over common elements, as may be required by any government or governmental agency to complete development of the Condominium. To effect the intent of this Section 15, each Unit owner, by acceptance of a deed or contract to a Unit, whether or not it is expressed in the deed or contract, for the owner and the owner's successors in interest, irrevocably appoints Barbara Drinka, of Portland, Oregon, or his nominee, as his lawful attorney-in-fact for the purpose of executing any and all documents required or permitted to be executed hereunder. The power of attorney and the rights under this section expire when Declarant no longer owns a Unit or three years from the date this Declaration is recorded, whichever is earlier.

**15.3 Encroachments.** There is an easement for any encroachment of the common elements on any Unit or an

encroachment of any Unit on the common elements or another Unit arising from the original construction, reconstruction, authorized repair, shifting, settling, or other movement of any portion of the condominium improvements. Such easements exist indefinitely and may be terminated only by the voluntary act of the party who benefits from the easement.

**16. Declarant's Special Rights.** Declarant has the following special rights:

**16.1 "For Sale" and "For Rent" Signs.** Declarant may maintain "For Sale" and/or "For Rent" signs on the Condominium property.

**16.2 Common Element Maintenance by the Association.** The Association must maintain all common elements in a clean and attractive condition. If the Association fails to do so, Declarant may perform such maintenance at the expense of the Association.

**16.3 Declarant's Easements.** Declarant and its agents and employees have an easement on and over the common elements for the completion of any portion of the Condominium, including furnishing and decorating any Unit, sales office, or model, and the right to store materials on the common elements at reasonable places and for reasonable lengths of time.

**16.4 Declarant's Other Special Rights.** The rights reserved to Declarant in this Section 16 in no way limit any other special rights that Declarant, as a declarant, may have, whether pursuant to the Oregon Condominium Act or otherwise. On the expiration of any or all such special rights, Declarant will have the same rights as any other owner in the Condominium with respect to such ownership.

**16.5 Assignment of Declarant's Rights.** Declarant has the right to assign any and all of its rights, including, without limitation, Declarant's special rights, as set forth in this Section 16, or to share such rights with one or more other persons exclusively, simultaneously, or consecutively.

**16.6 Expiration of Declarant's Special Rights.** Unless otherwise provided, Declarant's special rights, as reserved in this Section 16, expire on the conveyance by Declarant of the last Unit owned by Declarant or three years after the first conveyance of a Unit in the Condominium, whichever is earlier.

**17. General Provisions.**

**17.1 Interpretation.** The rights and obligations of all members of the Association and any person dealing with the Association or any of its members with respect to matters pertaining to the Declaration, the Articles of Incorporation, any Supplemental Condominium Declaration, or the Bylaws must be interpreted in accordance with and governed by the laws of the State of Oregon.

**17.2 Severability.** Each provision of the Declaration, any



Supplemental Condominium Declaration, the Articles of Incorporation, and the Bylaws is independent and severable. The invalidity or partial invalidity of any provision must not affect any of the remaining portions of that or any other provision of this Declaration or the Bylaws.

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

**17.4 Legal Proceedings.** Failure to comply with any of the terms of the Declaration, any Supplemental Condominium Declaration, the Articles of Incorporation, the Bylaws and any rules or regulations adopted thereunder is grounds for relief, which may include, without limitation, fining the noncomplying owner, bringing an action to recover money due, damages or a suit for injunctive relief, or an action to foreclose a lien, or any combination. Relief may be sought by the Association, the Board of Directors, an officer, a professional manager or management firm, or, if appropriate, by an aggrieved Unit owner.

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

**17.6 Compliance.** Each Unit owner must comply with the provisions of the Declaration, any Supplemental Condominium 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.

**17.7 Conflicting Provisions.** If a conflict arises between or among the provisions of the Declaration, the Articles of Incorporation of the Association, the Bylaws, and any administrative rules and regulations, the provisions of the

Declaration must be paramount to those of the Articles, the Bylaws, and the rules and regulations, and the Articles will be paramount to the Bylaws and the rules and regulations, and those of the Bylaws will be paramount to the rules and regulations. For purposes of this Section 17.7, the term "Declaration" includes all amendments to this Declaration and Supplemental Declarations, and the term "Bylaws" includes all amendments to the Bylaws.

**17.8 Section and Paragraph Captions.** Section and paragraph captions shall not be deemed to be a part of this Declaration unless the context otherwise requires. In construing this Declaration, if the context so requires, the singular shall be taken to mean and to include the plural, the masculine and feminine shall be taken to mean and to include the neuter, and, generally, all grammatical changes shall be made, assumed, and implied to make the provisions hereof apply equally to individuals, trusts, estates, personal representative, trustees, and corporations.

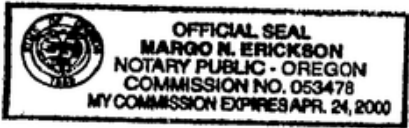
**17.9 Arbitration.** In the event of a dispute between the owners of the Units in regard to the rights and duties of the owners and/or the association, pursuant to this declaration, then, upon written request of one owner addressed to the other owner, the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction, including the award of attorneys' fees and costs. If the dispute or claim involves a sum not in excess of the jurisdictional limit of the Small Claims Court in Multnomah County, Oregon, the owner shall have the option of taking the matter to Small Claims Court in such county in lieu of binding arbitration.

The undersigned Declarant of the subject property has caused this Declaration to be executed on 12-28, 1999.

Barbara T. Drinka  
BARBARA T. DRINKA, Trustee of  
the Barbara T. Drinka Revocable  
Living Trust

STATE OF OREGON )  
County of Multnomah ) ss. Dec 28, 1999

Personally appeared before me the above-named Barbara T. Drinka, who, being duly sworn, did say that she is trustee fo the Barbara T. Drinka Revocable Living Trust, and that said instrument was signed in behalf of that trust; and she acknowledged that instrument to be its voluntary act and deed.



Margo N. Erickson  
Notary Public for Oregon

The foregoing Declaration is approved pursuant to ORS 100.110 this 14th day of March, 2000, and, in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two years from this date.

SCOTT W. TAYLOR,  
REAL ESTATE COMMISSIONER

By: Brian DeMarco  
Brian DeMarco

The foregoing Declaration is approved pursuant to ORS 100.110 MARCH 14, 2000.

MULTNOMAH COUNTY ASSESSOR

By: [Signature]

**EXHIBIT A**

**LEGAL DESCRIPTION**

Beginning at a brass screw marking the Northeast corner of Lot 7, Block 2 of NOB-HILL TERRACE, in the City of Portland, County of Multnomah and State of Oregon; thence South  $0^{\circ} 24' 14''$  West along the East line of said Lot 7 a distance of 73.07 feet to the Northerly right-of-way line of N.W. Marcia St.; thence South  $65^{\circ} 26' 20''$  West along said right-of-way 77.20 feet; thence South  $24^{\circ} 33' 42''$  East 30.00 feet to the Southerly right-of-way line of said street; thence South  $65^{\circ} 26' 17''$  West along said Southerly line 22.07 feet; thence North  $24^{\circ} 33' 39''$  West 30.00 feet; thence North  $0^{\circ} 24' 11''$  East 114.97 feet to a point in the North line of Lot 6 of said Block 2; thence South  $89^{\circ} 35' 47''$  East along said North line and the North line of Lot 7 a distance of 90.00 feet to the point of beginning.