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I hereby certify that the within  
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Tassi O'Neil, Tillamook County Clerk

AFTER RECORDING RETURN TO:

Moomaw Miller & Hildebrand, LLP  
12275 SW Second Street  
Beaverton, Oregon 97005

**BYLAWS**

**OF**

**KIWANDA COTTAGES**

**OWNERS' ASSOCIATION**

Kiwanda Cottages Owners' Association  
P.O. Box 189  
Pacific City, OR 97135

**BYLAWS**  
**OF**  
**KIWANDA COTTAGES**  
**OWNERS' ASSOCIATION**

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**BYLAWS**  
**OF**  
**KIWANDA COTTAGES**  
**OWNERS' ASSOCIATION**

Unless otherwise defined herein or the context requires otherwise, all terms used in these Bylaws of Kiwanda Cottages Owners' Association (the "Bylaws") will have the same meaning as the identical terms used in the Declaration of Covenants, Conditions, Restrictions of The Cottages at Cape Kiwanda as recorded in the public records of Tillamook County, Oregon, by Kiwanda Properties, LLC ("Declarant"). In the event of a conflict between these Bylaws and the Declaration, the Declaration will prevail.

***ARTICLE I***

**IDENTITY**

These are the Bylaws of Kiwanda Cottages Owners' Association, a nonprofit mutual benefit corporation organized under the laws of the State of Oregon (the "Association"). The Association has been organized for the purpose of managing, operating and maintaining a timeshare estate in Tillamook County, Oregon, created in accordance with the Declaration pursuant to ORS 94.803 and ORS 94.807 to 94.945 (the "Declaration") and for any other lawful purpose.

1. The office of the Association will be at P.O. Box 189, Pacific City, OR 97135 or at such other place as may be designated by the board of directors of the Association (the "Board") from time to time.
2. The fiscal year of the Association will be the calendar year.

***ARTICLE II***

**REGISTERED OFFICE AND REGISTERED AGENT**

1. The Association must continuously maintain in the State of Oregon a registered agent, who must be (i) an individual who resides in the State of Oregon (ii) a domestic business corporation, domestic limited liability company or domestic professional corporation with an office in the State of Oregon or (iii) a foreign corporation, foreign business corporation, foreign limited liability company or foreign professional corporation authorized to transact business in the State of Oregon with an office in the State of Oregon.
2. The Association must also maintain in the State of Oregon a registered office which must be the residence or office address of the registered agent.

3. The initial principal office of the Association shall be 12275 SW 2<sup>nd</sup> Street, Beaverton, Oregon 97005. The name of the Company's initial registered agent at such office is Larry D. Moomaw.

### ***ARTICLE III***

#### **MEMBERS' MEETINGS**

1. The annual Members' meeting will be held at such time, place and date as may be designated by the Board, for the purpose of electing directors and of transacting any other business to be transacted by the Members.

2. Special Members' meetings will be held whenever called by the president or vice-president of the Association or by a majority of the Board, and must be called by such officers upon receipt of a written request from seventy-five percent (75%) of the Voting Interests except as provided for in Article IV. Unless otherwise set forth in the notice of special meeting, as provided for above, all special meetings will be held in Tillamook County, Oregon.

3. Notice of all Members' meetings stating the time and place and the agenda for which the meeting is called will be mailed to each Member, unless waived in writing. Such notice must be sent in writing to each Member at his address as it appears on the books of the Association and must be sent by mail to each Member not less than thirty (30) days nor more than sixty (60) days prior to the date of the meeting. An affidavit executed by the secretary attesting to the mailing or other sending of notice will be retained in the records of the Association as proof of such mailing. Members may waive notice of specific meetings and may take action by written agreement without meetings, and any Member's attendance at a meeting will constitute a waiver of the notice of that meeting. Mortgagees will, upon prior written request, be entitled to receive notice of all Members' meetings. Failure to provide such notice will not invalidate any action taken at an otherwise properly noticed meeting. Where assessments against Members are to be considered for any reason at a Members' meeting, the notice must contain a statement that assessments will be considered and will specify the nature of any such assessment.

4. The presence in person or by proxy of Members representing forty percent (40%) of the total Voting Interests (defined below) eligible to vote will constitute a quorum, and, unless otherwise provided herein, decisions will be made by the vote of a majority of the Voting Interests held by Members present and eligible to vote at the meeting at which a quorum is present.

5. All Owners, as defined in the Declaration, including the Declarant as owner of the Declarant's Retained Interest (collectively, the "Interests") are members of this Association, and no other persons or entities are entitled to membership ("Members"). At Association meetings, each Member is entitled to the number of votes equal to the percentage interest assigned to that respective Member's Interest as provided in the Declaration ("Voting Interests"). The vote of the Member must be cast by its designated voting representative. Voting representatives for an interest owned by more than one person or by a corporation or other entity must be cast by the voting representative named in a voting certificate signed or accepted by all

of the Owners of interest and filed with the secretary of the Association. Each voting certificate will be valid until revoked by a subsequently executed and filed voting certificate.

6. Votes may be cast in person or by proxy. Any proxy given will be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof and must be filed with the secretary at or before the appointed time of the meeting. Each proxy must specifically set forth the name of the person voting by proxy, the name of the person authorized to vote the proxy, and the date the proxy was given. Each proxy will contain the date, time and place of the meeting for which the proxy is given. In addition, proxies will set forth those items which the holder of the proxy may vote and the manner in which the vote is to be cast. In no event will any proxy be valid for a period of longer than ninety (90) days after the date of the first meeting, and any adjournments thereof, for which the proxy was given. Every proxy is revocable at any time at the pleasure of the Member executing it. If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in the Member's place. If such provision is not made, substitution is not authorized.

7. Approval or disapproval of a Member upon any matter, whether or not the subject of an Association meeting, will be by the same person, corporation or other entity who would cast the vote of such Member if in an Association meeting.

8. If any meeting of Members cannot be organized because a quorum has not been achieved, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

9. Unless modified by the board of directors or the Members, the order of business at annual Members' meetings and, as far as practicable at all other Members' meetings, will be:

- a. Call to order.
- b. Election of chairman of the meeting.
- 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. Report of officers.
- g. Report of committees.
- h. Election of directors.
- i. Unfinished business.
- j. New business.

k Adjournment.

Notwithstanding the foregoing, if any item listed above is not relevant to a particular meeting, as determined by the Board in their sole and absolute judgment, such item will not be required to be addressed at that particular meeting.

10. For so long as the Declarant holds an interest in The Cottages at Cape Kiwanda, none of the following actions may be taken without prior approval in writing by the Declarant:

a. Assessment of the Declarant as the Owner for capital improvements;

b. Any action by the Association that would be detrimental to the sale of Interests by the Declarant of an interest in The Cottages at Cape Kiwanda; and

c. Any other action by the Association for which the Declaration and documents referenced therein requires the prior approval of the Declarant.

#### *ARTICLE IV*

#### **BOARD OF DIRECTORS**

1. The affairs of the Association will be managed by a Board of Directors (the "Board") consisting of directors who are Members of the Association, except that the initial directors appointed by the Declarant need not be Members. The Board will initially consist of three (3) directors, and thereafter the membership of the Board will consist of not less than two (2) or more than seven (7) directors. The Board may from time to time increase or decrease the number of persons to serve on the Board; provided, however, that the Board must always consist of an odd number of directors. Where a corporations, limited liability companies, partnership or other entities, the officers, directors, employees or other appointed representatives of said entities will be eligible to serve on the Board on behalf of such entity..

2. Election of directors must be conducted in the following manner:

a. Except for the initial directors appointed by the Declarant, directors must be elected by a majority of the Voting Interests cast at an annual meeting by the Members then-eligible to vote for directors. There will be no cumulative voting.

b. Vacancies on the Board may be filled by the remaining directors subject to the provisions of Paragraph 2(c). In all cases, a director appointed to fill a vacancy in office will serve the remainder of the term of the office that the departing director held.

c. The initial directors will be appointed by the Declarant and will serve for a term of the later of five (5) years, unless earlier removed or replaced with a subsequent appointee by the Declarant, in its sole discretion. Declarant will continue to appoint all directors until six (6) months after the earlier of the following: (i) Declarant is no longer an Owner, mortgage holder or lien holder in the development or (ii) Declarant is no longer offering

ownership interest in The Cottages at Cape Kiwanda for sale in the ordinary course of business. Nothing in this subparagraph will be construed so as to preclude the Declarant from relinquishing control of the Board or from permitting the election of a minority of the directors by Members at any time the Declarant may so elect in the Declarant's sole discretion.

d. The Members will elect three (3) directors at a meeting of the Members six (6) months after the earlier of the following: (i) Declarant is no longer an Owner, mortgage holder or lien holder in the development; or (ii) Declarant is no longer offering ownership interest in The Cottages at Cape Kiwanda for sale in the ordinary course of business. The initial term of the director elected with the highest percentage of the Voting Interests cast shall be three (3) years; the initial term of the director elected with the second highest percentage of the Voting Interests cast shall be two (2) years, and the initial term of the director elected with the lowest percentage of the Voting Interests cast shall be one (1) year. If the size of the Board is expanded, the directors filling the vacancies caused by the expansion shall stand for reelection at the next scheduled election.

3. Following their initial term as set forth in Paragraph 2(d) of this Article, directors will serve for terms of three (3) years each until the applicable annual meeting of the Members, and thereafter until a successor is duly elected or qualified or until he is removed in the manner elsewhere provided.

4. The organizational meeting of a newly elected Board must be held within ten (10) days of their election at such place and time as will be fixed by the directors at the meeting at which they were elected, and no further notice of the organizational meeting will be necessary provided that a quorum is present.

5. Regular meetings of the Board may be held at such time and place as will be determined from time to time by a majority of the directors. Notice of regular meetings must be given to each director, personally, by facsimile upon confirmation of receipt, by mail, telephone or e-mail at least three (3) days prior to the date set forth for such meeting unless such notice is waived. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the Members of the Board. Such emergency action will be noticed and ratified at the next regular meeting of the Board. All meetings of the Board will be open to all Members of the Association. All Members will have the right to speak at meetings of the Board with reference to designated agenda items; however, the Board may adopt reasonable rules governing the frequency, duration and manner of Member statements.

6. Special meetings of the Board may be called by the chairperson of the Board or the president of the Association and must be called by the secretary of the Association at the written request of two-third (2/3) of the votes of the Board. Not less than three (3) days notice of the meeting must be given personally, by facsimile upon confirmation of receipt, by mail, telephone or e-mail, which notice will set forth the time, place and purpose of the meeting.

7. Any director may waive notice of a meeting before or after the meeting, and such waiver will be deemed equivalent to the giving of notice. Any director's attendance at a meeting will constitute a waiver of the notice of that meeting.

8. Each director shall have one (1) vote. A quorum at Board meetings will consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of votes at a meeting at which a quorum is present will constitute the acts of the Board except as specifically otherwise provided in the Declaration. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. Once a quorum is present, the meeting may resume and any business which might have been transacted at the meeting as originally called may be transacted without further notice.

9. The presiding officer of Board meetings will be the president of the Association. In the absence of the president the vice-president will preside unless the Board votes otherwise.

10. Directors' fees, if any, will be determined by a majority vote of the total membership of the Association, and no director will receive a fee prior to the election of a majority of the directors of the Board by the Members.

11. Any vacancies in office occurring prior to an election will be filled by the remaining directors, provided, however, that any director appointed by the Declarant may be replaced by the Declarant. Upon such removal of a director appointed by Declarant, the Declarant must immediately appoint a replacement director and notify the remaining directors, if any, of such removal and appointment.

12. A "Conflict-of-Interest Transaction" is a transaction with the Association in which a director has a direct or indirect conflict of interest. For purposes of this Section 12, a director has an "indirect conflict-of-interest" in a transaction involving the Association and (a) another entity in which the director has a material interest or (b) another entity of which the director is a director, officer or trustee. A Conflict-of-Interest Transaction is neither voidable nor the basis for imposing liability on the director if the transaction is fair to the Association when it was entered into or is approved as provided herein.

(a) A Conflict-of-Interest Transaction may be approved in advance by the vote of the Board or a committee of the Board if (i) the material facts of the transaction and the director's interests were disclosed or known to the Board or a committee of the Board; and (ii) the transaction is authorized, approved, or ratified by a majority of the directors on the Board or on the committee who have no direct or indirect conflict-of-interest with respect to the transaction; provided that the transaction is authorized, approved, or ratified by more than one (1) director.

(b) A Conflict-of-Interest Transaction may also be approved by the Members if (i) the material facts of the transaction and the director's interest were disclosed or known to the Members; and (ii) the transaction is authorized, approved or ratified by a majority of the Voting Interests.

(c) The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction at a meeting of the directors or the Members does not affect the validity of any action taken by the directors or the Members hereunder if (i) the transaction is

otherwise approved by majority that does not include the director with the direct or indirect conflict-of-interest; or (ii) if the transaction is fair to the Association when it was entered into.

## *ARTICLE V*

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

All of the powers and duties of the Association will be exercised by the Board including those existing under the common law, statutes, the Articles, the Declaration and documents referenced therein. Such powers and duties of the directors will be subject to, and exercised in accordance with, the provisions of the Declaration governing the use of the land, and will include, by way of illustration and not limitation, the following:

1. To own and convey property, real and personal, tangible and intangible.
2. To sue and be sued.
3. To require all Owners to be Members of the Association.
4. To adopt a budget for operating and administrative expenses, insurance premiums and reserves, to make, collect and use the proceeds from assessments to defray the costs of operating The Cottages at Cape Kiwanda, and to use otherwise exercise of its powers and duties.
5. To obtain and maintain adequate insurance to protect the Association and the property and to receive payment of the proceeds therefrom in trust for the Members.
6. To reconstruct improvements after casualty and to construct further improvements to The Cottages at Cape Kiwanda.
7. To make and amend the rules and regulations. Such rules and regulations may be promulgated by the Board at any duly noticed meeting of the board or of the Members.
8. To interpret and enforce, including by legal means, the provisions of the Declaration and documents referenced therein.
9. To contract for management of The Cottages at Cape Kiwanda and to delegate to such contractor all powers and duties of the Association except these powers required to have approval of the Board or Members of the Association. Notwithstanding the foregoing, unless otherwise provided in a Management Contract, the Board may not terminate a Management Contract without the approval of the Members.
10. To pay taxes and assessments that are liens and to assess the same against the Owner responsible for same.
11. To pay the cost of all power, water, sewer and other utility services rendered to The Cottages at Cape Kiwanda and not billed directly to an Owner.

12. To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, including, but not limited to, accountants and attorneys.

13. To bond any or all employees, officers and directors of the Association, for which the Association will bear the costs.

14. To maintain all required books and records including, but not limited to, the maintenance of a complete list of the names and addresses of all Owners.

15. To operate and administer or assign the operation and administration of any reservation system, and to amend or revise the reservation system as is necessary from time to time.

16. To acquire title to and hold, convey, lease or mortgage property in accordance with ORS 94.803 and ORS 94.807 to 94.945 and the Declaration.

17. To convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansion, or other public purposes, whether negotiated or as a result of eminent domain proceedings.

## ***ARTICLE VI***

### **OFFICERS**

1. The executive officers of the Association will be a president, a vice-president, a secretary, and a treasurer, all of whom must be elected annually by the Board at any meeting. Officers will serve without compensation at the pleasure of the Board. The Board will from time to time elect such other officers and designate their powers and duties as the Board determines necessary to manage the affairs of the Association. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the offices of president and vice-president will not be held by the same person, nor will the offices of president and secretary or assistant secretary or treasurer or assistant treasurer be held by the same person.

2. The president will be the chief executive officer of the Association. The president will have all of the powers and duties which are usually vested in the office of president including, but not limited to, the power of appointing committees from among the Members from time to time, as the president may in the president's discretion determine appropriate, to assist in the conduct of the affairs of the Association.

3. The vice-president will, in the absence of or disability of the president, exercise the powers and duties of the president. The vice-president will also generally assist the president and exercise such other powers and perform such other duties as will be prescribed by the directors.

4. The secretary will keep the minutes of the proceedings of the Board and the Members in a book available for inspection at any reasonable time by the directors or Members, or their authorized representatives. The Association must retain these minutes for a

period of not less than seven (7) years. The secretary will attend to the giving and serving of all notices required by law. The secretary will have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed.

5. The treasurer will have custody of all property of the Association, including financial records, funds, securities and evidences of indebtedness. The treasurer will keep the financial records of the Association and will keep the assessment rolls, the accounts of the Members, and the books of the Association in accordance with generally accepted accounting practices. The treasurer will perform all other duties incident to the office of treasurer of an Association and as may be required by the directors or the president of the Association.

6. The compensation of all employees of the Association will be fixed by the Board. This provision will not preclude the Board from employing a director or an officer as an employee of the Association nor from contracting with a director subject to applicable disclosure duties

## ***ARTICLE VII***

### **COMMITTEES**

1. The Board may delegate, to the extent that it considers necessary, any portion of their authority to manage, control and conduct the business of the Association, to any standing or special committee of the Association or to any officer or agent thereof. Any committee shall serve at the pleasure of the Board.

2. The creation of a committee and appointment of members to it must be approved by a majority of the directors.

3. To the extent specified by the Board or in the Articles, a committee may exercise authority as determined by the Board. Each committee shall keep written minutes of its meetings which shall be transmitted to the Board. At least once each year, each committee shall report to the Board on its work. A committee shall notify the Board of the dates, time and places of the committee's meetings. All committee meetings shall be open to any Member.

A committee may not:

- (a) Fill its own vacancies;
- (b) Amend the Articles or adopt, amend or repeal Bylaws; or
- (c) Establish funds or penalties.

4. The Board of Directors shall establish a Design Committee and invest it with such authority as required for it to operate in accordance with the *CCRs* and these Bylaws.

## *ARTICLE VIII*

### **FISCAL MANAGEMENT**

The provisions for fiscal management of the Association set forth in the Declaration and the Articles are supplemented by the following provisions:

1. **Assessments.**

a. The Board will fix and determine, from time to time, the sum or sums necessary and adequate for the Common Expenses. Common Expenses will include the expenses for the operation, maintenance, repair or replacement of the Timeshare Property, costs of carrying out the powers and duties of the Association (including any costs associated with the delegation of such powers and duties), all insurance premiums and expenses relating thereto, including fire insurance and extended coverage, and any other expenses designated as Common Expenses from time to time by the Board, or under the provisions of the Declaration, including reserves. The Board is specifically empowered, on behalf of the Association, to make and collect assessments for all purposes allowed by the Declaration and Oregon law. The Board will have the power, on behalf of the Association, to lease property in accordance with the provisions of the Declaration. Funds for the payment of Common Expenses must be assessed against the Members in proportion to their respective obligations for Common Expenses, as provided in the Declaration. Assessments for a budget year will be billed on or before the first day of November in the prior calendar year, due on the first day of January of the budget year and will be considered delinquent if payment has not been received on or before the fifteen (15) day of January each year, unless otherwise ordered by the Board. Special assessments, should such be required by the Board, must be levied in the same manner as provided for regular assessments, and will be payable in the manner determined by the Board. If a Member is in default in the payment of any assessment or taxes due on his interest, the Association will have any and all collection rights available to it under ORS 94.803 and ORS 94.807 to 94.945. If any unpaid share of Common Expenses or assessments is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or assessments will be Common Expenses collectible from all the Owners.

b. The assessment roll will be maintained in a set of accounting books or records in which there will be an account for each Ownership interest. Such an account must designate the name and address of the Members or Member, the dates and amounts in which the assessments come due, the amounts paid upon the account and the balance due upon assessments. Assessments will be made against Members in an amount not less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. In the absence of a determination by the Board as to the frequency of assessments, assessments will be due and payable annually. The personal liability of a Member for assessments will survive the termination of such Member's membership in the Association.

c. Any Member will have the right to require a certificate from the Association showing the amount of unpaid assessments against such Member. The holder of a

mortgage or other lien will have the same right as to any property interest upon which the lien is against. Any person who relies upon such certificate must be protected thereby.

d. Notice of any meeting at which assessments against Members are to be considered, whether a meeting of the Board or of the Members of the Association, must specifically contain a statement that assessments will be considered and the nature of such assessments.

2. Budget.

a. The Board must adopt a budget for each calendar year which will contain estimates of the cost of performing the functions of the Association and estimates of the income of the Association. The proposed annual budget of Common Expenses must be detailed and must show the amounts budgeted by accounts and expense classifications. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but not be limited to, roof replacement, building painting, replacement of unit furnishings and equipment, and pavement resurfacing. The amount to be reserved must be computed by means of a formula which is based upon estimated remaining useful life, taking into account deferred maintenance, and estimated replacement cost of each reserve item. These reserve accounts may be waived, or less adequate reserves established by a majority vote of the Voting Interests, voting in person or by proxy, at a duly called meeting of the Association. The budget must include the following items, as applicable:

(a) Common Expense Budget

- i. Administration of the Association.
- ii. Management fees.
- iii. Maintenance.
- iv. Rent for facilities.
- v. Taxes upon the property.
- vi. Taxes upon leased areas.
- vii. Insurance.
- viii. Security provisions.
- ix. Operating capital.
- x. Reserves.
- xi. Fees payable to any governmental entities.

xii. Other expenses.

(b) Proposed assessments against each Member, together with an annual total of assessments.

b. Copies of the proposed budget and proposed assessments must be transmitted to each Member at least fourteen (14) days prior to the meeting at which the budget is to be considered, together with a notice of the meeting which must state the time and place of the meeting. The meeting will be open to all Members. If the budget is subsequently amended before the assessments are made, a copy of the amended budget will be furnished to each Member. If an adopted budget requires assessment against the Members in any fiscal or calendar year in excess of one hundred and fifteen percent (115%) of the assessments for the preceding year, the Board, upon written request from twenty percent (20%) of the Voting Interests of the Association within 21 days after adoption of the budget, must call a special meeting of the Members of the Association within sixty (60) days after the adoption of the budget, giving not less than fourteen (14) days written notice to each Member of the Association. At the special meeting, Members may consider and enact a substitute budget. The adoption of a substitute budget at such a special meeting will require a vote of a majority of all Voting Interests. In determining whether assessments exceed one hundred fifteen percent (115%) of assessments for the prior fiscal year, any authorized provisions for repair or replacement reserves, expenses by the Association which are not anticipated to be incurred on a regular or annual basis, assessment for new amenities if brought into services, and assessments for capital improvements will be excluded from the computation.

3. The depository of the Association will be such bank or other institution as permitted by applicable Oregon law, as will be designated from time to time by the Board and from which the monies in such accounts will be withdrawn only by checks signed by such persons as are authorized by the Board.

## *ARTICLE IX*

### AMENDMENTS

Amendments to these Bylaws will be proposed and adopted in the following manner:

1. These Bylaws will be amended by the Declarant, if necessary, to make the same consistent with the provisions of the Declaration, to conform these Bylaws to meet the requirements of applicable law or any governmental entity, lending institution or insurance company, as may be in the best interests of the Association, or as it may deem appropriate, in its sole discretion, to carry out the purposes of the Declaration including timeshare plan.

2. Notice of the subject matter of a proposed amendment must be included in the notice of any meeting at which a proposed amendment is considered. Any resolution for the adoption of a proposed amendment must be included in the notice of any meeting at which a proposed amendment is considered.

3. An amendment may be proposed by either a majority of the Board or by the Members representing not less than 33% of the Voting Interests, and after being proposed and approved by one of such bodies, it must be approved by the other. Except as otherwise provided herein, a resolution adopting a proposed amendment must receive approval of not less than two-thirds (2/3rds) of the Board and not less than a majority of the total Voting Interests, unless such amendment is otherwise approved by all Members as evidenced by their execution and acknowledgement of an agreement in the manner required for the execution of a deed. Directors and Members not present at the meeting considering the amendment may express their approval in writing within ten (10) days after such meeting.

4. No Bylaw will be revised or amended by reference to its title or number only. Proposals to amend existing Bylaws must contain the full text of the Bylaws to be amended; new words must be inserted in the text double underlined, and words to be deleted must be lined through. However, if the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment, it is not necessary to use double underlining and lining as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language "Substantial rewording of Bylaw. See Bylaw . . . for present text." Nonmaterial errors or omissions in the Bylaw amendment process will not invalidate an otherwise properly promulgated amendment.

#### *ARTICLE X*

#### **SEVERABILITY AND CONFORMITY TO STATE LAW**

These Bylaws are to be governed by and construed according to the laws of the State of Oregon. If it should appear that any of the provisions hereof are in conflict with the Declaration or any rule of law or statutory provision of the State of Oregon, as of the date of the recording of the Declaration, then such provisions of these Bylaws will be deemed inoperative and null and void insofar as they may be in conflict therewith, and will be deemed modified to conform to the Declaration or such rule of law.

#### *ARTICLE XI*

#### **MANDATORY BINDING ARBITRATION**

Internal disputes among the Declarant, the Association, the Owners, their respective agents and assigns, or any or all of them, must be submitted first for resolution through binding arbitration pursuant to Oregon law.

#### *ARTICLE XII*

#### **NOTICES**

All notices, demands and other communications hereunder or under the Declaration shall be in writing or by written telecommunication or electronic correspondence, and shall be deemed to have been duly given if delivered personally or if mailed by certified

mail, return receipt requested, postage prepaid, or if sent by overnight courier, or sent by written telecommunication or electronic correspondence, to the Member using the contact information on record. Any such notice shall be effective (a) if delivered personally, when received, (b) if sent by overnight courier, when receipted for, (c) if mailed, five (5) days after being mailed as described above, and (d) if sent by written telecommunication or electronic correspondence, when confirmation of such notice is received by sender. Each Member, by written notice to the Association in accordance with the provisions of these Bylaws and the Declaration, may specify any other contact information for the receipt of any notices hereunder.

### ***ARTICLE XIII***

#### **INDEMNIFICATION**

1. The Association shall indemnify to the fullest extent not prohibited by law any Indemnified Person (as hereinafter defined) who was or is a party or is threatened to be made a party to any Proceeding (as hereinafter defined) against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Indemnified Person in connection with such Proceedings.

2. The term "Indemnified Person" shall mean any person who is or was (i) a Director, officer, member of a committee, employee or, to the extent authorized by the Board of Directors in the specific case, an agent of the Association or (ii) serving at the request of the Association as a Director, officer or fiduciary, whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification or advancement of expenses can be provided under this Article XIII of these Bylaws.

3. The term "Proceeding" shall include any threatened, pending or completed action, suit or proceeding, whether brought in the right of the Association or otherwise and whether of a civil, criminal, administrative or investigative nature, in which an Indemnified Person may be or may have been involved as a party or otherwise by reason of the fact that the person is an Indemnified Person.

4. Expenses incurred by an "Indemnified Person" in defending a Proceeding shall be paid by the Association if the Indemnified Person furnishes:

5. A written affirmation of the Indemnified Person's good faith belief that such Indemnified Person is entitled to be indemnified by the Association under any indemnification rights granted by the Association; and

6. A written undertaking by or on behalf of such Indemnified Person to repay such advance to the extent it is ultimately determined by a court that such Indemnified Person is not entitled to be indemnified by the Association. Such advances shall be made without regard to the Indemnified Person's ability to repay such advances and without regard to the Indemnified Person's ultimate entitlement to indemnification under this Article XIII of these Bylaws or otherwise.

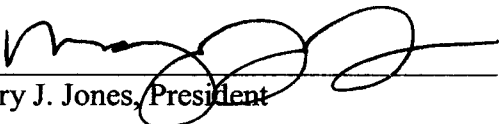
7. The indemnification and entitlement to advancement of expenses provided shall not be deemed exclusive of any other rights to which those indemnified may be entitled under the Articles or any statute, agreement, general or specific action of the Board of Directors shall inure to the benefit of the heirs, executors and administrators of such an Indemnified Person and shall extend to all claims for indemnification of advancement of expenses made after the adoption of this Article XIII of these Bylaws.

8. **Limitation of Liability.** The civil liability of Directors and officers shall be limited to the fullest extent permitted under the Oregon Nonprofit Corporation Act.

### CERTIFICATE OF SECRETARY

IN WITNESS WHEREOF, I, Mary J. Jones, hereby certify that I am the duly elected President of the Association and that the foregoing Bylaws were duly adopted by Kiwanda Cottages Owners' Association, an Oregon limited nonprofit corporation, vested with all the powers, duties and responsibilities otherwise exercised by the Board of Directors of the Association pursuant to Article V of these Bylaws, and that these Bylaws were duly adopted effective 6.22.07.

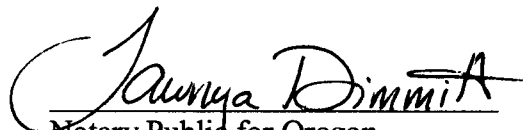
**Kiwanda Cottages Owners' Association**

  
\_\_\_\_\_  
Mary J. Jones, President

STATE OF OREGON, County of Tillamook ) ss.

PERSONALLY APPEARED Mary J. Jones, who, being duly sworn, did say that she is the President of Kiwanda Cottages Owners' Association, an Oregon limited nonprofit corporation, and said instrument was signed on behalf of said corporation by authority of its board of directors; and acknowledged said instrument to be its voluntary act and deed this 22<sup>nd</sup> day of June, 2007.

BEFORE ME:

  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: June 30, 2010

