

**Return to
David Russell
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**AMENDED AND RESTATED
BYLAWS
OF
PACIFIC VIEW CONDOMINIUM ASSOCIATION**

ARTICLE I

Name and Location

These are the Amended and Restated Bylaws of the PACIFIC VIEW CONDOMINIUM ASSOCIATION ("Association"). Said amendments have been approved by the Board of Directors. The principal office of the Association shall be located on Marion Avenue in Gearhart, Oregon.

ARTICLE II

Purpose

This Association was formed under the provision of Section 91.505 to 91.675 of the Revised States of the State of Oregon, known as the Unit Ownership Act (now known as ORS 100.105, *et seq*), to serve as the means through which the Unit Owners may express their opinions, wishes, and take action with regard to the internal administration of the Condominium and the Condominium property described in the Declaration dated July 29, 1967, which said Declaration was heretofore adopted and ratified in full by the Association.

ARTICLE III

Unit Owners

Section 1. Compliance with Bylaws: Each Unit Owner shall comply with the Bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the deed to his/her

condominium unit. Failure to comply with any of the same shall be grounds for an action to recover sums, for damages or injunctive relief or both, maintainable by the Board of Directors on behalf of the Association, in a proper case, by an aggrieved Unit Owner.

Section 2. Place of Meetings: The Association shall hold its meetings at the principal office of the Condominium or at such place within the County of Clatsop, State of Oregon, as the Board of Directors shall authorize.

Section 3. Annual Meetings: The annual meetings of the Association shall be held at a place designated by the Board of Directors on a date and time selected. At such annual meetings, the unit owners shall elect Board of Directors of the Association, and may transact such other business as may properly come before the meeting.

Section 4. Special Meetings: Special meetings of the Association may be called by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from ten percent (10%) or more of the Unit Owners. Such written request shall state the purpose or purposes of the proposed meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

Section 5. Record Date: For the purpose of determining the Unit Owners entitled to notice of any meeting of the Association, or any adjournment thereof, or for the purpose of any other action, the Board of Directors shall fix in advance, a date as the record date for such determination. Such date shall not be more than thirty or less than ten days before the date of the meeting. If no record date is fixed, then the date shall be determined in accordance with the provisions of law relating thereto.

Section 6. Notices. Notice of meetings of the Association shall be in writing. Notice of the meetings other than the annual meeting shall indicate and state that it is being issued by or at the direction of the person or persons calling the meeting. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to each such person at the address given to the Board of Directors. Such address may be changed from time to time by notice in writing to the Board of Directors.

Section 7. Waiver of Notice. Notice of meetings need not be given to any Unit Owner who signed a waiver of notice either in person or by proxy whether before or after the meeting. The attendance of any Unit Owner at a meeting, in person or by proxy, shall constitute a waiver of notice of the meeting by the Unit Owner.

Section 8. Quorum of Unit Owners. The presence at any meeting of a majority of the Unit Owners shall constitute a quorum.

Section 9. Voting. At any meeting of the Association, each Unit Owner shall be entitled to cast one vote for each individual unit owned. Any Unit Owner may attend and

vote at such meeting in person, or by an agent duly appointed by an instrument in writing signed by the Unit Owner and filed with the Board of Directors. Any designation of an agent to act for a Unit Owner may be revoked at any time by written notice to the Board of Directors, and shall be deemed revoked when the Board of Directors shall receive actual notice of the death or judicially declared incompetence of such Unit Owner or of the conveyance by such Unit Owner of his/her condominium unit. Where there is more than one record Unit Owner, any or all of such persons may attend any meeting of the Unit Owners, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. Any designation of an agent to act for such persons must be signed by all such persons. The Association shall be entitled to vote with respect to any condominium owned by the Association.

In the event that an order of default is recorded by any mortgagee who holds a mortgage which is a first lien on a condominium against the Unit Owner of the condominium covered by the mortgage, then and in that event and until the default is cured, the right of the Unit Owner of such condominium to vote shall be transferred to the mortgagee recording the order of default.

Section 10. Written Consent of Unit Owners: Approval or Disapproval:

Any action that may be taken by a vote may be taken without a meeting on written consent duly acknowledged setting forth the action so taken or to be taken of the unit owners holding the majority of the units entitled to vote thereon in accordance with Section 8 hereof. Approval or disapproval of a Unit Owner on any matter whether or not the subject of a meeting shall be by the person holding title to the unit as reflected on the books of the Condominium at the time of the execution of the instrument.

Section 11. Order of Business: The order of business at the annual meeting of the Association shall be:

- (a) Calling the roll and certifying of proxies;
- (b) Proof of notice of the meeting or certificate as to waivers;
- (c) Reports of the Board of Directors of the Condominium;
- (d) Reports of Committees;
- (e) Election of certain Directors, if applicable.
- (f) Unfinished Business;
- (g) New Business;
- (h) Adjournment.

The order of business at all other meetings of the Association shall, as far as is practicable, conform to the order of business at the annual meeting insofar as the special purpose of the meeting will permit.

ARTICLE IV

The Board of Directors

Section 1. Membership. The Board of Directors shall consist of five (5) members, elected by the membership. Three members shall be elected at one annual meeting, and two members elected at the next annual meeting, upon expiration of their terms.

Section 2. Election. At each annual meeting, the candidates receiving a plurality of votes cast for the office shall be declared elected for the forthcoming year; provided, however, that the Board of Directors elected hereunder may be elected at a special meeting duly called, said representatives to serve until the first annual meeting held thereafter.

Section 3. Term: Members of the Board of Directors shall serve for a term of three (3) years; the members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal; provided, that if any member ceases to be a Unit Owner, his/her membership on the Board of Directors shall thereupon terminate.

Section 4. Resignation and Removal: Any member of the Board of Directors may resign at any time by giving written notice to the Manager, and any member may be removed from membership on the Board of Directors by vote of the Owners.

Section 5. Proceedings: Three (3) members of the Board of Directors shall constitute a quorum and, if a quorum is present, the decision of a majority of those present shall be the act of the Board of Directors. The Board of Directors shall elect a President, who shall preside over its meetings, a Secretary and a Treasurer. Meetings of the Board of Directors may be called, held and conducted in accordance with such regulations as the Board of Directors may adopt. The Board of Directors may also act without a meeting by unanimous consent of its members.

Section 6. Action of the Board. A quorum being present, a vote of the majority of those present shall constitute the action of the Board except as to those matters where the law and Condominium documents require a difference in majority.

Section 7. Vacancies in the Board. Vacancies in the Board may be filled until the date of the next annual meeting of the Unit Owners by the remaining members of the Board of Directors. The Board of Directors shall not fill a vacancy in the Board unless such appointment is required by law or the Condominium documents to properly function as a Board.

Section 8. Authority of the Board. The Board of Directors, for the benefit of the condominium and the Association, shall enforce the provisions hereof; the Board of Directors shall pay for the following:

- (a) Water, sewer, garbage collection, taxes, electrical, gas and other necessary utility services for the Common Area which are not billed separately to the Unit Owners;

- (b) The services of a person or corporation to manage its affairs to the extent deemed advisable by the Board of Directors as well as such other personnel as the Board of Directors shall determine necessary or proper for the operation of the Common Area;
- (c) Legal and accounting services necessary or proper in the operation of the Condominium or the enforcement of the Condominium documents;
- (d) Painting, maintenance, repair and all landscaping of the Common Area, and such furnishings and equipment for the Common Area as the Board of Directors shall determine are necessary and proper;
- (e) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board of Directors is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Area; provided that, if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Units, the cost thereof shall be specially assessed to the Owners of such Units.

The Board of Directors' power hereinabove enumerated shall be limited in that the Board of Directors shall have no authority to acquire and pay for capital additions and improvements (other than for purposes of replacing portions of the Common Area, subject to all the provisions of this Declaration) having a cost in excess of Ten Thousand Dollars (\$10,000.00).

Section 9. Powers and Duties of the Board. The Board may exercise all of the powers and duties granted to it under the Condominium documents and said Board shall have power:

To make, levy and assess common expenses against the Unit Owners and to use the same in the exercise of its power and duties;

To maintain, repair, replace and operate the Condominium property and in case of casualty to reconstruct and re-establish the property and to make improvements therein;

To contract for the management of the property;

To make or amend rules and regulations respecting the use and operation of the property but not inconsistent with the Declaration;

To purchase either at foreclosure sale or from a defaulting Unit Owner in lieu thereof and to hold, mortgage or lease any unit, and to assess a reasonable rental against a Unit Owner during a foreclosure proceeding or redemption period;

To accept a deed from a Unit Owner who desires to relieve himself/herself/itself from the payment of future common charges;

To hire and discharge persons employed for the operation of the property on such terms and conditions as the Board in its sole discretion may deem advisable;

To do any and all things which prudent operation of the Condominium would require.

ARTICLE V

Officers

Section 1. At the annual meeting of the Board of Directors of the Condominium there shall be elected a President, Secretary, and Treasurer. Those officers shall all serve for a term of three (3) years and they shall be members of the Board of Directors.

Section 2. President: The President shall be the Chief Executive Officer of the Condominium and shall have all of the powers and duties usually vested, including the power to appoint committees as he/she may, with the consent of the Board, deem appropriate. He/she shall exercise such other powers and duties as shall be prescribed by the Board. He/she shall see that orders and resolutions of the Board shall be carried into effect.

Section 3. Secretary: The Secretary shall keep a record of all actions of the Board and shall prepare minutes of all meetings of the Unit Owners. He/she shall attend to the giving of all notices to the Unit Owners and/or Directors and shall supervise the service thereof. He/she shall prepare and have available at each meeting of the Unit Owners and of their common interest, and certify which of them are entitled to vote. He/she shall perform all other duties incident to the office of Secretary of the Condominium as may be required by the President or the Board.

Section 4. Treasurer: The Treasurer shall keep the financial records of the Condominium and shall keep books of account and shall have custody of all the common property of the Condominium including all funds, securities, and evidences of indebtedness. He/she shall keep the assessment roll and the accounts of the Unit Owners. He/she shall perform all other duties incident to a Treasurer of a Condominium as prescribed by the Board. He/she shall deposit all moneys and other valuables in the name of and to the credit of the Condominium in such depositories as shall be designated by the Board. He/she shall disburse the funds of the Condominium as may be ordered and authorized by the Board and shall preserve proper vouchers for such disbursements. He/she shall render an annual report at the annual meeting of the Unit Owners. The Treasurer and the President shall, as prescribed by the Board, report on the operation of the Condominium property and the payment of common expenses, and the determination and collection of the common charges. In case of a vacancy in the

office of Treasurer, the Board may appoint a successor Treasurer to be elected by the Unit Owners at the next annual meeting.

Section 5. All employees as such of the Condominium may be removed peremptorily by the Board.

ARTICLE VI

Insurance

Section 1. Types of Insurance. Each Unit Owner shall be responsible for obtaining, at his or her own expense, insurance covering his or her property not insured under Section 1(a) and against his or her liability not covered under Section 1(b). For the benefit of the Association and the Unit Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for the following insurance:

(a) Property Damage Insurance.

- (1) The Association shall maintain a policy or policies of insurance covering loss or damage from fire, with standard extended coverage and “direct physical loss” endorsements and such other coverage as the Association may deem desirable.
- (2) The coverage shall be in an amount determined by the Board of Directors to be suitable.
- (3) The policy or policies shall include all fixtures and building service equipment to the extent that they are part of the common elements and all personal property and supplies belonging to the Association.
- (4) Such policy or policies shall name the Association as insured, and shall provide for loss payable in favor of the Association, as a trustee for each Unit Owner and each such Unit Owner’s mortgagee, as their interests may appear. The policies shall contain the standard mortgage clause, or equivalent endorsement (without contribution) that is commonly accepted by institutional mortgage investors in Oregon.

(b) Liability Insurance.

- (1) The Association shall maintain comprehensive general liability insurance coverage insuring the Association, the Board of Directors, the Unit Owners, and the manager, against liability to the public or to the owners of units and of common elements, and their invitees or tenants, incident to the operation, maintenance, ownership or use of the property, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of a Unit Owner (other than as a member of the Association or Board of Directors) for liability arising out of acts or omission of such Unit Owner and liability incident to the ownership and/or use of the part of the property as to which such Unit Owner has the exclusive use or occupancy.
- (2) Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000) on a combined single limit basis.
- (3) Such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement wherein the rights of

named insured under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured.

(c) Workers' Compensation Insurance.

The Association shall maintain workers' compensation insurance to the extent necessary to comply with any applicable laws.

(d) Fidelity Insurance.

- (1) The Association shall maintain fidelity insurance for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. In the event the Association has retained a manager, such manager shall maintain fidelity insurance for its officers, employees and agents handling or responsible for funds of, or administered on behalf of the Association. The cost of such insurance shall be at the expense of the Association.
- (2) The total amount of fidelity insurance coverage required shall be based upon the best business judgment of the Board of Directors. In no event, however, may the aggregate amount of such insurance be less than the sum equal to three months' aggregate assessments on all units plus reserve funds.
- (3) Such fidelity insurance shall name the Association as obligee and shall contain waivers by the issuers of the insurance of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms of expressions. The insurance shall provide that it may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association and each servicer on behalf of the Federal National Mortgage Association ("FannieMae").

(e) Directors' and Officers' Liability Insurance.

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

(f) Insurance by Unit Owners.

The Association has no responsibility to procure or assist in procuring property loss insurance for any owner or tenant for (i) damage to a unit or common elements not covered by the Association's policy (because of the deductible amount or because the claim for loss or damage is one not covered by fire and property loss insurance policies required by these Bylaws or held by the Association); or (ii) for any damage or loss to the owner's or tenant's personal property. Owners must be responsible for insuring their own personal property

for any loss or damage. Proof of such insurance coverage must be provided to the Association by the Unit Owner, upon request of the Association. Tenants must be responsible for insuring their own personal property for any loss or damage. The Association shall notify all owners of the amount of the deductible under the Association policies. To the extent reasonably practicable, the Association shall give at least thirty (30) days' notice to the owners of any increase in the deductible proposed in renewal or replacement insurance policies. Owners are encouraged to procure and maintain comprehensive liability policies in reasonable amounts.

(g) Other Insurance Requirements.

Insurance obtained by the Association shall be governed by the following requirements:

- (1) All policies shall be written with the State of Oregon or a company licensed to do business in the State of Oregon acceptable to FannieMae which falls into a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Vest's Insurance Reports, an "A" or better general policyholder's rating and a financial size category or "VII" or better in Best's Insurance Reports – International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBq" qualified solvency rating or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability in Standard and Poor's International Confidential Rating Service.
- (2) Notwithstanding the provisions above, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee, or any successor to such trustee, with whom the Association may enter into any Insurance Trust Agreement. Such insurance trustee shall have exclusive authority to negotiate losses under any property or liability insurance policy. Each Unit Owner appoints the Association, or any insurance trustee or substitute trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance including but not limited to the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purchase. The Association or insurance trustee shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for unit owners and their first mortgage holders, as their interests may appear.
- (3) All property insurance policies shall contain a "Special Condominium Endorsement" or its equivalent providing for the following: recognition of any Insurance Trust Agreement, a waiver of the right of subrogation

against unit owners individually, that the insurance is not prejudiced by any act or neglect of individual Unit Owners that is not in the control of such owners collectively, and that the policy is primary in the event the Unit Owner has other insurance covering the same loss.

- (4) For purposes of this section, insurance policies are unacceptable where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against FannieMae, the designee of FannieMae, or the Association or Unit Owners, or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members, or (iii) policy includes any limiting clauses (other than insurance conditions) that could prevent FannieMae or the owners from collecting insurance proceeds.
- (5) All policies required by this section shall provide that they may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the insurance policy. Evidence of insurance shall be issued to each unit owner and mortgagee upon request.
- (6) Any Unit Owner who obtains individual insurance policies covering any portion of the property other than such owner's personal property and fixtures shall file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance.

ARTICLE VII

Fiscal Management

Section 1. The provisions for fiscal management of the Condominium as set forth in the Declaration shall be supplemented as follows:

- A. The assessment roll shall be maintained in a set of accounting books duly approved by a certified public accountant in which there shall be an account for each unit. Such account shall designate the name and address of the owner or owners, the amount of each assessment against the owners, the dates and amounts in which the assessment comes due, the amount paid upon the account and the balance due on the assessments. In making up the assessment roll, the unit is treated as such and no division shall be made because the unit is held by more than one person.
- B. The Board shall adopt a budget for each year which shall contain estimates of the cost of performing the various functions of the Condominium and shall include among its terms:

(1) Common expense budget:

- a) Maintenance and operation of common elements, landscaping, street, walkways, parking spaces;
- b) Utility services;
- c) Casualty insurance;
- d) Liability insurance;
- e) Administration;
- f) Reserves;
- g) Any other item which the Board finds necessary to include therein.

(2) The proposed assessment against each Unit Owner.

Section 2. Copies of the proposed budget and proposed assessment shall be transmitted to each Unit Owner at the annual meeting of the Association.

Section 3. The depository of the Condominium shall be such bank or banks as shall be designated from time to time by the Board. The moneys of the Condominium shall be deposited therein. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Board of Directors.

ARTICLE VIII

Common Expenses: Assessments

At the first of each calendar year, each Unit Owner shall be assessed pursuant to the number of units owned. The Association will be liable for the amount of any assessment against completed units owned by the Association. If said sum estimated proves inadequate for any reason, including nonpayment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment which shall be assessed to the Unit Owners in like proportions, unless otherwise provided herein. Each Unit Owner shall be obligated to pay assessments made pursuant to this paragraph to the Association in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board of Directors shall designate.

The omission by the Board of Directors, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Unit Owner from the obligation to pay the assessments, or any installment thereof, for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. Amendments to this paragraph shall be affective only upon unanimous written consent of the Unit Owners and their mortgagees. No Unit Owner may exempt himself/herself from liability for his/her contribution towards the

common expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his/her Unit.

The Board of Directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by the Unit Owners at convenient hours of week days.

ARTICLE IX

Default in Payment of Assessments

Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Unit Owners against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the Unit Owner of any condominium plus interest at seven percent (7%), and costs, including reasonable attorneys' fees, shall become a lien upon such condominium upon recordation of a notice of claim as provided in the Oregon Condominium Act. The said lien for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only tax and assessment liens and a first mortgage or trust deed or record.

A claim executed and acknowledged by a majority of the Board of Directors, stating the indebtedness upon any condominium created hereunder, shall be conclusive upon the Board of Directors and the Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit Owner or any encumbrances or prospective encumbrances of a condominium upon request at a reasonable fee, not to exceed Ten Dollars (\$10.00).

Upon payment or other satisfaction of a delinquent assessment concerning which such a certificate has been filed, the Board of Directors shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of said indebtedness.

In case of foreclosure, the Unit Owner shall be required to pay a reasonable rental for the condominium and the Plaintiff, in the foreclosure suit, shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Directors shall have the power to bid in the condominium at foreclosure or other sale and to hold, lease, mortgage and convey the condominium.

ARTICLE X

Amendments

Section 1. Amendments to the Bylaws shall be proposed by either a majority of the Board or by thirty percent (30%) of the Unit Owners of the Condominium. The proposed amendment must be reduced to writing. It shall be included in the notice of any meeting at which action is to be taken thereon,

Section 2. A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the Unit Owners and approved by the Unit Owners at a meeting called for this purpose. Unit Owners not present at the meeting considering such amendment may express their approval in writing or by proxy. Such approvals must be by seventy-five percent (75%) of the Unit Owners who in the aggregate own not less than seventy-five percent (75%) of the common interest.

Section 3. An amendment when adopted shall become effective only after being recorded with the recording officer in the same place where the Condominium documents are recorded, and certified to by the President and Secretary of the Association.

ARTICLE XI

Fiscal Year

The fiscal year shall begin on the 1st day of September in each year, or as the Board of Directors shall establish.

ARTICLE XII

Execution of Instruments

All instruments of the Condominium shall be signed, executed, and acknowledged by such officer or officers as the Board of Directors shall designate.

The foregoing Amended and Restated Bylaws have been duly adopted by the Board of Directors and these Amended and Restated Bylaws were declared by said Board of Directors to be placed in operation at the annual meeting held on the 25th day of October, 2015.

APPROVED:

President