

**BY-LAWS  
OF  
STRATHCONA BARCLAY Place  
CONDOMINIUM CORPORATION  
NO. 7911406**

**Table of Contents**

DEFINITIONS AND INTERPRETATIONS .....	1
MISCELLANEOUS PROVISIONS.....	3
DUTIES OF THE OWNERS.....	4
DUTIES OF THE CORPORATION .....	7
POWERS OF THE CORPORATION .....	8
THE CORPORATION AND THE BOARD .....	10
COMPOSITION OF BOARD .....	10
RETIREMENT FROM BOARD .....	10
ELIGIBILITY FOR ELECTION TO BOARD .....	10
REMOVAL FROM BOARD .....	10
CASUAL VACANCY ON BOARD .....	11
QUORUM FOR BOARD .....	11
OFFICERS OF THE CORPORATION.....	11
CHAIRMAN OF THE BOARD MEETINGS.....	11
DUTIES OF OFFICERS.....	11
VOTES OF BOARD.....	11
FURTHER POWERS OF BOARD .....	12
ADDITIONAL DUTIES OF THE BOARD.....	13
DEFECTS IN APPOINTMENT TO BOARD.....	14
VACATING OFFICE OF BOARD MEMBER.....	14
SIGNING AUTHORITIES .....	15
CORPORATE SEAL.....	15
ANNUAL GENERAL MEETINGS .....	15
EXTRAORDINARY GENERAL MEETINGS .....	15
CONVENING EXTRAORDINARY GENERAL MEETINGS.....	15
NOTICE OF GENERAL MEETINGS .....	16
PROCEEDINGS AT GENERAL MEETINGS .....	16

QUORUM FOR GENERAL MEETINGS .....	16
ADJOURNMENT FOR LACK OF QUORUM .....	16
CHAIRMAN FOR GENERAL MEETINGS .....	16
ORDER OF BUSINESS FOR GENERAL MEETINGS.....	17
VOTING BY SHOW OF HANDS .....	17
POLL VOTES.....	17
VOTING CALCULATION.....	17
VOTES PERSONALLY OR BY PROXY .....	18
PROXIES .....	18
ELIGIBILITY TO VOTE .....	18
VOTE BY CO-OWNERS.....	18
RESOLUTION OF THE OWNERS.....	18
SUCCESSIVE INTERESTS .....	18
TRUSTEE VOTE .....	19
VIOLATION OF BY-LAWS .....	19
DAMAGE OR DESTRUCTION.....	20
INSURANCE.....	22
CONTRIBUTIONS FOR COMMON EXPENSES AND BUDGETS .....	24
SPECIAL ASSESSMENTS.....	27
DEFAULT IN PAYMENT OF ASSESSMENTS .....	27
ESTOPPEL CERTIFICATE.....	28
LEASING OF UNITS.....	29
SEVERABILITY .....	29
NOTICES.....	29
NOTICE OF DEFAULT TO MORTGAGEES .....	30
DEBT RETIREMENT ON TERMINATION .....	30
COMPANY WHICH IS MEMBER OF BOARD .....	30
ALTERNATE BOARD REPRESENTATIVE.....	30
PRIVACY AREAS AND PARKING AREAS .....	30
REALTY TAXES.....	32
INDEMNIFICATION OF OFFICERS AND MANAGERS.....	32
NON-PROFIT CORPORATION .....	32
USE AND OCCUPANCY RESTRICTIONS.....	33

AMENDMENTS OF BY-LAWS .....	37
CHANGE OF LEGISLATION.....	37
EASEMENTS .....	37
MANAGED PROPERTY .....	38
ENCROACHMENTS .....	39

## **DEFINITIONS AND INTERPRETATIONS**

1.1 In these By-laws, unless the context or subject matter requires a different meaning:

- a. “Act” means the *Condominium Property Act*, Revised Statutes of Alberta, 2000, Chapter C-22, as amended from time to time or any statute or statutes passed in substitution thereof;
- b. “Architectural Standard” means those specifications for design and appearance as prescribed in the Restrictive Covenant defined in section 1.1 (s) herebelow;
- c. “Board” means the Board of Directors of the Corporation;
- d. “Building” means any residential dwelling constructed on a Unit and forming an integral part thereof;
- e. “By-laws” means the By-laws of the Corporation, as amended from time to time, but do not include the statutory By-laws found in the Appendices of the Act;
- f. “Common Expenses” mean the expense of performance of the objects and duties of the Corporation and any expenses specified as Common Expenses in these By-laws;
- g. “Common Property” means those portions of the Condominium Plan which are designated “Common Property”, so much of the Parcel as is not comprised in or does not form part of any Unit shown on the Condominium Plan, such additional portions of the Parcel not designated as a Unit as shall from time to time be designated Common Property and any Unit acquired for common use of the Owners and Occupants of the Project as herein provided for;
- h. “Condominium Plan” means the condominium plan registered under the Act as No. 7911406;
- i. “Corporation” means the corporation constituted under the Act by the registration of the condominium plan whose legal name is “Condominium Corporation No. 7911406”;
- j. “Insurance Trustee” means an entity authorized to carry on the business of a trust company under the laws of Alberta selected from time to time on ordinary resolution of the Board, whose duties include the receiving, holding and disbursing of proceeds of policies of insurance pursuant to these By-laws and the Act. If no insurance Trustee is appointed, then the Insurance Trustee shall be the Board;
- k. “Interest Rate” means that rate of interest per annum which may be or shall become payable hereunder by an Owner in respect of monies owing by him to the Corporation and shall be equal to the commercial prime rate in Lethbridge, Alberta of the Canadian chartered bank or CIBC with which the Corporation conducts its banking business, plus two (2%) percent on the earliest date on which any portion of the said monies becomes due and payable by an Owner;
- l. “Managed Property” means the Common Property and all those parts of the Units including the portions of the Buildings thereon which, pursuant to these By-laws, the Corporation is required to administer, control, manage, maintain and repair as if the same were Common Property;

- m. “Manager” means any property manager contractually retained by the Board to assist the Board in carrying out the duties imposed on the Corporation;
  - n. “Occupant” or “Tenant” means the rightful and lawful occupant or lessee of a Building or Unit, whether or not the Occupant is an Owner, and includes all family members, invitees, licensees, servants and guests of such Occupant or Tenant;
  - o. “Ordinary Resolution” has the same definition and meaning given in the Act;
  - p. “Owner” means a person who is registered as the Owner of the fee simple estate in a Unit and where the term “Owner” is used in By-law 63, that term includes a tenant;
  - q. “Parcel” means the land comprised in the Condominium Plan;
  - r. “Project” means all of the real and personal property and fixtures comprising the parcel, land and buildings which constitute the Units and Common Property;
  - s. “Restrictive Covenant” means that Restrictive Covenant and Easement registered against title to all of the Units as Instrument No. \_\_\_\_\_, or any amendment, substitution or replacement of such registration by Court Order or otherwise;
  - t. “Special Resolution” has the same definition and meaning given in the Act;
  - u. “Spouse” includes a person who holds that position usually enjoyed by a Spouse whether or not he or she is legally married;
  - v. “Unanimous Resolution” means a resolution:
    - i. Passed unanimously at a properly convened meeting of the Corporation by all the persons entitled to exercise the power of voting conferred by the Act or these By-laws representing the total Unit factors for all Units; or
    - ii. Signed by all persons who, at a properly convened meeting of the Corporation, would be entitled to exercise the powers of voting conferred by the Act or these By-laws;
  - w. “Unit” means land that is situated within the Parcel and is described as a Unit in the Condominium Plan by reference to boundaries governed by monuments, placed pursuant to the provisions of the *Surveys Act* respecting subdivision surveys;
  - x. “Unit Factor” means the Unit factor for each Unit as more particularly specified or apportioned and described in and set forth on the Condominium Plan.
- 1.2 Words and expressions which have a special meaning assigned to them in the Act have the same meaning in these By-laws and other expressions used in the By-laws and not defined in the Act or in these By-laws have the same meaning as may be assigned to them in the *Land Titles Act* of Alberta or the *Law of*

*Property Act* of Alberta, as amended from time to time or in any statute or statutes passed in substitution therefor.

- 1.3 Words importing the singular number also include the plural, and vice versa, and words importing the masculine gender include the feminine gender or neuter, and vice versa, and words importing persons include firms and corporations and vice versa, where the context so requires.

## **MISCELLANEOUS PROVISIONS**

2. a. **HEADINGS**

The headings used throughout these By-laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions of any By-law;

b. **RIGHTS OF OWNERS**

The rights and obligations given or imposed on the Corporation or the Owners under these By-laws are in addition to any rights or obligations given or imposed on the Corporation or the Owners under the Act;

c. **CONFLICT WITH ACT**

If there is any conflict between the By-laws and the Act, the Act prevails;

d. **SEVERABILITY**

The provisions of these By-laws shall be deemed independent and severable, and the invalidity in whole or in part of any article, section, part or provision herein, shall not affect the validity of the whole or remaining articles, parts, sections or provisions herein contained, which shall continue in full force and effect as if the invalid portion had never been included herein;

e. **INTEREST AND DUE DATE**

Any monies whatsoever payable by an Owner to the Corporation for whatever reason shall bear interest at the Interest Rate (unless the Corporation should otherwise agree in writing) notwithstanding that there may be no reference, inference or specific provision allowing or permitting the Corporation to charge interest on any amounts, costs, expenses, assessments, sums or charges that may be payable by an Owner to the Corporation pursuant to or under these By-laws. The obligation to pay interest under this provision shall supersede and take priority over any provision that may be contrary to the same, and where there is any provision in the By-laws obligating an Owner to pay monies to the Corporation, the Owner shall automatically be obligated to pay interest at the Interest Rate on such monies by virtue of this provision. Where it is unclear or imprecise in these By-laws as to when interest commences and is calculated from, such interest at the Interest Rate shall be calculated as at and from the date that the Corporation provides an Owner with any written notice, letter, invoice, bill, account, demand or any other written communication whatsoever for the payment of monies by an Owner to the Corporation; PROVIDED, however, that in the event that any By-law specifically stipulates or states when an Owner is required to pay any amounts, costs, expenses, assessments, sums or charges to the Corporation and such By-law is precise as to the date when interest commences and is calculated from, then those provisions as set forth in such By-laws to the commencement and calculation of interest shall apply.

f. **EXTENDED MEANINGS**

- i. If and whenever reference hereunder is made to “repair” it is hereby implied and extended to include in its meaning the making of improvements or betterments or the enhancement or replacement with a better thing of or for any thing to which such repair could be made.
- ii. If and whenever reference hereunder is made to “Owner”, it is hereby implied and extended to include in its meaning a Tenant of an Owner, an Occupant of an Owner’s Unit or any other person, firm or corporation that an Owner is responsible for at law, unless such By-law in which the term “Owner” appears is expressly or implicitly by the context of such By-law excludes the inclusion of either a Tenant, an Occupant or any other person, firm or corporation that an Owner is responsible for at law.

g. **RIGHT OF APPEAL**

An Owner has the right to appeal action taken against them by the board or a condominium owner. If a condominium dispute can not be resolved by speaking directly with the board or owner, it can be resolved by creating a mediation group from within the condominium association, excluding the parties in conflict and the board. This mediation group would be 3 or more people who would be agreed upon by both parties to participate in the mediation process. If neither of these methods are successful in resolving the issue, the parties involved can begin a process of arbitration and/or mediation. A mediator can be appointed from the Alberta Arbitration and Mediation Society. The parties involved would pay the costs to mediate the solution. If an owner or any person believes that there has been improper conduct by the corporation, an employee of the corporation, director or owner, they may apply to the court to resolve the problem (section 60.1 (1) of the Act).

## **DUTIES OF THE OWNERS**

3. An Owner SHALL:

- a. Permit the Corporation and its agents, at all reasonable times on a minimum of twenty-four (24) hours notice (except in case of emergency when no notice is required), to enter his Unit for the purpose of:
  - i. inspecting the Unit and maintaining, repairing or renewing party walls and pipes, wires, cables, ducts, conduits, plumbing, sewers and other facilities for the furnishing of utilities for the time being existing in the Unit;
  - ii. maintaining, repairing or renewing the Common Property;
  - iii. ensuring that the By-laws are being observed;
  - iv. doing any work for the benefit of the Corporation generally;

In the event the Corporation must gain access for the aforesaid purposes by using a locksmith, the cost of such locksmith shall be borne by the Unit Owner, unless a key has been provided to the association for emergency entry;

- b. forthwith carry out all work that may be required pursuant to these By-laws or ordered by any municipality or public authority in respect of his Unit and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his Unit;
- c. duly and properly repair and maintain (including replacement where necessary):
  - i. the interior of his Unit and all improvements and additions thereto; and
  - ii. wash all of the windows that are accessible to the Occupant; and replacement of appropriate window coverings as needed.
  - iii. in the case of a wood burning fireplace, have the fireplace and chimney professionally cleaned and inspected once a year, and provide proof of completion to the board. Should the owner not wish to do so, they may have the fireplace sealed off so that it cannot be used.
  - iv. all interior doors and hardware, along with all patio and window screens;
  - v. his door bell buttons, door knobs, door knockers, door mounted newspaper holders and locks;
  - vi. replacement of patio/balcony light fixture bulbs attached to the exterior of the Building;
  - vii. any thermostats for providing heat from the boiler system

BUT EXCLUDING the painting of the exterior surface or finishing of the outside of any windows or access doors and all other outer boundaries, walls and other outside surfaces and roofs and eaves troughs and all other outside hardware and accoutrements (except as noted herein) affecting the appearance, usability, value or safety of the Unit, and keep his Unit in a state of good repair, except such maintenance, repairs and damages as are insured against by the Corporation or for which the Corporation is responsible pursuant to these By-laws;

- d. maintain and keep in a neat, clean and tidy state and appearance consistently with and in total integrity with the balance of the Project, his Unit and all Buildings, improvements and additions thereon and if an Owner shall not maintain his Unit to a standard similar to that of the remaining Project, the Corporation may give ten (10) days notice to the Owner to this effect and if such notice has not been complied with at the end of that period, then the Corporation may carry out such work and the provisions of By-law 56 shall apply;
- e. not paint nor make any repairs, additions or alterations to the Common Property, the Managed Property, the exterior of his Unit or the Building (including interior and exterior load bearing and partition walls) of which his Unit forms a part or to the plumbing, mechanical or electrical systems within his Unit without first obtaining the written consent of the Corporation;



- f. use and enjoy his Unit and the Common Property in accordance with these By-laws and all rules and regulations prescribed by the Corporation and in such a manner as to not unreasonably interfere with the use and enjoyment thereof by other Owners, their families or visitors;
- g. not use his Unit or permit it to be used in any manner for any purpose which may be illegal, injurious or that will cause nuisance or hazard to any occupier of another Unit (whether an Owner or not) or the family of such an occupier;
- h. not do any act or permit any act to be done or alter or permit to be altered, his Unit (or any Buildings thereon) in any manner whatsoever, which will alter either the appearance or grade of his Unit or of any other Units or the appearance of any Building thereon.
- i. not do or permit anything to be done that may cause damage to or will alter the appearance of any of the Managed Property or the Common Property (including any area to which the Owner has been granted exclusive use) without first obtaining the written consent of the Corporation;
- j. notify the Corporation forthwith upon any change of Ownership or of any lease or other dealing in connection with his Unit;
- k. comply strictly with these By-laws and with such rules and regulations as may be adopted pursuant thereto from time to time and cause all occupiers of and visitors to his Unit to similarly comply;
- l. pay to the Corporation (or if requested to the Manager) when due all contributions levied or assessed against his Unit together with interest on any arrears thereof at the Interest Rate calculated from the due date and the Corporation is hereby permitted to charge such interest in accordance with Section 40 of the Act;
- m. pay to the Corporation all legal expenses incurred as a result of having to take proceedings to collect any Common Expenses levied or assessed against his Unit, and such legal expenses shall be paid on a solicitor and his own client full indemnity basis;
- n. allow the Corporation, its representatives and persons authorized by the Corporation, entry to his Unit in the event of an emergency, for the purposes of protecting the property of other Owners or occupiers and the property of the Corporation, and in the event his Unit is so entered, the Owner shall save harmless and indemnify the Corporation, its agents and employees from any claims arising from such entry;
- o. upon the request of the Corporation, obtain or have any manager who leases the Unit on behalf of an Owner obtain from any Tenant an undertaking in writing to the following effect:

“I, \_\_\_\_\_, covenant and agree that I, the members of my household and my guests from time to time will, in using the Unit rented by me, any privacy areas related to the Unit and all the Common Property, comply with the *Condominium Property Act*, the By-laws and all rules and regulations of the Condominium Corporation during the term of my tenancy.”

- p. keep in a clean and sightly condition, any privacy area (and any plants or landscaping therein) which is located on or which comprises any part of the Common Property to which the Owner has been granted exclusive use pursuant to By-law 5 or By-law 56 and if the Owner shall not maintain such privacy area to a standard similar to that of the remaining Common Property, the Corporation may give sixty (60) days notice to the Owner to this effect and if such notice has not been complied with at the end of that period, then the Corporation may carry out such work and the provisions of By-law 43 shall apply.

## **DUTIES OF THE CORPORATION**

- 4. In addition to the duties of the Corporation set forth in the Act the Corporation, through its Board:
  - a. shall control, manage, maintain, repair, replace and administer the Common Property (except as hereinbefore and hereinafter set forth) and all real property, chattels, personal property or other property owned by the Corporation for the benefit of all of the Owners and for the benefit of the entire condominium Project;
  - b. shall do all things required of it by the Act, these By-laws and any other rules and regulations in force from time to time and shall take all necessary steps it sees fit to uphold and enforce these By-laws;
  - c. shall maintain and repair (including renewal where reasonably necessary), all pipes, wires, cables, ducts, conduits, plumbing, zone valves, sewers, boilers, water heaters, pumps, make up air units, and other facilities for the furnishing of utilities for the time being existing in the Parcel and capable of being used in connection with the enjoyment of one or more Units or Common Property;
  - d. shall provide and maintain in force all such insurance as is required by the Act and by the provisions of these By-laws and enter into any insurance trust agreements from time to time as required by any Insurance Trustee and approved by the Board and, on the written request of an Owner or registered mortgagee of a Unit, or the duly authorized agent of such Owner or mortgagee, produce to the Owner or mortgagee, a certified copy of the policy or policies of insurance effected by the Corporation or a certificate or memorandum thereof and the receipt or receipts for the last premium or premiums in respect thereof;
  - e. subject to any obligations imposed by the By-laws or by the Corporation upon any Owners to maintain any part of the Common Property or a Unit over which such Owners are granted exclusive right of use, shall clean, maintain and repair the exterior or outside surfaces of each Building comprising the Units (as outlined in “3 (c)”), with the exceptions of the window surfaces in each unit, but including the repair of any leakage around windows and the maintenance and repair of all other outside accoutrements affecting the appearance, usability, value or safety of the Parcel or the Units and the Common Property including the structural maintenance of any area inside or outside the Building, such as post tension cables, fire alarm systems, elevator, hall, stairwell and exterior lighting, common area flooring, walls, ceilings, and all landscaping, common sidewalks, driveways, roadways, and entry gate and mechanism and the garbage enclosure and including all concrete, balcony walls, rails, fencing and related posts and maintain and repair the Common Property and the Managed Property, and all utility services within, on, in, under or through the Units and Common Property, including any underground sprinkler system;

- f. shall collect or cause to be collected and receive or cause to be received all contributions towards the Common Expenses and deposit same in a separate account with a chartered bank or trust company or Province of Alberta Treasury Branch or Credit Union incorporated under the *Credit Union Act*;
- g. shall provide and maintain out of the contributions to be levied by the Corporation towards the Common Expenses and such amounts as the Board may determine from time to time to be fair and prudent for a Replacement Reserve Fund and the Replacement Reserve Fund shall be an asset of the Corporation;
- h. shall pay all sums of money properly required to be paid on account of all services, supplies and assessments pertaining to or for the benefit of the Parcel, the Corporation and the Owners as the Board may seem justifiable in the management and administration of the entire Condominium Project;
- i. shall remove ice, snow, slush and debris from and keep and maintain in good order and condition all areas of the Common Property designated for vehicular or pedestrian traffic or outside parking and keep and maintain in good order and condition all the grassed or landscaped areas of the Managed Property and the Common Property.
- j. shall provide adequate garbage receptacles or containers on the Common Property for use by all the Owners and provide for regular collection therefrom.
- k. shall, at all times, keep and maintain for the benefit of the Corporation and all Owners copies of all warranties, guarantees, drawings and specifications, plans, written agreements, certificates and approvals provided to the Corporation pursuant to Section 46 of the Act;
- l. shall not plant any trees or substantial landscaping or make any unauthorized grade changes within any lands which are the subject of an easement or similar grant to any utility company, municipality or local authority;
- m. shall establish and maintain lawns, trees and shrubs and other landscaping on the Common Property and promptly replace on a continuing basis, any lawns, trees or shrubs which die;
- n. shall repair, replace and maintain party walls separating Units unless the reason or cause for such repair, replacement or maintenance is the negligent act or omission of a Unit Owner.

## **POWERS OF THE CORPORATION**

- 5. In addition to the powers of the Corporation set forth in the Act, the Corporation, through its Board, MAY and is hereby authorized to:
  - a. purchase, lease or otherwise acquire personal property and/or real property for use by Owners in connection with the maintenance, repair, replacement or enjoyment of the real and personal property of the Corporation or the Common Property, or their Units or any of them, provided that real property shall only be acquired or disposed of by Special Resolution of the Corporation;
  - b. borrow monies required by it in the performance of its duties or the exercise of its powers provided that each such borrowing in excess of 15% of the current year's Common Expenses budget has been approved by Special Resolution;

- c. secure the repayment of monies borrowed by it, and the payment of interest thereon, by negotiable instrument, or mortgage of unpaid contributions (whether levied or not), or mortgage of any property vested in it, or by any combination of those means;
- d. invest as it may determine any contribution towards the Common Expenses SUBJECT TO the restrictions set forth in Section 43 of the Act;
- e. make an agreement with an Owner, Tenant or other Occupant of a Unit for the provision of amenities or services by it to the Unit or to the Owner, Tenant or Occupant thereof;
- f. grant to an Owner the right to exclusive use and enjoyment of part of the Common Property or the Managed Property, any such grant to be determinable on reasonable notice, unless the Corporation by Special Resolution otherwise resolves;
- g. make such rules and regulations as it may deem necessary or desirable from time to time in relation to the use, enjoyment and safety of the Managed Property and the Common Property and do all things reasonably necessary for the enforcement of these By-laws and for the control, management and administration of the Common Property (including but not limited to the privacy areas, parking areas and parking spaces) generally including the commencement of an action under Section 36 of the Act and all subsequent proceedings relating thereto;
- h. determine from time to time the amounts to be raised and collected for the purposes hereinbefore mentioned;
- i. raise the amounts of money so determined by levying contributions on the Owners in proportion to the Unit Factors for their respective Units or on such other basis as may be determined by the Board or as otherwise herein provided;
- j. charge interest under Section 40 of the Act on any contribution or Common Expenses owing to it by an Owner at the Interest Rate;
- k. pay an annual honorarium, stipend or salary to members of the Board in the manner and in the amounts as may be from time to time determined by Ordinary Resolution at a general meeting;
- l. join any organization serving the interests of the Corporation and assess the membership fee in such organization as part of the Common Expenses;
- m. do all things which are, either or both, incidental or conducive to the exercise of its powers granted under the Act and the By-laws;
- n. subject to any limitations and prohibitions contained in the Act, these By-laws and otherwise by law, have such powers and do all such things which any body Corporate shall be empowered and authorized to do under the *Business Corporations Act* of Alberta (as amended and replaced from time to time) and do all things and have such rights, powers and privileges of a natural person;

- o. purchase, acquire, own and operate real property (provided such real property is a Unit or Common Property) for the general use or benefit of the Owners, and acquire and grant (as the case may be) rights to joint access or mutual use including entering into and observing and performing any agreement for joint or mutual administration and management thereof to share services or facilities.

## **THE CORPORATION AND THE BOARD**

- 6. The powers and duties of the Corporation shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the Board.

## **COMPOSITION OF BOARD**

- 7. Notwithstanding the provisions of Section 28(10) of the Act, the Board shall consist of not less than three nor more than seven individuals who may be Owners or spouses of Owners, representatives of mortgagees of Units, **representatives of owners**, representatives or principals of corporate Owners or any combination of the foregoing, and the composition of the Board pursuant to the provisions of this By-law shall be elected at each annual general meeting (although members may also be elected at an extraordinary general meeting). Where a Unit has more than one Owner, only one Owner in respect of that Unit may sit on the Board at any point in time.

## **RETIREMENT FROM BOARD**

- 8. At each annual general meeting of the Corporation all of the members of the Board, who have served a two year term shall be deemed to have retired from office and the Corporation shall elect new Board members accordingly.

## **ELIGIBILITY FOR ELECTION TO BOARD**

- 9. A retiring member of the Board shall be eligible for re-election. An Owner who has not paid to the Corporation the contributions due and owing in respect of that Owner's Unit is not eligible for election to the Board. Any prospective member of the Board shall, as a condition of his nomination, make full disclosure of any potential conflict of interest and any direct or indirect relationship he or she may have with the Corporation either contractual, financial or employment related.

## **REMOVAL FROM BOARD**

- 10. The Corporation may, by resolution at an extraordinary general meeting, remove any member of the Board before the expiration of his term of office and appoint another Owner in his place, to hold office until the next annual general meeting.

## **CASUAL VACANCY ON BOARD**

11. Where a vacancy occurs on the Board under By-law 20, the remaining members of the Board may appoint a person to fill that office for the remainder of the former member's term, provided such person qualifies for membership pursuant to By-laws 7 and 9.

## **QUORUM FOR BOARD**

12. A quorum of the Board is two where the Board consists of four or less members, three where the Board consists of five or six members and four when it consists of seven members. Any member of the Board may waive notice of a meeting before, during or after the meeting and such waiver shall be deemed the equivalent of receipt of due and proper notice of the meeting.

## **OFFICERS OF THE CORPORATION**

13. At the first meeting of the Board held after each annual general meeting of the Corporation, the Board shall elect from among its members a President, a Vice-President, a Treasurer and/or a Secretary who shall hold their respective offices until the conclusion of the next annual general meeting of the Corporation or until their successors are elected or appointed. The President shall be the Chairman of the Board and shall have a casting vote in addition to his original vote. A person ceases to be an officer of the Corporation if he ceases to be a member of the Board. Where a person ceases to be an officer of the Corporation, the Board shall designate from its members a person to fill that office for the remainder of the term. A person may simultaneously hold two offices.

## **CHAIRMAN OF THE BOARD MEETINGS**

14. The President shall act as Chairman of every meeting of the Owners where he is present. Where the President is absent from any meeting of the Board or vacates the chair during the course of any meeting, the Vice-President shall act as the Chairman and shall have all the duties and powers of the Chairman while so acting. In the absence of both the President and the Vice-President the members present shall from among themselves appoint a Chairman for the meeting who shall have all the duties and powers of the Chairman while so acting.

## **DUTIES OF OFFICERS**

15. The other duties of the officers of the Board shall be as determined by the Board from time to time.

## **VOTES OF BOARD**

16. At meetings of the Board all matters shall be determined by simple majority vote. A resolution of the Board in writing signed by all of the members shall have the same effect as a resolution passed at a meeting of the Board duly convened and held.

## **FURTHER POWERS OF BOARD**

17. The Board MAY:

- a. meet together for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, and it shall meet when any member of the Board gives to the other members of the Board not less than three (3) days notice of a meeting proposed by him, specifying the reason for calling the meeting provided that the Board shall meet at the call of the President on such notice as he may specify without the necessity of the President giving reasons for the calling of the meeting.
- b. appoint or employ for and on behalf of the Corporation such agents or servants as it thinks fit in connection with the control, management and administration of the Common Property and the exercise and performance of the powers and duties of the Corporation;
- c. subject to any valid restriction imposed or direction given at a general meeting of Owners, delegate to one or more members of the Board such of its powers and duties as it thinks fit, and at any time revoke such delegation;
- d. obtain and retain by contract the services of a Manager or of any professional real property management firm or professional real property manager or agent for such purposes (including but not so as to limit the generality of the foregoing the supervision, management and performance of any or all of the duties of the Corporation) and upon such terms as the Board may from time to time decide SUBJECT ALWAYS to the control and direction of the Corporation and the Board, such Manager to be reasonably fit and suited to perform such duties. The Manager employed by the Board need not devote its full time to the performance of duties of the Corporation so long as those duties are performed in a good and sufficient fashion. If under such contract the Manager holds funds for the Corporation, the contract shall require the Manager to arrange or maintain a fidelity bond owned by and in the name of the Corporation and for the benefit of the Corporation and such bond shall be in an amount required by the Corporation but in any event not less than:
  - i. the total amount of any Capital Replacement Reserve Funds as required under the Act or its Regulations in the hands of or controlled by the Manager; and
  - ii. one month's total condominium contributions of the Corporation or 1/12 of the total annual condominium contributions for all Units in the Project (excluding any special assessments) whichever is great; and
  - iii. a sum representing the average monthly amount of cash in the control of the Manager.
- e. enter into an insurance trust agreement in form and on terms as required by any Insurance Trustee.
- f. set and charge for and on behalf of the Corporation reasonable fees to compensate the Corporation for expenses it incurs in producing and providing any documents or copies required to be issued by it under the Act or pursuant to these By-laws.

## **ADDITIONAL DUTIES OF THE BOARD**

18. The Board SHALL:

- a. subject to any valid restrictions or directions given at a general meeting of the Owners, carry on the day to day business and affairs of the Corporation;
- b. keep minutes of its proceedings and, upon written request at the expense of the person requesting, provide copies thereof to Owners and to mortgagees who have notified their interests to the Corporation;
- c. cause minutes to be kept of general meetings of the Owners and, upon written request at the expense of the person requesting, provide copies thereof to Owners and to mortgagees who have notified their interests to the Corporation.
- d. cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which receipt and expenditure shall take place;
- e. prepare, or cause to be prepared, proper accounts relating to all monies of the Corporation, and the income and expenditure thereof for each annual general meeting;
- f. maintain financial records of all the assets, liabilities and equity of the Corporation;
- g. on written application of an Owner or mortgagee, or any person authorized in writing by him, make the books of account available for inspection at a time convenient to the Board or the Manager;
- h. at least once a year, cause the books and accounts of the Corporation to be reviewed by an independent Accountant to be selected at each annual general meeting of the Corporation and cause to be prepared and distributed to each owner and to each mortgagee who has, in writing, notified its interest to the Corporation, a copy of the reviewed Financial Statements of the receipts of contributions of all Owners towards the Common Expenses and disbursements made by the Corporation and a copy of the Accountant's Report within one hundred twenty (120) days at the end of the fiscal year of the Corporation. The report of the Accountant shall be submitted to each annual general meeting of the Corporation. The review obligations under this paragraph may be waived upon the passing of a Special Resolution to that effect;
- i. keep a register noting the names and addresses of all Owners and any mortgagees who have given notice of their interests to the Corporation;
- j. at all times, keep and maintain in force, all insurance required hereunder any by the Act to be maintained by the Corporation;
- k. within fifteen (15) days of a person becoming or ceasing to be a member of the Board, file or cause to be filed at the Land Titles Office a notice in the prescribed form stating the name and address of that person and the day that the person became or ceased to be, as the case may be, a member of the Board.
- l. file or cause to be filed at the Land Titles Office a notice in the prescribed form of any change in the address for service of the Corporation;
- m. appoint committees to fulfill any function the Board deems necessary, including if necessary an audit committee, maintenance committee or social committee and may appoint any other committee for any purpose it sees fit. Each committee shall appoint a chairman and each chairman shall report to the Board on each committee's activities. Any committee of the Board



shall have only that authority to deal with the Owners of Units, the occupants of Units, or others, as the Board may expressly confer on each committee;

- n. ensure that all matters are dealt with in accordance with the *Freedom of Information and Protection of Privacy Act and Regulations* (Alberta).

## **DEFECTS IN APPOINTMENT TO BOARD**

- 19. All acts done in good faith by the Board are, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any member of the Board, as valid as if the member had been duly appointed or had duly continued in office.

## **VACATING OFFICE OF BOARD MEMBER**

- 20. The office of a member of the Board shall be vacated if the member:
  - a. by notice in writing to the Corporation resigns his office; or
  - b. dies; or
  - c. is in arrears more than sixty (60) days of any contribution, levy or assessment required to be made by him as an Owner; or
  - d. in the case of a board member becoming bankrupt, that board member may not be in the treasurer's position, have access to the funds, or have signing authority for banking accounts, investments or accounts holding any funds for Strathcona Barclay Condominiums
  - e. is found lunatic or becomes of unsound mind, or is the subject of a Certificate of Incapacity issued under the *Dependent Adults Act* or any Act passed in substitution therefore; or
  - f. is convicted of an indictable offence; or
  - g. is absent from meetings of the Board for a continuous period of three (3) months or three (3) consecutive meetings without the consent of the remaining members of the Board and a majority of the remaining members of the Board resolve at the next subsequent meeting of the Board that his office be vacated; or
  - h. he ceases to qualify for membership pursuant to By-law 7; or
  - i. in the case of a company which is a member of the Board, if the company shall become bankrupt or make an assignment for the benefit of creditors or if proceedings are commenced to wind up the company, otherwise than for the purpose of amalgamation or reconstruction, that company may not be in the treasurer's position, have access to the funds, or have signing authority for banking accounts, investments or accounts holding any funds for Strathcona Barclay Condominiums.
  - j. is refused bonding, at a reasonable premium, by a recognized bonding institution; or

- k. commences any legal proceedings against the Board or the Corporation.

## **SIGNING AUTHORITIES**

21. The Board shall determine, by resolution from time to time, the manner in which an officer or officers shall sign cheques, drafts, notes and other instruments and documents, including banking forms and authorities not required to be under corporate seal and may authorize the Manager to sign the same with or without co-signing by any officer or officers.

## **CORPORATE SEAL**

22. The Corporation shall have a common seal, which shall be adopted by resolution and which shall at no time be used or affixed to any instrument except in the presence of at least one member of the Board or by the persons as may be authorized from time to time by resolution of the Board, except that where the Board consists solely of representatives of the Developer one signature shall be sufficient for the purposes of this By-law.

## **ANNUAL GENERAL MEETINGS**

23. The first annual general meeting of the non-Developer Owners shall be convened by the Board within the time prescribed by the Act. Subsequent annual general meetings shall be held once in each calendar year, and not more than fifteen (15) months shall elapse between the date of one annual general meeting and that of the next.

## **EXTRAORDINARY GENERAL MEETINGS**

24. All general meetings other than annual general meetings shall be called extraordinary general meetings.

## **CONVENING EXTRAORDINARY GENERAL MEETINGS**

25. The Board may whenever it thinks fit and shall upon a requisition in writing by Owners representing not less than 50% of the total Unit factors for all the Units or upon the request in writing from mortgagees holding registered mortgages (and who have notified their interest to the Corporation) against Units in respect of which corresponding Unit factors represent not less than 50% of the total Unit factors or a combination of such Owners or mortgagees entitled to vote with respect to 50% of the total Unit factors convene an extraordinary general meeting which meeting shall be held within thirty (30) days of the Board's receipt of the said requisition. The agenda for such meeting shall include any legally valid items specified by the requisitioners.

## **NOTICE OF GENERAL MEETINGS**

26. A minimum of seven (7) days notice of every general meeting specifying the place, the date and the hour of meeting (and in the case of special business the general nature of such business) shall be given to all Owners and mortgagees who have notified their interest to the Corporation. Notice shall be given to the Owner and to such mortgagees in the manner prescribed in these By-laws, but the accidental omission to give notice to an Owner or mortgagee, or non-receipt by an Owner or mortgagee, does not invalidate the meeting or any proceedings thereat. In computing the number of the days of notice of a general meeting required under these By-laws, the day on which the notice is deemed to have been received and the day of the meeting shall be counted. Notice of any meeting may be waived either at, before or after the meeting by persons entitled to vote at the meeting and such waiver shall be deemed the equivalent of receipt of due and proper notice of the meeting.

## **PROCEEDINGS AT GENERAL MEETINGS**

27. All business that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the Board, or at any extraordinary general meeting, shall be deemed special.

## **QUORUM FOR GENERAL MEETINGS**

28. Save as in these By-laws otherwise provided, no business shall be transacted at any general meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business and one-quarter of the persons entitled to vote representing not less than one-quarter of the Unit Factors present in person or by proxy shall constitute a quorum.

## **ADJOURNMENT FOR LACK OF QUORUM**

29. If within thirty (30) minutes from the time appointed for a meeting of the Corporation, a quorum is not present, the meeting shall stand adjourned for a further fifteen (15) minutes and if after the fifteen (15) minute adjournment a quorum is not present, the persons entitled to vote who are present constitute a quorum.

## **CHAIRMAN FOR GENERAL MEETINGS**

30. The President of the Board shall be the Chairman of all general meetings or in his absence from the meeting or in case he shall vacate the chair, the Vice-President of the Board shall act as Chairman provided always that if the President and Vice-President be absent or shall vacate the chair or refuse to act, the meeting shall elect a Chairman.

## **ORDER OF BUSINESS FOR GENERAL MEETINGS**

31. The Order of Business at general meetings, and as far as is appropriate at all extraordinary general meetings shall be:
- a. if the President or Vice-President of the Board shall be absent or elects to vacate the chair or refuses to act, the election of the Chairman of the meeting;
  - b. call to order by the Chairman and establish quorum;
  - c. calling of the roll and certifying of proxies;
  - d. proof of notice of meeting or waiver of notice;
  - e. reading and disposal of any unapproved minutes;
  - f. reports of officers;
  - g. reports of committees;
  - h. financial report;
  - i. appointment of auditors;
  - j. election of Board;
  - k. unfinished business;
  - l. new business;
  - m. adjournment.

## **VOTING BY SHOW OF HANDS**

32. At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands, unless a poll is demanded by any Owner or registered mortgagee present in person or by proxy. Unless a poll be so demanded, a declaration by the Chairman that a resolution has, on the show of hands, been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour or against the resolution. Except for matters requiring a Special Resolution or Unanimous Resolution, all matters shall be determined by Ordinary Resolution.

## **POLL VOTES**

33. A poll, if demanded, shall be taken in whatever manner the Chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In the case of equality in the votes, whether on a show of hands or on a poll, the Chairman of the meeting is entitled to a casting vote in addition to his original vote. A demand for a poll may be withdrawn.

## **VOTING CALCULATION**

34. On a show of hands, each person entitled to vote for any Unit shall have one vote for that Unit. On a poll, the votes of persons entitled to vote for such Unit shall correspond with the number of Unit Factors for the respective Units owned or mortgaged to them.

## **VOTES PERSONALLY OR BY PROXY**

35. Votes at any general meeting may be given either personally or by proxy.

## **PROXIES**

36. An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting. A proxy need not be an Owner.

## **ELIGIBILITY TO VOTE**

37. Except in cases where by or under the Act a Unanimous Resolution or Special Resolution is required, no Owner is entitled to vote at any general meeting unless all assessments payable in respect of his Unit have been duly paid to the date thirty (30) days prior to the date of such meeting but the presence of any such defaulting Owner shall be included in the count for quorum constitution purposes pursuant to By-law 28.

## **VOTE BY CO-OWNERS**

38. a. Co-Owners may vote by proxy but only if the proxy is jointly appointed by them or by one of the co-Owners appointed by the other or all others, as the case may be, and in the absence of such proxy, co-Owners are not entitled to vote separately on a show of hands except when a Unanimous Resolution is required by the Act, but any one co-Owner may demand a poll;
- b. On any poll, each co-Owner is entitled to such part of the vote applicable to a Unit as is proportionate to his interest in the Unit. The joint proxy (if any) on a poll shall have a vote proportionate to the interest in the Unit of the joint Owners as do not vote personally or by individual proxy.

## **RESOLUTION OF THE OWNERS**

39. A resolution of the Owners in writing signed by each Owner or his duly appointed proxy shall have the same effect as a resolution passed at a meeting of the Owners duly convened and held.

## **SUCCESSIVE INTERESTS**

40. Where Owners are entitled to successive interests in a Unit, the Owner entitled to the first interest (or if his interest is mortgaged by registered first mortgage notified to the Corporation, the mortgagee under such mortgage) is alone entitled to vote, whether on a show of hands or a poll.

## **TRUSTEE VOTE**

41. Notwithstanding the provisions of these By-laws with respect to appointment of a proxy, where the Owner's interest is subject to a registered mortgage and where the mortgage or these By-laws or any statute provides that the power of vote conferred on an Owner may or shall be exercised by the mortgagee and where the mortgagee has given written notice of his mortgage to the Corporation, no instrument or proxy shall be necessary to give the mortgagee the said power to vote and the mortgagee's power to vote shall not be limited or proscribed by the Owner's failure to pay contributions.

## **VIOLATION OF BY-LAWS**

42. a. Any infraction or violation of or default under these By-laws or any rules and regulations established pursuant to these By-laws on the part of an Owner, his servants, agents, licensee, invitees, Occupants or Tenants that has not been corrected, remedied or cured within ten (10) days of having received written notification from the Corporation to do so, may be corrected, remedied or cured by the Corporation and any costs or expenses incurred or expended by the Corporation including costs as between a solicitor and his own client on a full indemnity basis, in correcting, remedying or curing such infraction, violation or default shall be charged to such Owner and shall be added to and become part of the assessment of such Owner for the month next following the date when such costs or expenses are expended or incurred (but not necessarily paid) by the Corporation and shall become due and payable on the date of payment of such monthly assessment and shall bear interest both before and after judgment at the Interest Rate until paid;
- b. In addition, the Corporation may also recover from an Owner by an action for debt in any court of competent jurisdiction any sum of money which the Corporation is required to expend as a result of any act or omission by the Owner, his servants, agents, licensees, invitees, Occupants or Tenants, which violates these By-laws or any rules or regulations established pursuant to these By-laws and for which ten (10) days prior written notice has been given by the Corporation and there shall be added to any judgment, all costs of such action including costs as between a solicitor and his own client on a full indemnity basis. Nothing herein shall be deemed to limit any right of any Owner to bring an action or proceeding for the enforcement and protection of his rights and the exercise of his remedies;
- c. In addition, the Corporation may also exercise the powers provided for in Section 35 and Section 36 of the Act, and accordingly, if the Board determines that a breach or violation of any By-law or of any rules or regulations established pursuant to these By-laws has occurred or is occurring, the board may impose a penalty by fine as follows:
- i. for a first breach or infraction of a By-law by an Owner (which for the purpose of this By-law includes such Owner's servants, agents, licensee, invitees, Occupants or Tenants), the Board may impose a penalty by fine on such Owner not to be less than \$25.00 and not to exceed \$10,000.00;
- ii. for a second breach or infraction of a By-law by an Owner (which for the purpose of this By-law includes such Owner's servants, agents, licensees, invitees, Occupants or Tenants) the Board may impose a penalty by fine on such Owner not to be less than \$50.00 and not to exceed \$10,000.00;

- iii. for a third (or more) breach or infraction of a By-law by an Owner (which for the purpose of this By-law includes such Owner's servants, agents, licensees, invitees, Occupants or Tenants) the Board may impose a penalty by fine on such Owner not to be less than \$100.00 and not to exceed \$10,000.00;
- iv. if the breach or infraction of a By-law by an Owner (which for the purpose of this By-law includes such Owner's servants, agents, licensees, invitees, Occupants or Tenants) is in the determination of the Board a continuous infraction or violation of the By-law, the Board may impose a penalty by fine on such Owner not to be less than \$25.00 per day and not to exceed \$10,000.00 in the aggregate. (Each day of a continuing breach shall be deemed a contravention of the By-law);

The foregoing penalties shall be payable immediately by an Owner, subject to the Owner's right to appeal herebelow within ten (10) days of receipt of a written notice from the Board specifying the violation and the amount of the penalty or fine imposed;

- d. An Owner aggrieved by a fine levied pursuant to By-law 42(c) may appeal the actions of the Board to an extraordinary general meeting of the Owners convened in the manner specified by these By-laws;
  - i. The Owners convened in an extraordinary general meeting may rescind, amend or confirm the actions of the Board, and in so doing may inquire into all the circumstances of the alleged breach, its rectifications, any fine levied or leviable, the collection or forgiveness of any fine, and generally, to act in their discretion to uphold the By-laws.
  - ii. The appeal to the Owners shall be conducted according to rules of natural justice. No error in procedure shall operate so as to nullify the proceedings unless the error is sufficiently grave so to prejudice the rights of all or any one of the Owners;
  - iii. An Owner's right to appeal any penalty imposed by the Board pursuant to By-law 42(c) shall expire sixty (60) days following receipt of the notice specified in By-law 42(c) or the date that proceedings have been commenced against the Owner pursuant to Section 36 of the Act, whichever shall last occur.
- e. The rights and remedies of the Corporation as set forth in By-law 42 are supplemental to and not in substitution for any other rights or remedies that the Corporation may have under these By-laws, the Act and the Regulations under the Act, at law or at equity, or otherwise. The Corporation may exercise, employ or pursue its rights and remedies under these By-laws, including without limitation, the rights and remedies under By-law 42, either selectively, cumulatively or consecutively, and the election by the Corporation to pursue or employ any one right or remedy or to pursue or employ several rights or remedies together shall not constitute an election by the Corporation to abandon any of its other rights or remedies, none of which are waived by the Corporation.

## **DAMAGE OR DESTRUCTION**

- 43. a. In the event of damage or destruction as a result of fire or other casualty, the Board shall determine within thirty (30) days of the occurrence whether there has been substantial damage.

For the purpose of this paragraph, substantial damage shall mean damage to the extent of 25% or more of the replacement value of all Units, Managed Property and Common Property immediately prior to the occurrence. Prior to making any determination under this subparagraph the Board shall obtain the opinion of an independent insurance appraiser to the effect that substantial damage has or has not occurred. If there has been substantial damage the Board shall convene an extraordinary general meeting and give at least ten (10) days notice by registered mail to all registered mortgagees;

Unless there has been substantial damage and the Owners by Special Resolution resolve not to proceed with repair or restoration within one hundred (100) days after the damage or destruction, the Board shall arrange for prompt repair and restoration using proceeds of insurance for that purpose. The Board shall cause the proceeds of all insurance policies to be disbursed to the contractors engaged in such repair and restoration in appropriate progress payments. Any costs of such repairs and restoration in excess of the insurance proceeds shall constitute a Common Expense and the Board may assess all the Unit Owners for such deficiency as part of the Common Expenses;

Where there has been substantial damage and the Owners resolve by Special Resolution within one hundred (100) days after the damage or destruction not to repair, the Board shall on behalf of the Owners make application to terminate the condominium status of the Parcel in accordance with the provisions of the Act, and each of the Owners shall be deemed to consent to such application. Upon termination of the condominium status:

- i. any liens or charges affecting any of the Units shall be deemed to be transferred in accordance with their existing priorities to the interests of the respective Owners in the Parcel; and
  - ii. the proceeds of insurance shall be paid to the Insurance Trustee, if any, the Owners and mortgagees, as their respective interests may appear, in proportion to their respective interests in the Parcel in accordance with the terms of any insurance trust agreement in effect;
- b. The Corporation is not responsible for any damage or loss whatsoever caused by or to any property or contents of any nature or kind in or upon a Unit Building or in or upon any part of the Common Property designated for the exclusive use of any Unit Owner;
- c. No Owner shall be entitled to claim any compensation from the Corporation for any loss or damage to the property or person of the Owner arising from any defect or want of repair of the Common Property or any part thereof; unless such loss or damage is covered by the insurance held or required to be held by the Corporation pursuant to the Act of these By-laws, whichever is the greater;
- d. Where the Corporation is required to enter a Unit or Building for the purpose of maintaining, repairing or renewing pipes, wires, cables and ducts for the time being existing in the Unit or Building, and capable of being used in connection with the enjoyment of any other Unit, Building or the Common Property, the Corporation and its servants, employees and agents shall in carrying out any work or repairs do so in a proper and workmanlike manner and shall make good any damage to the Unit occasioned by such work and restore the Unit or Building to its former condition, leaving the Unit or Building clean and free from debris;
- e. An Owner shall indemnify and save harmless the Corporation from the expenses of any maintenance, repair or replacement rendered necessary to the Common Property or to any Unit or Building by his act or omission or by that of any member of his family or his or their guests,



servants, agents, invitees, licensees or Tenants, but only to the extent that such expense is not met by the proceeds of insurance carried by the Corporation.

## **INSURANCE**

44. a. The Board, on behalf of the Corporation, shall obtain and maintain, subject always to the Act, in particular Section 47 thereof and the Regulations under the Act pertaining to insurance, the following insurance:
- i. fire insurance with extended coverage endorsement for such perils as the Board shall deem advisable insuring: (1) all of the insurable Common Property; (2) all insurable property of the Corporation, both real and personal of any nature whatsoever; (3) all of the Units, (EXCLUDING all improvements and betterments made to the Units by the Owners and EXCLUDING furnishings and other personal property of each Owner, whether or not installed in the Unit) for the full replacement cost thereof without deduction for depreciation; (4) the interests of and naming as insureds all Owners from time to time; (5) all mortgagees who have given written notice to the Corporation; (6) the Corporation and (7) the Board and any person referred to in By-law 7 hereof; (all of the foregoing parties are hereinafter collectively called the “Insureds”) as their respective interest may appear;
  - ii. commercial general liability insurance insuring the Insureds against any liability to the public and/or to the Owners and their invitees, licensees or Tenants, incidental to the Ownership and/or use of the Common Property and Units and such insurance shall be limited to liability in an amount not less than \$2,000,000.00 inclusive for bodily injury and/or property damage per occurrence;
  - iii. liability insurance, including errors and omissions coverage, in such amounts and with such deductible as the Board may determine, insuring the Board and every member thereof from time to time and all employees of the Corporation from and against all loss, costs, and expenses, including counsel fees, reasonably incurred by them in connection with any action, suit or proceeding to which they may be made a party by reason of being or having been a Manager or officer of the Corporation, except as to matters as to which they shall be finally adjudged in such action, suit or proceeding to be liable for fines or penalties imposed in a criminal suit or action or for unjustified profit or advantage or for any wrongful act done or attempted in bad faith or dishonesty;
  - iv. Such other insurance and coverage for such other risks or causes as the Board may determine or as may be determined by Special Resolution;
- b. Each and every said policy of insurance shall name the Insureds and shall, as available and where applicable, provide:
- i. that the policy may not be cancelled or substantially modified without at least sixty (60) days prior written notice to all insureds;
  - ii. that in no event shall insurance coverage be brought into contribution with insurance purchased by any Owner or mortgagee and such insurance shall be deemed as primary insurance;

- iii. standard mortgage endorsements attached to each such policy;
  - iv. a waiver by the insurer of its right of subrogation against the Corporation, its Manager, agents, employees and servants and the Owners and any member of the household or guests of any Owner, except for arson, fraud and vehicle impact;
  - v. a waiver by the insurer of any defense based upon co-insurance (provided that policies of physical damage insurance may contain co-insurance on a stated amount basis so long as the appraisal provisions of this By-law are met) or of invalidity arising from the conduct of or any omission or act or breach of a statutory condition by any Insured;
  - vi. that the Corporation or the Insurance Trustee (as the case may be) shall have the right, at its sole option, to obtain a cash settlement (without deduction for depreciation) in the event of substantial damage to the property insured and a waiver of the insurer's option to repair, rebuild or replace in the event that, after damage, the status of the condominium is terminated; and
  - vii. a cross liability endorsement wherein the rights of any Insured shall not be prejudiced with respect to another Insured and the insurance indemnifies each insured as if a separate policy had been issued to each Insured;
- c. Prior to obtaining any policy of insurance hereunder or any renewal thereof; or at least every five (5) years thereafter, the Board shall obtain an appraisal or appraisal update from a duly qualified appraiser setting out the full replacement cost of the Common Property, Units and all of the property of the Corporation. A copy of such appraisal or appraisal update shall be delivered to each mortgagee who has given written notice of this mortgage to the Corporation. The Board shall forthwith obtain insurance coverage under any and all such policies of insurance in accordance with such appraisal or appraisal update to insure the full replacement value as set forth in such appraisal or appraisal update. In addition to such insurance coverage for the replacement value of the Common Property, Units and any other property of the Corporation, the Board shall review and adjust the level of insurance coverage for other risks (including liability) to such amounts and levels required by and as would be maintained by an Owner of similar property in the locality in which the condominium Property is situate;
- d. A certificate or memorandum of all insurance policies and endorsements thereto shall be issued by the Board, or by the Manager on its behalf, as soon as practicable to each of the Insureds immediately upon written request therefore, and a duplicate original or certified copy of each such policy shall be forwarded as aforesaid to each mortgagee who has in writing notified the Board of its interest. Further, a renewal certificate or memorandum of new insurance policies shall be furnished to each Insured. The Master policy of all insurance coverage shall be retained by the Corporation in its offices, and shall be available for inspection by any and all of the Insureds upon reasonable request;
- e. Notwithstanding anything aforesaid, all proceeds of insurance on loss or claim shall be paid to the Insurance Trustee (if any), and exclusive authority to adjust losses and settle proceeds under all insurance policies shall be vested in the Board or its authorized representative, and the Insurance Trustee (if any) and any expenses of the Insurance Trustee shall be treated as Common Expenses of the Corporation;

- f. The Owners may, and upon written request of any mortgagee shall, carry insurance on their own Units as permitted by the Act provided that the liability of the insurers issuing insurance obtained by the Board hereunder shall not be affected or diminished by reason of insurance so carried by any Unit Owner AND PROVIDED FURTHER that neither the Corporation nor the Board shall be required or have any duty to insure the interests of Tenants or Owners against liability or the interests of Tenants or Owners for their belongings, contents or other property. The insuring of any contents within a Unit is the sole responsibility of the Owner, Tenant or Occupant of the Unit and they shall not require the Corporation or the Board to repair any damage to any contents or personal property within or to the Unit however caused;
- g. In the event an Owner incurs or suffers damage or loss to the windows or Unit access doors (which constitute part of the Unit) or to any interior finishing or improvements of his Unit and/or the Common Property adjacent thereto that is covered or insured under any insurance policy of the Corporation and such Owner elects to pursue recovery of such loss or damage under any insurance policy of the Corporation, such Owner shall be responsible for and pay the full amount of any deductible on such claim if, in the sole opinion of the Board, such damage or loss was caused by or arose out of any act or omission by such Owner, his servants, agents, licensees, invitees or Tenants and such amount shall be recoverable by the Corporation as a contribution against all other costs, charges and liabilities arising out of any loss that may be sustained or incurred by the Corporation. It is the owners responsibility, in the event that the unit is vacant for any extended period, to assure that the unit is being checked on a regular basis, which would be within the same period of time that the corporation's insurance policy would dictate (for example, if the insurance policy dictates that the vacant premises is checked every 5 days, then that is the maximum period of time a unit can be left without being checked on).

## **CONTRIBUTIONS FOR COMMON EXPENSES AND BUDGETS**

- 45. a. The Common Expenses of the Corporation shall be paid by the Unit Owners in proportion to the Unit Factors for their respective Units and, without limiting the generality hereof, shall include the following:
  - i. all levies or charges on account of garbage removal, electricity, water, sewer, gas and fuel services and television antenna or cable services (if any) supplied to the Corporation for the project and for the benefit of all Owners and not charged directly to any one Owner either by meter or otherwise;
  - ii. management fees and Insurance Trustee fees, if any, wages, salaries, taxes and other expenses payable to or on account of employees or independent contractors of the Corporation;
  - iii. all the charges on account of cleaning or sweeping of parking areas, Managed Property, lawn maintenance and landscaping and for ice, snow and debris removal from Managed Property or Common Property not designated as a privacy area;
  - iv. all charges on account of lighting fixtures situated on any Unit owned by the Corporation or on the Managed Property or Common Property;
  - v. all charges on account of maintenance for any Unit owned by the Corporation, or those portions of a Unit, Buildings, Managed Property or Common Property for which the Corporation is responsible under these By-laws.

- vi. all costs of furnishings, tools and equipment for use in and about the Project facilities or amenities including the repair, maintenance or replacement thereof;
- vii. all insurance costs in respect of the insurance for which the Corporation is responsible under these By-laws and/or the Act;
- viii. all costs of and charges for all manner of consultation, professional and servicing assistance required by the Corporation including without limiting the generality of the foregoing all legal, accounting, auditing and engineering (including Capital Replacement Reserve Funds studies as required under the Act and its Regulations) fees and disbursements;
- ix. all reserves for repairs and replacement of Common Property and portions of Units or Buildings, the repair or replacement of which is the responsibility of the Corporation;
- x. maintenance of the exterior walls and other structural costs of the building;
- xi. the cost of maintaining fidelity bonds as provided in these By-laws;
- xii. the cost of borrowing money for the purpose of carrying out the duties and objects of the Corporation;
- xiii. the allocable or pro rata portion of the cost of any electricity taken from any exterior plug which is billed directly to an Owner by the provider of such electricity and which is used by the Corporation for purposes of operating or maintaining Common Property;
- b. Within 120 days of the end of each fiscal year the Corporation shall deliver or mail to each Owner at the municipal address of his Unit:
  - i. a copy of the budget for the ensuing fiscal year; and
  - ii. a notice of the assessment for his contribution towards the Common Expenses for said ensuing fiscal year. Said assessment shall be made to the Owners in proportion to their Unit factors;
- c. The budget shall set out by categories an estimate of the Common Expenses of the Corporation for the next fiscal year;
- d. In establishing a budget, the Board shall comply with the requirements set forth in the Act and its Regulations respecting the Capital Replacement Reserve Fund. The replacement reserve fund may be used for the repair or replacement of any real and personal property owned by the Corporation, the Buildings, the Managed Property and the Common Property but is not intended to be used to cover annually recurring maintenance and repair costs which are to be set out and provided for in the annual budget. The Corporation may by resolution determine the maximum amount that may be paid from the Capital Replacement Reserve Fund in respect of a single expenditure.
- e. The Common Expenses set forth in each contribution shall be payable to the Corporation, or to any other person, firm or corporation to whom the Corporation shall direct payment to be made from time to time, in twelve (12) equal consecutive monthly installments payable, in advance, on the first day of each month, the first installment to be made on the 1<sup>st</sup> day of the month

immediately following receipt of such notice of assessment, or such other time as may be prescribed by the Corporation;

- f. All payments of whatsoever nature required to be made by each Owner and not paid within ten (10) days from the due date for payment shall bear interest at the Interest Rate from the date when due until paid. All payments on account shall first be applied to interest and then to the assessment payment first due;
- g. The Corporation shall, on the application of an Owner or any person authorized in writing by him, certify within twenty (20) days;
  - i. the amount of any contribution determined as the contribution of the Owner;
  - ii. the manner in which the contribution is payable;
  - iii. the extent to which the contribution has been paid by the Owner; and
  - iv. the interest owing, if any, on any unpaid balance of a contribution;and, in favour of any person dealing with that Owner the certificate is conclusive proof of the matters certified therein;
- h. Upon the written consent of an Owner, purchaser or mortgagee of a Unit the Corporation shall, within twenty (20) days of receiving that request, provide to the person making the request one or more of the following as requested by that person:
  - i. a statement setting forth the amount of any contributions due and payable in respect of a Unit;
  - ii. the particulars of:
    - (1) any action commenced against the Corporation and served upon the Corporation;
    - (2) any unsatisfied judgment or order for which the Corporation is liable; and
    - (3) any written demand made upon the Corporation for an amount in excess of \$5,000.00 that, if not met, may result in an action being brought against the Corporation;
  - iii. the particulars of or a copy of any subsisting management agreement;
  - iv. a copy of the current budget of the Corporation;
  - v. a copy of the most recent financial statement of the Corporation;
  - vi. a copy of the By-laws of the Corporation;
  - vii. a copy of any minutes of proceedings of a general meeting of the Corporation or of the Board;
  - viii. the particulars of or a copy of any subsisting lease of any of the Common Property;

- ix. any other information that the Corporation is obligated to provide under section 44 of the Act.
- i. The Owner or Occupier of a Unit shall pay to the Corporation on the first day of each month, commencing on the first day of the following receipt by the Owner or occupier a Notice of Estimated Monthly Assessment, the amount of the estimated monthly assessment towards Common Expenses for which his Unit is responsible, based on the Unit factor for his Unit;
- j. The omission by the Board to fix the contributions hereunder for the next ensuing fiscal year or other period provided for herein, shall not be deemed a waiver or modification in any respect of the provisions of these By-laws or release of the Owner or Owners from their obligation to pay the contributions or special assessments, or any installments thereof for any year or period, but the contributions fixed from time to time shall continue until new contributions are fixed. No Owner can exempt himself from liability for his contributions toward the Common Expenses by waiver of the use or enjoyment of any of the Common Property or by vacating or abandoning his Unit;
- k. The Board or the Manager supplying any documents required to be provided in these By-laws or the Act, shall be entitled to charge a reasonable fee for the production thereof.

## **SPECIAL ASSESSMENTS**

- 46. If at any time it appears that the annual contributions towards the Common Expenses will be insufficient to meet the Common Expenses, the Corporation may assess and collect a special contribution or assessment against each Unit in an amount sufficient to cover the additional anticipated Common Expenses. The Corporation shall give notice of such further assessment to all Owners which shall include a written statement setting out the reasons for the assessment and each assessment shall be due and payable by each Owner in the manner and on the date or dates specified in the notice. Each such special assessment shall be determined and assessed against the Owners in proportion to their Unit factors. All such special assessments shall be payable within ten (10) days of the due date for payment as specified in the notice and if not paid shall bear interest at the Interest Rate from the due date until paid.

## **DEFAULT IN PAYMENT OF ASSESSMENTS**

- 47. a. The Corporation shall and does hereby have a lien on and a charge against the estate or interest of any Owner for any unpaid contribution, assessment, installment or payment due to the Corporation, which lien shall be a lien against such estate or interest subject only to the rights of any registered mortgagee and any municipal or local authority in respect of unpaid realty taxes, assessments or charges of any kind against the Unit title or interest of such Owner. The Corporation shall have the right to file a caveat or encumbrance against the Unit title or interest of such Owner in respect of the lien or charge for the amount of such unpaid contribution, assessment, installment or payment as hereinbefore mentioned, and for so long as such unpaid contribution, assessment, installment or payment remains unpaid, provided that each such caveat or encumbrance shall not be registered until after the expiration of thirty (30) days following the due date for the first payment in arrears. As further and better security, each Owner responsible for any such unpaid contribution, assessment, installment or payment which is in arrears for more than thirty (30) days, shall give to the Corporation a mortgage or encumbrance for the full amount

thereof and all contributions, assessments, installments and/or payments, and interest thereon at the Interest Rate from the due date or dates for payment of the same, and the Corporation shall be entitled to enforce its lien, charge and security and pursue such remedies as may be available to it at law or in equity, from time to time including the recovery by the Corporation of its legal fees and disbursements on a solicitor and his own client basis from such defaulting Owner;

- b. Any other Owner or person, firm or corporation whatsoever may pay any unpaid contribution, assessment, installment or payment after the expiration of thirty (30) days following the due date for payment by the Owner in default, with respect to a Unit, and upon such payment, such party, person, firm or corporation shall have a lien, subject to the estates or interest hereinbefore mentioned and shall be entitled to file a caveat or encumbrance in respect of the amount so paid on behalf of the Owner in default, and shall be entitled to enforce his lien, thereby created, in accordance with other terms and conditions of this provision;
- c. Notwithstanding and in addition to any other term, condition or provision herein contained or implied, each unpaid contribution, assessment, installment or payment shall be deemed a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed and collectible as such. Any action, suit or proceeding to recover such debt or to realize on any judgment therefore shall be maintainable as a separate action, suit or proceeding without foreclosing or waiving the lien, charge or security, securing the same;
- d. In the event of any contribution, assessment against or installment or payment due from an Owner remaining due and unpaid for a period of ninety (90) days, the Board shall give notice of such default to all mortgagees having an interest in such Owners Unit who have notified their interests to the Corporation;
- e. In the event of any contribution, assessment against or installment or payment due from an Owner remaining due and unpaid for a period of thirty (30) days, the Board, at its election, may accelerate the remaining monthly contributions, assessments, installments and payments for the fiscal year then current upon notice to the Owner in arrears, and thereupon all such unpaid and accelerated monthly contributions, assessments, installments and payments shall become payable on and as of the date of the said notice, PROVIDED THAT no such acceleration shall affect the interests of or be binding upon any registered mortgagee;
- f. All reasonable costs of the Manager and legal costs and disbursements incurred by the Corporation (including costs on a solicitor and his own client basis and on a full indemnity basis) in registering and discharging a Caveat which either the Manager or the Corporation expends as a result of any act or omission of an Owner, his servants, agents, licensee, invitees or Tenants which violates these By-laws or any rules or regulations established pursuant thereto or incurred in any way for securing or enforcing its interests hereunder or the taking of any remedies to cure any default hereunder shall constitute a payment due the Corporation.

## **ESTOPPEL CERTIFICATE**

- 48. Any certificates as to Owner's position with regard to contributions, expense assessments or otherwise, issued by an officer of the Corporation or the Manager shall be deemed to be an estoppel certificate and the Corporation and all of the Owners shall be estopped from denying the accuracy of such certificate against any mortgagee, purchaser or other person dealing with the Unit Owner but this shall not prevent the enforcement against the Unit Owner incurring the said expense of all obligations of the said Unit Owner whether improperly stated in such estoppel certificate or not.

## **LEASING OF UNITS**

49. a. In the event that any Owner desires to lease or rent his Unit he shall furnish to the Corporation an undertaking, in form satisfactory to the Corporation, signed by the proposed Lessee or Occupant, that the proposed Lessee or Occupant of the Unit will comply with the provisions of the Act and of the By-laws of the Corporation. The Owner shall not be released of any of his obligations and shall be jointly and severally liable with the proposed Lessee or Occupant with respect to such obligations.
- b. The Corporation may:
- i. impose and collect deposits under Section 53 of the Act. If any deposit is used in accordance with the Act or these By-laws, the Owner shall replace that portion of the deposit used within ten (10) days of being notified, in writing, by the Board of its use. Should an owner rent out more than one suite, that owner must provide a deposit for a maximum of two rental suites, and the funds to be applied to any of the rental suites on the premises, and replace any portion of the deposit used within ten (10) days of being notified of its use;
  - ii. give notices to give up possession of residential Units under Section 54 of the Act; and
  - iii. make applications to the Court under Sections 55 and 56 of the Act;
- c. No Tenant shall be liable for the payment of contributions or assessments or Common Expenses under these By-laws unless notified by the Corporation that the Owner from whom he rents the Unit is in default of payment of contributions, in which case the Tenant shall deduct from the rent payable to the Owner, such default contributions and shall pay the same to the Corporation. Any such payment by the Tenant shall be deemed to be a rental payment made to the Owner.

## **SEVERABILITY**

50. The provisions hereof shall be deemed independent and severable and the invalidity in whole or in part of any By-law does not affect the validity of the remaining By-laws, which shall continue in full force and effect as if such invalid portion had never been included herein.

## **NOTICES**

51. Unless otherwise expressly provided in these By-laws, service of any notice required to be given under the Act or under these By-laws shall be well and sufficiently given if sent by prepaid registered mail to the Owner at the address of his Unit or other known address or if left with him or some adult person at the said address, or to the Corporation at its address for service shown on the Condominium Plan, or to a mortgagee at its address supplied to the Corporation. Any notice given by post shall be deemed to have been sent and received forty eight (48) hours after it is posted. An Owner or a mortgagee may at any time in writing advise the Corporation of any change of address at which notices shall be served or given and thereafter the address specified therein shall be deemed to be the address of such Owner or a mortgagee, as the case may be, for the giving of notices. The word "notice" shall include any request, statement or other writing required or permitted to be given hereunder or pursuant to the Act or these By-laws.



## **NOTICE OF DEFAULT TO MORTGAGEES**

52. Where a mortgagee has notified the Corporation of its interest, any notice of default sent to an Owner shall also be sent to the mortgagee.

## **DEBT RETIREMENT ON TERMINATION**

53. Subject to the provisions of the Act, upon termination of the condominium status for any purpose, all debts of the Corporation shall first be paid out of the assets, and the balance of the assets, if any, shall be distributed to the Owners in proportion to their Unit factors subject to the interest of any mortgagees.

## **COMPANY WHICH IS MEMBER OF BOARD**

54. A company which is a member of the Board may by proxy, power of attorney or resolution of its directors appoint such person as it thinks fit to act as its representative on the Board and to attend meetings thereof and vote at such meetings on behalf of the company and such representative shall be entitled to act provided notice in writing thereof shall have been given to the Board. Where a company is the only member of the Board a minute or resolution signed by its representative or by the alternate of its representative duly appointed pursuant to the By-law next following shall be deemed to be a resolution of the Board.

## **ALTERNATE BOARD REPRESENTATIVE**

55. A representative of a company on the Board may appoint any person whether another Owner or not and whether a member of the Board or not to serve as his alternate representative on the Board and as such to attend and vote in his stead at meetings of the Board and to do anything specifically provided for in these By-laws. Such alternate shall, if present, be included in the count for quorum and if he be a member of the Board he shall be entitled to two votes, one as a member of the Board and the other as an alternate representative of a member of the Board. If the representative so directs, notice of meetings of the Board shall be sent to the alternate representative of a member of the Board. If and when the appointing representative vacates the office of a representative of a member of the Board or removes the alternate representative from office as alternate representative, any appointment or removal under this By-law shall be made in writing under the hand of the representative making the same.

## **PRIVACY AREAS AND PARKING AREAS**

56. a. In this By-law:
- i. “exclusive use area” means an area of Common Property designated by the Corporation for the exclusive use by an Owner of a Unit and includes a parking area, balcony, or ground floor patio, but shall not include any fence, rail, exterior wall or similar structure bordering such exclusive use area;

- ii. “parking area” means a parking space or area designated by the Corporation for the exclusive use by an Owner of a Unit for vehicular parking;
  - iii. “privacy area” means a balcony or ground floor patio designated by the Corporation for the exclusive use by an Owner of a Unit.
- b. The Corporation may, in addition to other restrictions set out in these By-laws, specify and limit the nature and extent of the use or uses of any parking area assigned or designated by it hereunder, and in addition to the Corporation’s powers and obligations as set forth in these By-laws may, in its sole and absolute discretion:
  - i. specify and limit the nature and extent of any parking area;
  - ii. specify and limit the use or uses of such parking areas;
  - iii. pass rules and regulations regarding such parking areas;
  - iv. assign and control parking spaces in such parking areas;
- c. The Corporation may, in addition to other restrictions set out in the By-laws, specify and limit the nature and extent of the use or uses of any privacy area assigned or designated hereunder, and in addition to the corporation’s powers and obligations as set forth in these By-laws may, in its sole and absolute discretion;
  - i. specify and limit the nature and extent of the use or uses of the privacy area or areas;
  - ii. pass rules, requirements, regulations or standards with respect to privacy areas.
- d. Each Owner of a privacy area shall properly maintain such privacy area in accordance with the requirements and specifications of the Corporation. If the Owner shall fail to properly maintain any such privacy area, after ten (10) days notice to the Owner to correct any maintenance problems set forth in such notice from the Corporation, the Corporation’s representative may order the maintenance corrected and the Owner affected shall reimburse the Corporation for all monies expended and all costs incurred in order to rectify such maintenance problem and pay interest thereon at the Interest Rate after demand for payment. The Owner shall also indemnify the Corporation for all of the Corporation’s legal fees and costs on a solicitor and his own client full indemnity basis in the event that the Corporation is required to obtain a solicitor in order to enforce these provisions.
- e. The Corporation and its servants and agents shall, notwithstanding the grant of any right, license or privilege or exclusive use of any area to any Owner have and enjoy full and free right to any and all times from time to time to enter upon, pass and repass over and occupy any and all parts of such exclusive area for the purposes of carrying out any of the duties or functions of the Corporation and the Corporation shall have unlimited rights of ingress and egress over the same.
- f. Any exclusive use area not included in the Condominium Plan (or redivision plan) as part of a Unit, shall not be deemed to be an area leased pursuant to section 50 of the Act.
- g. There are no separate titles in the Condominium Plan (or redivision plan) for parking areas and, therefore, no Owner shall exclusively own a parking area and the same shall not be deemed to be an area leased pursuant to Section 50 of the Act.

## **REALTY TAXES**

57. The realty taxes and other municipal and governmental levies or assessments against land, including improvements, comprising all or any part of the Units and the Common Property comprising the Condominium Project shall be assessed and imposed in accordance with provisions of the Act, but until such time as the assessing authority assesses each Unit and the share in the Common Property appurtenant thereto pursuant to the Act, such realty taxes and other municipal and government levies or assessments shall be apportioned and adjusted amongst all the Owners according to their respective Unit Factors.

## **INDEMNIFICATION OF OFFICERS AND MANAGERS**

58. The Corporation shall indemnify every member of the Board, Manager, officer or employee and his or her heirs, executors and administrators against all loss, costs and expense, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Board member, Manager or officer of the Corporation, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for fines or penalties imposed in a criminal suit or action or for unjustified profit or advantage of for any illegal act done or attempted in bad faith or dishonesty. All liability, loss, damage, costs and expenses incurred or suffered by the Corporation by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Corporation as Common Expenses. The Corporation may, by ordinary resolution, require that all members of the Board be bonded by a recognized bonding institution in an amount not less than Ten Thousand (\$10,000.00) Dollars, the cost of such bonding to constitute a common expense of the Corporation. The foregoing provision shall not relieve the Corporation from obtaining insurance for any liability incurred by a Member of the Board or an officer of the Corporation as required under Section 47(7) of the Act, and the Corporation shall not be obligated to indemnify any Member of the Board, manager, officer or employee, or his/her heirs, executors and administrators against the liabilities referenced hereabove in the event that the insurance placed and maintained by the corporation under Section 47(7) of the Act fully indemnifies and reimburses such Member of the Board, manager, officer or employee for any such liability suffered or incurred or any portion thereof.

## **NON-PROFIT CORPORATION**

59. The Corporation is not organized for profit. No Owner, member of the Board or any other person shall be lawfully entitled to receive any pecuniary profit from the operations thereof. The foregoing, however, shall neither prevent nor restrict the following:
- a. reasonable compensation may be paid to any member of the Board or Owner while acting as an agent or employee of the Corporation for services rendered in effecting one or more of the purposes of the Corporation;
  - b. any member of the Board or Owner may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Corporation;
  - c. members of the Board may receive an annual honorarium, stipend or salary established pursuant to By-law 5(k).

## **USE AND OCCUPANCY RESTRICTIONS**

60. a. In this By-law:
- i. “Occupant” means a person present in a Unit or in or upon the real or personal property of the Corporation or the Common Property with the permission of an Owner;
  - ii. “Owner” includes a Tenant;
- b. An Owner shall not:
- i. be under the age of 18, which includes all residents of the suite, whether owner, occupant, or tenant.
  - ii. use his Unit or Building or any part thereof for any commercial, professional or other business purposes, unless it is a business that does not involve the attendance of the public at the building or unit. An owner shall not use his unit for any purpose which may be illegal or injurious to the reputation of the Condominium Project or for the purpose involving the attendance of the public at such Building or Unit;
  - iii. shall not allow any pets, fowl, reptile, or animal of any kind except the following: a maximum of 2 cats, birds or fish in their unit. Any municipal By-law in effect in the City of Lethbridge with regard to pets at any point in time shall have effect within the Common Property and municipal officers are hereby authorized and are permitted to enforce City By-laws on the Common Property. Should an owner or resident have visitors who bring a pet with them, the pet will be allowed to visit, to a maximum of two weeks. The visiting pet is not allowed on the common property, nor is the pet allowed to cause any disturbances to the residents.
  - iv. do any act or permit any act to be done, or alter or permit to be altered his Unit in any manner, which will alter the exterior appearance of the structure comprising his or any other Units without the prior approval of the Board;
  - v. permit laundry to be hung other than inside the Unit;
  - vi. erect or place any building, structure, tent, or trailer (either with or without living, sleeping or eating accommodations) on the Common Property or on any privacy area assigned to him without the prior written consent of the Board;
  - vii. permit, erect or hang over or cause to be erected or to remain outside any window or door or any other part of a Unit or on the Common Property or on the real property of the Corporation, clothes lines, garbage disposal equipment, recreational or athletic equipment, bird feeders, fences, hedges, barriers, partitions, awnings, shades or screens or any other matter or thing without the consent in writing of the Board first had and obtained. No television or mobile telephone or radio antenna, tower or similar structure or appurtenances thereto or satellite dish shall be erected on or fastened to any Unit or on the Common Property except as authorized by the Board. All existing satellite dishes shall be allowed to remain, but no new installations will be permitted.
  - viii. overload existing electrical circuits or store any combustible, flammable or offensive goods, provisions or materials in his Unit or on the Common Property, normal cleaning products, related household goods and propane for a barbecue excepted;

- ix. do anything or permit anything to be done in his Unit, the Building or upon the Common Property or the real or personal property of the Corporation or to do any act or thing which will or would tend to increase the risk of fire or the rate of fire insurance premiums with respect thereto or which would render invalid any insurance maintained by the Corporation;
- x. do anything or permit anything to be done by any Occupant of his Unit within the Building or Unit, or the Common Property, that is contrary to any statute, ordinance, bylaw or regulation of any government authority whether Federal, Provincial, Municipal or otherwise;
- xi. do or permit anything to be done that may cause damage to trees, plants, bushes, flowers or lawns and shall not place chairs, tables, devices or other objects on the lawns and grounds which may cause damage or interfere with the cutting of the lawns or the maintenance of the grounds generally;
- xii. deposit customary household refuse and garbage outside the Building of his Unit other than in proper secure garbage bags placed in the garbage containers or enclosures provided by the Corporation. All bulk waste items, such as discarded household furnishings, which the City of Lethbridge Sanitation Department will not normally collect, shall be, within 48 hours, removed from the Project by the Owner at his sole cost and expense;
- xiii. erect, place, allow, keep or display signs, billboards, advertising matter, or other notices or displays of any kind on the Common Property including any privacy area assigned to him or in or about any Unit in any manner which may make the same visible from the outside of the Unit without the prior written approval of the Board;
- xiv. permit any member of his household, guests or visitors to trespass on the part of the parcel to which another Owner is entitled to exclusive occupation;
- xv.
  - (1) wash, repair or perform maintenance including adjustments or servicing, and including oil changes, to any vehicle(s) on the Common Property or any Unit Yard Area, with the exception of cleaning out and/or vacuuming a vehicle in the stall marked for this purpose.
  - (2) carry out any repairs or adjustments to motor vehicles on the Project;
  - (3) bring onto the Project any vehicles other than passenger automobiles, ½ or ¾ ton trucks, or 4 X 4 vehicles without the written consent of the Board or the Manager or duly authorized nominee thereof except in the course of delivery to or removal from the respective premises;
  - (4) allow trailers, campers, boats, snowmobiles, trail bikes, all terrain vehicles, or any type of motor home or recreational vehicle or equipment to be parked or stored outside his Unit other than in an area designated by and with the permission of the Board;
  - (5) keep on the Common Property any motor vehicle which is not currently licensed, in operating condition and being used from day to day without the prior written consent of the Board;

- (6) drive any motor vehicle on the Common Property at a speed in excess of 15 kilometres per hour or in any manner that the Board, in its sole discretion, deems hazardous or dangerous;
  - (7) allow a visitor to his Unit to park his motor vehicle anywhere on the Project except in a stall designated by the Board for visitor parking;
- xvi. obstruct or permit any walkway, passage or driveways or parking areas to be obstructed by his family, guests or visitors or their vehicles;
- xvii. allow his Unit, designated parking area or privacy area to him to become unsanitary or unsightly in appearance;
- xiii. make or cause to be made any structural, mechanical, plumbing, drainage, gas system or electrical changes, alterations or additions to his Unit or any structural alterations to be made to the outer boundary of any Unit including load bearing or partition walls or any ceiling or floor without first having the design and specifications of such alteration or addition approved in writing by the Board. The owner agrees to hire licensed, insured trades for electrical, plumbing, mechanical and structural changes, to do the work, upon approval from the board, to ensure the integrity and safety of the building. The Owner requesting such approval agrees to pay the cost of any engineer or architect engaged by the Board to review the design and specifications. Any alteration or addition made by an Owner without such approval may be restored or removed by the Board or its duly authorized representative or representatives and any costs incurred by the Corporation as a result thereof shall forthwith be paid by such Owner to the Corporation and shall bear interest at the Interest Rate from the time such costs are incurred, until paid. Owners performing renovations in their suite, will be required to notify the board and provide a security deposit, of which a reasonable value is to be determined by the board, payable to the association, to be held in trust until the renovations are complete, and to be used should any incidentals such as cleaning or damages to the common property occur;
- xix. use a toilet, sink, tub, drain or other plumbing fixture for a purpose other than that for which it is constructed;
- xx. allow the area around his premises to become untidy. The Board shall be at liberty to remove any rubbish or clean up the Common Property in close proximity to an Owner's premises to its satisfaction and charge the expense to the Owner; the Owner shall not store items on decks or balconies which are not used in that area.
- xxi. prevent or prohibit access to a use of exterior water taps or electrical plugs on his Unit for purposes of maintaining Common Property;
- xxii. use or permit any member of his household, guests or visitors to use, any of the recreational facilities or amenities or any portion of the Common Property except in strict accordance with any rules and regulations therefore which may be established by the Board from time to time and upon publication of a rule or regulation so made by the Board, the same shall be binding upon each occupier of a Unit, his visitors and guests and any violation of such rules and regulations may result in the loss of use of the recreational amenities for a period as decided by the Board;
- xxiii. paint, decorate or otherwise alter any portion of a Unit or Common Property required to be maintained by the Corporation without the express, prior written consent of the

Board, with the exception of seasonal decorations which must be removed within a reasonable length of time as determined by the Board;

- xxiv. make or permit noise in or about any Unit or the Common Property or allow any odour to emanate or escape from his Unit which, in the opinion of the Board, constitutes a nuisance or unreasonably interferes with the use and enjoyment of a Unit or the Common Property by any other Owner or Occupant. No instrument or other device shall be used within a Building or Unit which, in the opinion of the Board, causes a disturbance or interferes with the comfort of other Owners. No workman or contractor shall be permitted to do any work in any Unit that would disturb any other residents between the hours of 6:00 p.m. and 8:30 a.m. on weekdays, or between the hours of 5:00 pm and 9:00 am on Saturdays, Sundays or legal holidays without the prior consent of the Board
- xxv. use or permit the use of his Building or Unit other than as a single family dwelling or for a purpose other than for residential purposes;
- xxvi. permit his Building or Unit to be occupied as a place of residence by more than two (2) persons in a one bedroom unit, three (3) persons in a two bedroom, or five (5) persons in a three bedroom unit at any given time without the consent in writing of the Board;
- xxvii. shake mops or dusters of any kind nor throw anything out of windows of the Building or his Unit or on the Common Property, nor permit anything of this kind to be done;
- xxviii. use his deck or patio or other areas outside of the Building or his Unit for the storage of personal belongings or other goods or chattels (except patio furniture and a barbecue) or allow or cause any household or personal effects or articles belonging to him to be kept anywhere except inside the Building or his Unit when not in actual use, and each Owner will comply with all requests of the Board or its representatives that all household or personal effects or articles, including bicycles and like things belong to an Owner's household be put away inside such Building when not in actual use. An owner shall not put storage cabinets on the balconies without gaining permission from the board.
- xxx: shall not use foil, flags or other offensive material on any window;
- xxxi. render a Building or Unit unfit for human habitation.
- xxxii. do any act or thing to create, produce or cause any fungi, even where the activity creating, producing or causing such fungi has been permitted or allowed by any governmental authority having jurisdiction. For the purposes of this By-law, "fungi" includes, but is not limited to, any form or type of mould or yeast, whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any fungi or spores ("spores" includes but is not limited to, any reproductive particles or microscopic fragment produced by, emitted from or arising out of any fungi) or resultant microtoxins, allergens or pathogens.
- xxxiii. shall notify the board of an electric car being plugged into the parking stall power outlet. The owner is responsible for the costs to install a metering device for the purpose of measuring the power used at that parking stall, and is responsible for the power usage costs. The owner is responsible to ensure the viability of using such parking stall power outlets, as there may be energy saving timers on the parking stall power outlets.

xxxiv. smoke within 25 feet of any entrance of the property. Smoking shall be permitted within the owned unit and on the individual balcony areas. Owners or residents who choose to smoke in the suite or on their balcony cannot allow the smoke to affect the common areas, other residents, or their units.

- c. An Owner shall ensure that his Occupants comply with those requirements that the Owner must comply with under Subsection (b) hereof.

## **AMENDMENTS OF BY-LAWS**

61. These By-laws, or any of them, may be added to, amended or repealed by Special Resolution of the Corporation and not otherwise. The Corporation shall cause to be prepared and distributed to each Owner and mortgagee who has notified its interest to the Corporation, a notice or memorandum of any proposed amendments, additions or repeal thirty (30) days prior to the date of any such Special Resolution and thereafter provide each such mortgagee with a copy of any registered amendment, addition or repeal.

## **CHANGE OF LEGISLATION**

62. Should the Act be amended and changed in the future, then these By-laws shall be deemed to have been amended accordingly to adopt any and all such change to the Act which are required to be adopted to enable the Corporation to operate at all times with the full powers of the Act and to use all remedies available to it under the Act.

## **EASEMENTS**

63. Following registration of the Condominium Plan, there shall be implied in respect of each Unit shown on said plans:
- a. in favour of the Owner of the Unit as appurtenant to the Unit, an easement for subjacent and lateral support of the premises and Unit by the Common Property and by every other premises or Unit capable of affording support;
  - b. in favour of the Owner of the Unit, and as appurtenant to the Unit, an easement for the shelter of the premises and Unit by every other premises or Unit capable of affording shelter;
  - c. in favour of the Owner of the Unit, and as appurtenant to the Unit, easements for access and for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio, cable and television services, through or by means of any pipes, wires, cables or ducts for the time being in the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with enjoyment of the premises or any Unit;
  - d. as against the Owner of the Unit, an easement to which the Unit is subject, for the subjacent and lateral support of the Common Property and of every other premises or Unit capable of enjoying support;



- e. as against the Owner of the Unit an easement to which the Unit is subject to provide shelter to every other premises or Unit capable of enjoying shelter;
- f. as against the Owner of a Unit, easement, to which the Unit is subject for access and the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services including telephone, radio, cable and television services, through or by means of any pipes, wires, cables or ducts for the time being existing within the premises or Unit, as appurtenant to the Common Property and also to every other premises or any Unit capable of enjoying those easements.

When an easement is implied by this By-law, the Owner of any utility service who is providing his service to the parcel, or to any Unit on it, is entitled to the benefit of any of those easements that are appropriate to the proper provision of that service but not to the exclusion of the Owner of any other utility service. The provisions set forth in this By-law are in addition to and not in substitution for the provisions of Sections 23 through 24 inclusive of the Act.

## **MANAGED PROPERTY**

### **64.1 RESTRICTED DEVELOPMENT, ARCHITECTURAL STANDARDS AND RESTRICTIVE COVENANT**

- a. No Owner shall improve, develop, construct upon or otherwise modify his Building or Unit unless such development or improvement strictly complies with any and all development restrictions imposed upon the Unit by the Municipal Authority (whether disclosed on title to the Unit or not), the Restrictive Covenant (the terms of which are hereby incorporated into this By-law) and the Architectural Standards.
- b. The Corporation is hereby empowered, and the Board is authorized on behalf of the Corporation, to take whatever procedures are reasonably necessary, in the Board's opinion, to ensure compliance with By-law 64.1(a) hereof and enforce the Restrictive Covenant and the Architectural Standards (enforcement to be limited to the extent it is limited by law).

### **64.2 ELEMENTS OF MANAGED PROPERTY**

Managed Property shall be comprised of those portions of the Units constituted by underground sprinkler watering systems (and all appurtenances to the same), lawns, fences, walkways, driveways, decks and patios together with the exterior of any and all Buildings of the Units (including doors and windows), including roofs, foundations and structural elements built in accordance and compliance with the Restrictive Covenant, the By-law and all municipal and provincial requirements, codes and standards. Without restricting the generality of the foregoing, managed property shall be all parts of the Unit, but not including, the interior finishing of the floors, walls and ceilings, unit door locks, interior doors, screens, kitchen and bathroom fixtures, appliances, lighting and décor elements in all Units. The underground sprinkler watering systems (and all appurtenances thereto) are common watering systems for the Project and are the sole and exclusive property of the Corporation, and notwithstanding that the underground sprinkler watering systems run under, through, over and across Units, no individual Owner shall have any right of ownership in respect of the portions of such underground sprinkler watering systems located on, in or under such Owner's Unit.

## **ENCROACHMENTS**

65. a. For the purposes of this By-law 65, "Encroachment" means any Building or portion of a Building including, but not limited to, foundations, exterior walls, roofs, eaves, decks, stairs, balconies or other improvements including, but not limited to, driveways, sidewalks, fencing or landscaping that have been constructed, built or erected by the Developer, which encroach onto the Common Property;
- b. all Encroachments are expressly permitted and allowed without the necessity of:
- i. any further documentation or agreement, such as an encroachment agreement; or
  - ii. the registration of any instrument at Land Titles Office including any registration or notification against the Condominium Plan or the condominium additional plan sheet;
- c. This By-law does not authorize or permit encroachments of improvements or structures from one Unit onto another Unit (it being understood that party walls or other improvements as provided for in any party wall agreement or easement registered against the title(s) to a Unit(s) do not violate this provision) and does not authorize encroachments resulting from the construction, development or erection of structures, buildings or improvements being done by an Owner that encroach onto the Common Property unless the same were initially encroachments and are being rebuilt by an Owner pursuant to and in compliance with By-law 63(e);
- d. All future Owners of Units where there are Encroachments from their Unit onto Common Property shall be entitled to the full benefit and protection of this By-law, and this By-law shall not be repealed or amended without the unanimous written consent of the Owners;
- e. In the event that the Encroachments or any of them are destroyed and are required to be rebuilt, all efforts shall be made to rebuild the same so that they do not encroach again; however, if it is not possible to do so, it is expressly permitted and authorized by the Corporation to rebuild such Encroachments in their original place, and such rebuilt Encroachments shall be authorized and permitted pursuant to this By-law;
- f. In the event that an Owner of a Unit that has Encroachments onto Common Property is obligated under these By-laws to maintain, repair or clean such Encroachments in accordance with these By-laws, such Owners shall then be allowed unrestricted access over and through the common Property to conduct such repair, maintenance and cleaning; provided always that the Owner shall not be entitled to damage or permanently alter the Common Property while doing so.