

**BYLAWS**

**AVALON VILLAGE HOMEOWNER'S ASSOCIATION, INC.**

**EUGENE, OREGON**

**(Established 1998)**

## ARTICLE I - BOARD OF DIRECTORS

1.1 **General Powers.** The business and affairs of the Owners' Association shall be managed by its Board of Directors. The directors shall in all cases act as a board, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Owners' Association as they may deem proper, not inconsistent with this Declaration and the laws of the State of Oregon. The Owners' Association Board of Directors shall also have the rights, duties and obligations specified in this Declaration.

1.2 **Number, Tenure, and Qualifications.** Upon the creation of the Association, the Declarant shall appoint three (3) interim directors who shall serve until replaced or until successors have been elected by the Association as provided herein. All directors must be either the owner or the co-owner of a Lot. An officer or employee of a corporation, or the trustee of a trust, or personal representative of an estate, or an employee of the trust or estate may serve on the Board of Directors, if the corporation, trust or estate owns a Lot.

1.3 **Election and Term of Office.** At the turnover meeting called pursuant to ORS 94.616 and Article 6 of the Declaration of Covenants and Restrictions for Avalon Village Homeowners' Association, the interim directors shall resign and at least three (3) but no more than ten (10) successors shall be elected; at least fifty percent (50%) to serve until the next annual meeting and the remainder to serve until the second annual meeting. Elected directors will serve for a two year term and are eligible for re-election. Directors shall hold office until their respective successors have been elected by the Lot Owners. Election shall be by plurality.

1.4 **Management Agent.** The Board of Directors may employ a management agent, to be compensated in an amount established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize.

1.5 **Interim Directors.** Upon the filing of the Declaration, the Declarant hereby appoints the following interim board of three (3) directors, who shall serve until replaced by the Declarant or its successors have been elected by the Lot Owners at the turnover meeting:

Michael Foote  
Douglas Webber  
Cindy Helmstead

1.6 **Annual Meetings.** Annual meetings of the directors shall be held at the office of the registered agent listed in the Articles of Incorporation during the month of July of each calendar year, or such other place as the directors decide. All meetings of the Board of Directors are open to Lot Owners, however no Lot Owner shall have a right to participate in Board of Directors meetings unless such Lot Owner is also a member of the Board of Directors. The president shall have authority to exclude any Owners' Association member who disrupts the proceedings at a meeting of the Board of Directors. All meetings of the Board of Directors or its

committees shall be conducted in accordance with the most recent version of Robert's Rules of Order.

**1.7 Special Meetings.** Special meetings of the directors may be called by or at the written request of the president or any three (3) directors. The person or persons authorized to call special meetings of the directors may fix the place for holding any special meeting of the directors called by them.

**1.8 Emergency Meetings.** Emergency meetings may be held, without notice, if the reason for the emergency meeting is stated in the minutes of the meeting and such emergency meeting may be held by telephonic communication.

**1.9 Notice.** Notice of any special or annual meeting shall be given at least fourteen (14) days previously thereto by written notice delivered personally, or by telegram or mailed to each director at his or her business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with proper postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and such director must file a written dissent with the person acting as secretary of the meeting before the adjournment or forward such dissent by registered mail to the secretary of the Owners' Association immediately after adjournment of the meeting.

**1.10 Quorum.** At any meeting of the directors, a majority of the total directors shall constitute a quorum. If any gathering of the directors is not a legal meeting because a quorum has not attended, the directors who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than ten (10) days from the time the original meeting was called.

**1.11 Manner of Acting.** Each director shall have one (1) vote. The act of the majority of the directors present at a meeting at which a quorum is present shall constitute a binding vote. However, the act of a single director present at a meeting at which a quorum is present shall not be the act of the directors unless a majority of the directors in office vote in favor of authorizing such act. However, the director representing Declarant shall have an effective veto over any action approved and proposed by the Board of Directors and such veto shall be effective without the authorization of a majority of directors. A tie vote does not constitute a majority or approval of any motion or resolution.

**1.12 Proxy.** At all meetings, a director may vote by written proxy executed and signed by the director or may vote by sending a duly authorized representative. With regard to proxies, such proxy shall be filed with the secretary of the Owners' Association before the time of any annual or special meeting. A director must be given seven (7) days prior notice of the

name and address of a person he or she authorizes to represent him or her at any meeting of the directors.

**1.13 Newly Created Directorships and Vacancies.** Newly created directorships resulting from an increase in the number of directors and vacancies occurring in the board for any reason may be filled by the respective Owner or Declarant within a reasonable period of time. The Board of Directors shall fill a vacancy caused by resignation, death or removal. The Board of Directors will fill the vacancy by a majority vote of the directors in office and the newly elected director shall hold office for the unexpired portion of his or her predecessor's term.

**1.14 Removal of Directors.** Any of, or all of, the directors may be removed only for cause by a binding vote of the board.

**1.15 Resignation.** A director may resign at any time by giving written notice to the board, the president or secretary of the Owners' Association. Unless otherwise specified in the notice, the resignation shall take effect at the date specified in the notice or if such date is not specified, then, upon receipt thereof by the board or such officer. The acceptance of the resignation shall not be necessary to make it effective.

**1.16 Compensation.** No compensation shall be paid to directors, as such, for their services, but by resolution of the board a fixed sum and expenses for actual attendance at each regular or special meeting of the board may be authorized. Nothing herein contained shall be construed to preclude any director from serving the Owners' Association in any other capacity and receiving compensation therefor.

**1.17 Presumption of Assent.** A director of the Owners' Association who is present at a meeting of the directors at which action on any Owners' Association matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Owners' Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

**1.18 Executive and Other Matters.** The Board, by resolution, may designate from among its members an executive committee and other committees, each consisting of three (3) or more directors. Each such committee shall serve at the pleasure of the Board.

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

1.19.1 Care, upkeep and supervision of the Common Property.

1.19.2 Establishment and maintenance of replacement reserve accounts and other reserves which are required to be maintained by the Oregon Planned Community Act, the Declaration or these Bylaws and such other reserve accounts as are permitted by these Bylaws.

1.19.3 Designation and collection of monthly assessments from the Owners, in accordance with these Bylaws, the Declaration and the Oregon Planned Community Act.

1.19.4 Establishment of a budget and payment of all common expenses of the Association and institution and maintenance of a voucher system for such payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of Association funds.

1.19.5 Obtaining and maintaining insurance policies and payment of premiums therefor out of the common expense funds in respect to both the Common Property and Living Units as more specifically provided in Article 5 of these Bylaws.

1.19.6 Designation and dismissal of the personnel necessary for the maintenance and operation of the Project.

1.19.7 Causing the preparation and distribution of annual financial statements of the Association to each of the Owners..

1.19.8 Adoption and amendment of administrative rules and regulations governing the details of operation and use of the Common Property. Provided, however, any such rules or regulations shall always be subject to rescission or amendment by the Association upon majority vote of Owners present at any properly called meeting.

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

## ARTICLE II - OFFICERS

2.1 Number. The principal officers of the Owners' Association shall be a president, a secretary and a treasurer, each of whom shall be elected by and from the Board of

Directors. Such other officers and assistant officers as may be deemed necessary may be elected by the directors.

**2.2 Election and Term of Office.** The officers of the Owners' Association shall be elected annually at a meeting of the directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he or she shall resign or shall have been removed in the manner herein provided.

**2.3 Removal of Officers.** Any officer or agent elected or appointed by the directors may be removed by the directors whenever in their judgment the best interests of the Owners' Association would be served thereby, such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**2.4 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the directors for the unexpired portion of the term.

**2.5 President.** The president shall be the principal executive officer of the Owners' Association and, subject to the control of the directors, shall in general supervise and control all the business and affairs of the Owners' Association, including the filing of liens for unpaid assessments in accordance with the Declaration and the enforcement activities of the Owners' Association. He or she shall, when present, preside at all meetings of the directors. He or she may sign, with the secretary or any other proper officer of the Owners' Association thereunto authorized by the directors; any deeds, mortgages, bonds, contracts, or other instruments which the directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the directors or by this Declaration to some other officer or agent of the Owners' Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the directors from time to time.

**2.6 Secretary.** The secretary shall keep the minutes of the Board of Directors' meetings and all other meetings of the Owners' Association in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of this Declaration or as required, be custodian of the Owners' Association records, regulations, rules and resolutions, and of the seal of the Owners' Association, and keep a register of the post office address of each director which shall be furnished to the secretary by each director, and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him or her by the president or by the directors.

**2.7 Treasurer.** If required by the directors, the treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the directors shall determine. He or she shall have charge and custody of and be responsible for all funds and securities of the Owners' Association; receive and give receipts for moneys due and

payable to the Owners' Association from any source whatsoever, including assessments, and deposit all such moneys in the name of the Owners' Association in such banks, trust companies or other depositories as shall be selected in accordance with this Declaration. The treasurer shall be responsible for the collection of periodic assessments to be collected. Further, the treasurer shall record the assessments due and paid and shall prepare quarterly reports reflecting the Owners' Association's assets, including the assessments due and paid and shall mail or otherwise provide a copy of the quarterly reports to each director. In general, the treasurer shall perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him or her by the president or the directors.

2.8 **Salaries.** The salaries of the officers shall be fixed from time to time by the directors and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a director of the Owners' Association.

2.9 **Other Duties, Obligations and Rights.** The officers shall have all the duties, obligations and rights specified in the Declaration as well as those specified herein.

### ARTICLE III - CONTRACTS, LOANS, CHECKS AND DEPOSITS

3.1 **Contracts.** The directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Owners' Association, and such authority may be general or confined to specific instances.

3.2 **Loans.** No loans shall be contracted on behalf of the Owners' Association and no evidence of indebtedness shall be issued in its name unless properly authorized by a majority vote of the directors in office. Such authority may be general or confined to specific instances.

3.3 **Checks, Drafts, etc.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Owners' Association shall be signed by such officer or officers, agent or agents of the Owners' Association and in such manner as shall from time to time be determined by resolution of the directors.

3.4 **Deposits.** All funds of the Owners' Association not otherwise employed shall be deposited from time to time to the credit of the Owners' Association in such banks, trust companies or other depositories as the directors may select.

### ARTICLE IV - MAINTENANCE

**4.1 Annual Resolution.** The Board of Directors shall adopt annually a resolution reflecting the current year plan for maintenance of Avalon Village Common Property. The president of the Owners' Association shall implement this plan and the treasurer shall pay for the common expenses from Owners' Association funds collected. The annual plan shall comply with Article 3 (General Plan of Development) and Article 7 (Common Property) of the Declaration of Covenants and Restrictions for Avalon Village Homeowner's Association.

**4.2 Repairs and Maintenance.** Repairs of Common Property shall be performed on an "as needed" basis and the president of the Owners' Association is authorized to initiate all repairs which are estimated at less than Two Thousand Dollars (\$2,000) in expense. All repairs estimated at Two Thousand Dollars (\$2,000) or more in expense shall be initiated by the president of the Owners' Association only after a majority of the directors have adopted a resolution specifically authorizing the repair. Expenses for repair shall be paid by the treasurer of the Owners' Association from the Owners' Association funds received as assessments consistent with this Declaration. In order to implement maintenance resolutions and repairs, the president shall employ any personnel reasonably necessary to properly effect said maintenance and repair.

## ARTICLE V - INSURANCE

**5.1 Board Authority.** The Board of Directors of the Owners' Association shall obtain and maintain at all times insurance of the type and kind and in the amounts hereinafter provided, and including insurance for such other risks of a similar or dissimilar nature as are or shall hereafter customarily be covered with respect to other planned communities similar in construction and design, which insurance shall be governed by the provisions in this Article.

**5.2 Types of Insurance Policies.** For the benefit of the Owners' Association and the Lot Owners, the Board of Directors shall obtain and maintain at all times and shall pay for out of the common expense funds the following insurance, to the extent available at reasonable cost:

**5.2.1** A policy or policies insuring the Owners' Association, its Board of Directors and the Lot Owners individually against any liability to the public or the Owners and their invitees, tenants or occupants incident to the ownership, supervision, control or use of the Common Property. Limits of liability under such insurance shall be determined by the Board. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000) per occurrence for bodily injuries and property damage liability. Such limit and coverage shall be reviewed at least annually by the Board of Directors which may increase the limit of and/or coverage, in its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsements wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.



5.2.2 A fidelity bond naming such persons as may be designated by the Board of Directors as principals and the Owners' Association and the Lot Owners as obligees, for the amount determined by the Board of Directors. Provided, however, the Board of Directors shall require that all officers and employees of the Owners' Association handling or responsible for Owners' Association funds obtain adequate fidelity bonds. The premiums on such bonds shall be paid by the Owner's Association.

5.2.3 A fire and casualty policy or policies insuring the Owners' Association, its Board of Directors and the Lot Owners individually against any liability to the public or the Owners and their invitees, tenants or occupants caused by fire or other reasonably foreseeable occurrences, incidents or events which are commonly covered by fire and casualty policies insuring developments similar to the planned community called Avalon Village. Limits of liability under such insurance shall be determined by the board. Such limit and coverage shall be reviewed at least annually by the Board of Directors which may increase the limit of and /or issued on a comprehensive liability basis and shall provide cross liability endorsements wherein the rights of the named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

5.2.4 The Owners' Association shall not be responsible for any loss or damage to personal property of any Lot Owner, whether stored on the Common Property or in a Lot. Nor shall the Owners' Association be required to maintain any insurance coverage for such loss.

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

5.2.6 Errors and omissions liability insurance as authorized by ORS 65.411 for current and former directors and officers in the amount of \$500,000.

5.3 **Insurance Companies Authorized.** All policies shall be written by a company licensed to do business in Oregon and holding a "commissioner's rating" of "A+" and size rating of "AAA" or better by Best's Insurance Reports or as may be otherwise acceptable to all mortgagees and directors.

5.4 **Authority to Adjust Losses.** All losses under policies hereafter in force regarding the Property shall be settled exclusively with the Board of Directors or its authorized representative; provided, however, that where a first mortgagee has been designated as a loss payee by an Owner, such mortgagee shall be entitled to settle losses as to the Lot, provided that the loss which occurs is severable. Releases and proofs of loss shall be executed by at least two (2) directors.

5.5 **Prohibition of Contribution.** In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with

insurance purchased by any Owner or mortgagee.

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

**5.6.1** A waiver of subrogation by the insurer as to any claims against the Board of Directors, officers, the Lot Owners and their respective servants, agents and guests.

**5.6.2** A provision that the master policy cannot be canceled, invalidated or suspended on the account of any one or more Lot Owners or employee(s) of the Owners' Association Board of Directors, officers of the Owners' Association, employees of the Owners' Association or the Declarant or any agent of any part set forth herein.

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

**5.6.4** A provision that any "no other insurance" clause in the master policy exclude individual Lot Owner's policies.

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

## ARTICLE VI - DAMAGE AND DESTRUCTION

**6.1 Insurance Proceeds Sufficient to Cover Loss.** In case of fire, casualty or other damage and destruction, the insurance proceeds of the master insurance policy, if sufficient to reconstruct the damaged or destroyed building, shall be applied to such reconstruction. Reconstruction of the damaged or destroyed building, as used in this paragraph, means restoring the building to substantially the same condition in which it existed prior to the fire, casualty or disaster. Such reconstruction shall be accomplished under the direction of the Board of Directors.

**6.2 Insurance Proceeds Insufficient to Cover Loss.** If the insurance proceeds are insufficient to reconstruct the damaged or destroyed building, the damage to or destruction of such building shall be promptly repaired and restored by the Board of Directors using the proceeds of insurance, if any, on the building for that purpose and all the Lot Owners shall be liable for assessment for any deficiency for such reconstruction with regard to such assessment to take into consideration as the Lot Owners' contributions any Lot Owners policy insurance proceeds provided.

## ARTICLE VII - FINANCIAL STATEMENTS, BUDGET AND RECORDS

7.1 **Financial Statements.** Within ninety (90) days after the end of the fiscal year, the Board of Directors shall distribute to each Lot Owner and, upon written request, any mortgagee, a copy of the annual financial statement consisting of a balance sheet and income and expense statement for the preceding fiscal year.

7.2 **Budget.** As set forth in this Declaration, the Board of Directors shall draft and approve an annual budget for the forthcoming fiscal year at least sixty (60) days prior to the expiration of each fiscal year. The annual budget shall be amended by a majority vote of the directors in office voting in favor of the budget amendment.

7.3 **Records.** The Board of Directors shall keep detailed records of the actions of the Board of Directors, including minutes of the meetings of the Board of Directors and minutes of the meetings of the Owners' Association. The Board of Directors shall also keep detailed and accurate financial records in chronological order of the receipts and expenditures of common obligations or of individual obligations for which the Board of Directors is serving as the conduit for payment of expenses. The Board of Directors shall also maintain an assessment roll in which there shall be an account for each Lot Owner. Such account shall designate the name and address of the Lot Owner, the amount of each assessment, the dates and amounts on which the assessment becomes due, the amounts paid upon the account and the balance due on the assessment.

## ARTICLE VIII - INDEMNIFICATION

8.1 **Indemnification of Directors, Officers, Employees and Agents.** The Owners' Association shall indemnify any director, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Owners' Association) by reason of the fact that he or she was a director, officer, employee or agent of the Owners' Association or is or was serving at the request of the Owners' Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he or she acted in good faith and in a manner he or she reasonably believed in, or not opposed to, the best interest of the Owners' Association and, with respect to any criminal action or proceedings, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement conviction, or with a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he or she reasonably believed in, or not opposed to the best interests of the Owners' Association and, with respect to any criminal action or proceedings, had reasonable cause to believe his or her conduct was unlawful. Payment under

this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Owners' Association, should it be proven at a later time that said person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Owners' Association as a director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or agents and members of the Owners' Association who participated with or benefitted from the acts which created said liability.

#### ARTICLE IX - USE RULES AND REGULATIONS

The Board of Directors shall adopt such rules and regulations regarding use and operations of the Common Space as may become reasonably necessary, provided such rules and regulations are consistent with and are in compliance with the Declaration of Covenants and Restrictions.

#### ARTICLE X - ASSESSMENTS

If additional property is annexed pursuant to the Declaration, during the course of any fiscal year, the common expenses shall be allocated as follows:

Beginning with the first calendar month after the day in which the additional Lot(s) are added to Avalon Village by the filing of a supplemental declaration, the annual assessments or charges and special assessments of the Avalon Village Declaration shall be recomputed by prorating such assessments on a monthly basis to reflect the addition of the new Lot(s).

#### ARTICLE XI - AMENDMENTS

The Bylaws may be amended by a majority vote of the Board of Directors at its annual meeting after written notice of the proposed amendment has been given to all Lot Owners. Any amendment must be executed, recorded and certified as provided by law. Provided, however, no amendment of the Bylaws may effect an amendment of the Declaration or the Articles of Incorporation without compliance with the provisions of such documents and the Oregon Nonprofit Corporation Act. Provided further no amendment deleting or affecting any right of the Declarant may be adopted without the prior written consent of the Declarant.

#### ARTICLE XII - COMPLIANCE

These Bylaws are intended to comply with the provisions of the Oregon Planned Community Act, which are incorporated herein and to supplement the provision in the Project Declaration. In case any of the provisions hereof conflict with the provisions of said statutes, the statutory provisions shall apply. In case of any conflict between the provisions hereof and the Declaration, the provisions of the Declaration shall apply.

DATED this \_\_\_\_ day of \_\_\_\_\_, 1998

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Secretary of the Board of Directors  
Avalon Village Homeowners' Association