

**“EXHIBIT B”**

**BY-LAWS**

**COUNCIL of UNIT OWNERS  
of  
CAROUSEL CENTER CONDOMINIUM**

**ARTICLE I<sup>1</sup>**

**Name and Location**

**Section 1.** Name and Location. The name of the Council of Unit Owners is as follows:

**COUNCIL of UNIT OWNERS of CAROUSEL CENTER CONDOMINIUM**

Its principal office and mailing address is as follows:

Carousel Center  
118th Street & Ocean Highway  
Ocean City, Maryland 21842

**ARTICLE II<sup>2</sup>**

**Definitions**

**Section 1.** **Declaration**<sup>3</sup>. “Declaration,” as used herein, means that certain Declaration made the 14th day of May 1976 by the Declarant therein identified, pursuant to Title 11, Real Property Article, Section 11-101 through and including Section 11-128 Annotated Code of Maryland (1975 Supp.), by which certain described premises (including land) are submitted to a condominium property regime and which Declaration is recorded among the Land Records for Worcester County, Maryland, immediately prior hereto and to which these By-Laws are appended as an Exhibit.

**Section 2.** **Mortgagee**. “Mortgagee,” as used herein, means the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the condominium units in the condominium. “Mortgage,” as used herein, shall include deed of trust. “First mortgage,” as used herein, shall mean a mortgage with priority

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<sup>1</sup> Readopted without changes: Sixth Amendment to the By-Laws dated March 19, 2000; recorded in the Land Records of Worcester County, Maryland, in Liber 2829, folio 538 *et. seq.*

<sup>2</sup> Readopted without changes: *Id.*

<sup>3</sup> Amendatory Declaration dated July 8, 1976, recorded among the Land Records of Worcester County at Liber FWH 536, folio 492, amends the Original Declaration and changes Units #s 1023, 1024, 1025 and 1026 to #s 1203, 1204, 1205 and 1206 respectively.

over other mortgages. As used in these By-Laws, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in these By-Laws, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or of any state or municipal government.

**Section 3. Other Definitions.** Unless it is plainly evident from the context that a different meaning is intended, all other terms used herein shall have the same meaning as they are defined to have in the Declaration or in Title 11, Real Property Article, Section 11-101, *et seq.*, Annotated Code of Maryland (1975 Supp.).

### ARTICLE III<sup>4</sup>

#### Membership

**Section 1. Members.** Every person, group of persons, corporation, partnership, trust, or other legal entity, or any combination thereof, who holds legal title to a unit within the condominium shall be a member of the Council of Unit Owners; provided, however, that any person, group of persons, corporation, partnership, trust, or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a member of the Council of Unit Owners by reason only of such interest.

### ARTICLE IV

#### Meetings of Unit Owners

**Section 1. Place of Meeting.** Meetings of the unit owners shall be held at the principal office of the Council of Unit Owners or at such other suitable place within the State of Maryland reasonably convenient to the unit owners as may from time to time be designated by the Board of Directors.

**Section 2. Annual Meetings.** The first annual meeting of the unit owners shall be held at such time as the Board of Directors shall determine but, in any event, within one hundred twenty (120) days after ninety percent (90%) of the condominium units in the project have been sold and title to the same has been conveyed by the Declarant. In the event that the first annual meeting shall not have taken place within one (1) year of the recording of the Declaration, a meeting shall be convened as soon thereafter as possible but there shall be no directors elected at such meeting. The Directors herein named shall serve until the first meeting following the 90% sale achievement aforesaid or until three (3) years after the date of recording hereof.

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<sup>4</sup> Readopted without changes: *Id.*

*Thereafter the Annual Meeting of the unit owners shall be held on such Saturday or Sunday as the Board may determine during any of the months of September, October, and November of each succeeding year.<sup>5</sup> At such meeting there shall be elected by ballot of the unit owners a Board of Directors in accordance with the requirements of Article V of these By-Laws. The unit owners may also transact such other business of the Council of Unit Owners as may properly come before them.*

**Section 3. Special Meetings.** It shall be the duty of the President to call a special meeting of the unit owners as directed by resolution of the Board of Directors or upon a petition signed by unit owners representing at least twenty percent (20%) of the total votes of the unit owners having been presented to the Secretary; provided, however, that, except upon resolution of the Board of Directors, no special meeting of the unit owners shall be called prior to the first annual meeting of unit owners as hereinabove provided for. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as specifically stated in the notice.

**Section 4. Roster of Unit Owners.** The Council of Unit Owners shall maintain a current roster of the names and addresses of each unit owner to which written notice of meetings of the Council of Unit Owners shall be delivered or mailed. Each unit owner shall furnish the Council of Unit Owners with his name and current mailing address.

**Section 5. Notice of Meetings.** It shall be the duty of the Secretary to mail or otherwise deliver a notice of each annual and special meeting of the Council of Unit Owners, stating the purpose thereof as well as the time and place where it is to be held, to each unit owner at his address as it appears on the roster of unit owners maintained by the Council of Unit Owners, or if no such address appears, at his last known place of address or at his condominium unit, at least fifteen (15) but not more than ninety (90) days prior to such meeting. Notice by either such method shall be considered as notice served and proof of such notice shall be made by the affidavit of the person giving such notice. Attendance by a unit owner at any annual or special meeting shall be a waiver of notice by him of the time, place and purpose thereof. Notice of any annual or special meeting of the unit owners may also be waived by any unit owner either prior to, at or after any such meeting.

**Section 6. Quorum.** The presence, either in person or by proxy, of unit owners representing at least fifty-one percent (51%) of the total votes of the Council of Unit Owners shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of members.

**Section 7. Adjourned Meetings.** If any meeting of unit owners cannot be organized because a quorum has not attended, the unit owners who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

**Section 8. Voting.** At every meeting of the unit owners, each of the unit owners shall have the right to cast the number of votes appurtenant to his unit, as established in "EXHIBIT

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<sup>5</sup> *Id.*

C” of the Declaration, on each question. The votes of the unit owners representing fifty-one percent (51%) of the votes of the unit owners present and voting, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of the Condominium Act, or of the Articles of Incorporation of the Council of Unit Owners, or of the Declaration or of these By-Laws, a different vote is required, in which case such express provision shall govern and control. The vote for any condominium unit which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by any other owner of such condominium unit is noted at such meeting. In the event all of the co-owners of such condominium unit who are present at any meeting of the unit owners are unable to agree on the manner in which the vote for such condominium unit shall be cast on any particular question, then such vote shall not be counted for purposes of deciding the question. In the event any condominium unit is owned by a corporation, then the vote appurtenant to such condominium unit shall be cast by a person designated in a certificate signed by the president or any vice president and attested by the secretary or an assistant secretary of such corporation and filed with the Secretary of the Council of Unit Owners at or prior to the meeting. Any such certificate shall remain valid until revoked or superseded in writing. The vote appurtenant to any condominium unit which is owned by a trust or partnership may be exercised by any trustee or partner thereof, as the case may be, and, unless any objection or protest by any other trustee or partner is noted at such meeting, the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes. No unit owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors who is shown on the books or management accounts of the Council of Unit Owners to be more than thirty (30) days delinquent in any payment due the Council of Unit Owners.

**Section 9. Proxies.** Any Unit Owner may appoint any other unit owner(s), his tenant, mortgagee, or the declarant or the management agent as his proxy. Any proxy must be in writing and must be filed with the Secretary in form approved by the Board of Directors at least two (2) business days prior to any scheduled Annual or Special meeting at which the proxy is to be used.<sup>6</sup> Unless limited by its terms, any proxy shall continue until revoked by written notice of revocation filed with the Secretary or by the death of the unit owner; provided, however, that no proxy is effective for a period in excess of one hundred eighty (180) days unless granted to a mortgagee or lessee of the condominium unit to which the votes are appurtenant.

*Any unit owned by a corporation, limited partnership, limited liability company, general partnership, joint venture or any other entity (other than individuals as co-tenants) may cast votes in the council of unit owners by any method permitted by the organizational documents of the ownership entity. Such voting shall not be considered “proxy” voting.<sup>7</sup>*

**Section 10. Rights of Mortgagees.** Any institutional mortgagee of any condominium unit in the condominium who desires notice of the annual and special meetings of the unit owners

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<sup>6</sup> Fifth Amendment to the By-Laws dated November 13, 1993; recorded in the Land Records of Worcester County, Maryland, in Liber No. 1994, folio 69 *et. seq.*

<sup>7</sup> Sixth Amendment to the By-Laws dated March 19, 2000; recorded in the Land Records of Worcester County, Maryland, in Liber No. 2829, folio 538 *et. seq.*

shall notify the Secretary to that effect by Registered Mail Return Receipt Requested. Any such notice shall contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the annual and special meetings of the unit owners should be addressed. The Secretary of the Council of Unit Owners shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each annual or special meeting of the unit owners to each such institutional mortgagee, in the same manner and subject to the same requirements and limitations as are provided in this Article for notice to the members. Any such institutional mortgagee shall be entitled to designate a representative to attend any annual or special meeting of the unit owners and such representative may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the unit owners present at any such meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the unit owners upon request made in writing to the Secretary.

**Section 11. Order of Business.** The order of business at all annual meetings of the unit owners of the Council of Unit Owners shall be as follows:

- (a) Roll call and certification of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of minutes of preceding meetings.  
if any.
- (d) Reports of officers. if any.
- (e) Reports of committees. if any.
- (f) Election or appointment of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New Business.
- (j) Adjournment.

In the case of special meetings, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meeting.

**Section 12. Rules of Order and Procedure.** The rules of order and all other matters of procedure at all annual and special meetings of the unit owners shall be determined by the Chairman of such meeting.

**Section 13. Inspectors of Election.** The Board of Directors may, in advance of any annual or special meeting of the unit owners, appoint an uneven number of one or more inspectors of election to act at the meeting and at any adjournment thereof. In the event inspectors are not so appointed, the Chairman of any annual or special meeting of unit owners shall appoint such inspectors of election. Each inspector so appointed, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector of election at such meeting. The oath so taken shall be filed with the Secretary of the Council of Unit Owners. No officer or director of the Council of Unit Owners, and no candidate for Director

of the Council of Unit Owners. shall act as an inspector of election at any meeting of the unit owners if one of the purposes of such meeting is to elect Directors.

**ARTICLE V<sup>8</sup>**

**Directors**

***Section 1.***<sup>9</sup> ***Number and Qualifications.*** *The affairs of the Council of Unit Owners shall be governed by a Board of Directors composed of an odd number (3 or 5) natural persons, a majority of whom shall be unit owners, or agents/employees of an owner of a condominium unit. The initial directors upon adoption of these bylaw amendments shall be Fred Palloni (Hotel Director), Steve Bulmer (Residential Director), and James R. Bergey, Jr. (Independent Director) who shall serve as such until December 31, 2004.*

*The number of directors shall be set by the initial board and may be set by a majority of the Board for the subsequent term at any time not less than 3 months before the annual meeting.*

*The Directors shall be divided into three separate classifications as follows:*

<u>Classification</u>	<u>Number</u>	<u>Elected by</u>
<i>Hotel Directors</i>	<i>1 / 2</i> <i>/</i> <i>/</i> <i>/</i>	<i>Owners of condominium units located on floors 1 - 5</i>
<i>Residential Directors</i>	<i>1 / 2</i> <i>/</i> <i>/</i> <i>/</i>	<i>Owners of condominium units located on floors 6 – 22</i>
<i>Independent Director</i>	<i>1 / 1</i>	<i>Majority vote of board of directors (subject to approval By the Administrative Judge of the Circuit Court until 12/31/04)</i>
<i>Total</i>	<hr/> <i>3 / 5</i>	

*The Independent Director shall possess professional knowledge of condominium operations and, until December 31, 2004, the selection of the Independent Director shall be subject to the approval of the Administrative Judge of the Circuit Court for Worcester County, Maryland.*<sup>10</sup>

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<sup>8</sup> Deleted in its entirety and new Article V is adopted: Sixth Amendment at 541.  
<sup>9</sup> *Id.* at 541 and 542.  
<sup>10</sup> *Id.* at 542.

**Section 2. Powers and Duties** *The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Council of Unit Owners and the condominium and may do all such acts and things as are not by law or by these By-laws directed to be exercised and done by the unit owners. The powers and duties of the Board of Directors shall include, but not be limited to, the following:*<sup>11</sup>

*To provide for the;*<sup>12</sup>

- (a) care, upkeep and surveillance of the condominium and its general and limited common elements and services in a manner consistent with law and the provisions of these By-laws and the Declaration; and*
- (b) establishment, collection, use and expenditure of assessments and carrying charges from the unit owners and for the assessment, the filing and enforcement of Statement of Condominium Liens therefore in a manner consistent with law and the provisions of these By-Laws and the Declaration; and*
- (c) designation, hiring and dismissal of the personnel necessary for the good working order of the condominium and for the proper care of the common elements and to provide services for the project in a manner consistent with law and the provisions of these By-Laws and the Declaration; and*
- (d) promulgation and enforcement of such rules and regulations and such restrictions on or requirements as may be deemed proper respecting the use, occupancy and maintenance of the condominium and the use of the general and limited common elements and as are designated to prevent unreasonable interference with the use and occupancy of the condominium and of the general and limited common elements by the unit owners and others, all of which shall be consistent with law and the provisions of these By-Laws and the Declaration; and*
- (e) authorization in their discretion, of the payment of patronage refunds from residual receipts or common profits when, and as reflected in the annual report; and*

*Such powers and duties shall also authorize the Board of Directors,*

- (f) to enter into agreements whereby the Council of Unit Owners acquires leaseholds, memberships and other possessory or use interest in real or personal property for the purpose of promoting the enjoyment, recreation or welfare of the unit owners and to declare expenses incurred in connection therewith to be common expenses of the Council of Unit owners; and*

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 543.

- (g) *to purchase insurance upon the condominium in the manner provided for in these By-Laws; and*
- (h) *to repair, restore or reconstruct all or any part of the condominium after any casualty loss in a manner consistent with law and the provisions of these By-Laws and to otherwise improve the condominium; and*
- (i) *to lease, grant licenses, easements, rights-of-way, and other rights of use in all or any part of the common elements of the condominium; and*
- (j) *to purchase condominium units in the condominium and to lease, mortgage or convey the same, subject to the provisions of these By-Laws and the Declaration; and*
- (k) *to appoint the members of the Architectural and Environmental Control Committee provided for in Article X of these By-Laws and to appoint the members of such other committees as the Board of Directors may from time to time designate.<sup>13</sup>*

**Section 3.**<sup>14</sup> **Management Agent.** *The Board of Directors shall contract for the Council of Unit Owners a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. The Council of Unit Owners shall not undertake "self-management" or otherwise fail to employ a professional management agent or manager without the prior written approval of all of the institutional holders of all first mortgages on the condominium units in the condominium. Any management agreement entered into by the Council of Unit Owners shall provide, inter alia, that such agreement may be terminated for gross negligence upon thirty (30) days written notice thereof. There shall be a thirty day right to cure any alleged default. The term of any such management agreement shall not exceed five (5) years, provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one year periods.*

**Section 4.**<sup>15</sup> **Election and Term of Office.** *The term of the Directors named herein shall expire when their duly elected successors have been qualified. The election for directors shall be held by classification and shall be held at the annual meeting or a special meeting called for the purposes of electing a successor director. There shall be no limit as to number of terms a director may serve.*

*The initial term of the Directors shall be until December 31, 2004. Successor Directors shall be elected at the annual meeting in the fall of 2004 and shall assume office on January 1, 2005. The term for each successor director shall be two (2) years.*

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<sup>13</sup> *Id.* at 544.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*



*In the event there are five (5) directors serving on the board, their terms shall be staggered so that the term of one residential director and one hotel director shall expire on even years and the terms of the other residential director and hotel director shall expire on odd years.*

**Section 5.**<sup>16</sup> **Conduct of Meetings.** *The Independent Director shall act as Chairperson of the Board and shall conduct all meetings of Board. The Independent Director shall cast votes on questions before the Board only to break or create a tie vote among the remaining directors. The decisions of the Board of Directors shall be by majority vote.*

**Section 6.**<sup>17</sup> **Vacancies.** *Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the membership shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting to serve out the unexpired portion of the term.*

**Section 7.**<sup>18</sup> **Removal of Directors.** *Any member of the Board of Directors, except the Independent Director, may be removed with or without cause at a special meeting called for such purpose by the unit owners representing twenty-five percent (25%) of the votes in the Council of Unit owners. Any Director whose removal has been proposed by the unit owners shall be given an opportunity to be heard.*

*Hotel Directors may only be removed by affirmative vote of a majority of the Unit Owners owning hotel, business or mall units (i.e. units on floors 1 - 5). Residential Directors may only be removed by affirmative vote of a majority of the Unit owners owning residential units (i.e. units on floors 6 - 22).*

*The Independent Director may be removed only at a special meeting called for such purpose by unit owners representing seventy-five percent (75%) of the votes in the Council of Unit owners. The affirmative vote of eighty percent (80%) of those unit owners present, in person or by proxy, at the special meeting shall be required for removal of the Independent Director.*

**Section 8.**<sup>19</sup> **Compensation.** *Directors, other than the Independent Director, shall receive no compensation for their services as Directors. The Independent Director shall receive such compensation as directed by a majority of the Directors (including the Independent Director). The compensation of the Independent Director shall be set prior to the beginning of each term and shall not be diminished, but it may increase, during each term. The Independent Director shall be entitled to compensation only upon attendance to all meetings of the Board of Directors, unless excused by a majority of the remaining Directors for health reasons.*

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<sup>16</sup> *Id.* at 544 and 545.

<sup>17</sup> *Id.* at 545.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

*Notwithstanding the above, Directors may be reimbursed for actual travel and related out-of-pocket expenses incurred by them in connection with their services as Directors.*

**Section 9.**<sup>20</sup> **Meetings.** *Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Meetings shall be held at least quarterly and should occur on a regularly scheduled basis (i.e. first Friday of the first month of each quarter). The dates and times of regularly scheduled meetings shall be posted in a conspicuous manner within the Condominium Project. Meetings of the Board shall be open to all persons who own or hold interests in condominium units within Carousel Center Condominium, except that the Board may meet in closed session as provided by the Maryland Condominium Act.*

*Notice of regularly scheduled meetings should be given to each Director at least fifteen (15) days, but not more than one hundred twenty (120) days, prior to the meeting. Notice may be given in writing, or orally, by any means and, if possible should be included at the conclusion of the preceding regular meeting.*

**Section 10.**<sup>21</sup> **Special Meetings.** *Special meetings of the Board of Directors may be called upon the joint request of both the Hotel Director and the Residential Director, at a date, time and place jointly selected. Upon the request of either the Hotel Director or the Residential Director, the Chairman of the Board (the Independent Director) shall call a special meeting on not less than 48 hours' notice to each Director, which notice shall state the date, time, place, and purpose of the special meeting. Attendance at a special meeting waives the notice requirement.*

**Section 11.**<sup>22</sup> **Waiver of Notice.** *Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place, and purpose thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.*

**Section 12.**<sup>23</sup> **Quorum.** *At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at any meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time to obtain a quorum. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.*

*No business of the Board of Directors may take place at a regular meeting unless at least one (1) Hotel Director and one (1) Residential Director is present, in person or by proxy.*

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<sup>20</sup> *Id.* at 545 and 546.

<sup>21</sup> *Id.* at 546.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

*Meetings may be conducted by conference call or any other video/electronic means so long as all Directors can hear other Directors and participate fully in the meeting.*

**Section 13.**<sup>24</sup> **Action Without Meeting.** *Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.*

**Section 14.**<sup>25</sup> **Rights of Mortgagees.** *Any mortgagee of any condominium unit in the condominium who desires notice of the regular and special meetings of the Board of Directors shall notify the Secretary to that effect by Registered Mail - Return Receipt Requested. Any such notice shall contain the name and post office address of such mortgagee and the name of the person to whom notice of the regular and special meetings of the Board of Directors should be addressed. The Secretary of the Council of Unit Owners shall maintain a roster of all mortgagees from whom such notices are received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each regular or special meeting of the Board of Directors to each such mortgagee, in the same manner, and subject to the same requirements and limitations, as are otherwise provided in the Article for notice to the members of the Board of Directors. Any such mortgagee shall be entitled to designate a representative to attend any regular or special meeting of the Board of Directors and such representatives may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the Board but shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Board of Directors upon request made in writing to the Secretary.*

**Section 15.**<sup>26</sup> **Fidelity Bonds.** *The Board of Directors shall require that all officers, Directors, and employees of the Council of Unit Owners regularly handling or otherwise responsible for the funds of the Council of Unit owners shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty in accordance with the requirements of Article XI of these By-Laws. The premiums on such bonds or insurance shall be paid by the Council of Unit Owners.*

## ARTICLE VI<sup>27</sup>

### Officers

**Section 1.** **Designation.** *The principal officers of the Council of Unit Owners shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors. Prior to the first annual meeting of unit owners, the officers of the Council of Unit Owners need not be unit owners. Thereafter, except for the President, the officers of*

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<sup>24</sup> *Id.* at 547.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Readopted with no changes and adding Sections 8 and 9: *Id.*

the Council of Unit Owners need not be unit owners. The Directors may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

**Section 2. Election of Officers.** The officers of the Council of Unit owners shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board of Directors.

**Section 3. Removal of Officers.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

**Section 4. President.** The President shall be the chief executive officer of the Council of Unit Owners. He shall preside at all meetings of the unit owners and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of a corporation, including, but not limited to, the power to appoint such committees from among the unit owners from time to time as he may, in his discretion, decide are appropriate to assist in the conduct of the affairs of the Council of Unit Owners. The President shall count the votes at all meetings of the unit owners.

**Section 5. Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also assist the President generally and shall perform such other duties as shall from time to time be delegated to him by the Board of Directors.

**Section 6. Secretary.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the unit owners for the recording of the resolutions of the Council of Unit Owners. The Secretary shall give notice of all annual and special meetings of the unit owners in conformity with the requirements of these By-Laws. The Secretary shall have custody of the seal of the Council of Unit Owners, if any. The Secretary shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct and he shall, in general, perform all of the duties incident to the office of Secretary.

**Section 7. Treasurer.** The Treasurer shall have responsibility for funds and securities of the Council of Unit Owners and shall be responsible for keeping, or causing to be kept, full and accurate accounts of all receipts and disbursements in books belonging to the Council of Unit Owners. He shall be responsible for causing the deposit of all monies and other valuable effects in the name, and to the credit, of the Council of Unit Owners in such depositaries as may from time to time be designated by the Board of Directors.

**Section 8. Compensation of Officers.** *The officers of the Council of Unit Owners shall receive such compensation as approved by the Board of Directors.*<sup>28</sup>

**Section 9. Legal Counsel and Auditor.** *Legal Counsel and Auditor for the Council of Unit Owners shall be employed by, and serve at the pleasure of the Board of Directors.*<sup>29</sup>

## ARTICLE VII<sup>30</sup>

### Liability and Indemnification of Officers and Directors

**Section 1. Liability and Indemnification of Officers and Directors.** The Council of Unit Owners shall indemnify every officer and Director of the Council of Unit Owners against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or Director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Council of Unit Owners) to which he may be made a party by reason of being or having been an officer or Director of the Council of Unit Owners, whether or not such person is an officer or Director of the Council of Unit Owners at the time such expenses are incurred. The officers and Directors of the Council of Unit Owners shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The officers and Directors of the Council of Unit Owners shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Council of Unit Owners or the condominium (except to the extent that such officers or Directors may also be owners of condominium units) and the Council of Unit Owners shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be in addition to and not exclusive of any other rights to which any officer or Director of the Council of Unit Owners, or former officer or Director of the Council of Unit Owners may be entitled.

**Section 2. Common or Interested Directors.** The Directors shall exercise their powers and duties in good faith and with a view to the interests of the Council of Unit Owners and the condominium. No contract or other transaction between the Council of Unit Owners and one or more of its Directors, or between the Council of Unit Owners and any corporation, firm or association (including the Declarant) in which one or more of the Directors of the Council of Unit Owners are directors or officers or are pecuniary or otherwise interested, is either void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

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<sup>28</sup> *Id.* at 548.

<sup>29</sup> *Id.*

<sup>30</sup> Readopted without changes: *Id.*

- (a) the fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or
- (b) the fact of the common directorate or interest is disclosed or known to the unit owners, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or
- (c) the contract or transaction is commercially reasonable to the Council of Unit Owners at the time it is authorized, ratified, approved, or executed.

Common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves, or ratifies any contract or transaction, and may vote there at to authorize any contract or transaction with like force and effect as if he were not such director or officer of such other corporation or not so interested.

## ARTICLE VIII

### Assessments and Carrying Charges for Common Expenses

**Section 1.**<sup>31</sup> **Annual Assessments and Carrying Charges.** Each unit owner shall pay to the Council of Unit Owners, in advance, a monthly sum (herein elsewhere sometimes referred to as “assessments” or “carrying charges”) equal to one-twelfth (1/12) of the unit owner's proportionate share (determined in accordance with the percentage interests in common expenses and common profits of the condominium set forth on “EXHIBIT C” attached to the Declaration) of the sum required by the Council of Unit Owners, as estimated by its Board of Directors, to meet its annual expenses, including, but in no way limited to, the following:

- (a) the cost of all operating expenses of the condominium and services furnished, including charges by the Council of Unit Owners for facilities and services furnished by it; and
- (b) the cost of necessary management and administration, including fees paid to any Management Agent; and
- (c) the amount of all taxes and assessments levied against the Council of Unit Owners or upon any property which it may own or which it is otherwise required to pay, if any; and
- (d) the cost of fire and extended liability insurance on the project and the cost of such other insurance as the Council of Unit Owners may effect; and

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<sup>31</sup> Readopted without changes: *Id.*

- (e) the cost of furnishing water, electricity, heat, gas, garbage, and trash collection, and other utilities, to the extent furnished by the Council of Unit Owners, excepting the "energy assessments" hereinafter provided;
- (f) the cost of funding contributions to the "Paid-in-Surplus" account of the Council of Unit Owners and the cost of funding all reserves established by the Council of Unit Owners, including, when appropriate, a general operating reserve and a reserve for replacements; and
- (g) the estimated cost of repairs, maintenance, and replacements of the common elements of the condominium to be made by the Council of Unit Owners.

The Board of Directors shall determine the amount of the assessments at least annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of both the Board of Directors and the unit owners representing at least fifty-one percent (51%) of the total votes of the unit owners, installments of annual assessments may be levied and collected on a quarterly, semiannual, or annual basis rather than on the monthly basis hereinabove provided for.

The Board of Directors of the Council of Unit Owners shall make reasonable efforts to fix the amount of the assessment against each condominium unit for each annual assessment period at least thirty (30) days in advance of the commencement of such period and shall, at that time, prepare a roster of the condominium units and assessments applicable thereto which shall be kept in the office of the Council of Unit Owners and shall be open to inspection by the owner or mortgagee of any condominium unit, and by their respective duly authorized agents and attorneys. Upon reasonable notice to the Board of Directors, written notice of the assessments shall thereupon be sent to the unit owners. The omission of the Board of Directors, before the expiration of any annual assessment period, to fix assessments for that or the next such period shall not be deemed a waiver or modification in any respect of the provisions of this Article, or a release of any unit owner from the obligation to pay the assessment, or any installment thereof, for that or any subsequent assessment period; but the assessment fixed for the preceding period shall continue until a new assessment is fixed. No unit owner may exempt himself from liability for assessments or carrying charges by a waiver of the use or enjoyment of any of the common elements or by abandonment of any condominium unit belonging to him.

**Section 2.** **Budget.** The Board of Directors, with the assistance and counsel of the Management Agent, shall prepare and adopt a budget for each annual assessment period which shall include estimates of the funds required by the Council of Unit Owners to meet its annual expenses for that period. The budget herein required to be prepared and adopted by the Board of Directors shall be in a format consistent with the classification of the accounts of the Council of Unit Owners. As hereinafter in these By-Laws provided for, and shall provide for sufficient estimate on a monthly basis, to permit comparison to and analysis of deviations from the various periodic reports of the actual results of operations and the actual financial condition of the Council of Unit Owners, on both a current basis and for prior corresponding periods, all in accordance with generally accepted accounting practices, consistently applied.

Copies of the budget shall be available for examination by the unit owners and by their duly authorized agents and attorneys, and to the institutional holder of any first mortgage on any condominium unit in the condominium and by their duly authorized agents and attorneys during normal business hours for purposes reasonably related to their respective interests. In the preparation of such budget, the Board of Directors shall estimate and segregate the direct costs attributable to the hotel and business utilizations, to the end that a fair and equitable division of expenses may be accomplished among the various unit owners.

*In the preparation of the annual budget, the Board of Directors shall allocate operational expenses and capital expenses in the manner approved in the Consent Order dated April 3, 1996 in Case No. 95CV0567 in the Circuit Court for Worcester County, Maryland, as set forth in the Tyson Report dated 09/196, amended 12/27/99, and as amended from time to time.<sup>32</sup>*

**Section 3.<sup>33</sup> Hotel Assessments.** In addition to the assessment provided in Section 1 hereof, attributable thereto, each Hotel Unit shall be assessed an additional amount equal to such unit's ratable share of the increased fire and extended coverage and public liability insurance premiums attributable to the hotel use made thereof, if any. Such portion of the Budget, prepared as aforesaid, as is attributable to the Hotel utilization of Hotel Common Elements or common elements generally in excess of normal, non-hotel utilization shall be charged ratably to the Hotel Units and assessed thereupon, to be paid as a part of the assessments upon such Hotel Units.

**Section 4.<sup>34</sup> Business Assessments.** In addition to the assessment provided in Section 1 hereof attributable thereto, each Business Unit shall be assessed an additional amount equal to such Unit's ratable share of the increased fire and extended coverage and public liability insurance attributable to the business use made thereof, if any. Such portion of the Budget, prepared as aforesaid, as is attributable to the business utilization of Hotel Common Elements or common elements generally in excess of normal, non-commercial utilization, shall be charged ratably to Business Units and assessed thereupon, to be paid as a part of the assessments upon Business Unit.

**Section 5.<sup>35</sup> Equalization of Utility Costs and Maintenance.** The condominium units depicted on pages of the Condominium Plat are provided with separately metered electrical service. All other condominium units are provided with electrical service from a commonly metered source and/or gas service from a commonly metered source, which commonly metered energy sources also service common elements. Accordingly, if such electrical and gas services were to be accounted as "Common Expenses," an inequitable sharing of these costs would result. Therefore, it is declared that the costs incurred for providing electric and gas service shall not be, in total, "Common Expenses" within the contemplation of Article VIII, Section 1 hereof. Rather, there shall be allocated as a "Common Expense" such portion of the cost of electric and gas service as is reasonably attributable to the non-business and

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<sup>32</sup> *Id.* at 549.

<sup>33</sup> Readopted without changes: *Id.*

<sup>34</sup> Readopted without changes: *Id.*

<sup>35</sup> Readopted without changes: *Id.*



non-hotel utilization of such energy sources in common elements. The remainder of such cost shall be ratably assessed among the condominium units benefiting therefrom as an "energy assessment - gas" and/or "energy assessment – electricity." In establishing such ratable assessments, the relative percentages of ownership attributable to the condominium units subject to such energy assessment shall be considered. Condominium units to which electrical service is separately metered shall pay the costs of electrical service billed thereto and shall not be subject to the "energy assessment – electricity."

In determining the energy costs to be allocated as aforesaid, the costs of maintaining, servicing, and repairing the on-site distribution systems for gas and electricity shall be considered a part thereof.

**Section 6.<sup>36</sup> Status of Hotel, Business and Energy Assessments.** To the extent that the Energy, Hotel and/or Business Assessments cause the total assessment upon any condominium unit to exceed the quantum of assessment upon such unit derived by application of the percentage interest appurtenant thereto, (as set forth on "EXHIBIT C"), to such extent shall the owner of such unit be deemed to have covenanted and agreed to pay such assessment, notwithstanding that such total assessment shall exceed the level thereof prescribed by Section 11-110 of the Condominium Act. In addition, the owner of such unit covenants and agrees that such Hotel and/or Business Assessments shall be, together with those assessments attributable to percentage of ownership, subject to the lien provided in Section 11-110 (d, e, f, and g), of the Act, and hereinafter described. Such covenants shall run with and bind the land in the hands of every owner thereof.

**Section 7. Special Assessments.** In addition to the regular assessments authorized by this Article, the Council of Unit Owners may levy in any assessment year a special assessment or assessments, applicable to that year only, for the purpose defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the condominium, including the necessary fixtures and personal property related thereto, for such other purpose as the Board of Directors may consider appropriate; provided however, that any such special assessment shall have the assent of the unit owners representing two-thirds (2/3) of the total votes of the Council of Unit Owners. A special meeting of the unit owners shall be duly called for this purpose.

*Special assessments for construction, or reconstruction, unexpected repair or replacement of capital improvements within Hotel Common Elements shall be allocated between the Owners of the Hotel Units and the Council of Unit Owners on the basis as recommended, from time to time, by independent expert(s) employed for that purpose by the Board of Directors pursuant to the Consent Order entered in Case #95CV0567 in the Circuit Court for Worcester County, Maryland.*<sup>37</sup>

**Section 8.<sup>38</sup> Reserve for Replacements.** The Council of Unit Owners shall establish and maintain a reserve fund for replacements by the allocation and payments monthly to such

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<sup>36</sup> Readopted without changes: *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Readopted without changes: *Id.*

reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense. Such fund shall be deposited in a special account with a lending institution the accounts of which are insured by an agency of any state or an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, any state or the United States of America. The reserve for replacements may be expended only for the purpose of effecting the replacement of the common elements and equipment of the condominium and for start-up costs and operating contingencies of a nonrecurring nature. The proportionate interest of any unit owner in any reserve for replacements and any other reserves established by the Council of Unit Owners shall be considered an appurtenance of his condominium unit and shall not be separately withdrawn, assigned, or transferred or otherwise separated from the condominium unit to which it appertains and shall be deemed to be transferred with such condominium unit.

***Section 9.<sup>39</sup> Non-Payment of Assessments – Statement of Lien.*** Any assessment levied pursuant to the Declaration and these By-laws, or any installment thereof, which is not paid on the date when due shall be delinquent and shall entitle the Council of Unit Owners to accelerate the balance of Annual Assessments and to claim the amount of such assessment together with interest at the rate of twelve percent (12%) per annum thereon, all or which shall be considered a lien on the condominium unit against which it is assessed; provided however, that such lien shall be effective only after a Statement of Lien has been recorded among the Land Records for Worcester County, Maryland, and including attorney fees in the amount of twenty percent (20%) of the total sum claimed, including interest, but in no event shall the attorney's fees be less than Five Hundred Dollars (\$500.00); said attorney fees to be considered to have been earned when the assessment is turned over to him for collection; and the costs of collection thereof, all in conformity with Section 14-203 of the Real Property Article of the Annotated Code of Maryland, as may be amended from time to time. Any such Statement of Lien shall be in substantially the following form or as may be otherwise required by the Annotated Code:

#### **STATEMENT OF LIEN<sup>40</sup>**

*This is to certify that the property described as  
Carousel Center Condominium, Unit \_\_\_\_\_, 118th Street  
and Coastal Highway, Ocean City, Worcester County, Maryland,  
is subject to a lien under Title 14, Subtitle 2 of the Real  
Property Article, Maryland Annotated Code, in the amount of  
\$ \_\_\_\_\_, together with attorney's fees in the  
amount of \$ \_\_\_\_\_ and costs in the amount of \$ \_\_\_\_\_.  
The property is owned by \_\_\_\_\_.*

*I hereby affirm under the penalty of perjury that notice  
was given under Section 14-203 (a) of the Real Property Article,  
and that the information contained in the foregoing*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 536.

*statement of lien is true and correct to the best of my knowledge, information, and belief.*

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*Name of Agent  
Carousel Center Condominium  
118th and Coastal Highway  
Ocean City, Maryland 21842  
(301) 524-1000*

*The Statement of Lien shall be signed and verified as required by statute by any officer of the Council of Unit Owners, or by the Management Agent or any duly authorized representative thereof, or by any agent, attorney or other person duly authorized by the Board of Directors of the Council of Unit Owners for such purpose.*

*Upon recordation of the Statement of Lien as aforesaid, the lien shall bind the condominium unit described in the Statement of Lien in the hands of the unit owner, his heirs, devisees, personal representatives, and assigns. The personal obligation of the unit owner to pay the assessment shall, however, remain his personal obligation for the statutory period and a suit to recover a money judgment for non-payment of any assessment levied pursuant to the Declaration and these By-laws, or any installment thereof, may be maintained without foreclosing or waiving the lien established by the Statement of Lien to secure payment of such assessment. Upon full payment of the amount for which the lien is claimed, the unit owner shall be entitled to a recordable satisfaction of the lien.*

*Any assessment levied pursuant to the Declaration or these By-laws and any installment thereof, which is not paid when due may, upon resolution of the Board of Directors, subject the unit owner obligated to pay the same to the payment of interest on such assessment in the amount of twelve percent (12%) per annum or as the Board of Directors may fix and the Council of Unit Owners may bring an action at law against the unit owner personally obligated to pay the same or may, after the recordation of the Statement of Lien provided for in this Article, foreclose the lien against the condominium unit or units then belonging to said unit owner in the same manner, and subject to the same requirements, now or hereafter provided for the foreclosure of mortgages or deeds of trust in the State of Maryland containing a power of sale or an assent to a decree; in either of which events interest at the rate of twelve percent (12%) per annum, actual costs of collection and reasonable attorney's fees of not less than twenty percent (20%) of the sum claimed, inclusive of interest, shall be added to the amount of each assessment. Suit for any deficiency following foreclosure may be maintained in the same proceeding.*

*In the event any proceeding to foreclose the lien for any assessment due the Council of Unit Owners pursuant to this Article is commenced with respect to any condominium unit or units in the condominium, then the owner of such condominium unit or units, upon resolution of the Board or Directors, may be required to pay reasonable rental for such unit or units and the Council of Unit Owners shall be entitled to the appointment of a receiver to collect the same.*

*The Board of Directors may post a list of members who are delinquent in the payment of any assessment or other fees which may be due the Council of Unit Owners, including any installment thereof which becomes delinquent, in any prominent location within the condominium.*<sup>41</sup>

**Section 10.<sup>42</sup> Priority of Lien.** The lien established by the recordation of a Statement of Condominium Lien, as in this Article provided, shall have preference over any other assessments, liens, judgments, or charges of whatever nature, except the following:

- (a) general and special assessments for ad valorem real estate taxes on the condominium unit; and
- (b) the lien of any bona fide deed of trust, mortgage, or other encumbrance duly recorded on the condominium unit prior to the recordation of the Statement of Condominium Lien, or duly recorded on the condominium unit after receipt by the holder of any such mortgage (or the holder of the indebtedness or note secured thereby) of a certificate or statement in writing signed by an officer or agent of the Council of Unit Owners stating the payments on account of all assessments levied by the Council of Unit Owners against the condominium unit were current as of the date of recordation of such deed of trust, mortgage instrument, or other encumbrance.

The lien established by the recordation of a Statement of Condominium Lien, as in this Article provided, shall be subordinate to the lien of any deed of trust, mortgage, or other encumbrance duly recorded on the condominium unit and made in good faith and for value received; provided, however, that such subordination shall apply only to assessments, and installments thereof, which have become due and payable prior to a sale or transfer of the condominium unit pursuant to a foreclosure, or any deed, assignment or other proceeding or arrangement in lieu of foreclosure. Any holder of any deed of trust, mortgage or other encumbrance duly recorded on the condominium unit and made in good faith and for value received who comes into possession of the condominium unit pursuant to a foreclosure or any deed, assignment or other proceeding or arrangement in lieu of foreclosure, and any other purchaser at a foreclosure sale, shall take the condominium unit free of any claims for unpaid common expense assessments and carrying charges levied against the condominium unit which accrue prior to the time such holder comes into possession of the condominium unit or prior to the foreclosure sale, except for claims for a proportionate share of such unpaid common expense assessments and carrying charges resulting from a reallocation of such unpaid common expense assessments or carrying charges among all of the condominium units in the condominium. Such foreclosure, deed, assignment, or other proceeding or arrangement in lieu of foreclosure shall not relieve the mortgagee in possession or the purchaser at any foreclosure sale from any liability for any common expense assessments and carrying charges thereafter becoming due, or from the lien established by the recordation of a Statement of

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<sup>41</sup> *Id.* at 537.

<sup>42</sup> Readopted without changes: Sixth Amendment at 549.

Condominium Lien with respect to any common expense assessments and carrying charges thereafter becoming due.

No amendment to this Section shall affect the rights of the holder of any such deed of trust, mortgage or other encumbrance recorded prior to the recordation of such amendment unless the holder of such deed of trust, mortgage or other encumbrance shall join in the execution of such amendment.

**Section 11.<sup>43</sup> Additional Rights of Mortgagees - Notice.** The Council of Unit Owners shall promptly notify the holder of the first mortgage on any condominium unit for which any assessment levied pursuant to the Declaration or these By-Laws, or any installment thereof, becomes delinquent for a period in excess of thirty (30) days and the Council of Unit Owners shall promptly notify the holder of the first mortgage on any condominium unit with respect to which any default in any provision of the Declaration or these By-Laws remains uncured for a period in excess of thirty (30) days following the date of such default. Any failure to give any such notice shall not affect the priorities established by this Article, the validity of any assessment levied pursuant to the Declaration or these By-Laws or the validity of any lien to secure the same, nor shall any such failure render the Council of Unit Owners liable to any such mortgagee.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to the Declaration or these By-Laws except after ten (10) days' written notice to the holder of the first mortgage on the condominium unit which is the subject matter of such suit or proceeding.

**Section 12.<sup>44</sup> Acceleration of Installments.** Upon default in the payment of any one or more monthly installments of any assessment levied pursuant to the Declaration or these By-Laws, or any other installment thereof, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.

**Section 12.<sup>45</sup> Assessment Certificates.** The Council of Unit Owners shall, upon demand at any time, furnish to any unit owner liable for any assessment levied pursuant to the Declaration or these By-Laws (or any other party legitimately interested in the same) a certificate in writing signed by an officer or agent of the Council of Unit Owners, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any installment of any assessment therein stated to have been paid. A charge not to exceed Thirty Dollars (\$30.00) may be levied in advance by the Council of Unit Owners for each certificate so delivered, except that no charge shall be levied against any institutional mortgagee of any condominium unit in the condominium who requests such a certificate.

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<sup>43</sup> Readopted without changes: *Id.*

<sup>44</sup> Readopted without changes: Sixth Amendment at 550.

<sup>45</sup> Readopted without changes: *Id.*

**Section 13.**<sup>46</sup> **Additional Default.** Any recorded first mortgage secured on a condominium unit in the condominium shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to the Declaration or these By-Laws, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness or note secured thereby) at the option of the mortgagee. Such mortgages shall also provide that, in the event of any default thereunder, the mortgagee shall have the right, at its option exercised by notice in writing to the mortgagor and the Secretary of the Council of Unit Owners, to cast the votes appurtenant to the condominium unit which is security for the repayment of the mortgage debt at all meetings of the unit owners. Failure to include such provisions in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the holder of the indebtedness or note secured thereby) by reason of the provisions of this Article shall not be altered, modified, or diminished by reason of any such failure.

*Section 14. Check Charge. The Board of Directors may levy a Twenty-Five Dollar (\$25.00) charge to any unit owner who presents a check which is returned unpaid to either the Council of Unit Owners of the Carousel Center Condominium or the Carousel Hotel.*<sup>47</sup>

## ARTICLE IX<sup>48</sup>

### Use Restrictions

**Section 1. Residential Use.** Except for such condominium units as are designated in the Declaration or on the Condominium Plat as Business Units or Hotel Units, and except for such non-residential uses as may be permitted by the Board of Directors from time to time, all condominium units shall be used for residential purposes exclusively. Nothing in this Section, or herein elsewhere, shall be construed to prohibit the Declarant from the use of any condominium units which the Declarant owns for promotional or display purposes, as "model apartments," a sales office or the like, or from leasing any unit or units which the Declarant owns except that Declarant shall nevertheless be bound by the provisions of Section 2 of this Article.

**Section 2. Leasing.** Any owner of any condominium unit who shall lease his unit shall accomplish such leasing, for whatever period of time, by the execution of a form of agreement promulgated for such purpose by the Board of Directors. Promptly following the execution of any such lease, a conformed copy thereof shall be forwarded to the Board of Directors or the Managing Agent. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the condominium unit shall be subject and subordinate in all respects to the provisions of the Declaration and these By-Laws and to such other reasonable rules and regulations relating to the use of the common elements, or other "house rules," as may from time to time be promulgated and shall provide, further, that any failure by the tenant to comply with the provisions of such documents shall be a default under the lease. The provisions of

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<sup>46</sup> Readopted without changes: *Id.*

<sup>47</sup> Third Amendment to the By-Laws dated November 2, 1991; recorded in the Land Records of Worcester County, MD, in Liber 1780, folio 533.

<sup>48</sup> Readopted without changes: Sixth Amendment at 550.

this subsection shall not apply to any institutional first mortgagee of any condominium unit who comes into possession of the unit by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment, or deed in lieu of foreclosure.

**Section 3. Prohibited Uses and Nuisances.** Except for the activities of the Declarant and its agents in connection with the construction of the condominium, and except as may be reasonable and necessary in connection with the maintenance, improvement, repair or reconstruction of any portion of the condominium by the Declarant or the Council of Unit Owners, unless previously approved by the Board of Directors,

- (a) no noxious or offensive trade or activity shall be carried on within the condominium or within any condominium unit, nor shall anything be done therein or thereon which may be or become an annoyance to the neighborhood or the other unit owners. No nuisances shall be permitted within the condominium, nor shall any use or practice be permitted which is or becomes a source of annoyance to the unit owners or which interferes with the peaceful use and possession thereof by the unit owners, provided, however, that this Subsection shall not be construed to prohibit the utilization of Hotel or Business Units for their intended purposes.
- (b) there shall be no obstruction of any of the common elements. Nothing shall be stored upon any of the common elements, excepting those areas designated for storage of personal property by the owners of the condominium units.
- (c) nothing shall be done or maintained in any condominium unit or upon any of the common elements which will increase the rate of insurance on any condominium unit or the common elements, or result in the cancellation thereof, without the prior written approval of the Board of Directors, except for insurance premium increases provided for hereinabove in Article VIII, Sections 2, 3, and 4. Nothing shall be done or maintained in any condominium unit or upon the common elements which would be in violation of any law. No waste shall be committed upon any of the common elements.
- (d) no structural alteration, construction, addition, or removal of any condominium unit or the common elements shall be commenced or conducted except in strict accordance with the provisions of these By-Laws.
- (e) the maintenance, keeping, breeding, boarding, and/or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited within any condominium unit or upon any of the common elements, except that this shall not prohibit the keeping of a dog, cat, or caged birds as domestic pets provided that they are not kept or maintained for commercial purposes or for breeding. Pets shall not be permitted upon

the general common elements of the condominium unless accompanied by an adult and unless they are carried or leashed. Any unit owner who keeps or maintains any pet upon any portion of the condominium shall be deemed to have indemnified and agreed to hold the Council of Unit Owners, each of the unit owners and the Declarant and Management Agent free and harmless from any loss, claim, or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the condominium. All pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law. The Board of Directors shall have the right to order any person whose pet is a nuisance to remove such pet from the premises, and the Board of Directors, after affording the right to a hearing to the unit owner affected, shall have the exclusive authority to declare any pet a nuisance.

- (f) except for such signs as may be posted by the Declarant or the Council of Unit Owners for promotional or marketing purposes, traffic control, or the like, no signs of any character shall be erected, posted or displayed upon, in, from or about any condominium unit or the common elements without the prior consent in writing of the Board of Directors and under such conditions as they may establish. Signs affixed in, on or about Business Units, Hotel Units, and Hotel Common Elements shall be subject to review and approval by the Board of Directors, provided however, that such approval shall be deemed granted unless disapproval thereof is unanimous. The provisions of this subsection shall not be applicable to the institutional holder of any first mortgage which comes into possession of any condominium unit by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or other proceeding, arrangement, assignment or deed in lieu of foreclosure.
- (g) except as herein elsewhere provided, no junk vehicle or other vehicle on which current registration plates are not displayed, trailer, truck, camper, camp truck, house trailer, boat, or the like shall be kept upon any of the general common elements, nor shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out on any of the common elements or within or upon any condominium unit.
- (h) except as herein elsewhere provided, no part of the common elements shall be used for commercial activities of any character. This subsection shall not apply to the use of the common elements and of condominium units by the Declarant for display, marketing, promotional, or sales purposes, or as model" condominium units.
- (i) no burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used building materials, or trash of any other kind shall be permitted within any condominium unit or upon any of the common elements. Trash and garbage containers shall not be permitted to remain in



public view. All refuse shall be deposited with care in containers or trash chutes designated for such purpose during such hours as may from time to time be designated by the Board of Directors.

- (j) no structure of a temporary character, trailer, tent, shack, barn, or other outbuilding shall be maintained upon any common elements at any time. Outdoor clothes dryers or clothes lines shall not be maintained upon any of the common elements at any time. No clothing, laundry or the like shall be hung from any part of any condominium unit or upon any of the common elements or from or upon any balcony.
- (k) no outside television or radio aerial or antenna or other aerial or antenna for reception or transmission shall be maintained upon any condominium unit or upon any of the common elements without the prior written consent of the Board of Directors.
- (l) nothing shall be stored upon any balcony nor shall the cooking or preparation of food be permitted upon any balcony or upon any portion of the general common elements of the project except with the consent of the Board of Directors.
- (m) no unlawful use shall be made of any condominium unit or any portion of the common elements and all laws, zoning and other ordinances, regulations of governmental and other municipal bodies and the like shall be observed at all times.
- (n) no unit owner shall engage or direct any employee of the Council of Unit Owners or the Management Agent on any private business of the unit owner during the hours such employee is employed by the Council of Unit Owners or the Management Agent nor shall any member direct, supervise, or in any manner attempt to assert control over any such employee.
- (o) there shall be no violation of any rules for the use of the common elements, or other "house rules," which may from time to time be adopted by the Board of Directors and promulgated among the unit owners by them in writing, and the Board of Directors is hereby and elsewhere in these By-Laws authorized to adopt and promulgate such rules.

**Section 4. Drapery Liners.** In order to preserve the harmony of the exterior design of the building, the Board of Directors shall have the authority to require that all drapery liners shall be of a uniform color and material as selected, from time to time, by the Board of Directors. Drapery liners installed in any condominium unit shall be maintained and periodically replaced at the expense of the owner of such unit and not at common expense.

## ARTICLE X<sup>49</sup>

### Architectural Control

**Section 1. Architectural and Environmental Control Committee.** Except for the construction of the condominium by the Declarant or its agents and any improvement to any condominium unit or to the common elements accomplished concurrently with said original construction, and except for purposes of proper maintenance and repair or as otherwise in the Condominium Act or these By-Laws provided, it shall be prohibited for any unit owner to install, erect, attach, apply, paste, hinge, screw, nail, build, alter, remove, or construct any lighting, shades, screens, awnings, patio covers, decorations, fences, walls, aerials, antennas, radio, or television broadcasting or receiving devices, slabs, sidewalks, curbs, gutters, patios, balconies, porches, driveways, walls, or to make any change or otherwise alter (including any alteration in color) in any manner whatsoever the exterior of any condominium unit or upon any of the common elements within the project or to combine or otherwise join two or more condominium units, or to partition the same after combination, or to remove or alter any window or exterior doors of any condominium unit, or to make any change or alteration within any condominium unit which will alter the structural integrity of any building or otherwise affect the property, interest or welfare of any other unit owner, materially increase the cost of operating or insuring the condominium or impair any easement, until the complete plans and specifications, showing the location, nature, shape, change (including, without limitation, any other information specified by the Board of Directors or its designate committee) shall have been submitted to and approved in writing as to safety, the effect of any such alterations on the costs of maintaining and insuring the condominium and harmony of design, color, and location in relation to surrounding structures and topography, by the Board of Directors of the Council of Unit Owners, or by an Architectural and Environmental Control Committee designated by the Board of Directors.

In the administration and enforcement of this Article X the Architectural Control Committee and the Board of Directors shall consistently recognize the mixed land use of Carousel Center, to the end that the Hotel operation and Commercial Units be accorded the widest latitude in their operation as is reasonably consistent with the use and enjoyment of residential condominium units.

For purposes of this Article, "original construction" shall be deemed to mean a two (2) year period commencing with the recordation of the Declaration.

**Section 2. Architectural and Environmental Control Committee - Operation.** The Architectural and Environmental Control Committee shall be composed of an uneven number of three (3) or more natural persons designated from time to time by the Board of Directors of the Council of Unit Owners and such persons shall serve at the pleasure of the Board of Directors. In the event the Board of Directors fails to appoint an Architectural and Environmental Control Committee, then the Board of Directors shall constitute the Committee. The affirmative vote of a majority of the members of the Architectural and Environmental Control Committee shall be required in order to adopt or promulgate any rule

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<sup>49</sup> Readopted without changes: *Id.* at 550.

or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article.

**Section 3. Approvals, etc.** Upon approval of the Architectural and Environmental Control Committee of any plans and specifications submitted pursuant to the provisions of this Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Architectural and Environmental Control Committee fails to approve or disapprove any plans and specifications, which may be submitted to it pursuant to the provisions of this Article within sixty (60) days after such plans and specifications (and all other materials and information required by the Architectural and Environmental Control Committee) have been sub-milted to it in writing, then approval will not be required and this Article will be deemed to have been fully complied with.

**Section 4. Limitations.** Construction or alterations in accordance with plans and specifications approved by the Architectural and Environmental Control Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Architectural and Environmental Control Committee (whether by affirmative action or by forbearance from action, as in Section 3 of this Article provided), and shall be substantially completed within twelve (12) months following the date of commencement, or within such longer period as the Architectural and Environmental Control Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Architectural and Environmental Control Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviations from plans and specifications approved by the Architectural and Environmental Control Committee without the prior consent in writing of the Architectural and Environmental Control Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Architectural and Environmental Control Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

**Section 5. Certificate of Compliance.** Upon the completion of any construction or alteration or other improvements or structure in accordance with plans and specifications approved by the Architectural and Environmental Control Committee in accordance with the provisions of this Article, the Architectural and Environmental Control Committee shall, at the request of the owner thereof, issue a certificate of compliance which shall be prima facie evidence that such construction, alteration, or other improvements referenced in such certificate have been approved by the Architectural and Environmental Control Committee and constructed or installed in full compliance with the provisions of this Article and with such other provisions and requirements of these By-Laws as may be applicable.

**Section 6. Rules and Regulations, etc.** The Architectural and Environmental Control Committee may from time to time adopt and promulgate such rules and regulations regarding

the form and content of plans and specifications to be submitted for approval and may publish such statements of policy, standards, guidelines and establish such criteria relative to architectural styles or details, or other related matters, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of these By-Laws. The Architectural and Environmental Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval; pursuant to the provisions of this Article. The decisions of the Architectural and Environmental Control Committee shall be final except that any unit owner who is aggrieved by any action or forbearance from action by the Architectural and Environmental Control Committee may appeal the decision of the Architectural and Environmental Control Committee to the Board of Directors of the Council of Unit Owners and, upon the request of such unit owner, shall be entitled to a hearing before the Board of Directors.

**Section 7. Additions, Alterations or Improvements by Board of Directors.** Except in cases of *bona fide* emergencies involving manifest danger to life, safety, or property, or the interruption of essential services to the condominium, whenever in the judgment of the Board of Directors the common elements of the condominium shall require additions, alterations, or improvements requiring the expenditure of funds of the Council of Unit Owners in excess of Twenty-five Thousand and No/100 Dollars (\$25,000.00), such additions, alterations or improvements shall not be made until the same shall have been approved by (a) unit owners representing a majority of the total votes of the Council of Unit Owners at a meeting of the unit owners duly called for such purpose; and (b) the institutional holder of any mortgages or other obligations secured by any condominium unit or units in the aggregate principal sum of more than \$100,000.00, which approval shall be in writing. *Notwithstanding any other provisions to the contrary in these By-Laws (including without limitation the generality of the foregoing, Article X, Section 7), and except for the maintenance and improvement of the parking garage and parking lot which shall be paid for as provided in the "Tyson" Report included as part of Amendment No. Six of the By-Laws, no funds of the Council of Unit Owners shall be spent on any additions, alterations or improvements to the Hotel Common Elements, and all additions, alterations or improvements to the Hotel Common Elements shall be paid for solely by the owner of the Hotel Units.*<sup>50</sup>

## ARTICLE XI

### Insurance

**Section 1. Insurance.** The Board of Directors of the Council of Unit Owners shall obtain, *with the cost of the insurance described under this Article to be allocated as set forth in the "Tyson" report as amended,* and maintain to the extent reasonably available, at least the following:<sup>51</sup>

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<sup>50</sup> Eighth Amendment to the By-Laws dated January 22, 2005; recorded in the Land Records of Worcester County, MD, in Liber 4344, folio 479.

<sup>51</sup> *Id.*

(a) *"All-Risks"*<sup>52</sup> casualty or physical damage insurance in an amount equal to the full replacement value (i.e., 100% of "replacement cost" exclusive of land, foundation and excavation) of the condominium (including all building service equipment and the like) *established by an MAI appraisal obtained on the property, with a deductible not to exceed Twenty-Five Thousand and \*\*\*No/100 Dollars (\$25,000.00),*<sup>53</sup> with an "Agreed Amount Endorsement" or its equivalent, a *"Law and Ordinance Endorsement" or its equivalent,*<sup>54</sup> a "Demolition Endorsement" or its equivalent, an "Increased Cost of Construction Endorsement" or its equivalent, a "Condominium Replacement Cost Endorsement" or its equivalent, and a "Contingent Liability from Operation of Building Laws Endorsement" or its equivalent, without deduction or allowance for depreciation, as determined annually by the Board of Directors with the assistance of the insurance company affording such coverage, such coverage to afford protection against at least:

(i) loss or damage by fire and other hazards covered by the standard extended coverage endorsement;

(ii) *loss or damage by acts of terrorism without exclusion;*<sup>55</sup>

(iii) *boiler and machinery coverage with a minimum liability per accident in the amount of the replacement cost of the building(s) housing the boiler or machinery;*<sup>56</sup>

(iv) *windstorm and/or hurricane loss or damage up to 100% of replacement cost;*<sup>57</sup>

(v) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, boiler, and machinery explosion or damage, and such other insurance as the Board of Directors may from time to time determine; and

(b) *Comprehensive general*<sup>58</sup> ~~public~~ liability insurance with a "Severability of Interest Endorsement" or its equivalent in such amounts and in such forms as may be considered appropriate by the Board of Directors (*but not less than Five Million and \*\*\*No/100 Dollars(\$5,000,000.00)*)<sup>59</sup> covering all claims for bodily injuries and/or property damage arising out of a single occurrence *and not less*

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 480.

<sup>59</sup> *Id.*

than Six Million \*\*\*No/100 Dollars (\$6,000,000.00) in the aggregate),<sup>60</sup> including, but not limited to, water damage liability, legal liability, hired automobile liability, non-owned automobile liability, liability for property of others, elevator collision, garage keeper's liability, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including any and all other liability incident to the ownership and use of the condominium or any portion thereof.

- (c) *Business interruption insurance to cover a minimum of eighteen (18) months' rent losses due to fire or any other casualty loss. Coverage will be adjusted annually to reflect current rent levels.*<sup>61</sup>
- (d) workmen's compensation insurance to the extent necessary to comply with any applicable law; and
- (e) a "Legal Expense Indemnity Endorsement" or its equivalent, affording protection for the officers and Directors of the Council of Unit Owners for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such officer or Director shall have been made a party by reason of his or her services as such; and
- (f) such other policies of insurance, including insurance for other risks of a similar or dissimilar nature and fidelity coverage as required by Section 16 of Article V of these By-Laws, as are or shall hereafter be considered appropriate by the Board of Directors. The Board of Directors shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers and Directors of the Council of Unit Owners, trustees for the Council of Unit Owners and such employees and agents of the Council of Unit Owners who handle or are responsible for the handling of funds of the Council of Unit Owners. Such fidelity coverage shall meet the following requirements:
  - (i) all such fidelity bonds and policies of insurance shall name the Council of Unit Owners as obligee or named insured, as the circumstances may require; and
  - (ii) all such fidelity bonds and policies of insurance shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating budget of the condominium, including reserves; and
  - (iii) all such fidelity bonds and policies of insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

- (iv) all such fidelity bonds and insurance shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all obligees and insureds named thereon and to any mortgagee of any condominium unit who requests such notice in writing.

**Section 2. Limitations.** Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

- (a) all policies shall be written or reinsured with a company or companies licensed to do business in the State of Maryland Standard and Poors (S&P) rating of A- or better or, if the company is not rated by S&P, a rating in the current edition of *Best's Insurance Guide* of at least A, X for admitted carriers and A, XII for non-admitted carriers.<sup>62</sup>
- (b) all policies shall include a standard mortgagee clause listing the Insurance Trustee as the mortgagee/loss payee and shall name any mortgagee of a unit who has requested in writing to the Board of Directors to be named as an additional insured as appropriate to the policies so long as the said mortgagee retains a mortgage interest in the condominium, and; (i) the carrier(s) shall notify the listed mortgagees at least 30 days in advance of any policy reduction or cancellation; and (ii) the carrier(s) shall notify the listed mortgagees of any loss paid.<sup>63</sup>
- (c) exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors of the Council of Unit Owners, as a trustee for the owners of the condominium units, or its authorized representative, including any trustee with which the Council of Unit Owners may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be herein elsewhere referred to as the "Insurance Trustee."
- (d) in no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the owners of the condominium units or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Council of Unit Owners pursuant to the requirements of this Article shall exclude such policies from consideration.
- (e) such policies shall contain no provision relieving the insurer from liability because of loss occurring while the hazard is increased in the building, whether or not within the control or knowledge of the Board of Directors and shall contain no provision relieving the insurer from liability by reason

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<sup>62</sup> *Id.* at 481.

<sup>63</sup> *Id.* at 481 and 482.

of any breach of warranty or condition caused by the Board of Directors or any owner of any condominium unit, or their respective agents, employees, tenants, mortgagees, or invitees, or by reason of any act of neglect or negligence on the part of any of them.

- (f) all policies shall provide that such policies may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all insureds named thereon, including any and all mortgagees of the condominium units.
- (g) all policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors (or any Insurance Trustee) or when in conflict with the provisions of any Insurance Trust Agreement to which the Council of Unit Owners may be a party, these By-Laws or the provisions of the Condominium Act.
- (h) all policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Council of Unit Owners, the Board of Directors, the owner of any condominium unit and their respective agent, employees or tenants and of any defenses based upon co-insurance or invalidity arising from the acts of the insured.
- (i) all policies of casualty insurance shall contain the standard mortgagee clause except that any loss or losses payable to named mortgagees shall be payable in the manner set forth in Article XII of these By-Laws. Such mortgagee clause shall provide for notice in writing to the mortgagee of any loss paid as aforesaid.

**Section 3.<sup>64</sup> Public Liability - Hotel and Business Units.** Owners of Hotel and Business Units shall maintain in full force and effect public liability insurance policies with limits of \_\_\_\_\_. In addition, owners of Hotel and Business Units shall be conclusively deemed to have agreed to indemnify and hold the Council of Unit Owners harmless from and against any claim, demand or liability arising from such hotel or commercial use.

**Section 4.<sup>65</sup> Individual Policies - Recommendation of Declarant - Notice to Board of Directors.** The owner of any condominium unit (including the holder of any mortgage thereon) may obtain additional insurance (including a "Condominium Unit-Owner's Endorsement" or its equivalent, for improvements and betterments to the condominium unit made or acquired at the expense of the owner) at his own expense. Such insurance shall be written by the same carrier as that purchased by the Board of Directors pursuant to this Article

<sup>64</sup> Readopted without changes: Sixth Amendment at 550.

<sup>65</sup> Readopted without changes: *Id.*



or shall provide that it shall be with-out contribution as against the same. Such insurance shall contain the same waiver of subrogation provision as that set forth in Section 2 (g) of this Article. The Declarant recommends that each owner of a condominium unit in the condominium obtain, in addition to the insurance hereinabove provided to be obtained by the Board of Directors, a plate glass damage policy and a "Tenant's Homeowners Policy" or its equivalent, to insure against loss or damage to personal property used or incidental to the occupancy of the condominium unit, additional living expense, vandalism, or malicious mischief, theft, personal liability and the like. Such later policy should include a "Condominium Unit-Owner's Endorsement," or its equivalent, covering losses to improvements and betterments to the condominium unit made or acquired at the expense of the unit owner. Copies of all such policies shall be filed with the Secretary.

**Section 5.**<sup>66</sup> **Endorsements, etc.** The Board of Directors, at the request of any owner of any condominium unit in the condominium or at the request of the mortgagee of any such condominium unit, shall promptly obtain and forward to such owner or mortgagee (a) an endorsement to any of the policies aforementioned in this Article showing the interest of such unit owner or mortgagee as it may appear; and (b) certificates of insurance relating to any of such policies; and (c) copies of all such policies, duly certified by the insurer or its duly authorized agent.

## ARTICLE XII

### Casualty Damage - Reconstruction or Repair

**Section 1.**<sup>67</sup> **Use of Insurance Proceeds.** *In the event of damage or destruction by fire or other casualty, the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specifications with the proceeds of insurance available for that purpose, subject to the limitations set forth in Section 11-114(G) of the Real Property, Article of the Annotated Code of Maryland.*

**Section 2.**<sup>68</sup> *The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense; however, a property insurance deductible is not a cost of repair or replacement in excess of insurance proceeds.*

*(a) If the cause of any damage to or destruction of any Portion of the Condominium originates from the common elements, the Council of Unit Owners' property insurance deductible is a common expense.*

*(b) If the cause of any damage to or destruction of any portion of the Condominium originates from a unit, the Council of Unit Owners' property insurance deductible above \$1,000.00 is a common expense, and the owner of the unit where the cause at the damage or destruction originated is responsible for the Council of Unit owners' property insurance deductible up to, but not exceeding \$1,000.00.*

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<sup>66</sup> Readopted without changes: *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 671 and 672.

*(c) The Council of Unit owners may make an annual assessment against the unit owner responsible under subparagraph (b) of this paragraph in the same manner as provided under Section 11-110 of the Real Property Article of the Annotated Code of Maryland.*

**Section 3.<sup>69</sup> Proceeds Insufficient.** In the event that the proceeds of insurance are not sufficient to repair damage or destruction by fire or other casualty, or in the event such damage or destruction is caused by any casualty not insured against, then the repair or reconstruction of the damage shall be accomplished promptly by the Council of Unit Owners at its common expense, pursuant and subject to such conditions and subject to such controls as the mortgagee, as defined in Section 4 of this Article, may require. The ratable share of the expense of such repairs or reconstruction may be assessed and, in the event any Statement of Condominium Lien is recorded with respect to any such assessments, then the lien shall have all the priorities provided for in Article VIII of these By-Laws. In the event that the proceeds of casualty insurance are paid to any Insurance Trustee pursuant to the requirements of Section 4 of this Article, then all funds collected from the unit owners of the condominium units pursuant to this Section 2 shall likewise be paid over to such Insurance Trustee and shall be disbursed by such Insurance Trustee in accordance with the provisions of Section 4 of this Article.

**Section 4.<sup>70</sup> Insurance Trustee.**

- (a) All insurance proceeds from any fire or other casualty which are less than or equal to Two Hundred Thousand dollars (\$200,000) for any casualty or series of related casualties shall be paid to the Board of Directors to hold in a separate account for the reconstruction or repair of the damaged portion of the condominium.*
- (b) If the fire or other casualty causes damage to the condominium in excess of Two Hundred Thousand dollars (\$200,000), then all insurance proceeds shall be paid to an Insurance Trustee to be held and disbursed pursuant to an Insurance Trust Agreement for the reconstruction or repair of the damaged portion of the condominium. The Insurance Trust Agreement will govern the terms, conditions, and requirements which must be met for the disbursement of the insurance proceeds to the Board of Directors for use in the repair or reconstruction of the damaged or destroyed portion of the condominium. The form of the Insurance Trust Agreement is attached hereto as Exhibit A. The Council of Unit Owners authorizes the Board of Directors to appoint an initial Insurance Trustee (which shall be a Qualified Insurance Trustee, as herein defined) and execute an Insurance Trust Agreement substantially in the form attached as Exhibit A by and between the Council of Unit Owners and the initial Insurance Trustee. If the initial Insurance Trustee resigns or is removed by the Board of Directors, a new Insurance Trust Agreement shall be entered into by the Board of Directors substantially in the form attached hereto as Exhibit A with a "Qualified Insurance Trustee" as herein*

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<sup>69</sup> Readopted without changes: Seventh Amendment at 671.

<sup>70</sup> *Id.*

*defined, which new Insurance Trust Agreement shall be executed and in place prior to the effective date of the termination of the existing Insurance Trust Agreement.*

*"Qualified Insurance Trustee" shall mean a bank that (i) satisfies the Rating Criteria; and (ii) insures deposits held by such bank through the Federal Deposit Insurance Corporation.<sup>71</sup>*

*"Rating Criteria" shall mean with respect to any bank that (i) the short-term unsecured debt obligations of such bank are rated at least "A-1" by Standard & Poors Rating Services, a division of The McGraw-Hill Companies, Inc. ("S&P") and, if rated by another Rating Agency, are rated in an equivalent category by such other Rating Agency, if deposits are held by such person for a period of less than thirty (30) days, or (ii) the long-term unsecured debt obligations of such bank are rated at least "AA-" by S&P and, if rated by another Rating Agency, are rated in an equivalent category by such other Rating Agency, if deposits are held by such person for a period of thirty (30) days or more.<sup>72</sup>*

*"Rating Agencies" shall mean S&P, Moody's Investor Services, Inc. and Fitch IBCA, Inc.<sup>73</sup>*

**Section 5.<sup>74</sup> Insurance Trustee.** In the event the cost of reconstruction or repair (as estimated by the Board of Directors) shall exceed an amount equal to one and one-half percent (1-1/2%) of the full replacement value of the condominium, as estimated by the Board of Directors and the insurer pursuant to the requirements of Section 1 (a) of Article XII of these By-Laws for the period during which such loss was sustained, and the institutional holder or holders of any mortgages or other obligations secured by any condominium unit or units in the aggregate principal sum of more than \$150,000.00 (hereinafter in this Section 4 called the "mortgagee") shall so require, all proceeds of insurance shall be paid over to a trust company or bank (the "Insurance Trustee") having trust powers and authorized to engage in trust business in the jurisdiction wherein the condominium is located, selected by the Board of Directors with the approval of the mortgagee, and shall be paid out from time to time as the reconstruction or repair progresses in accordance with the provisions of an Insurance Trust Agreement satisfactory in form and substance to the mortgagee and which shall contain, inter alia, the following provisions:

- (a) the reconstruction or repair shall be in the charge of an architect or engineer, who may be an employee of the Council of Unit Owners, satisfactory to the mortgagee, and hereinafter in this Section 4 called the "architect."
- (b) prior to the commencement of the reconstruction or repair, other than such work as may be necessary to protect the condominium from further damage, the mortgagee shall have approved the plans and specifications for such

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<sup>71</sup> *Id.* at 484.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Readopted without changes: Sixth Amendment at 550.

reconstruction or repair, which approval shall not be unreasonably withheld or delayed.

- (c) unless otherwise required by the mortgagee, each request for an advance of the proceeds of insurance shall be made to the mortgagee at least ten (10) days prior to delivery to the Insurance Trustee and shall be accompanied by a certificate from the architect to the effect that (i) all work then completed has been performed in accordance with the plans and specifications and all building codes or similar governmental requirements; and (ii) the amount requested to be advanced is required to reimburse the Council of Unit Owners for payments previously made by the Council of Unit Owners or is due to the contractor responsible for the restoration or repair, or to subcontractors, materialmen, laborers, engineers, architects, or to other persons responsible for services or materials in connection with such restoration or repair, or for fees or the like necessarily incurred in connection with the same; and (iii) when added to amounts previously advanced by the Insurance Trustee, the amount requested to be advanced does not unreasonably exceed the value of the work done and materials delivered to the date of such request; and (iv) funds remaining available to the Insurance Trustee for the purpose are sufficient to complete the reconstruction or repair.
- (d) each request for an advance of the proceeds of insurance shall, if required by the mortgagee, be accompanied by satisfactory waivers of liens covering that portion of the repair or reconstruction for which payment or reimbursement is being requested, together with appropriate evidence from a title insurance company or the like to the effect that there has not been filed with respect to the condominium any mechanic's or other lien, or notice of intention to file the same, which has not been dismissed or satisfied of record.
- (e) the fees and expenses of the Insurance Trustee, as agreed upon by the Board of Directors and the Insurance Trustee, shall be paid by the Council of Unit Owners as a common expense, and such fees and expenses may be deducted from any insurance proceeds in the hands of the Insurance Trustee, pro rata as the reconstruction or repair progresses.
- (f) such other provisions not inconsistent with the provisions hereof as the Board of Directors, the Insurance Trustee or the mortgagee may reasonably require.

Upon completion of the reconstruction or repair and payment in full of all amounts due on account thereof, any proceeds of insurance then in the hands of the Insurance Trustee shall be paid to the Council of Unit Owners and shall be considered as one fund and shall be divided among the owners of all of the condominium units in the same proportion as that established in the Declaration for ownership of appurtenant undivided interests in the common elements,

after first paying out of the share of the owner of any condominium unit, to the extent such payment is required by any lienor and to the extent the same is sufficient for the purpose, all liens upon said condominium unit in accordance with the priority of interest in each unit.

## ARTICLE XIII<sup>75</sup>

### Fiscal Management

**Section 1. Fiscal Year.** The fiscal year of the Council of Unit Owners shall begin on the first day of January every year, except for the first fiscal year of the Council of Unit Owners which shall begin at the date of recordation of the Declaration among the Land Records for Worcester County, Maryland. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should the practice of the Council of Unit Owners subsequently dictate.

**Section 2. Principal Office - Change of Same.** The principal office of the Council of Unit Owners shall be as set forth in Article 1 of these By-Laws. The Board of Directors, by appropriate resolution, shall have the authority to change the location of the principal office of the Council of Unit Owners from time to time; provided however, that no such change shall become effective until a certificate evidencing such change shall have been made by the Secretary or any Assistant Secretary of the Council of Unit Owners and recorded, in the name of the Council of Unit Owners, among the Land Records for the jurisdiction where the Declaration is originally recorded.

**Section 3. Books and Accounts.** Books and accounts of the Council of Unit Owners shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures and other transactions of the Council of Unit Owners and its administration and shall specify the maintenance and repair expenses of the common elements of the condominium, services provided with respect to the same and any other expenses incurred by the Council of Unit Owners. The amount of any assessment required for payment of any capital expenditures or reserves of the Council of Unit Owners shall be credited upon the books of the Council of Unit Owners to the "Paid-in-Surplus" account as a capital contribution by the members. The receipts and expenditures of the Council of Unit Owners shall be credited and charged to other accounts under at least the following classifications:

- (a) "Current Operations" which shall involve the control of actual expenses of the Council of Unit Owners, including reasonable allowances for necessary contingencies and working capital funds in relation to the assessments and expenses herein elsewhere provided for; and
- (b) "Reserves for Deferred Maintenance" which shall involve the control of monthly funding and maintenance of such deferred maintenance costs and reserves as are approved by the Board of Directors from time to time; and

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<sup>75</sup> Readopted without changes: Sixth Amendment at 550.

- (c) "Reserves for Replacement" which shall involve the control of such reserves for replacement as are provided for in these By-Laws and as may from time to time be approved by the Board of Directors; and
- (d) "Other Reserves" which shall involve the control over funding and charges against any other reserve funds, which may from time to time be approved by the Board of Directors; and
- (e) "Investments" which shall involve the control over investment of reserve funds and such other funds as may be deemed suitable for investment on a temporary basis by the Board of Directors; and
- (f) "Betterments" which shall involve the control over funds to be used for the purpose of defraying the cost of any construction or reconstruction, unanticipated repair or replacement of a described capital improvement and for expenditures for additional capital improvements or personal property made or acquired by the Council of Unit Owners with the approval of the Board of Directors.
- (g) "hotel costs" which shall reflect the incremental operating costs of common elements deriving from hotel use thereof.
- (h) "business costs" which shall reflect the incremental operating costs of common elements deriving from commercial use thereof.
- (i) "energy costs" which shall reflect the division of such costs between common expenses and energy assessments.

**Section 4. Auditing.** At the close of each fiscal year, the books and records of the Council of Unit Owners shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards, consistently applied. Based upon such report, the Council of Unit Owners shall furnish the unit owners and any mortgagee requesting the same with an annual financial statement, including the income and disbursements of the Council of Unit Owners, within ninety (90) days following the end of each fiscal year.

**Section 5. Inspection of Books.** The books and accounts of the Council of Unit Owners, vouchers accrediting the entries made thereupon and all other records maintained by the Council of Unit Owners shall be available for examination by the unit owners and their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any condominium unit and its duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice.

**Section 6. Execution of Corporate Documents.** With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Council of Unit Owners by either the President or a Vice President, and all checks shall be executed on behalf of the Council of Unit Owners by such officers, agents or other persons as are from time to time so authorized by the Board of Directors.

**Section 7. Seal.** The Board of Directors may provide a suitable corporate seal containing the name of the Council of Unit Owners, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

## ARTICLE XIV

### Physical Management

**Section 1.<sup>76</sup> Management and Common Expenses.** The Council of Unit Owners, acting by and through its Board of Directors, shall manage, operate, and maintain the condominium except for Hotel Common Elements, as above provided and, for the benefit of the condominium units and the unit owners, shall enforce the provisions hereof and shall pay out of the common expense fund herein elsewhere provided for the cost of managing, operating and maintaining the condominium, including, without limitation, the following:

- (a) the cost of providing water, sewer, garbage, and trash collection and electrical, gas, and other necessary utility services for the common elements, to the extent that the same are not separately metered or billed to each condominium unit, for the condominium units; and
- (b) the cost of fire and extended liability insurance on the condominium and the cost of such other insurance as the Council of Unit Owners may effect; and
- (c) the cost of the services of a person or firm to manage the project to the extent deemed advisable by the Council of Unit Owners consistent with the provisions of these By-Laws, together with the services of such other personnel as the Board of Directors of the Council of Unit Owners shall consider necessary for the operation of the condominium; and
- (d) the cost of providing such legal and accounting services as maybe considered necessary by the Board of Directors for the operation of the condominium; and
- (e) the cost of repairs, maintenance, service, and replacement of the common elements of the condominium, including, without limitation, the cost of painting, maintaining, replacing, repairing, and landscaping the common elements and such furnishings and equipment for the common elements as

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<sup>76</sup> Readopted without changes (with the addition of subsection (i)): Sixth Amendment at 551.

the Board of Directors shall determine are necessary and proper; provided, however, that nothing herein contained shall require the Council of Unit Owners to repair, replace, or otherwise maintain the interior of any condominium unit or any fixtures, appliances, equipment or the like located therein; and

- (f) the cost of any and all other materials, supplies, labor, services, maintenance, repairs, taxes, assessment, or the like, which the Council of Unit Owners is required to secure or pay for by law, or otherwise, or which in the discretion of the Board of Directors shall be necessary or proper for the operation of the condominium; provided, however, that if any of the aforementioned are provided or paid for the specific benefit of a particular condominium unit or units, the cost thereof shall be specially assessed to the owner or owners thereof in the manner provided in this Article; and
- (g) the cost of the maintenance or repair of any condominium unit in the event such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the common elements or to preserve the appearance or value of the condominium, or is otherwise in the interest of the general welfare of all of the unit owners; provided, however, that except in cases involving emergencies or manifest danger to safety of person or property, no such maintenance or repair shall be undertaken without a resolution by the Board of Directors and not without reasonable written notice to the owner of the condominium unit proposed to be maintained and, provided further, that the cost thereof shall be assessed against the condominium unit for which such maintenance or repair is performed and when so assessed, a statement for the amount thereof shall be rendered promptly to the then owner of said condominium unit at which time the assessment shall become due and payable and a continuing obligation of said unit owner in all respects as provided in Article VIII of these By-Laws; and
- (h) any amounts necessary to discharge any lien or encumbrance levied against the condominium, or any portion thereof, which may, in the opinion of the Board of Directors, constitute a lien against any of the common elements rather than the interest of the owner of any individual condominium unit.
- (i) *the pro rata share of cost of Capital Improvements, replacements, repairs, service and replacement of Hotel Common Elements as established by the Tyson Report, as amended from time to time, pursuant to the Consent Order dated April 3, 1996 in Case #95CV0567 in the Circuit Court for Worcester County by which the allocation of expenses between the Hotel and the Council of Unit Owners was established. To the extent the Owners of the Hotel/Business Units and the Council of Unit Owners disagree on the allocation of identified expenses, the Owners of the Hotel/Business Units and the Council of Unit Owners agree to be bound by the recommendations*



*of an independent arbitrator hired by the Board of Directors at the expense of the Council of Unit Owners, which expense shall be a common expense.*<sup>77</sup>

**Section 2.**<sup>78</sup> **Council of Unit Owners as Attorney-in-Fact.** The Council of Unit Owners is hereby irrevocably appointed as attorney-in-fact for the owners of all of the condominium units in the condominium, and for each of them, to manage, control, and deal with the interests of such unit owners in the common elements of the condominium so as to permit the Council of Unit Owners to fulfill all of its powers, functions, and duties under the provisions of the Condominium Act, the Declaration and the By-Laws, and to exercise all of its rights thereunder and to deal with the condominium upon its destruction and the proceeds of any insurance indemnity, as herein elsewhere provided. The foregoing shall be deemed to be a power of attorney coupled with an interest and the acceptance by any person or entity of any interest in any condominium unit shall constitute an irrevocable appointment of the Council of Unit owners as attorney-in-fact as aforesaid.

**Section 3.**<sup>79</sup> **Management Agent.** The Council of Unit Owners may by contract in writing delegate any of its ministerial duties, powers or functions to the Management Agent. The Council of Unit Owners and the Board of Directors shall not be liable for any omission or improper exercise by the Management Agent of any such duty, power, or function so delegated.

**Section 4.**<sup>80</sup> **Duty to Maintain.** Except for maintenance requirements herein imposed upon the Council of Unit Owners, the owner of any condominium unit shall, at his own expense, maintain the interior of his condominium unit and any and all equipment, appliances or fixtures therein situate, and its other appurtenances (including, without limitation, any balcony, terrace, fenced area, courtyard, patio or the like appurtenant to such condominium unit and designated herein or in the Declaration or the Condominium Plat as a limited common element reserved for exclusive use by the owner of that particular condominium unit, and including all mechanical equipment and appurtenances located outside such unit which are designed, designated or installed to serve only that unit), in good order, condition, and repair, free and clear of ice and snow, and in a clean and sanitary condition, and shall do all redecorating, painting and the like which may at any time be necessary to maintain the good appearance of his condominium unit. In addition to the foregoing, the owner of any condominium unit shall, at his own expense, maintain, repair, replace any plumbing and electrical fixtures, water heaters, fireplaces, plenums, heating and air-conditioning equipment, lighting fixtures, refrigerators, freezers, trash compactors, dishwashers, clothes washers, clothes dryers, disposals, ranges, range hoods, and other equipment that may be in or declared to be appurtenant to such condominium unit. The owner of any condominium unit shall also, at his own expense, keep any other limited common elements which may be appurtenant to such condominium unit and reserved for his exclusive use in a clean, orderly, and sanitary condition.

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<sup>77</sup> *Id.*

<sup>78</sup> Readopted without changes: *Id.*

<sup>79</sup> Readopted without changes: *Id.*

<sup>80</sup> Readopted without changes: *Id.*

**Section 5.<sup>81</sup> Windows and Doors.** The owner of any condominium unit shall, at his own expense, clean and maintain both the interior and exterior surfaces of all windows of such condominium unit and shall, at his own expense, clean and maintain both the interior and exterior glass surfaces of all glass entry doors of the condominium unit, including the interior and exterior surfaces of any door leading to any balcony, deck, terrace, fenced area, courtyard, patio or the like appurtenant to such condominium unit and designated herein - or in the Declaration or the Condominium Plat as a limited common element reserved for the exclusive use of the owner of that particular condominium unit. The exterior surfaces of all other entry doors shall be cleaned and maintained at common expense in accordance with a schedule determined by the Board of Directors and the interior surfaces thereof shall be cleaned and maintained by and at the expense of the individual condominium unit / owners. Notwithstanding the provisions of this Section, the Board of Directors may resolve to clean the exterior surfaces of all windows in the condominium at common expense in accordance with a schedule to be determined by the Board of Directors.

**Section 6.<sup>82</sup> Access at Reasonable Times.** The Council of Unit Owners shall have an irrevocable right and an easement to enter condominium units for the purpose of making repairs to the common elements when the repairs reasonably appear necessary for public safety or to prevent damage to other portions of the condominium. Except in cases involving manifest damage to public safety or property, the Council of Unit Owners shall make a reasonable effort to give notice to the owner of any condominium unit to be entered for the purpose of such repairs. No entry by the Council of Unit Owners for the purpose specified in this Section may be considered a trespass.

**Section 7.<sup>83</sup> Easement for Utilities and Related Purposes.** The Council of Unit Owners is authorized and empowered to grant (and shall from time to time grant) such licenses, easements and rights-of-way for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains, overhead or underground conduits and such other purposes related to the provision of public utilities to the condominium as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation, and enjoyment of the common elements or for the preservation of the health, safety, convenience and welfare of the owners of the condominium units or the Declarant.

**Section 8.<sup>84</sup> Water Damage Prevention.** *To prevent water damage to the condominium each unit owner shall:*

- (a) maintain a temperature of at least 66 degrees in the unit at all times between November 15 and March 16;*
- (b) replace the unit's water heater with a new hot water heater at least every 12 years; and*

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<sup>81</sup> Readopted without changes: *Id.*

<sup>82</sup> Readopted without changes: *Id.*

<sup>83</sup> Readopted without changes: *Id.*

<sup>84</sup> Adding new Section: Seventh Amendment at 672.

(c) *permit inspection by licensed inspectors of all plumbing pipes and fixtures (Including water heaters, washing machines, dishwashers, ice makers, and all water using devices) and repair or replace each item reported as defective;*

(d) *certify by October 1 of each year beginning in 2005 that all defective items have been repaired.*

**Section 9.**<sup>85</sup> **Limitation of Liability.** The Council of Unit Owners shall not be liable for any failure of water supply or other services to be obtained by the Council of Unit Owners or paid for out of the common expense funds, or for injury or damage to person or property caused by the elements or resulting from electricity, water, snow, or ice which may leak or flow from any portion of the common elements or from any wire, pipe, drain, conduit, appliance, or equipment. The Council of Unit Owners shall not be liable to the owner of any condominium unit for loss or damage, by theft or otherwise, of articles which may be stored upon any of the common elements. No diminution or abatement of common expense assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common elements, or to any condominium unit, or from any action taken by the Council of Unit Owners to comply with any law or ordinance or with the order or directive of any municipal or other governmental authority.

## ARTICLE XV<sup>86</sup>

### Parking

**Section 1.** **General Requirements.** For as long as there are Hotel Common Elements as hereinabove provided, all parking areas shall be considered part of the Hotel Common Elements even if assigned to a particular unit. Thereafter, such parking shall be regulated by the Board of Directors. Parking spaces may be assigned initially by the Declarant and thereafter by the Board of Directors. No unit owner, except Declarant, shall make use of any assigned parking space without the express written consent of both the unit owner to whom such space has been assigned and the Board of Directors, nor shall any unit owner invite, encourage or permit the use by his guests of parking spaces appurtenant or assigned to condominium units other than his own. No vehicle belonging to any unit owner, or to any guest or employee of any unit owner, shall be parked in a manner which unreasonably interferes with or impedes ready vehicular access to any parking space assigned to any other unit owner. Nothing shall be stored upon any parking space nor shall the same be permitted to accumulate trash or debris. All parking spaces not assigned shall be managed and used for the joint benefit of all unit owners. Nothing herein shall be deemed to require the assignment of parking spaces.

Each unit owner shall comply in all respects with such supplementary rules and regulations which are not inconsistent with the provisions of these By-Laws which may from

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<sup>85</sup> Readopted without changes: Sixth Amendment at 551; renumbered as Section 9, Seventh Amendment at 672.

<sup>86</sup> Readopted without changes: Sixth Amendment at 552.

time to time be adopted and promulgated with respect to parking and traffic control within the condominium.

In the event parking spaces are assigned, the Board of Directors may make reasonable efforts to assign parking spaces to accommodate the elderly and handicapped.

## ARTICLE XVI

### Amendment

**Section 1.** **Amendments.** *These Bylaws may be amended by the affirmative vote of unit owners having at least 66 2/3 percent of the votes in the council of unit owners.*<sup>87</sup>

## ARTICLE XVII<sup>88</sup>

### Mortgages - Notice - Other Rights of Mortgagees

**Section 1.** **Notice to Board of Directors.** Any owner of any condominium unit in the condominium who mortgages such unit shall promptly notify the Board of Directors of the name and address of his mortgagee and if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain suitable records pertaining to such mortgages.

**Section 2.** **Consents.** Any other provision of these By-Laws or of the Declaration to the contrary notwithstanding, neither the unit owners, the Board of Directors nor, the Council of Unit Owners shall take any of the following actions without the prior written consent and approval of the holders of all first mortgages of record on the condominium units:

- (a) abandon or terminate the condominium except for abandonment or termination provided in the Condominium Act in the case of substantial damage or destruction of the condominium by fire or other casualty or in the case of a taking condemnation or eminent domain; or
- (b) modify or amend any material provision of the Declaration or of these By-Laws, including but without limitation, any amendment which would change the percentage interests of the unit owners in the common elements of the condominium, the percentage interests of the unit owners in the common expenses and common profits of the condominium or the voting rights of the unit owners; or
- (c) modify the method of determining and collecting common expense assessments or other assessments as provided in Article VIII of these By-Laws; or

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<sup>87</sup> *Id.*

<sup>88</sup> Readopted without changes: Sixth Amendment at 552.

- (d) partition, subdivide, transfer, or otherwise dispose of any of the common elements of the condominium project; or
- (e) resolve to use the proceeds of casualty insurance for any purpose other than the repair or restoration of the condominium.

**Section 3. Subdivision or Partition.** No condominium unit in the condominium shall be subdivided or partitioned without the prior written approval of the holder of any first mortgage on such condominium unit.

**Section 4. Casualty Losses.** In the event of damage or destruction of any condominium unit or any part of the common elements of the condominium the Board of Directors of the Council of Unit Owners shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the condominium units. No provision of the Declaration or these By-Laws shall entitle any unit owner to any priority over the holder of any first mortgage of record on his condominium unit with respect to the distribution to such unit owner of any insurance proceeds.

**Section 5. Condemnation or Eminent Domain.** In the event any condominium unit or any part of the common elements of the condominium is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Council of Unit Owners shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the condominium units. No provision of the Declaration or these By-Laws shall entitle any unit owner to any priority over title holder of any first mortgage of record on his condominium unit with respect to the distribution to such unit owner of the proceeds of any condemnation award or settlement.

## ARTICLE XVIII<sup>89</sup>

### Compliance-Interpretation-Miscellaneous

**Section 1. Compliance.** These By-Laws are set forth in compliance with the requirements of Title 11, Real Property Article, Section 11-101 through and including Section 11-128, Annotated Code of Maryland (1975 Supp.).

**Section 2. Conflict.** These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of Title 11, Real Property Article, Section 11-101 through and including Section 11-128, Annotated Code of Maryland (1975 Supp.). All of the terms hereof, except where clearly repugnant to the context shall have the same meaning as in the Declaration or the aforesaid statute. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the aforesaid Declaration and Title 11, Real Property Article, Section 11-101, through and including Section 11-128, Annotated Code of Maryland (1975 Supp.), the provisions of the statute shall control.

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<sup>89</sup> Readopted without changes: *Id.*

**Section 3.** **Notices.** Unless another type of notice is herein elsewhere specifically provided for, any and all notices called for in the Declaration and in these By-Laws, shall be given in writing.

**Section 4.** **Severability.** In the event any provision or provisions of these By-Laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

**Section 5.** **Waiver.** No restriction, condition, obligation or provisions of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

**Section 6.** **Captions.** The captions contained in these By-Laws are for convenience only and are not a part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

**Section 7.** **Gender, etc.** Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.