

# **CHELSEA TOWER CONDOMINIUM**

## **BY - LAWS**

AS OF

**JULY 1997**

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**AMENDED AND RESTATED BYLAWS OF THE**  
**CHELSEA TOWER CONDOMINIUM**  
**COUNCIL OF UNIT OWNERS, INC.**

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AMENDED AND RESTATED BYLAWS OF THE  
CHELSEA TOWER CONDOMINIUM  
COUNCIL OF UNIT OWNERS, INC.

A r t i c l e I  
Introduction

**Section 1. Name and Mailing Address.** The name of the incorporated Council is Chelsea Tower Condominium Council of Unit Owners, Inc. (hereinafter referred to as the "Council"). The mailing address and principal office is 7401 Westlake Terrace, Bethesda, Maryland 20817. The Board of Directors may change this address by resolution.

**Section 2. Applicability.** These Bylaws provide for the governance of the Council and apply to present and future Owners, family members, tenants, occupants, guests, licensees, servants, agents, employees, heirs or assigns of the Owners, all of whom are subject to the restrictions and enforcement provisions of the Declaration of Chelsea Tower Condominium (hereinafter "Declaration") recorded in the Montgomery County, Maryland Land Records, these Bylaws and the applicable laws of the State of Maryland and Montgomery County, Maryland. Acquisition, rental, use or occupancy of a Unit shall signify that the Owner, tenant, occupant or user has accepted and will comply with the Declaration, these Bylaws, applicable Maryland and Montgomery County law, and any duly adopted rules and regulations of the Council.

**Section 3. Resident Agent.** The resident agent of the Council shall be that person whose name is on file with the Maryland State Department of Assessments and Taxation as required by Maryland law. The resident agent shall be a citizen and actual resident of the State of Maryland. The name and address of the resident agent of the Council may be changed in accordance with Maryland law.

**Section 4. Membership.** An Owner shall automatically become a member of the Council upon taking title to a Unit and shall remain a member for the entire period of ownership. If title to a Unit is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one ( 1) vote per Unit. Membership does not include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. Membership shall be appurtenant to a Unit and shall be transferred automatically by conveyance of that Unit.

**Section 5. Title to Units.** Title to a Unit may be taken in the name of one or more persons, in any manner permitted by law. The Council, in its own name, may acquire, hold and transfer legal title to one or more Units.

**Section 6. Purpose.** The Council shall have the responsibility of administering the Condominium, establishing the means and methods of collecting Assessments of Common Expenses, arranging for the management of the Condominium and performing all other acts that may be required or permitted to be performed by the Declaration, these Bylaws, the Maryland Condominium Act (hereinafter referred to as the "Act"), and Maryland and Montgomery County law. Except for those matters which the Act, the Declaration, these Bylaws, Maryland or Montgomery County law requires be decided by a vote of the Council, the administration of the foregoing responsibilities shall be performed by the Board of Directors as set forth below.

**Section 7. Definitions.** Unless it is plainly evident from the context that a different meaning is intended, all terms used herein shall have the same meaning as they are defined to have in the Declaration. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration, or if not defined therein, the meanings specified for such terms in the Act. Undefined terms have their plain and natural meaning.

## **Article II**

### **Council of Unit Owners**

**Section 1. Powers.** The Council shall have all of the powers permitted by the Act or otherwise permitted by Maryland or Montgomery County law, the Articles of Incorporation, and the Declaration. Except as to those matters which the Act, the Declaration or these Bylaws specifically require to be decided by the vote of the Council, the foregoing responsibilities shall be performed by the Board of Directors or delegated to the Managing Agent as more particularly set forth in Article III of these Bylaws.

**Section 2. Composition.** The Council shall consist of all of the Unit Owners acting as a group in accordance with the Act and pursuant to the Declaration and these Bylaws. The name of the Council shall be the "Chelsea Tower Condominium Council of Unit Owners, Inc." For all purposes, the Council shall act merely as an agent for the Unit Owners as a group. The Council is incorporated as a Maryland non-stock corporation and is subject to those provisions of Title 5, Subtitle 2 of the Corporations and Associations Article of the Annotated Code of Maryland which are not inconsistent with the Act.

**Section 3. Annual Meetings.** Regular annual meetings of the Council shall be held during the month of March of each year or on such other date as may be designated by the Board of Directors. At such meeting there shall be elected by ballot the Board of Directors in accordance with the requirements of Article III of these Bylaws. The Unit Owners may also conduct such other business of the Council as may properly come before them.

**Section 4. Place of Meetings.** Meetings of the Council shall be at the principal office of the Council or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

**Section 5. Special Meetings.** It shall be the duty of the President to call a special meeting of the Council if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Unit Owners having votes totaling at least twenty percent (20%) of the aggregate Percentage Interests. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 6. Notice of Meeting.** It shall be the duty of the Secretary to send by United States first-class mail or to otherwise deliver a notice of each annual or special meeting of the Council, stating the purpose thereof as well as the time and place where it is to be held. Such notice shall be given to each Unit Owner at the address appearing on the membership records of the Council, or if no such address appears, at the Owner's last known address, at least ten (10) days, but not more than ninety (90) days prior to any annual or special meeting.

**Section 7. Roster of Unit Owners.** The Council shall maintain a current roster of the names and addresses of each Unit Owner to which notice of meetings of the Council shall be sent. Each Unit Owner shall, upon acquiring title to a Unit, furnish the Managing Agent or building manager with his or her name and current mailing address on a form to be provided by the Council (hereinafter referred to as the "Unit Information Certificate"). Unless the Council has received express written notice to the contrary, the Council is entitled to rely upon such roster as accurately reflecting the current Owner and such Owner's current mailing address.

**Section 8. Roster of Mortgagees.** Any Owner who mortgages his or her Condominium Unit has conveyed an interest in his or her unit which may obligate the Council, under certain circumstances to provide notice to the Mortgagee. Therefore, the Unit Owner shall give prompt written notice to the Managing Agent or building manager of his or her loan number and the name and address of his or her Mortgagee. If a Unit Owner's mortgage is transferred to another holder, the Unit Owner shall notify the Managing Agent or building manager in writing of the name and address of the new Mortgagee. Any Unit Owner who satisfies his or her mortgage shall give prompt written notice to that effect to the Managing Agent or building manager. The Council shall maintain or cause to be maintained such information in a roster. Unless the Council has received express written notice to the contrary, the Council is entitled to rely upon such roster as accurately reflecting the current Mortgagee and such Mortgagee's current mailing address.

**Section 9. Rights of Mortgagees.** Any Mortgagee of any Unit who desires notice of the annual and special meetings of the Council and the Board of Directors shall notify the Secretary to that effect by certified mail, return receipt requested. Any such notice shall contain the name and address of such Mortgagee and the name and address of the person to whom notice of the annual and special meetings should be sent. The Secretary of the Council shall maintain or cause to be maintained a roster of all Mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise send a notice of each annual or special meeting to each such Mortgagee, in the same manner and subject to the same requirements and limitations as are provided for with respect to notice of such meetings to the Unit Owners or the Board of

Directors, as the case may be. Any such Mortgagee shall be entitled to designate a representative to attend any such annual or special meeting and such representative may participate in the discussion at any meeting and may, upon request made to the Chairman of the meeting in advance of the meeting, address the Unit Owners or the Board of Directors, as the case may be, at any meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to a copy of the minutes of all meetings of the Council and the Board of Directors upon request made in writing to the Secretary.

**Section 10. Waiver of Notice.** Waiver of notice of a meeting of the Unit Owners shall be deemed the equivalent of proper notice. Any Owner may file with the Board of Directors a written waiver of notice of any meeting of the Unit Owners, either before or after any meeting. Attendance at a meeting by a Unit Owner, whether in person or by proxy, shall be deemed waiver by such Unit Owner of notice of the time, date and place thereof unless such Unit Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**Section 11. Quorum.**

(a) Except as may be otherwise provided herein, the representation in person or by proxy of those Unit Owners holding at least thirty-seven and one-half percent (37.5%) of the aggregate Percentage Interest of ownership of those Unit Owners eligible to vote shall constitute a quorum.

(b) Once the Secretary determines that a quorum exists at a meeting, the existence of such quorum shall not be affected by the subsequent withdrawal from the meeting of any voting participant.

**Section 12. Adjournment.** Any meeting of the Council may be adjourned from time to time by vote of the Owners holding the majority of the eligible votes represented at such meeting, regardless of whether a quorum is present in person or by proxy. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session provided that a quorum is obtained, and no additional notice of such adjourned session shall be required. The Board of Directors shall have the power to adjourn meetings at which a quorum is not present in accordance with the procedures established in Title 5, Subtitle 2, of the Corporations and Associations Article of the Annotated Code Of Maryland, as amended.

**Section 13. Proxies.** Any Owner entitled to vote may appoint any other Owner, his or her lessee, or Mortgagee as his or her proxy, provided, however, that the provisions of the Act and any other applicable law regarding proxies and the voting of proxies are otherwise observed. Neither the Managing Agent nor its employees shall be entitled to serve as a proxy holder. No employee of the Council shall be entitled to serve as a proxy holder (unless that employee is also

is also a Unit Owner). To be valid, a proxy must be in writing and filed with the Secretary prior to the opening of the meeting for which it is to be used. Presence of the Owner at the meeting for which a proxy is given shall automatically revoke the proxy. No proxy shall be valid for more than one hundred eighty (180) days following its issuance, unless granted to the lessee or Mortgagee of the Unit. A proxy shall otherwise be valid until revoked by a written notice of revocation filed with the Secretary or after the death of the Owner or until the adjournment of the first meeting held on or after the date of the proxy. A proxy holder who is not appointed to vote as directed by a Unit Owner may only be appointed for purposes of meeting quorums and to vote for matters of business before the Council other than an election of members of the Board of Directors.

#### **Section 14. Voting.**

(a) Each Unit shall be entitled to a percentage vote which may be cast by the Owner or by lawful proxy, as provided above. Each Unit shall have allocated and is hereby allocated a vote equal to the Percentage Interest of such Unit as set forth in the Declaration. Each eligible Owner shall have the right to cast his or her vote based on the Percentage Interest established in the Declaration for each Unit he or she owns on each question. The vote of the Owners representing the majority of the eligible votes represented at such meetings, at which a quorum is present, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of an applicable statute, the Declaration or these Bylaws, a different vote is required, in which case such express provision shall govern and control. Notwithstanding the above, the Board of Directors shall be elected by the Owners, from among those nominated, by a plurality vote of the eligible voters at the annual meeting, a quorum being present. If there are more nominees than positions to be filled, those persons receiving the greatest percentage vote, even if said percentage does not equal a majority of the Percentage represented by those present and voting, shall be elected.

(b) When more than one person owns a Unit, the vote for such Unit shall be exercised by the person named in the Unit Information Certificate or as they otherwise agree, but in no event shall more than one vote be cast with respect to any Unit. In the event of disagreement among such persons and an attempt by two or more of them to cast such vote or votes, such persons shall not be recognized and such vote or votes shall not be counted.

(c) No Owner shall be eligible to vote, either in person or by proxy if (1) the Unit Owner is more than sixty (60) days delinquent in the payment of Assessments due to the Council, as shown on the most recently published delinquency records of the Council; or (ii) a lien has been filed against such Owner's Unit and the amount necessary to release the lien has not been paid; or (iii) foreclosure proceedings have been initiated against the Owner's Unit; or (iv) the Unit Owner has been found to be in violation of the Council's Declaration, these Bylaws, or any duly adopted rules and regulations and has failed to abate such violation and/or to satisfy any sanction that has been imposed upon the Owner after notice and an opportunity for a hearing as a result of such violation; or (v) the Unit Owner has not filed with the Council his or her name and mailing

address as required by the Act, as amended, and Article 11, Section 7 of these Bylaws; or (vi) the Unit Owner has not filed with the Council the name and address of his or her Mortgagee as required by Article II, Section 8 of these Bylaws.

**Section 15. Conduct of Meetings.** The President shall preside over all meetings of the Council and the Secretary shall keep the minutes of the meeting and shall record all resolutions adopted at the meeting and all transactions occurring thereat. The President may appoint a person to serve as parliamentarian at any meeting of the Council. The current edition of Roberts Rules of Order shall be used to resolve any procedural dispute in case of conflict.

**Section 16. Consents.** Any action which may be taken by a vote of the Owners may also be taken by written consent of those Owners who hold the requisite percentage of votes necessary to decide an issue pursuant to these Bylaws.

### **Article III** **Board of Directors**

**Section 1. Composition.** The affairs of the Council and the Condominium shall be governed by a Board of Directors. The Board of Directors shall be composed of an uneven number of at least three (3) but not more than nine (9) persons as may be determined by the Board of Directors. Each director must be a natural person and must be a Unit Owner. Said directors shall serve for staggered terms as provided in Section 2 below. Each member or candidate of the Board of Directors must disclose any relationship in business, by blood, or marriage that he or she has to other members or candidates of the Board of Directors. No Owner and his or her spouse or multiple Owners of the same Unit may serve on the Board of Directors at the same time. No Owner may serve on the Board of Directors if ( 1) the Owner is more than sixty (60) days delinquent in the payment of Assessments to the Council; or (2) a lien has been filed against the Owner's Unit and remains unsatisfied; or (3) foreclosure proceedings have been initiated against the Owner's Unit; or (4) such Owner has been found to be in violation of the Council's Declaration, Bylaws, or any duly adopted rules and regulations and has failed to abate such violation and/or to satisfy any sanction that has been imposed upon the Owner after notice and an opportunity for a hearing as a result of such violation; or (5) the Owner has not filed with the Council his or her name and mailing address as required by the Act and Article II, Section 7 of these Bylaws; or (6) the Owner has not filed with the Council the name and address of his or her Mortgagee as required by Article II, Section 8 of these Bylaws.

**Section 2. Term of Office.** As of the date of the adoption of these Bylaws, directors have been elected and are serving in office. These Bylaws are not intended to affect, alter, or diminish the terms of such directors. The terms of the directors presently serving are such that some terms expire at different times than other terms, thereby creating staggered terms. The intention of these Bylaws is to continue staggered terms. As such, upon the expiration of a term of a director, a successor shall be elected for two (2) years and thereafter each director shall be

elected for two (2) years. The directors shall hold office until their respective successors have been elected and hold their first meeting.

**Section 3. Nominations.** Persons qualified to be members of the Board of Directors may be nominated for election as follows:

(a) Any Unit Owner may submit to the Secretary at least thirty (30) days before the meeting at which the election is to be held, a statement of his or her willingness to serve on the Board of Directors and a biographical sketch. The Secretary shall mail or otherwise deliver the submitted items to every Unit Owner along with the notice of such meeting;

(b) Nominations may also be submitted from the floor at the meeting at which the election is held for vacancies on the Board of Directors. The member nominated must consent to the nomination in order for the nomination to be accepted;

(c) The Board of Directors may appoint a Nominating Committee consisting of three (3) persons who shall, at least thirty (30) days prior to the meeting at which the election is to be held, nominate selected individuals for the director vacancies. Such nominees must comply with Section 3(a) above. The names of such nominees shall be delivered or mailed to each Unit Owner along with the notice of such meeting. Failure to comply with this section (c) shall in no way invalidate the election of the directors who were not nominated in accordance with the provisions hereof

**Section 4. Ballots and Proxy/Ballots.** By not later than ten (10) days before each annual meeting, the Secretary shall cause a list of all nominees for directorships and a proxy/ ballot to be sent to each Unit Owner, to be used by those Unit Owners who do not intend to attend the meeting for the election of directors on which the names of each candidate shall be printed in alphabetical order. The Secretary shall cause ballots, containing the names, *in* alphabetical order, of all nominees for election to the Board of Directors to be distributed at each annual meeting of Unit Owners.

**Section 5. Elections.** Directors shall be elected by the Council, from among those nominated, by a plurality vote of the eligible voters at the annual meeting at which a quorum is present. If there are more nominees than positions to be filled, Those persons receiving the greatest percentage vote, even if said percentage does not equal a majority of the percentage represented by those present and voting, shall be elected.

**Section 6. Removal of Members of the Board of Directors.** At any duly called annual or special meeting of the Council, any one or more of the members of the Board of Directors may be removed by a majority of the Unit Owners present at such meeting, after allowing the director an opportunity to be heard, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Owners shall be given at least ten (10) days written notice of the time, place and purpose of the meeting. Any member of the Board

of Directors who becomes: (1) sixty (60) days delinquent in the payment of Assessments for his or her Unit; or (2) has a lien filed against his or her Unit for the non-payment of Assessments; or (i) whose Unit is the subject of a pending foreclosure action; or (4) who has been found to be in violation of the Council's Declaration, Bylaws or any duly adopted rules and regulations and has failed to abate such violation and/or to satisfy any sanction that has been imposed upon such member of the Board of Directors after notice and an opportunity for a hearing as a result of such violation may be removed by the remaining members of the Board of Directors without the necessity of a vote of the Unit Owners. The remaining members of the Board of Directors shall fill the vacancy according to Section 7 of this Article. Any member of the Board of Directors who has three (3) consecutive unexcused absences from any regular Board of Directors meetings may be removed by the remaining members of the Board of Directors without the necessity of a vote of the Unit Owners.

**Section 7. Vacancies.** Vacancies in the Board of Directors caused by any reason other than the removal of a director by vote of the Unit Owners, shall be filled by a vote of the majority of the remaining directors, regardless of whether those directors constitute a quorum, at any meeting of the Board of Directors. The director selected by the Board shall fill the unexpired portion of the term of the director whose position is vacant.

**Section 8. Compensation.** Directors shall not be compensated for acting in such capacity. Notwithstanding the foregoing, directors may be reimbursed for reasonable expenses incurred on behalf of the Council as shall be determined by the Board of Directors.

**Section 9. Organization Meeting.** The first meeting of a newly elected Board of Directors shall be held within thirty (30) days of an election, at such time and place as shall be fixed by the directors at the time of the meeting of the Council at which such directors were elected, and no further notice shall be necessary to the newly elected directors in order to legally constitute such meeting, providing a majority of the Board of Directors shall be present.

**Section 10. Regular Meetings.**

(a) Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board of Directors, but such meetings shall be held at least four (4) times during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director personally or by mail, telephone, or telecopier at least fourteen (14) days prior to the day named for such meeting. The date of the next regular meeting may be set at a meeting and such action shall constitute notice of the next meeting to all directors present at the prior meeting.

(b) Except as authorized by the Act, regular meetings of the Board of Directors shall normally be open to all Unit Owners subject to the executive session allowances contained in the Act, as amended. Notice to Unit Owners of regular meetings of the Board of Directors shall be given in a manner determined by the Board of Directors and consistent with Maryland law.

**Section 11. Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) days notice to each director given by mail, in person, by telephone, or by telecopier, which notice shall state the time, place, and purpose of the meeting. Upon the written request of at least two (2) directors, special meetings of the Board of Directors shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice. Notice to Unit Owners of special meetings of the Board of Directors shall be given in a manner determined by the Board of Directors and consistent with Maryland law.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors. The Secretary shall cause a record to be kept of the Board of Directors' decisions, all transactions approved, proceedings occurring at such meeting, and resolutions adopted by the Board of Directors.

**Section 13. Waiver of Notice.** Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 14. Quorum.** A majority of directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice so long as a quorum is present. No director may use a proxy for quorum, vote or any other matter before the Board.

**Section 15. Action Without a Meeting.** Any action by the Board of Directors required or permitted to be taken at any executive session or emergency meeting may be taken without a regular or special meeting (1) following a telephone poll of all of the members of the Board or (ii) if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. The result, time and date of each telephone poll or such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

**Section 16. Powers and Duties.** The Board of Directors shall manage the affairs of the Council and shall have all the powers and duties granted in the Act, the Declaration and these Bylaws necessary for the administration of the Condominium and may do all such acts and things as are not by the Declaration or these Bylaws specifically directed to be done and exercised exclusively by the Unit Owners. The Board of Directors may delegate to one or more of its members the authority to act within its established policies and guidelines on behalf of the Board of Directors on all matters relating to the duties of the Managing Agent, if any, which might arise

between meetings of the Board of Directors. In addition to the duties imposed by these Bylaws or by any resolution of the Council that may hereafter be adopted, the Board of Directors shall have the power to, and be responsible for the following, by way of explanation but not limitation:

(a) **Budget.** Preparing an annual proposed budget which shall be submitted to the Unit Owners at least thirty (30) days prior to its adoption.

(b) **Assessment.** Determining Assessments against the Unit Owners to defray the Common Expenses, establishing the means and methods of collecting such Assessments from the Unit Owners, and establishing the period of the installment payments of each annual Assessment. Unless otherwise determined by the Board of Directors, the annual Assessment against each Unit Owner for his or her proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month.

(c) **Collection of Assessments.** Collecting the Assessments and/or carrying charges and fines against the Unit Owners, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the business of the Condominium.

(d) **Maintenance.** Providing for the operation, care, upkeep, and maintenance of all of the Common Elements and services to the Condominium.

(e) **Contracts.** Contracting for services including management services (as more specifically outlined in Section 17 of this Article).

(f) **Personnel.** Designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Common Elements, and providing services for the Condominium, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties.

(g) **Rules.** Making and amending rules and regulations respecting the Condominium in accordance with the procedures outlined in the Act, as amended, including the regulation and/or assignment of Common Element vehicular parking, and enforcing violations of the Declaration, Bylaws and duly adopted rules and regulations by the imposition of fines (the said monetary fine shall be treated as an Assessment for collection purposes) or other sanctions, subject to the notice and hearing procedures of the Act, as amended, and by towing vehicles in violation of the parking regulations in accordance with the requirements of the Montgomery County Code.

(h) **Bank Accounts.** Opening of bank accounts and investing funds on behalf of the Council and designating the signatories required in compliance with Article IV of these Bylaws.

(i) **Repairs.** Making, or contracting for the making repairs, additions, improvements and alterations of the Condominium, and repair and restoration of the Condominium after damage or destruction by fire or other casualty, in accordance with the other provisions of these Bylaws to the extent applicable. However, when in the opinion of the Board of Directors any such addition, alteration or improvement is being made exclusively or substantially for the benefit of one or more, but less than all, of the Unit Owners, the cost thereof shall be charged to *such* Unit Owner or Unit Owners in such proportion as the Board of Directors determines to be fair and equitable.

(j) **Borrowing.** Borrowing funds for the purpose of making repairs, restorations, replacements, alterations, improvements or additions in accordance with Section 18 of this Article, and Section 3 of Article VI.

(k) **Enforcement.** Enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations for the use of the Condominium adopted by it, and bringing any proceedings which may be instituted on behalf of the Unit Owners.

(l) **Insurance.** Obtaining and carrying insurance against casualties and liabilities, as provided in these Bylaws, including but not limited to reviewing the Council's insurance coverages annually to confirm adequacy and paying the premium cost thereof.

(m) **Payments.** Paying the costs of all services rendered to the Council and not chargeable to Owners of individual Units.

(n) **Books.** Keeping books with detailed accounts of the receipts and expenditures affecting the Condominium, and the administration of the Council. The said books shall be available for examination by the Unit Owners, their duly authorized agents, accountants, or attorneys, during normal business hours at the times and in the manner that shall be set and announced by the Board of Directors or at such time as may be mutually agreeable by and between the Board of Directors and the Unit Owners wishing to examine such books. All books and records shall be kept in accordance with generally accepted accounting principles and shall be audited at least once a year by an outside auditor employed by the Council who shall not be a resident of the Condominium or a Unit Owner therein. The cost of such audit shall be a Common Expense. The cost of copying any records or any other cost incurred by the Council as a result of the request of the Unit Owners, their duly authorized agents, accountants or attorneys, including employee overtime that may be necessary shall be borne by the party requesting such service.

(o) **Profits.** Determining how Common profits or surpluses, if any, shall be used or refunded from excess residual receipts as reflected *in the* annual report.

(p) **Easements.** Leasing, granting licenses, easements, rights-of-way and other rights of use and enjoyment in all or any part of the Common Elements of the Condominium in accordance with Article XIII, Section 2 of the Declaration.

(q) **Unit Acquisitions.** Purchasing Units in the Condominium and leasing, mortgaging or conveying the same, subject to the provisions of the Declaration and these Bylaws.

(r) **General Powers.** Insofar as permitted by law, to do any other thing which, in the judgment of the Board of Directors, will promote the business of the Council or the benefit of the Unit Owners and, in general, to exercise the powers provided for in the Declaration and the Act and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Declaration and these Bylaws.

### **Section 17, Managing Agent.**

(a) The Board of Directors must employ for the Council a professional full service management firm, at a compensation established by the Board of Directors, to perform such duties and *services as* the Board of Directors shall authorize in accordance with the Council's Declaration and these Bylaws. Such management firm shall be a bona fide business enterprise which manages mid-rise and/or high-rise common interest residential communities and shall have a minimum of three (3) years of experience in the management of common interest residential communities. Any management contract shall not exceed three (3) years and shall contain a termination clause permitting termination, for cause, upon no more than thirty (30) days written notice by either party and without cause upon no more than ninety (90) days written notice by either party. The Board of Directors may delegate to the Managing Agent, subject to the Board of Director's supervision, the powers granted to the Board of Directors by these Bylaws, provided however that the Managing Agent may not (i) perform any act which exceeds the authority granted in the management contract or the Council's Declaration or these Bylaws; (ii) open bank accounts in the name of the Council, unless expressly authorized in writing by the Board of Directors; (iii) own or lease any Unit located within the Condominium; (iv) have an undisclosed financial or any other interest in any of the parties with which the Council may contract for work to be performed or services to be rendered to the Council; (v) borrow money on behalf of the Council; or (vi) assess any charges to the Unit Owners. The Council and the Board of Directors shall not be liable for any omission or improper exercise by the Managing Agent of any such duty, power or function so delegated. If a management contract is terminated at any time, the Board of Directors shall employ another professional Managing Agent it being the intention of this Section that the Condominium will be managed at all times by a qualified professional Managing Agent.

(b) The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise by the Board of Directors:

- (1) the accrual method of accounting shall be employed;
  - (2) two (2) or more persons shall be responsible for handling cash to maintain adequate financial control procedures;
  - (3) cash accounts of the Council of Unit Owners shall not be commingled with any other accounts;
  - (4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Council without the written consent of the Council, whether in the form of commissions, finders fees, service fees or otherwise; and any discounts received shall benefit the Council;
  - (5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Council shall be disclosed promptly to the Board of Directors;
  - (6) a monthly financial report shall be prepared for the Council containing:
    - (a) an Income Statement reflecting all income and expense activity for the preceding month on an accrual basis;
    - (b) an Account Activity Statement reflecting the status of all accounts in an "actual" versus "projected" (budget) format;
    - (c) an Account Status Report reflecting the status of **all** accounts in an "actual" versus "projected" (budget) format;
    - (d) a Balance Sheet reflecting the financial condition of the Council on an unaudited basis;
    - (e) a Budget Report reflecting actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent (10%) of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and
  - (I) a Delinquency Report listing all Unit Owners who are delinquent in paying Assessments and describing the status of any actions to collect such Assessments.
- (c) Any management contract shall comply with the terms of the Declaration, these Bylaws and the Act, Any provision of the management contract or any part thereof that fails to comply with the Declaration, these Bylaws and the Act shall be deemed null and void.

Any management **contract shall specifically** state that it complies with the terms of the Declaration, these Bylaws and the Act.

**Section 18. Borrowing and Expenditures.** The Board of Directors shall have the power to borrow and/or expend money for the purpose of repair, restoration or replacement of Common Elements and facilities without the approval of the Unit Owners. The Board of Directors shall also have the power to borrow and/or expend money for the purpose of modifying, improving or adding amenities to the Common Elements in accordance with Article VI, Section 3 of these Bylaws.

**Section 19. Attorney-in-Fact.** The Board of Directors is hereby irrevocably appointed as Attorney-in-Fact for the Unit Owners to manage, control and deal with the interests of the Unit Owners so as to permit the Board of Directors to fulfill all of its powers, functions and duties under the Act, Declaration and these Bylaws.

**Section 20. Committees.** The Board of Directors may establish committees as the Board of Directors shall determine from time to time with the powers and duties that the Board of Directors shall authorize. Committee members shall serve at the pleasure of the Board.

**Section 21. Common or Interested Directors.** The Board of Directors shall exercise their powers and duties in good faith and with *a* view to the interest of the Council and the Condominium. No contract or other transaction between the Council and one or more of its directors, or between the Council and any association, firm or corporation in which one or more of the directors of this Council are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because such director or directors are present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or her votes are counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to the Unit Owners, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Council at the time it is authorized, ratified, approved or executed.

Common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or

ratifies any contract or transaction, and may vote thereafter to authorize any contract or transaction with like force and effect as if he or she were not a director or officer of such other association or not so interested.

#### **Article IV** **Officers**

**Section 1. Designation.** The principal officers of the Council shall be the President, Vice President, Secretary, and Treasurer, all of whom shall be members of, and be elected by, the Board of Directors, The Board of Directors may appoint Board or non-Board members to the offices of Assistant Treasurer, Assistant Secretary, and such other subordinate offices as in its judgment may be necessary. No person may hold more than one office.

**Section 2. Election of Officers.** The officers of the Council shall be elected annually by the Board of Directors, at the first meeting of the Board of Directors following each annual meeting of the Unit Owners, and shall hold office at the pleasure of the Board of Directors.

**Section 3. Vacancies, Resignation and Removal of Officers.** Any officer may resign his or her office at any time by giving notice thereof to the Board of Directors. If any office becomes vacant because of an officer's resignation, death, retirement, disqualification or otherwise, a successor may be elected or appointed at any regular or special meeting of the Board of Directors. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, and a successor may be elected or appointed at any regular or special meeting of the Board of Directors.

**Section 4. President.** The President shall be the chief executive officer of the Council, shall reside in a Unit, and shall preside at all meetings of the Unit Owners and of the Board of Directors. The President shall have all of the general powers and duties which are incident to the office of the president of a corporation organized under Maryland law, including but not limited to, the power to appoint committees as he or she may, in his or her discretion, decide is appropriate to assist in the conducting of the affairs of the Council.

**Section 5. Vice President.** The Vice President shall act in the President's absence, shall reside in a Unit, and shall have all powers, duties, and responsibilities provided for the President when so acting. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to do so on an interim basis. The Vice President shall also perform such other duties as the Board of Directors or the President shall prescribe.

**Section 6. Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and of the Owners, shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform, all duties incident to the office of the

secretary of a corporation organized in accordance with Maryland law. The above tasks may be performed by assistants or clerks wider the Secretary's supervision.

**Section 7. Treasurer.** The Treasurer shall have the responsibility for the Council's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all *receipts* and disbursements, for preparing or for causing to be prepared, all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Council or the Managing Agent in such depositories as may from time to time be designated by the Board of Directors. If required by the Board of Directors, the Treasurer shall be bonded in such *sum* and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office, and for the restoration to the Council, in *case* of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Council. The duties of the Treasurer, including any requirement for bonding, may be delegated to the Managing Agent. In such case, the duties shall be performed by the Managing Agent under the supervision and responsibility of the Treasurer.

**Section 8. Agreements. Contracts, Deeds. Leases. Checks. Etc.**

(a) All agreements, contracts, deeds, leases, and other instruments of the Council for expenditures or obligations included in the adopted budget which provide for an expenditure of \$1,000.00 or less or if an expenditure exceeds \$1,000.00 but involves an emergency situation may be executed by the Managing Agent.

(b) All agreements, contracts, deeds, leases, and other instruments of the Council for expenditures or obligations included in the adopted budget which provide for an expenditure of \$500.00 or less may be executed by the Council's on-site building manager. The Council's on-site building manager may execute agreements, contracts, deeds, leases, and other instruments of the Council for expenditures or obligations included in the adopted budget between \$500.01 and \$1,000.00 provided that the prior approval of the Board of Directors was given. The Council's on-site building manager may execute agreements, contracts, deeds, leases, and other instruments of the Council for expenditures or obligations in an amount up to \$1,000.00 in the event of an emergency situation without obtaining the Board of Directors' prior approval.

(c) Unless expressly provided otherwise in the Declaration or these Bylaws, all agreements, contracts, deeds, leases and other instruments of the Council must be executed by two (2) members of the Board of Directors, one of whom must be either the President or the Vice President.

(d) The Board of Directors shall establish operating accounts at its discretion. Any withdrawal of funds or issuance of checks from any operating account of the Council which exceeds \$5,000.00 (other than for an installment payment due on a contract previously approved

by the Board) shall require the written approval or signatures of two (2) individuals, which may consist of (a) an authorized officer or employee of the Managing Agent and the President or the Vice President or (b) two (2) Board members, one of whom must be either the President or the Vice President.

(e) The Board of Directors shall establish one or more accounts in which the funds of the Council's reserves shall be held. Any withdrawal of funds or issuance of checks from each reserve account of the Council shall require the written approval or signatures of two (2) Board members, one (1) of whom must be either the President or the Vice President.

**Section 9. Compensation for Officers.** The officers shall serve without compensation. Notwithstanding the foregoing, officers may be reimbursed for reasonable expenses incurred on behalf of the Council as shall be determined by the Board of Directors.

## **A r t i c l e   V**

### **Operation of the Condominium**

**Section 1. Fiscal Year.** The fiscal year of the Council shall be the calendar year unless otherwise determined by the Board of Directors.

**Section 2. Purpose of Assessments.** Amounts collected from Assessments for Common Expenses shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Units in the Condominium and specifically authorized from time to time by the Board of Directors. The payment of Assessments is for the mutual benefit and protection of all Unit Owners and may not be withheld by an Owner because of the Council's failure to perform services, an Owner's non-use of Common Areas or any other reason. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Council to comply with any law or ordinance or with the order or directive of any municipal or other governmental authority.

**Section 3. Management and Common Expenses** The Council, acting by and through its Board of Directors, shall manage, operate and maintain the Condominium, for the benefit of the Units and the Owners thereof, shall enforce the provisions hereof and may pay out of the Common Expense fund the following items, this list not being exhaustive but illustrative:

(a) The cost of providing water, sewer, garbage and trash collection, electrical, gas and other utility services for the Common Elements, including any swimming pool or other recreational facilities used by the Condominium and the Units.

(b) The cost of providing gas, electricity, water and sewer services to each Unit, except to the extent gas, electricity, water, or sewer services shall be supplied to each Unit

through individual meters.

(c) The cost of fire and extended liability insurance on the Condominium, the cost of such other insurance as the Council may deem necessary and the cost of the Treasurer's fidelity bond.

(d) The cost of the services of a person or firm to manage the Condominium and the cost of the services of such other personnel as the Board of Directors of the Council shall consider necessary for the operation of the Condominium.

(e) The cost of providing such legal and accounting services as may be considered necessary to the operation of the Condominium.

(f) The cost of painting, maintaining and repairing the Condominium, the cost of snow plowing on the Common Elements and the cost of such furnishings and equipment for the Common Elements as the Board of Directors shall determine are necessary and proper, and the Board of Directors shall have the exclusive right and duty to acquire the same; provided, however, that nothing herein contained shall require the Council to paint, repair or otherwise maintain any Unit or any fixtures or equipment located therein unless owned by the Council.

(g) The cost of repairing, maintaining, and replacing pathways, walkways, and roadways, and other costs required under certain covenants and declarations of easements binding upon the Council and/or Unit Owners.

(h) The cost of any and all other materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like which the Council is required to secure or pay for by law, or otherwise, or which in the discretion of the Board of Directors shall be necessary or proper for the operation of the Common Elements; provided, however, that if any of the aforementioned are provided or paid for the benefit of a particular Unit or Units, the cost thereof may be specially assessed to the Owner or Owners thereof and collected *in the same* manner as Assessments as provided in Article V of these Bylaws.

(i) The cost of the maintenance or repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the Common Elements, another Unit or Units, or to preserve the appearance or value of the Condominium or *is* otherwise in the interest of the general welfare of all Owners and the cost thereof shall be assessed against the Unit on which such maintenance or repair is performed. When any such costs are so assessed, a statement for the amount thereof shall be rendered to the Owner of said Unit, at which time the Assessment shall become due and payable and become a continuing lien and obligation of said owner in all respects as provided in this Article.

(j) Any amount necessary to discharge any lien or encumbrance levied against the Condominium or any portion thereof which may, in the opinion of the Board of Directors,

constitute a lien against any of the Common Elements rather than against the interest of the Owner of **an** individual Unit.

(k) Any amount necessary to pay real estate taxes or other governmental charges of whatever nature assessed on or against the Common Elements of the Condominium, and all other taxes and assessments levied against the Council or upon any property which it may own or it is otherwise required to pay, if any.

(I) Any amount deemed necessary or desirable by the Board of Directors to be placed in reserve as described in this Article.

**Section 4. Computation of Operating Budget and Assessment.** It shall be the duty of the Board of Directors, with the assistance and counsel of the Managing Agent, annually to prepare and adopt a budget covering the estimated costs of operating the Condominium during the coming year. The budget required to be prepared and adopted by the Board of Directors shall be in a format consistent with the classification of the accounts of the Council, and shall provide for sufficient estimates, on a monthly basis, to permit comparison to and analysis of deviations from the various periodic reports of the actual results of operations and the actual financial condition of the Council, on both a current *basis* and for prior corresponding periods, all in accordance with generally accepted accounting principles, consistently applied. Copies of the budget shall be available for examination by the Unit Owners and their duly authorized agents and attorneys, and by Mortgagees and their duly authorized agents and attorneys during normal business hours for purposes reasonably related to their respective interests.

Copies of the budget shall be furnished to each Owner at least thirty (30) days before its adoption by the Board of Directors and the budget shall be adopted at an open meeting of the Board of Directors. Each Owner shall be obligated to pay to the Council all Assessments levied against his or her Unit as established on the basis of the budget. Notwithstanding the foregoing, however, if the Board of Directors fails for any reason to determine the budget for the succeeding year, then, until such time as a budget shall have been adopted, as provided herein, the budget and Assessments in effect for the current year shall continue for the succeeding year until a new budget *is* adopted.

#### **Section 5. Payment of Common Expenses.**

(a) Each Unit Owner is obligated to pay to the Council: (1) the annual Assessments allocated to that Owner's Unit, (2) special Assessments adopted by the Board of Directors as allocated to that Owner's Unit, to be established and collected as herein provided, and (3) specific fines, charges or Assessments against that Owner's Unit which are established pursuant to the Declaration, these Bylaws, the Act or rules and regulations duly adopted by the Board of Directors, each as amended. All Assessments together with management charges, interest, costs, late charges (all at the maximum amount permitted by the Act or by law) and reasonable attorneys fees of not less than twenty percent (20%) of the unpaid monthly

installments shall be a charge on the Unit and shall be a continuing lien upon the Unit against which such Assessment is made and the Council may foreclose such lien in accordance with the procedures required by the Maryland Contract Lien Act, as amended, or by other applicable law. Such amounts shall also be the personal obligation of the person who was the Owner of such Unit at the time when the Assessments fell due and a suit to recover a personal money judgment may be maintained without foreclosing or waiving the lien allowed hereby.

(b) The amount of any annual Assessment or special Assessment levied against each Owner shall be in proportion to the Percentage Interest in the Common Expenses of the Council appurtenant to that Owner's Unit as set forth in the Declaration.

(c) Each Owner shall be liable for his or her portion of each Assessment coming due while he or she is the Owner of a Unit and his or her grantee shall be jointly and severally liable for such portion thereof *as may* be due and payable at the time of conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise determined by the Board of Directors, the annual Assessments shall be paid in monthly installments and shall be due and payable on the first day of each month.

(d) If a Mortgagee having a first mortgage of record obtains title to a Unit as a result of foreclosure or through the enforcement of any other remedies provided for in such mortgage, such Mortgagee, its successors and assigns shall not be liable for, and such Unit shall not be subject to a lien for the payment of Common Expenses assessed prior to acquisition of title to such Unit by such Mortgagee. The unpaid share of Common Expenses assessed prior to the acquisition of title to such Unit by such Mortgagee shall be collectible from all Unit Owners, including any purchaser at the foreclosure sale.

#### **Section 6. Non-Payment of Assessments.**

(a) Any Assessment levied pursuant to these Bylaws, or any installment thereof, which is not paid within fifteen (15) days after it is due shall bear interest at the maximum rate allowed by the Act.

(b) Any Assessment levied pursuant to these Bylaws, or any installment thereof, which is not paid within fifteen (15) days after it is due shall accrue a late charge in such amount as may be determined by the Board of Directors.

(c) The Council may file a lien against a Condominium Unit for unpaid Assessments, together with management charges, interest, costs, late fees (all at the maximum amount permitted by the Act or these Bylaws) and reasonable attorney's fees of not less than twenty percent (20%) of the unpaid amount after thirty (30) days written notice to the Unit Owner and in accordance with procedures set forth in Section 14-203, **Real Property Article, Annotated Code of Maryland, as amended.**

(d) If a Unit Owner fails to pay any monthly installment when due, the Council may accelerate the remaining installments pursuant to the requirements imposed by the Act so long as the Board of Directors notifies the Unit Owner that if the Unit Owner fails to pay the monthly installment within fifteen (15) days of the acceleration notice, full payment of the remaining annual Assessment will then be due and shall constitute a lien on the Unit as provided in this Article.

(e) The Council may initiate a personal suit against a Unit Owner to recover a money judgment for unpaid Assessments without foreclosing or waiving the lien securing the same and notwithstanding the pendency of any foreclosure proceedings.

(i) The Council may initiate legal proceedings to foreclose its lien securing the amount of the unpaid Assessments notwithstanding the pendency of any suit to recover a money judgment.

**Section 7. Special Assessments.** In addition to the regular Assessments authorized by this Article, the Board of Directors may levy in any year, a special Assessment or Assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement located upon or within the Condominium Project, including the necessary fixtures and personal property related thereto, or for such other purpose as the Board of Directors may consider appropriate. Written notice of any meeting called for the purpose of taking any action authorized under this Section shall be sent to all Unit Owners not less than ten (10) nor more than thirty (30) days in advance of the meeting. Upon written request of any Institutional Holder of a first mortgage, that holder shall be entitled to written notice of any such meeting and shall be permitted to designate a representative to attend and observe the meeting.

**Section 8. Reserves, and Contribution.** The Board of Directors shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements, all of which are Common Expenses. The Board of Directors shall engage the services of a licensed engineer at least every five (5) years to perform a reserve study of the Common Elements. The Board of Directors shall review the most recent reserve study performed by a licensed engineer on an annual basis and shall establish an annual reserve contribution in an amount sufficient to permit meeting the anticipated and unanticipated repair, replacement and major maintenance costs of the Council for the following fiscal year. The reserve contribution shall be fixed by the Board of Directors and included within the budget and Assessments as provided in this Article. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may be charged first against such reserves. Reserve funds shall be deposited in separate accounts with institutions, the accounts of which are insured by an agency of the United States of America (and the Board of Directors may authorize the depositing of funds in such an institution in excess of the limitations of such insurance if any portion of such funds are insured), or may, at the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

**Section 9. Additional Default.** Any recorded mortgage secured by a Unit may provide that any default by the mortgagor in the payment of any Assessment levied pursuant to the Declaration or these Bylaws, or any installment thereof shall likewise be a default in such mortgage (or the indebtedness or note secured thereby). Such mortgage may also provide that, in the event of any default thereunder, the Mortgagee shall have the right, at its option, exercised by notice in writing to the mortgagor and the Secretary of the Council of Unit Owners to cast the votes appurtenant to the Unit which is security for the repayment of the mortgage debt at all meetings of the Unit Owners. Failure to include such provisions in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the holder of the indebtedness or note secured thereby) by reason of the provisions of this Section shall not be altered, modified, or diminished by reason of such failure.

**Section 10. Statement of Common Expenses.** Upon request, the Board of Directors shall provide any Unit Owner, contract purchaser or Mortgagee a statement of the Common Expenses and all unpaid Assessments due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement.

## **Article VI**

### **Maintenance, Repair, Replacement and Other Common Expenses**

**Section 1. Council's Duty to Maintain and Repair.** The Council, by and through the Board of Directors, shall be responsible for the maintenance, repair and replacement of the Common Elements, the cost of which shall be charged to all Unit Owners as a Common Expense. Common Elements include but are not limited to the exterior supporting framework of the screens, windows, and sliding glass doors, but specifically exclude the windows, screens, sliding glass doors and frames attached thereto. If the maintenance, repair or replacement of the Common Elements is necessitated as a direct result of an Owner's negligence, misuse or neglect, or indirectly due to an Owner's failure to maintain and/or repair his or her Unit or any part thereof in a proper manner, then upon the affirmative vote of sixty percent (60%) of the members of the Board of Directors, the Unit Owner causing the necessity for such maintenance, repair or replacement of the Common Elements shall be responsible for the payment of such cost. Such cost will be treated as an Assessment for purposes of collecting the cost from the Unit Owner.

**Section 2. Unit Owner's Duty to Maintain and Repair.** Except for maintenance, repair and replacement requirements herein imposed upon the Council, if any, the Owner of any Unit shall, at his or her own expense, maintain, repair and replace all Unit components as defined in the Declaration and any and all equipment within his or her Unit, and shall perform normal maintenance on any Limited Common Elements appurtenant to such Unit and any portion of the Common Elements which the Board of Directors pursuant to any duly adopted Rules and Regulations has given him or her permission to utilize. Unit components include but are not limited to all mechanical, heating and air conditioning equipment and appurtenances located inside or outside a Unit and which are designed or installed to serve only that Unit. Unit components shall be maintained in good order, condition and repair and in a clean and sanitary condition.

Each Unit Owner is responsible for maintaining the good appearance of his or her Unit and shall do all repairs, maintenance, renovation, replacement, redecorating, painting and the like which may at any time be necessary. In addition to the foregoing, the Owner of a Unit shall, at his or her own expense, maintain, repair and replace any plumbing and electrical fixtures, water heaters, heating and air conditioning equipment, lighting fixtures, refrigerators, freezers, trash compactors, dishwashers, disposals, ranges and/or other equipment that may be in or defined as being part of or appurtenant to such Unit. Each Unit Owner shall also maintain, repair and/or replace windows, the balcony screens and sliding glass doors, including frames and any and all items or appurtenances in connection with the windows and balcony screen and glass sliding doors, regardless of whether such items are part of the Unit or a Common Element. In addition, each Unit Owner shall be responsible for all damage to any other Unit, to the covered parking spaces or to the Common Elements resulting from his or her negligence or failure to make any of the repairs required by this Section. Each Unit Owner shall perform his or her responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to The Board of Directors or the Managing Agent any defect or need for repairs for which the Council is responsible. The Council may, from time to time, through its Bylaws, accept the obligation to make certain repairs or perform maintenance services to facilities owned by a Unit Owner or a Limited Common Element serving one or more Units, and apportion the cost thereof as a Common Expense, or, in the alternative, may eliminate the repair and maintenance of facilities contained within the Units and require the Owners thereof to perform repair and maintenance at the expense of such Owners. The responsibility for meeting the requirements of governmental bodies which require maintenance, modification or repair of the Common Elements or undivided Unit Owner property shall fall upon the same persons as the responsibility for the maintenance and repair of the particular property concerned.

**Section 3. Additions, Alterations or Improvements by the Board of Directors.**

Whenever in the opinion of the Board of Directors, the Common Elements shall require additions, alterations or improvements costing in excess of twenty percent (20%) of the Council's gross annual income during any fiscal year, any borrowing or expenditures for such additions, alterations or improvements shall require a vote of the Unit Owners. Except in the event of an emergency, if the Board of Directors decides to borrow or expend funds for additions, alterations or improvements in an amount which exceeds ten percent (10%), but does not exceed twenty percent (20%), of the Council's gross annual operating income during any fiscal year, written notice of the Board of Directors' decision shall be provided to the Unit Owners at least forty-five (45) days prior to taking such action and the Owners may call a special meeting in accordance with the terms of these Bylaws for the purpose of opposing the borrowing or expenditure of such funds. If the cost of any such additions, alterations or improvements does not exceed ten percent (10%) of the Council's gross annual operating income during any fiscal year, the Board of Directors shall have the right to borrow and/or expend the funds required without the prior consent of, or notice to, the Unit Owners. Any costs incurred pursuant to this Section shall be payable by the Unit Owners as a Common Expense.

**Section 4. Additions Alterations or Improvements by the Unit Owners.** No Unit Owner shall make any structural addition, alteration or improvement in or to his or her Unit without the prior written consent of the Board of Directors or its designated committee, if any. No Unit Owner shall paint or alter the exterior of his or her Unit, including the doors and windows, without the prior written consent of the Board of Directors or its designated committee, if any. If the approval of any governmental entity is necessary as a condition precedent to any structural addition, alteration or improvement to a Unit by a Unit Owner, the Unit Owner shall be obligated to and be responsible for obtaining all required governmental approvals and if the application for such approvals requires execution by the Council, provided consent has been given by the Board of Directors or its designated committee, if any, then the application shall be executed on behalf of the Council by the Board of Directors only without, however, incurring any liability of any nature whatsoever on the part of the Board of Directors or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement or to any person having a claim for injury to person or damage to property arising therefrom.

**Section 5. Access at Reasonable Times.** The Board of Directors or its authorized designee shall have an irrevocable right to enter a Unit for the purposes of (a) making inspections; (b) correcting any condition originating within a Unit or on the Common Elements to which access is obtained through a Unit and threatening either another Unit or the Common Elements; or (c) performing maintenance, installations, alterations, repairs, replacements or improvements to the Common Element portions of the mechanical, plumbing, or electrical services within a Unit or elsewhere in the Condominium. Such entry shall be made during reasonable hours under the circumstances. If a Unit Owner fails to allow entry, then after at least two (2) notices to the Unit Owner, the Board of Directors may effect entry into the Unit by whatever reasonable means it deems appropriate under the circumstances, the cost of which shall be assessed against the Unit Owner and collected in the manner prescribed in these Bylaws for the collection of Assessments. In case of an emergency, such right of entry shall be immediate, whether or not the Unit Owner is present at the time. Each Unit Owner shall provide the Building Manager with a key to his or her Unit for the purpose of access as described in this Section. If damage is inflicted on the Common Elements or any Unit through which access is taken, the Unit Owner responsible for the damage or the Council, if it is responsible, is liable for the prompt repair of such damage.

**Section 6. Limitation of Liability.** The Council shall not be liable for any failure of water supply or other services obtained by the Council or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by a Unit Owner or any other person, or resulting from water, snow or ice which may leak or flow from or over any portion of the Common Elements, or from any pipe, drain, conduit, appliance, or equipment, or caused by or resulting from electrical outages. The Council shall not be liable to the Owner of any Unit for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements.

**Article VII**  
**Use Restrictions**

**Section 1. Authority.** The Condominium shall be used only for those uses and purposes set out in the Declaration, these Bylaws, and applicable Maryland and Montgomery County law. The Board of Directors shall have the authority to make and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Units and the Common Elements in accordance with the procedures outlined in the Act, as amended.

**Section 2. Prohibited Uses and Nuisances.**

(a) No noxious or offensive trade or activity shall be carried on within the Condominium or within any Unit, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners. Unit Owners shall exercise extreme care to avoid making unnecessary noise that may disturb others.

(b) There shall be no obstruction of any Common Elements. Nothing shall be stored upon any Common Elements without the approval of the Board of Directors. No garments, rugs or similar objects may be hung from or cleaned upon the balconies, windows or the exterior of the building or other Common Elements.

(c) No junk, inoperable or partially dismantled vehicle or other vehicle on which current registration plates and stickers are not displayed, shall be kept on any Common Element. No trailer, truck, commercial vehicle, camper, camper truck, house trailer, boat or the like shall be kept upon any Common Elements without approval of the Board of Directors; provided however that the Board of Directors may, in its discretion, designate areas for the keeping of such vehicles, or for motorcycles. No vehicle may remain parked and unmoved in any one parking space for more than twenty-one (21) continuous days without the consent of the Board of Directors or Building Manager. With the exception of minor maintenance, no repair or extraordinary maintenance of automobiles or other vehicles shall be performed upon any Common Element. The Board of Directors has the authority to adopt rules and regulations to regulate parking on the Common Elements and may institute a towing policy in accordance with applicable law to prevent abuses of parking privileges or for violations of the rules and regulations adopted to control parking.

(d) Nothing shall be done or maintained in any Unit or upon any Common Elements which will increase the rate of insurance on any Unit or the Common Elements, or result in the cancellation thereof. Nothing shall be done or maintained in any Unit or upon the Common Elements which would be in violation of any law. No waste shall be committed upon any Common Elements.

(e) No structural alteration, construction, addition or removal of any Unit or Common Elements shall be commenced or conducted except in strict accordance with the provisions of the Declaration or these Bylaws.

(f) No signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Elements, without the prior approval of the Board of Directors.

(g) No part of the Common Elements shall be used for other than residential housing and the related common purposes for which the Units were designed. The Board of Directors may permit temporary non-residential uses from time to time,

(h) No burning of any trash and no unsightly accumulation or storage of litter, new or used building materials, or materials or trash of any other kind shall be permitted within any Unit (including balconies and terraces) or upon any Common Elements. No littering is permitted.

(i) No structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be maintained upon any Common Elements at any time. Outdoor clothes lines shall not be maintained upon any Common Elements at any time.

(j) No outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission, shall be maintained upon any Unit or upon any Common Elements, other than the master antenna provided as part of the general Common Elements, without the prior written consent of the Board of Directors, No Unit Owner may install wiring for electrical or telephone installation, television antennae, machines or air-conditioning units on the exterior of a Unit or the Common Elements or which protrude through the walls or roof of a Unit or Common Elements except as authorized by the Board of Directors.

(k) The maintenance, keeping, breeding, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited within any Unit or upon any Common Elements.

(1) No Unit shall be used as a family day care home unless the establishment of family day care homes is approved by a vote of Unit Owners owning units to which at least fifty-one percent (51%) or more of the aggregate Percentage Interests appertain such vote having been conducted in accordance with these Bylaws.

**Section 3. Leases.** A Unit may be rented only in its entirety; no fraction or portion may be rented. No subletting of a Unit by tenants will be permitted. No transient tenants may be accommodated therein. Each Unit Owner interested in leasing his or her Unit shall enter into a written lease for an initial term of not less than six (6) months. Any Unit Owner who leases his or her Unit must, within five (5) business days after signing the lease, supply a copy of such executed lease to the Building Manager and provide the Building Manager with such information about the

tenant as the Board of Directors may reasonably require. The Unit Owner must give the tenant copies of the Declaration, these Bylaws, and any duly adopted rules and regulations. *If* the Unit Owner fails to provide these documents to the tenant, such copies, upon the tenant's request, will be made available to the tenant by the Council with all associated costs charged to the Unit Owner. Additionally, all Unit Owners leasing their units shall bind all lessees to the provisions of the Declaration, these Bylaws and any duly adopted rules and regulations by utilizing the Council's Standard Lease Addendum Form *maintained* by the Council's Building Manager and which includes the following provisions:

(a) All provisions of the Declaration, these Bylaws and any duly adopted rules and regulations which govern the conduct of Owners and which provide for sanctions against Owners shall apply to tenants. Each tenant shall agree to abide by and comply with all provisions of the Declaration, these Bylaws and any duly adopted rules and regulations. Each Owner agrees to cause all occupants of his or her Unit to comply with said documents, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of said documents in the same manner as an Owner. If the tenant, or a person living with the tenant, violates said documents and a fine is imposed, such fine shall be assessed against the Owner. Unpaid fines constitute a lien against the Unit. Any tenant charged with a violation of said documents is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

(b) Any violation of said documents is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the tenant in accordance with applicable law. The Owner hereby delegates and assigns to the Council, acting through the Board of Directors, the power and authority of enforcement against the tenant for breaches resulting from the violation of said documents, including the power and authority to evict the tenant on behalf of the Owner. If the Board of Directors elects to proceed to evict the tenant, any costs, including reasonable attorney's fees and court costs, associated with the eviction shall be specially assessed against the Unit and the Owner thereof; such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof

(c) Each tenant agrees to be personally obligated for the payment of all Assessments against the Owner which are owed during such tenants occupancy or which become due as a consequence of the tenant's activities, including, but not limited *to*, activities which violate any provisions of the Declaration, these Bylaws and any duly adopted rules and regulations. The above provision shall not be construed to release the Owner from any obligation, including the obligation for Assessments, for which such Owner would otherwise be responsible.

(d) If the Owner becomes delinquent in the payment of Assessments, upon request by the Council, such Owner's tenant shall pay to the Council all unpaid installments of annual Assessments and special Assessments; provided, however, the tenant need not make such payments to the Council in excess of; or prior to, the due dates for monthly rental payments

unpaid at the time of the Council's request. All such payments made by the tenant shall reduce, by the same amount, such tenant's obligation to make monthly rental payments to the Owner-lessor.

**Section 4. Parking Spaces.** All Common Element Parking Areas may be regulated by the Board of Directors and parking spaces may be assigned by the Board of Directors for use by individual Unit Owners or designated for other specific uses. Notwithstanding the foregoing, unassigned spaces or spaces designated for general use may be used **on** a "first come, first served" basis. No vehicle belonging to any Unit Owner, or to any guest or employee of any Unit Owner, shall be parked in a manner which unreasonably interferes with or impedes ready vehicular access to any other parking space. Each Unit Owner shall comply in all respects with such supplementary rules and regulations which the Board of Directors may from time to time adopt and promulgate with respect to parking and traffic control on the Condominium property, and the Board of Directors is hereby authorized to adopt such rules and regulations. The Board of Directors may enforce the provisions of this Section and all rules and regulations regarding parking against a Unit Owner for the Unit Owner's violations or the violations of the Owner's guests, family, agents, or licensees by the imposition of fines, by towing or by any other sanction available to the Board of Directors through the Declaration, these Bylaws, the Act or other applicable law. The Board of Directors may utilize all other reasonable means to enforce this provision including by way of example rather than by limitation, authorizing individual Unit Owners to have a vehicle towed if that vehicle is in a particular Unit Owner's assigned parking space, subject to any governmental requirements.

**Section 5. Storage Cubicles: Disclaimer of Liability.** The Board of Directors, the Council and any Unit Owner shall not be considered a bailee of any personal property stored on the Common Elements (including property located in storage cubicles and in vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to a Unit Owner for storage purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence.

## **Article VIII** **Insurance**

**Section 1. Master Policy.** The Council shall obtain and maintain at all times, as a Common Expense, insurance, including a casualty insurance policy or policies affording fire and extended coverage, as well as all risk perils, for and in an amount consonant with the full replacement cost (i.e., one hundred percent (100%) of current "replacement cost," excluding land, foundation, excavation, and other items normally excluded from coverage) of all structures

comprising the Condominium, and a liability insurance policy or policies in amounts not less than Two Million Dollars (\$2,000,000.00) per injury or injuries, including death, arising out of a single occurrence, and One Million Dollars (\$1,000,000.00) property damage, covering the Council, the Board of Directors, officers, all agents and employees of the Council, and all Unit Owners and other persons entitled to occupy any Unit or other portion of the Condominium. All such

insurance shall be written in the name of the Council as trustee for each of the Owners; provided, however, that the casualty insurance policy or policies shall contain a standard Mortgagee clause in favor of each Mortgagee of a Unit to the extent of the portion of the coverage of the policy or policies allocated to such Unit, which shall provide that the loss, if any, thereunder shall be payable (in addition to the Council) to such Mortgagee as its interest may appear. It shall be the duty of the Board of Directors annually to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Council and to satisfy the requirements of this Section. Such insurance shall run to the benefit of the Council, the respective Unit Owners, and their respective Mortgagees, as their interests may appear. The improvements, betterments and personal property, made or acquired by the individual Unit Owners shall be excluded from this required coverage, and each Owner shall have the right to obtain additional coverage for such improvements, betterments, or personal property at his or her own expense. The "structure," as insured by the master policy, shall be the building and Units therein as depicted on the plats and plans filed and recorded in accordance with the Act. Each of the policies of insurance obtained by the Council shall contain the following provisions, if available: (i) that they shall not be prejudiced by any act or neglect of any occupants or Unit Owners of the Condominium when such act or neglect is not within the control of the insured, or Unit Owners collectively, or (ii) that they shall not be prejudiced by failure of the insured, or Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or Unit Owners collectively, have no control.

(a) The Board of Directors shall utilize every reasonable effort to secure a master policy covering physical damage that will provide the following:

(1) That the insurer waives its rights of subrogation of any claims against the Council, the Board of Directors, officers, the Managing Agent, employees, the individual Owners and their respective household members, employees, agents and invitees. Independent contractors shall not be considered agents, employees or servants of the Board of Directors or of the respective Condominium Unit Owners within the meaning of said waiver, The policy shall also waive any defenses based on co-insurance or invalidity arising from the acts of the insured.

(2) That the master policy on the Condominium cannot be canceled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Council or the Managing Agent without a prior demand in writing delivered to the Council to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(3) That any "no other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation.

(4) That the master policy may not be canceled or substantially modified without at least thirty (30) days prior notice in writing to the Board of Directors.

(5) An agreed value or amount endorsement and waiver of co-insurance.

(6) That, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable when in conflict with the Declaration or these Bylaws.

(b) The Board of Directors shall use its best efforts, using good business judgment, to ensure that all policies of insurance shall be written with a company licensed to do business in the State of Maryland and holding a rating of A or better in the Financial Category as established by A.M. Best Company, Inc., or *the* highest rating under the evaluation system A.M. Best Company, Inc., should adopt in the future, if available, or, if not available, the best rating available. The company shall provide insurance certificates to each owner and each mortgagee, upon request.

(c) In no event shall the insurance coverage obtained and maintained by the Council hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees.

(d) All public liability and officers' and directors' liability insurance shall contain a cross liability endorsement.

**Section 2. Additional Insurance Requirements.** In addition to the insurance required above, the Board of Directors shall obtain as a Common Expense:

(a) Worker's compensation insurance if and to the extent necessary to meet the requirements of applicable law.

(b) Public liability and officers' and directors' liability insurance in such amounts as the Board of Directors may determine, but in no event less than that set out in Section I above. Such insurance shall contain a cross liability endorsement.

(c) Fidelity bonds covering officers, directors, employees, and other persons, including the Managing Agent and all of its principals and employees. Such bonds shall be written in an amount equal to at least three (3) months receivables from Assessments and special Assessments and one hundred percent (100%) of reserves, as determined by the auditor's balance sheet, which shall include both actual cash and invested reserves, and shall contain waivers of any defense based upon the exclusion of persons serving without compensation and shall include the Managing Agent and all principals of the Managing Agent.

(d) Such other insurance as the Board of Directors may determine to be necessary.

**Section 3. Unit Insurance.** Insurance carried by the Council as a Common Expense shall not include any part of a Unit not depicted on the original plats and plans, nor shall the Council include public liability insurance for individual Owners for liability arising within a Unit.

Each Unit Owner may obtain insurance at his or her own expense affording coverage against (a) damage to or destruction of his or her Unit or any of his or her personal property located anywhere on the Condominium, and (b) personal liability incurred by such Unit Owner and arising out of the use of his or her Unit by any person, but each policy which affords such coverage shall contain the same waiver of subrogation by the insurer as that referred to in the provisions of Section 1 of this Article, and shall either (a) provide that the insurer has no right of contribution against any casualty insurance affording coverage against such risk held pursuant to the provisions of this Article (notwithstanding that such Unit Owner may be an insured thereunder) or (b) be written by the same carrier as that of such insurance held by the Council.

If a loss is sustained and the amount of the proceeds which would otherwise be payable under any policy of insurance then held by the Council pursuant to the provisions of Sections 1 and 2 of this Article is reduced because of proration of, or right of contribution from, any insurance against the same risk held by any Unit Owner wider the provisions of this Section, such Unit Owner shall assign to the Council any proceeds of his or her insurance which are payable on account of such loss, to the extent of the amount of such reduction, and the amount so assigned shall be distributed by the Council in the same manner as that prescribed by these Bylaws for distribution of the proceeds payable under the policy held by the Council.

#### **Section 4. Proceeds of Insurance.**

(a) The Council shall receive any proceeds payable under any policy of insurance held by it pursuant to the provisions of this Article, and shall hold and distribute said proceeds in trust for the purposes set forth in these Bylaws, for the benefit of the Unit Owners, their respective insured Mortgagees, the Council and any other insured thereunder.

(b) The Council shall not make any distribution of any such proceeds directly to a Unit Owner where a Mortgagee endorsement is noted on the certificate of insurance covering such Unit Owner, but shall only make any such distribution jointly to such Unit Owner and his or her Mortgagee jointly.

(c) Each Unit Owner shall be deemed to have delegated to the Council his or her right to adjust with the insurer all losses payable under policies purchased by the Council.

**Section 5. Repair and Re;pnatruction.** In the event of damage to or destruction of all or any part of the Condominium as a result of fire or other casualty, and subject to the terms of the Act, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure in accordance with the original plats and plans. if a first Mortgagee shall request in writing that it be provided written notice of the damage, the Council shall provide such notice. Nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any Unit.

The procedure for repair and reconstruction shall be:

(a) **Cost Estimates.** Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to a condition as good as that existing before such casualty, if permitted by appropriate governmental authority. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) **Source and Allocation of Proceeds.** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, Assessments shall be made against all of the Unit Owners. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Council to be used as determined by the Board of Directors.

(c) **Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Condominium was originally constructed.

(d) **Encroachment.** Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(e) **Construction Fund.** The net proceeds of the insurance collected on account of a casualty and the funds collected by the Council from Assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Article.

(f) **Method of Disbursement.** The construction fund shall be paid by the Council in appropriate progress payments to contractors, suppliers, and personnel performing the work or supplying materials or services for the repair and reconstruction of the building as are designated by the Board of Directors.

(g) **insurance Deductibles.** If repair is required as a result of an insured loss, the amount of the deductible shall be treated as if it were a maintenance expense and shall be assessed against the person or persons who would be responsible for such repair in the absence of insurance as set forth in these Bylaws or by the negligent party and shall be collectible as an Assessment pursuant to these Bylaws. If the maintenance responsibility cannot be determined by

the Board of Directors and if the loss affects more than one Unit or affects a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board of Directors among the parties suffering loss in accordance with the total cost of repair.

**Section 6. Restoration Not Required.** Any portion of the Condominium property damaged or destroyed shall be repaired or replaced promptly by the Council unless:

- (a) The Condominium regime is terminated;
- (b) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or
- (c) If more than two-thirds (2/3) of the entire Condominium Project is substantially damaged or destroyed by fire or other casualty and Owners owning at least eighty percent (80%) of the total value of the Condominium Project resolve not to proceed with repair or reconstruction.

If the entire Condominium is not repaired or replaced:

- (i) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium;
- (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and to the Owners of Units to which any Limited Common Elements were assigned; and
- (iii) the remainder of the proceeds shall be distributed to all Unit Owners in proportion to their Percentage Interest.

**Section 7. Reallocation of Interest of Unrepaired Unit.** If the Unit Owners vote not to rebuild any Unit, that Unit's entire Percentage Interest, votes in the Council and Common Expense liability shall be automatically reallocated as if the Unit had been condemned and the Council shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations\_

**Section 8. Liability and Indemnification of Officers and Directors.** The Council shall indemnify every officer, director, committee member and volunteer of the Council against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, committee member, and volunteer of the Council in connection with any action, suit, or other proceedings (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director, committee member and volunteer of the Council except for his or her

own willful misfeasance or malfeasance or fraud, whether or not such person is an officer, director, committee member or volunteer of the Council at the time such expenses are incurred. The officers, directors, committee members, and volunteers of the Council shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own individual willful misfeasance or malfeasance. The officers, directors, committee members and volunteers of the Council shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Council (except to the extent that such officers, directors, committee members and volunteers of the Council may also be members of the Council) and the Council shall indemnify and forever hold each such officer, director, committee member and volunteer of the Council free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, committee member, volunteer of the Council or former officer, director, committee member or volunteer of the Council may be entitled. The Council shall as a Common Expense maintain adequate general liability and officers' and directors' liability insurance and fidelity bond insurance to fluid this obligation and the insurance shall be written as provided in these Bylaws.

## **Article IX**

### **Compliance and Default**

**Section 1, Enforcement Procedure.** The Board of Directors or dispute settlement committee shall not impose a fine, suspend voting, or infringe upon any rights of a Unit Owner or other occupant for violation of the Declaration, these Bylaws or any duly adopted rules and regulations unless and until the procedures of the Act, as amended, are followed. The Council may not initiate legal action against a Unit Owner nor may a Unit Owner initiate legal action against the Council without first submitting such dispute to the Montgomery County Commission on Common Ownership Communities, if in existence, if such dispute is one that arises out of or relates to any breach or violation of the Declaration, these Bylaws or any duly adopted rules and regulations and if such dispute is within the jurisdiction of the said Commission.

**Section 2. No Waiver of Rights.** The failure of the Council, the Board of Directors or a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws, any duly adopted rules and regulations or the Act shall not constitute a waiver of the right of the Council, the Board of Directors or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Council, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws, any duly adopted rules and regulations or the Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising *such* other privileges as may be granted to such party by the Declaration, these Bylaws, any duly adopted rules and regulations or the Act or at law or in equity.

**Section 3. Relief.** Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these Bylaws, any duly adopted rules and regulations and the Act as any of the same may be amended from time to time. Failure to comply with any of the terms of the Declaration, these Bylaws and any duly adopted rules and regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all Assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Council, the Board of Directors, the Managing Agent or, if appropriate, by any aggrieved Unit Owner and shall not constitute an election of remedies.

**Section 4. Enforcement.** The Board of Directors or its designated committee shall have the power to enforce the Declaration, these Bylaws and any duly adopted rules and regulations as follows:

(a) To impose reasonable fines which shall constitute a lien upon a Unit after notice and an opportunity to be heard in accordance with the Act, as amended, and to collect such fines in the same manner as Assessments pursuant to these Bylaws. Each day of a continuing violation may be considered a separate violation.

(b) To suspend an Owner's rights to use the recreational Common Elements and an Owner's right to vote after notice and an opportunity to be heard in accordance with the Act, as amended.

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

(d) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of such breach.

Nothing herein contained shall be construed to limit the Council's right to any other additional remedies at law or in equity available to it to enforce the Declaration, these Bylaws or any duly adopted rules and regulations. The remedies contained herein shall be construed as cumulative of the Council's other rights of enforcement at law or in equity or any other remedies available to the Council.

**Section 5. Costs and Attorney's Fees.** In any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees as may be determined by a court or the Montgomery County Commission on Common Ownership Communities.

**A r t i c l e X**  
**Amendment**

**Section 1. Unit Owner Approval.** Except as otherwise provided herein or as otherwise may be specified in the Act, these Bylaws may be modified or amended either (1) by a vote by the Unit Owners of at least two-thirds (2/3) of the Aggregate Percentage Interests or the minimum vote required by the Act, as amended, of the votes appertaining to all of the Units, present in person or by proxy, at any regular or special meeting of the Council duly called for such purpose, or (ii) pursuant to a written instrument duly executed by the Unit Owners having at least two-thirds (2/3) of the Aggregate Percentage Interests or the minimum vote required by the Act, as amended, of the votes appertaining to all of the Units. No amendment shall become effective until it is recorded among the Land Records for Montgomery County, Maryland. The amendment shall be accompanied by a certificate of the person specified in the Bylaws to count votes at the meeting of the Council that the amendment was approved by the Unit Owners having at least two-thirds (2/3) of the Aggregate Percentage Interests or the minimum vote required by the Act, as amended, of the Percentage Interest in the Condominium. Amendments may be proposed by the Board of Directors or by petition signed by Owners representing at least twenty-five percent (25%) of the Percentage Interest of the Condominium. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which a vote of such proposed amendment is to be taken.

**Section 2. Mortgagee Approval.** These Bylaws contain provisions concerning various rights, priorities, remedies and interests of the Mortgagees of Units. Such provisions in these Bylaws are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by mortgages on the Units. Accordingly, all first Mortgagees shall be given thirty (30) days notice of all proposed amendments of a material nature, and no amendment or modification of a material provision of these Bylaws impairing or affecting the rights, priorities, remedies or interests of a Mortgagee (including the Mortgagee's use of a secondary mortgage market, i.e., the salability of mortgages to Mortgage Guaranty Insurance Corporation, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, etc.) shall be adopted without the consent of fifty-one percent (51%) of the first Mortgagees. The consent of any Mortgagee, other than the one holding the first mortgage, shall not be required.

A change to any of the following items would be considered material:

- (a) Voting;
- (b) Assessments, assessment liens, or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of the Common Elements (or Units, if applicable);

- (d) Reduction in insurance or fidelity bonds;
- (e) Rights to use of the Common Elements;
- (f) Responsibility for maintenance and repair of the several portions of the Condominium;
- (g) Expansion or contraction of the Condominium or the addition, annexation, or withdrawal of property to or from the Condominium;
- (h) Boundaries of any Unit;
- (i) The interests in the Common Elements or Limited Common Elements;
- (j) Convertibility of Units into Common Elements or of Common Elements into Units;
- (k) Prohibition or restriction on the leasing of Units;
- (l) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer or otherwise convey his or her Unit;
- (m) Any provisions which are for the express benefit of mortgage holders, eligible holders, insurers, or guarantors of mortgages on Units.

## A r t i c l e X I M i s c e l l a n e o u s

**Section 1. Severability.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or affect of the balance of these Bylaws.

**Section 2. Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof

**Section 3. Compliance.** These Bylaws are set forth in compliance with the requirements of the Act, as amended.

**Section 4. Conflicts.** In the event of conflicts between the Act, the Declaration, and these Bylaws, the Act and the Declaration shall control, in that order. All of the terms hereof; except where clearly repugnant to the context, shall have the same meaning as in the Declaration or the Act, as amended.

**Section 5. Gender and Grammar.** Reference to the masculine gender shall be deemed to include the feminine gender, wherever the same may be appropriate, and the plural shall be substituted for the singular or the singular substituted for the plural in any place herein **in** which the context may require substitution.

IN WITNESS WHEREOF, the undersigned officers of Chelsea Tower Condominium Council of Unit Owners, Inc. hereby consent to and approve the above Amended and Restated Bylaws of Chelsea Tower Condominium Council of Unit Owners, Inc. and hereby certify that the Amended and Restated Bylaws were duly adopted by the Council and its members pursuant to the terms of the Bylaws and the Maryland Condominium Act.

CHELSEA TOWER CONDOMINIUM  
COUNCIL OF UNIT OWNERS, INC.

By:   
President

Attest:   
Secretary

**STATE OF MARYLAND  
COUNTY OF MONTGOMERY**

I, **Judith M. Burd**, a Notary Public in and for the State of Maryland do hereby certify that **(Marla Davis)**, who is personally well known to me as the person named as the President of the Chelsea Tower Condominium Council of Unit Owners, Inc. in the foregoing Amended and Restated Bylaws, personally appeared before me in said jurisdiction and as President, as aforesaid, and by virtue of the authority vested in him/her, acknowledge the Amended and Restated Bylaws to be the act and deed of said Council.

GIVEN under my hand and seal this \_\_\_\_\_ day of N. lik/ML..., 1997.

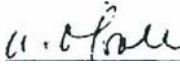
  
\_\_\_\_\_  
Notary Public

My Commission expires: January 1, 2008

CERTIFICATE OF SECRETARY OF CHELSEA TOWER  
CONDOMINIUM COUNCIL OF UNIT OWNERS, INC.

In accordance with Section 11-104 of the Real Property Article of the Annotated Code of Maryland and in accordance with Article VIII, Section 1 of the Bylaws of Chelsea Tower Condominium Council of Unit Owners, Inc., the Secretary, as the person authorized to count votes of the Owners, hereby certifies that the Amended and Restated Bylaws to which this Certificate is attached was approved by Unit Owners having at least sixty-seven percent (67%) of the votes of the Council. This certificate is recorded for the purpose of conforming to Section 1 iO4 of the aforementioned Act and hereby accompanies the Amended and Restated Bylaws for Chelsea Tower Condominium Council of Unit Owners, Inc.

By:

  
Secretary

Attest:

  
President