

BYLAWS OF
THE METROPOLITAN CONDOMINIUM ASSOCIATION

A Missouri not-for-profit corporation

ARTICLE I OFFICES

Section 1.01 Name. The name of the corporation is “The Metropolitan Condominium Association.” It is incorporated under the laws of the State of Missouri as a not-for-profit corporation. The corporation is the Condominium Association referenced in the Declaration (as defined below).

Section 1.02 Applicability. These Bylaws ("Bylaws") shall relate to the property commonly known as The Madison, a condominium located in Kansas City, Jackson County, Missouri, more particularly described in a Declaration of Condominium as referenced below.

Section 1.03 Location. The principal office of the corporation shall be located at 600 East 8th Street, Kansas City, in Jackson County, Missouri. Meetings of members and directors may be held at such places as may be designated by the Board of Directors from time to time.

ARTICLE II DEFINITIONS

Section 2.01 All capitalized terms used herein shall have the meaning as set forth in the Declaration unless otherwise defined in these Bylaws and as follows:

- a. “Declaration” shall mean, collectively, (i) DECLARATION OF CONDOMINIUM – THE METROPOLITAN, recorded March 23, 2004, as Document No. 2004K0018971, the Office of the Jackson County, Missouri, Department of Records (“Recorder’s Office”), as amended and supplemented from time to time and any additional declarations as may be recorded from time to time with the Recorder’s Office which relate to the condominium commonly known as is “The Metropolitan Condominium.”
- b. MEMBERSHIP
 - i. Membership Generally. Except for the Declarant as provided in the Declaration, membership in the Association shall be limited to persons or entities that are the Owners of the fee interest in any Unit which is now or hereafter within the jurisdiction of the Association. Persons or entities who hold an interest merely as security for the performance of an obligation shall not be Members. Membership shall be appurtenant to and may not be separated from Ownership of a Unit.

ii. Suspension of Membership. During any period in which a Member shall be in default in the payment of any assessment levied by the Association as provided in the Declaration, the voting rights of such Member shall be suspended by the Board of Directors until such assessment has been paid except for those specific circumstances as set forth in the Act when a certain consent or unanimous vote is required (see Sections 448.2-108.1, 448.2-117.4 and 448-118.4). Such rights of a Member may also be suspended by the Board of Directors, after notice and hearing, for a period not to exceed 90 days, for violation of any of the rules and regulations established by the Board of Directors governing the use of the Common Elements in or available to the Condominium.

iii. Representatives. If a Unit is owned by a corporation, partnership or other entity, such entity shall designate a person who is entitled to vote respecting such Unit and to serve, if elected or appointed, as a director of the Association, such designation to be made by filing a written instrument with the Secretary to that effect with the Association

Section 2.02 Registration: It shall be the duty of each Owner to register his name and Unit number with the Secretary of the Association. If an Owner does not so register, the Association shall have no duty or obligation to recognize such membership.

Section 2.03 Prohibition of Assignment, etc., of Member's Share in Funds of Association: The share of a Member in the funds and assets of the Association cannot be assigned, pledged, encumbered, alienated or transferred in any manner except as an appurtenance to such Unit.

Section 2.04 Registration of Mortgagee: Each Owner shall register the name and address of its Mortgagee and the Association shall maintain a separate register to identify all Mortgagees so identified.

ARTICLE III MEMBER'S MEETING AND VOTING

Section 3.01 Place of Meeting: Meetings of the Association shall be held at the registered office of the Association, or such suitable places within Kansas City, Missouri, convenient to the Members, as may be designated from time to time by the Board.

Section 3.02 Annual Meetings: The Members shall meet at least once a year. The annual meeting of the Members shall be held on the 31st day of March in each year, commencing in **2005**, and if such day shall be a legal holiday, then on the next business day following, at such time and place as is specified by the President or Secretary of the Association in the notice of such meeting; provided, that the Board, from time to time, at any regular or special meeting, may designate a different day for the annual meeting. At each annual meeting the Members shall elect the Board of Directors to serve for terms as set forth in Article V hereof and may transact any other business authorized to be transacted by the Members.

Section 3.03 Special Meetings: Except as otherwise provided in these Bylaws and in the Declaration, special meetings of the Members may be called at any time by the President or by the Board, and must be called by the President upon receipt of a written request for a special meeting signed by at least twenty percent (20%) of the Members of the Association. No business shall be transacted at a special meeting except as stated in the notice thereof.

Section 3.04 Notices. Notice of all meetings of the Members, stating the time and place and accompanied by a complete agenda thereof, shall be given by the President or Secretary to each Member. Notices of special meetings shall also state the purpose thereof. Such notice shall be in writing, shall be sent by United States mail to the addresses of the respective Unit Owners or to such other addresses as any Member may have designated to the President or Secretary, and shall be mailed not less than twenty-one (21) days and not more than sixty (60) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting; provided, however, that such notice may be delivered personally to any Member if not prohibited by the statutes of the State of Missouri. Such notice shall state the time and place of the meetings and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes and any proposal to remove a director or officer. Proof of such mailing or delivery shall be given by the affidavit of the person mailing or delivering the notice. Notice of the meeting may be waived in writing by any Member before or after such meeting.

Section 3.05 Attendance of Mortgagee at Meeting: Any Mortgagee of a Unit may attend and participate in any general or special meeting, but shall not be entitled to vote unless granted such by proxy.

Section 3.06 Quorum: A quorum at meetings of the Members shall consist of Members present, in person or by proxy, representing at least twenty-five percent (25%) of the total votes in the Association.

Section 3.07 Voting; Association Not to Vote: The voting Members shall be based upon the Units owned and the vote allocated to such Units by the Declaration. When more than one person is the Owner of a Unit, the votes for that Unit shall be cast as the Owners shall determine, but in no event shall more than the vote allocated by the Declaration to the Unit be voted. The votes allocated to a Unit shall not be split but shall be voted as a single whole. Notwithstanding anything herein to the contrary, the Association shall not be entitled to cast the votes allocated to any Unit owned by it during the period of its Ownership.

Section 3.08 Manner of Casting Votes: A vote may be cast in person or by proxy. A proxy must be in writing and signed by all Owners of the Unit. The vote which is subject to the proxy may be given only to another Member or a security holder in that Unit and must be filed with the Secretary before the applicable meeting. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

Section 3.09 Action by Members Without Meeting: Any action required by law to be taken at a meeting of the Members, or any action that may be taken at a meeting of the Members, may be taken without a meeting if authorization in writing, setting forth the action taken is signed by two-thirds (2/3) of the Members or as may otherwise be required by the Declaration or Missouri Statutes.

Section 3.10 Adjournment When Quorum Lacking: If a meeting cannot be organized because a quorum has not attended, the meeting shall be adjourned until a quorum is present.

Section 3.11 Manner of Acting: When a quorum is present at a meeting, any question brought before the meeting shall be decided by a majority of those voting present in person or by proxy, unless a greater vote is required under applicable Missouri statutes, the Act, the Declaration, or these Bylaws.

Section 3.12 Statement of Members and Votes: At the beginning of each meeting, the Secretary, or other person designated by the presiding officer, shall certify a statement listing all Members present in person or by proxy at such meeting, the votes of each, and the total percentage of votes represented at the meeting.

Section 3.13 Prohibition of Cumulative Voting: There shall be no cumulative voting.

Section 3.14 Order of Business at Annual and Other Meetings: The order of business at the annual meetings of the Members, and, so far as is applicable and practical, at all other meetings of the Members shall be:

Certification of Members and votes present.

Calling of the roll.

Proof of notice of meeting or waiver of notice.

Approval of minutes from previous meetings.

Reports of officers.

Reports of committees.

Appointment by presiding officer of judges of election.

Election of Directors for the second and subsequent Boards.

Unfinished business.

New business.

Adjournment.

The presiding officer may vary such order as the presiding officer deems necessary.

ARTICLE IV DIRECTORS

Section 4.01. Initial Board: The Initial Board shall consist of at least three (3) persons, in accordance with Article VIII of the Articles of Incorporation. After the adoption of the Bylaws by the Initial Board, the Board of Directors shall consist of at least five (5) persons. Said Board elected thereby shall serve until their successors have been duly elected and have qualified. Except as provided in Section **4.03**, successors to any of such persons serving as directors shall be appointed by Declarant.

Section 4.02. Number of Qualified Directors: The Board shall consist of at least five (5) natural persons as determined by the Members, subject at any time to the right of amendment to the Bylaws as set forth in Article XII herein. Each Board member ("Director"), except those whom the Declarant is entitled to elect or appoint during the Declarant Control Period, shall be an Owner. The first Director or successor elected by the Owners shall serve until the expiration of Declarant Control Period. Upon termination of Declarant control, five Directors shall be elected to serve, one for one year, two for two years and two for three years, thereafter all terms shall be for three years with not less than one Director nor more than one-third (1/3) of the Directors to be elected at each annual meeting.

Section 4.03. Election of Directors:

a. During Declarant Control Period. At the first annual meeting of the Members, and at each subsequent annual meeting during the Declarant Control Period, the Directors shall be elected by Declarant, or persons designated by Declarant; provided, however, that no later than sixty (60) days after conveyance of twenty-five (25%) percent of the Units to Owners other than Declarant, a regular or special meeting shall be held at which one Director who is an Owner will be elected. Upon conveyance of fifty (50%) percent of the Units two Directors of the Board will be elected by the Owners, or, if the number of Directors is not evenly divisible by three (3), the next highest number thereof, shall be elected by the Members other than Declarant and the other Directors shall be elected by Declarant.

b. After Declarant Control Period. Not later than the termination of the Declarant Control Period the Directors shall be elected by the Members. In order to assure that the Directors will be so elected, a regular or special meeting of the Members shall be held prior to such termination, to elect, effective upon such termination, who shall become Directors upon such termination.

c. Votes Required. Directors shall be elected by a majority vote. At each meeting at which there is to be an election of Directors, the Members shall first adopt a resolution establishing the number of Directors to be elected at such meeting. In order to provide continuity on the Board not more than one-third (1/3) of the Board shall be replaced at any annual election except for cause.

Section 4.04 Term: The term of each Director after the first annual election by the Members shall be for three (3) years, and until that Director's successor has been duly elected and has qualified.

Section 4.05 Removal: Any member of the Board may be removed, with or without cause, by a vote of the Members entitled to cast at least sixty-seven (67%) percent of the votes in the Association, at a special meeting called for such purpose, and a successor may then and there be elected by the Members to serve for the balance of the predecessor's term, and until his successor has been duly elected and has qualified, provided, however, that any Director on the Initial Board, and any Director on any subsequent Board, whom Declarant appointed or elected may be removed and replaced at any time during the Declarant Control Period (as defined in the Declaration), only by act of Declarant, and with or without cause.

Section 4.06 Vacancies: During the Declarant Control Period, any vacancy in the Board arising out of the removal, death, or resignation of a Director appointed or elected by Declarant shall be filled only by appointment made by Declarant. Any other vacancy in the Board shall be filled by act of the remaining Directors, whether or not they constitute a quorum, and a Director so elected shall serve for the unexpired term of this predecessor in office, and until his successor has been duly elected and has qualified.

Section 4.07 Organizing Meeting of Newly Elected Board: The organizational meeting of a newly elected Board shall be held within ten (10) days of its election, at such time and place as shall be fixed by such Directors at the meeting at which they were elected, and no further notice of such organization meeting shall be necessary, provided a quorum shall be present.

Section 4.08 Regular Meetings: Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, or telegraph, at least three (3) days prior to the day designated for such meeting, unless such notice is waived. All Board meetings shall be open to the Members. At least one regular meeting shall be held annually.

Section 4.09 Special Meetings: Special meetings of the Board may be called by the President and must be called by the Secretary at the written request of two (2) Directors. Not less than three (3) days' notice of such special meeting shall be given personally or by mail, telephone, or facsimile; provided, however, in case the President or any Director determines that an emergency exists, then a special meeting may be called by giving such notice as is possible under the circumstances. All notices of a special meeting shall state the time, place and purpose of such meeting. No business shall be transacted at a special meeting except as stated in the notice thereof.

Section 4.10 Waiver of Notice: Any director may waive, in writing, notice of a meeting, either regular or special, before or after such meeting, and such waiver shall be deemed equivalent to the giving of notice.

Section 4.11 Quorum: A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board.

Section 4.12 Adjournment When Quorum Lacking: If at any meeting of the Board there shall be less than a quorum present, the majority of those present shall adjourn the meeting until a quorum is present. At any such adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice. If a Director signs the minutes of a meeting, such signing shall constitute the presence of such Director at that meeting for the purpose of determining a quorum.

Section 4.13 Manner of Acting: Each Director shall be entitled to one (1) vote, and the act of a majority of the Directors present at a meeting at which a quorum is present shall constitute the act of the Board unless the act of a greater number is required by these Bylaws, the Declaration or the Act.

Section 4.14. Board Action Without Meeting: Any action required by law to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all Directors.

Section 4.15 Presiding Officer: The presiding officer at meetings of the Board shall be the President. In his absence the Directors that are present shall designate one of their number to preside.

Section 4.16 Compensation of Directors Restricted: Directors shall receive no compensation for their services, but may be paid for out-of-pocket expenses incurred in the performances of their duties as Directors.

Section 4.17 Powers and Duties of Board: All of the powers and duties of the Association shall be exercised by the Board, including those existing under common law, applicable statutes, the Act, the Declaration, the Articles of Incorporation and these Bylaws, as any thereof may from time to time be amended. Such powers and duties shall be exercised in accordance with the provisions of applicable law, the Declaration, and Bylaws, and shall include, but not be limited to, the following:

a. To prepare and provide to Members annually a report containing at least the following:

i. A statement of any capital expenditures in excess of two (2%) percent of the current budget or Five Thousand (\$5,000.00) Dollars, whichever is greater, anticipated by the Association during the current year or succeeding two (2) fiscal years.

ii. A statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the Board.

iii. A statement of the financial condition of the Association for the last fiscal year.

iv. A statement of the status of any pending suits or judgments to which the Association is a party.

v. A statement of the insurance coverage provided by the Association.

vi. A statement of any unpaid Assessments due and payable to the Association, identifying each Unit, each Member and the amount of the unpaid assessment.

b. To appoint an agent or property management company as manager of the Condominium and Common Elements, and to delegate such of its powers to such agent or manager as may be required for proper maintenance and operation of the Condominium and Common Elements.

c. To serve as the Architectural Control Committee unless and until such a Committee is appointed as hereafter provided. Whenever these Bylaws or the Rules and Regulations reference the Architectural Control Committee it shall mean the Board of Directors if no Committee has been appointed. If appointed, the Architectural Control Commission shall consist of not less than three (3) nor more than five (5) persons. Architectural Control Committee for the regulation and control of structural, landscaping, aesthetic and design matters affecting the Condominium. If the Declarant so elects, the Declarant shall appoint all of the original members of the Architectural Control Committee and all replacements throughout the Declarant Control Period. The Board shall have the power to appoint members of the Architectural Control Committee not appointed by the Declarant. Appointments to the Architectural Control Committee shall be from among the membership of the Association; provided that those appointed by the Declarant need not be Members of the Association. The Board may in its discretion from time to time refer specific requests and other matters relating to the design and aesthetics of the Condominium and Property to the Architectural Control Committee for evaluation, determination or recommendation. Any or all decisions of the Architectural Control Committee may be appealed to the Board, whose decision shall be final and binding upon all Owners. With the specific exception of any improvements or construction undertaken or planned by the Declarant pursuant to Special Declarant Rights reserved by Declarant (which the Committee shall have no authority to regulate), no building, fence, wall, or other structure shall be commenced, erected or maintained upon the Property or Condominium, nor shall any interior or exterior addition, change, or alteration be made to the Building and/or Common Areas, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing by the Architectural Control Committee. In the event said Committee fails to approve or disapprove the design

and location within thirty (30) days after plans and specifications have been submitted to it, the contents of the plans and specifications shall be deemed to have been disapproved.

d. To make contracts and incur liabilities and to pay, out of the Assessments against Owners, the following items (among others):

i. Service charges for water, sewer, garbage, electrical, telephone, gas, heating, air-conditioning, security, and other desirable or necessary utility services for the Common Elements and (if not separately metered or charged) for the individual Units.

ii. Premiums for workers' compensation insurance to the extent necessary to comply with any applicable laws or as is otherwise desirable.

iii. Compensation for the manager of the Association and for all employees of the Association, including medical and hospitalization insurance, pension plans and such other compensation as the Board shall deem appropriate.

iv. Accounting and consultant fees and legal fees for services necessary or proper in the operation of the Association or enforcement of the restrictions and covenants herein contained and other rules and regulations adopted by the Board. Notwithstanding the foregoing, legal fees shall not be incurred and the Association shall not initiate or participate in any arbitration or litigation (other than the collection of Assessments payable to the Association), in its own name or on behalf of the Members, without complying with the provisions of this Section **16.06** of the Declaration.

v. Charges for regular and preventive maintenance, painting, gardening, landscaping, pest control, janitorial and security services, and repair of the Common Elements, and for such equipment, and furniture for the Common Elements as the Board shall determine is appropriate or desirable, and the Board shall have the exclusive right and duty to purchase and maintain the same.

vi. The costs of any other materials, supplies, furniture, labor, services, maintenance, repairs or structural alterations, which the Board is required to secure or pay for pursuant to the terms of this Declaration, the Articles or the Bylaws, or which in its opinion shall be necessary or desirable for the Common Elements or the enforcement of this Declaration, the Bylaws or the Rules and Regulations.

vii. Any amount necessary to discharge a lien or encumbrance levied against the Condominium or any part thereof which may, in the

opinion of the Board, constitute a lien against the Common Elements, rather than merely against the interests of a particular Owner or Owners, except that where one or more Owners are responsible for the existence of any lien, they shall be jointly and severally liable for the cost of discharging such lien.

viii. Expenses for maintenance and repair of any Unit if such maintenance and repair is necessary, in the opinion of the Board, to protect and preserve the Common Elements, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity for such maintenance or repair is delivered personally or by certified mail to said Owner or Owners pursuant to Section **3.04** hereof. The Board, its agents and employees are hereby given the right and license to enter upon any Unit and levy a Special Assessment against the Owner or Owners of any such Unit to pay for the costs or expenses incident to said maintenance, repair, and assessment pursuant to Article **IV** hereof.

ix. Taxes and Special Assessments which are or would become a lien on the Common Elements.

x. Expenses of employing, equipping and providing uniforms for security guards, doormen, parking attendants, switchboard operators, maintenance engineers, cleaning personnel and similar required expenses, if any.

xi. Expenses for providing and maintaining recreational facilities, if any.

e. To authorize and contract for capital additions and improvements to the Common Elements which shall be charged to the Owners in accordance with their respective percentages of Common Element Interests. However, no such capital additions or improvements estimated to cost in excess of twenty-five percent (25%) of the budgeted gross expenses of the Association for the previous fiscal year shall be authorized in any one year without the vote or written consent of a Majority of the membership. The Declarant shall not be deemed to be an Owner for purposes of voting for such capital improvements to the Common Elements.

f. To establish and maintain a contingency reserve account in an amount equal to at least three percent (3%) of the projected annual operating budget for the upcoming year, to assure the availability of funds for unanticipated or extraordinary Common Expenses.

g. To adopt and amend budgets for revenues, expenditures, and reserves and collect Assessments from the Owners.

h. Subject to **Section 16.09** of the Declaration, to institute, defend, or intervene in litigation or administrative proceedings, in its own name or on behalf of two (2) or more Owners, on matters affecting the Condominium. All costs and expenses incurred in connection with any such action or lawsuit, including settlement thereof, not paid by the opposing party or parties or the Members benefited thereby, shall be a Common Expense.

i. To regulate the use, maintenance, repair, replacement, and modification of Common Elements and Limited Common Elements and to regulate the use and improvement of Units as they affect the Common Elements.

j. To maintain, repair, remodel, reconstruct and make improvements to the Limited Common Elements, the costs of which shall be assessed to the Owners to whom such Limited Common Elements are assigned or appurtenant.

k. To acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property; provided, that Common Elements may be conveyed or subjected to a security interest only pursuant to Section 448.3-112 of the Act.

l. To grant easements, leases, licenses, and concessions through or over the Common Elements.

m. To make reasonable accommodations in the rules, regulations and declarations adopted by the Association or any other restrictions applicable to the Condominium if such accommodations are required by law to afford a disabled person equal opportunity to use and enjoy the Condominium.

n. To impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements, other than Limited Common Elements, and for services provided to Owners.

o. To impose charges for late payment of Assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, or rules and regulations of the Association.

p. The Board shall have the right, power and privilege to suspend the voting rights of an Owner or Owners for the period during which an assessment against its Unit remains unpaid and delinquent. The Board shall also have the right to suspend the voting rights of every Owner of a Unit for a period not to exceed thirty (30) days for any one (1) violation of the Declaration or infraction of the rules and regulations of the Association committed by such Owners, their respective guests, servants, family members, tenants or invitees; provided that any suspension of voting rights (except for failure to pay Assessments) shall be made only after written notice and the opportunity for a hearing are provided in accordance with these Bylaws. Further, no such suspension shall apply to any vote for which the Act specifies a minimum percentage necessary to establish a

quorum or take a specific action where the presence or vote of any such suspended Member is required to meet said minimum percentage.

q. To provide for the indemnification of its officers and Board Members and to maintain directors and officers' liability insurance.

r. To assign its rights to future income, including the right to receive Common Expense Assessments, but only to the extent expressly provided in the Declaration.

s. To adopt and amend these Bylaws and the Rules and Regulations governing the use of the Unit, Building, Common Elements and the improvements and facilities located thereon.

t. To exercise any other powers conferred by the Declaration, in the Articles or Bylaws, or necessary and proper for the administration of the Association.

u. To contract with other parties for use by Owners of recreational facilities.

v. To impose and collect reasonable charges, including attorneys' fees, for the evaluation, preparation and recordation of amendments to the Declaration, preparation of resale certificates required by Section 448.4-109 of the Act, or statements of unpaid Assessments.

w. Except with respect to the Declarant, to assess against any Owner who fails or refuses to make any payment of Assessments when due, the amount thereof, together with a late charge of eighteen percent (18%) per annum, as set forth in Section 448.3-115(2.) of the Act.

x. To keep financial records sufficiently detailed to enable the Association to comply with Section 448.3-118 of the Act.

ARTICLE V OFFICERS

Section 5.01 Designation of Officers: The officers of this Association shall be a President, a Vice-President, a Secretary, an Assistant Secretary, and a Treasurer (individually and collectively referred to herein as "Officer(s)"). Each Officer, except the Assistant Secretary and except those who hold office pursuant to Section **4.03** beyond their term as Director, shall be a Member of the Board. A person may hold one or more of such offices at one time, except that the President shall not at the same time hold another office in the Association.

Section 5.02 Election of Officers: Each Officer of the Association shall be elected at the organization meeting of the Board as provided in Article V hereof, except that the Initial Board of Directors shall elect its officers as soon as practicable after filing of the Declaration.

Section 5.03 Term: Each Officer shall serve until the next meeting at which Directors are elected after the organization meeting at which he is elected, and until his successor has been duly elected and has qualified, except that the Officers elected by the Initial Board shall serve until their respective successors have been elected and qualified.

Section 5.04 Removal and Resignation: Any Officer may be removed, with or without cause, and without notice, by a majority vote of the Directors at any meeting of the Board. Resignations will take effect on the date of receipt of notice thereof or at any later time specified in the notice and, if not otherwise specified in the notice, the acceptance of the resignation will not be necessary to make it effective.

Section 5.05 Vacancy: Any vacancy in any office shall be filled by the Board, and an officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office, and until his successor has been duly elected and has qualified.

Section 5.06 Powers and Duties of Officers:

a. President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of the President of a corporation, including, but not limited to, the duty to preside at all meetings of the Board and of the Members at which he is present, and the general supervision over other officers in the management of the business and affairs of the Association. He shall see that all actions and resolutions of the Board are carried into effect. He shall exercise and discharge such other duties as be required by the Board.

b. Vice-President. The Vice-President shall perform such duties of the President, and in the absence of the President shall perform the duties and functions of the President and will exercise and discharge such other duties as may be required by the Board.

c. Secretary. The Secretary shall record the votes of and keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notices to the Members and Directors and all other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of a secretary of a corporation, and as may be required by the Directors or the President.

d. Assistant Secretary. The Assistant Secretary shall perform such duties of the Secretary as shall be assigned to him by the Secretary or President, and in the absence of the Secretary shall perform the duties and functions of the

Secretary and will exercise and discharge such other duties as may be required by the Board.

e. Treasurer. The Treasurer shall have custody of all intangible property of the Association, including funds, securities and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and principles, and shall submit them, together with all his vouchers, receipts, records, and other papers to the Directors for their examination and approval, as often as they may require. He shall deposit all moneys and other valuable effects in the name of or to the credit of the Association in such depositories as may be designated from time to time by the Board, shall disburse the funds of the Association as ordered by the Board and shall perform all other duties incident to the office of a Treasurer of a corporation. He shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at their regular annual meeting and deliver or make copies available to each of the Members. If a managing agent or manager is employed, the Board may designate some or all of the foregoing functions to be entrusted to him or it, subject to overseeing control by the Treasurer.

Section 5.07 Execution of Agreements, etc.: All agreements, contracts, deeds, mortgages, or other instruments shall be executed by any two (2) Officers, or by such other person or persons as may be designated from time to time by the Board.

Section 5.08 Compensation of Officers Restricted: No Officer of the Association shall receive compensation for his services in such capacity, but may be reimbursed for out-of-pocket expenses incurred in performing his duties.

Section 5.08 Additional Officers: The Board may from time to time create additional officers and designate their powers and duties by resolution and elect such other officers at their discretion when they find it to be required or desirable to manage the affairs of the Association. Such additional officers need not be Directors, but must be Members of the Association.

ARTICLE VI DIRECTORS' AND OFFICERS' INDEMNITY

Section 6.01 Indemnity. The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by Section 448.3-102(13) of the Missouri Statutes, as now enacted or hereafter amended.

ARTICLE VII FISCAL MANAGEMENT

Section 7.01 Depository: The depository of the moneys of the Association shall be such bank or banks as from time to time shall be designated by the Board. Withdrawal of moneys from such depository shall be only by checks signed by any two (2) officers of the Association, or any other persons as may from time to time be authorized by the Board.

Section 7.02 Records of Association: The books, accounts, and records of the Association shall be open to inspection and examination by any Member of the Association and any Security Holder at all reasonable times.

Section 7.03 Fidelity Bonds: Fidelity bonds shall be required by the Board for each Director, officer, employee, or agent of the Association, and from any manager, trustee, contractor or other person handling or responsible for handling Association funds. The amount of such bond shall be determined by the Board, but shall be not less than one and one-half (1 and 1/2) times the total of the estimated annual operating expenses and reserves of the Association. Such bonds shall contain an appropriate endorsement to cover persons who serve without compensation. The premiums on such bonds shall be a Common Expense.

Section 7.04 Payment Vouchers: Payment Vouchers shall be approved by the Board unless such authority to approve the same has been delegated to any officer or manager by the Board.

Section 7.05 Fiscal Year: The fiscal year of the Association shall be the calendar year; provided that the Directors, from time to time, by resolution, may change the fiscal year to some other designated period.

ARTICLE VIII ASSESSMENTS

Section 8.01 Obligation of Members to Pay Assessments; Amount of Levy: Until the Association levies a Common Expense assessment, Declarant shall pay all accrued expenses of the Condominium. Thereafter, each Owner shall be jointly and severally liable, and obligated to pay, for the Common Expenses that are levied against his Unit while a Owner. Each Unit shall be assessed in accordance with that Unit's percentage of Common Expenses as allocated by the Declaration, as amended.

Section 8.02 Allocation of Common Surplus: Any common surplus shall be allocated to each Unit in accordance with its percentage of Common Expenses, and shall be owned by the Owner of that Unit and credited against that Unit's proportionate share of Common Expenses subsequently assessed.

Section 8.03 Annual Budget and Levying of Assessments: At least once each fiscal year, beginning with the fiscal year beginning January 1, **2005**, the Board shall prepare and adopt a budget for that fiscal year, including therein estimates of the amount necessary to pay the Common Expenses, together with amounts considered necessary and advisable by the Board for reserves. After preparation and adoption of each such budget, the Board shall provide each Member with a copy and shall give each Member notice of the assessment made against that Member's Unit based upon such budget and of the interest to be charged on delinquent payments thereof. The assessment shall be deemed levied upon the giving of such notices; provided, however, that the first budget after creation of the Condominium shall be prepared and adopted by the Initial Board only for the balance of the then fiscal year of the Association, shall be prepared and adopted as soon as practicable after such creation, and notice of the amount of the assessment

against each Unit for such balance of the fiscal year shall be given by the Board or Declarant to each Member as soon as practicable after adoption of such assessment and shall be deemed levied upon notice thereof given by the Board of Directors, and shall be due as provided in Section 9.5 hereof.

No capital improvement over Ten Thousand Dollars (\$10,000.000) Dollars or increase in the annual assessment by the Board in any one year of over 10% above the previous years assessment plus the amount of any increased real estate tax assessment may be made without the consent of at least sixty-seven (67%) percent of the Units.

Section 8.04 Assessment Is a Lien: All Assessments of any kind not paid by an Owner when due, including interest thereon at the rate of eighteen percent (18%) per annum, shall constitute a lien on such Unit superior and prior to all other liens and encumbrances, except: (i) liens and encumbrances recorded before the recordation of this Declaration, including any Mortgage; (ii) all liens under any Mortgage for the purchase of a Unit recorded prior to the date such assessment becomes delinquent; (iii) liens for real estate taxes and other governmental assessments or charges against the Unit; and (iv) except for delinquent Assessments or fines, up to a maximum of six (6) months' assessments or fines, which are due prior to any subsequent refinancing of a Unit or for any subsequent second mortgage interest.

If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other Assessments made by the Association. Such lien shall attach from the date the Assessment becomes due. The lien may be enforced by foreclosure of the defaulting Owner's Unit by the Association in the same manner as a Mortgage on real estate or pursuant to a power of sale under Chapter 448, Revised Statutes of Missouri.

Section 8.05 Payment of Assessments: Assessments shall be payable when notice thereof is given, but shall not be delinquent if paid at the times and in the amounts specified by the Board in each such notice. If no times and amounts are specified, 1/12th of the assessment shall be paid on or before the first day of each month of the fiscal year of the Association. Payments shall be made to the Association, or as the Board may from time to time otherwise direct.

Section 8.06 Lien after Foreclosure: When Ownership of a Unit is transferred by foreclosure, power of sale or deed in lieu, under the remedies provided in any first Deed of Trust, any unpaid Assessments as to the Unit shall continue to accrue except as otherwise provided under any governmental loan program. The Unit and Owner acquiring title under the remedies provided in a first Deed of Trust shall be subject only to the lien of Assessments which become due after such transfer of title. Nothing in this paragraph shall be construed as a waiver or release of the obligation of the former Owner to pay the delinquent Assessments.

Section 8.07 Maintenance Fund and Reserves: All sums collected by the Association from Assessments shall be accounted for as follows:

a. Regular Assessments. Regular Assessments shall be used exclusively for the purposes of promoting the health, safety, welfare and recreation of the residents of the Condominium, and in particular of the Condominium and the facilities devoted to said purposes.

b. Working Capital Fund. Each purchaser of a Unit shall contribute to this fund an amount equal to two (2) months of the then current monthly assessment for such Unit as determined by the Board. The purpose of the working capital fund is to insure that the Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board for the performance of its obligations. Amounts paid into the fund are not to be considered as advance payment of Regular Assessments.

c. Reserve Fund. The Board may establish a reserve or sinking fund to be maintained in a segregated interest-bearing account, in order to accumulate funds for the anticipated cost of maintenance, repair and replacement of capital improvements, including fixtures and personal property relating thereto. The Board may levy Assessments for the reserve fund as it deems necessary or desirable, payable no more frequently than monthly, in the same manner as Regular Assessments. Amounts paid into the reserve or sinking fund are not to be considered as advance payment of Regular Assessments.

Section 8.08 Special Assessments: In addition to the Assessments levied as provided in Section **8.03**, the Board, in its discretion, may levy Special Assessments at such other and additional times as in its judgment are required for:

a. Repair and Maintenance of Common Elements and Condominiums. Maintenance, repair, and restoration of or to the Common Elements, and operation of the Condominium.

b. Alterations, Improvements and Additions to Common Elements. Alterations, improvements, and additions to the Common Elements, provided, however, that any Special Assessment involving the expenditure of Ten Thousand and 00/100 Dollars (\$10,000.00) or more shall be first approved by the voting Members of the Association representing at least sixty-six and two-thirds percent (66-2/3%) of the total votes in the Association, at a special meeting called for such purpose.

c. Taxes. If any taxes are assessed against the Common Elements or the personal property of the Association, rather than against an individual Unit, said taxes shall be added to the annual Assessments and, if necessary, a Special Assessment may be levied against a Unit in an amount equal to said taxes, to be paid in equal installments, the number of installments and date for payment based

upon the number of installments permitted by the Jackson County Manager of Finance, payable thirty (30) days prior to the due date of each tax installment

d. Curing of Member's Default. Costs and expenses incurred in curing defaults of a Member pursuant to Subsection **10.02** hereof.

Special Assessments made pursuant to this Section shall be deemed levied upon notice thereof being given to the Members subject to such Special Assessment, and shall be payable as determined by the Board and as set out in such notice.

Section 8.09 Special Unit Expenses Associated with Limited Common Elements or Benefiting Less than All Units: In addition to their liability for Common Expenses, each Owner shall also pay any and all Assessments imposed by the Association for Special Unit Expenses in the amount attributable to its Units and Limited Common Elements as determined by the Association in its reasonable discretion. Special Unit Expenses may be based upon any of actual or estimated costs to the Association attributable to an Owner, independent billings of respective creditors, usage, estimated insurable values, insurance risks, or the relative size of each Unit in relation to the size of all Units in the aggregate. Special Unit Expenses shall include but not be limited to real estate taxes or Assessments, as well as, late charges, fines or penalties imposed by the Board upon specific Owners from time to time.

Section 8.10 Failure to Prepare Budget and Levy Annual Assessments Deficiencies in Procedure: The failure of the Board to prepare or delay of the Board in preparing any budget, and to levy or in levying Assessments, shall not constitute a waiver or release of the obligation of any Member to pay Assessments whenever the same shall be determined and levied by the Board.

Until a new assessment is levied by the Board pursuant to Section **4.17** each Member shall continue to pay the assessment previously levied pursuant to Section **8.03** in the same amount and at the same periodic times as levied, or as the Board may otherwise advise in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of Members to pay such assessment.

Section 8.11 Assessment Roll; Statement: All Assessments shall be set forth upon a roll of the Units, which shall be available in the office of the Association for inspection at all reasonable times by Members and Mortgagees, and their duly authorized representatives. Such roll shall include, for each Unit, the name and address of the Member or Members, all Assessments levied, and the amount of all Assessments unpaid. The Association, upon written request, shall furnish to a Owner, or his authorized agent, a recordable statement setting forth the amount of unpaid Assessments currently levied against his Unit. The statement shall be furnished within ten (10) business days after receipt of the request and shall be binding upon the Association and all Owners. For such statement a reasonable fee may be charged by the Board.

Section 8.12 Delinquency and Enforcement: If any assessment, or installment thereof, remains delinquent for thirty (30) days, with or without notice, then such assessment, and all other Assessments then a lien against that Unit, may be declared by the Board to be immediately due and payable in full, with interest, without further notice, and may be foreclosed by the Association in the manner provided by Section 448.3-116 of the Act.

Section 8.13 Interest on Delinquent Assessments: Assessments, or installments thereof, paid before they become delinquent shall not bear interest. All Assessments of any kind not paid by an Owner when due shall bear interest at the rate of eighteen percent (18%) per annum as set forth in Section 448.3-115(2.) of the Act. Such Assessments plus interest shall constitute a lien on such Unit when such Assessments are due pursuant to Section 7.01 of the Declaration. All payments upon account shall be applied first to interest and then to the assessment, or installment thereof, which has been delinquent for the longest period of time. Any interest or charge added by the Association to a delinquent payment shall be considered a late fee constituting a portion of the administrative and other expenses of the Association associated with the collecting of late payments as well as the related cost of funds.

Section 8.14 Common Expenses: Common Expenses shall mean and include all sums declared Common Expenses by the Act, or by any specific provision of these Bylaws or the Declaration, and shall include, without limitation, the following: Taxes and Special Assessments against the property until the Units are separately assessed; premiums for any and all insurance maintained by the Association, including any deductible or coinsurance amounts not covered by insurance; utility charges not charged directly to Owners; legal and accounting fees; the unpaid portion of any assessment against a Unit that is acquired pursuant to mortgage foreclosure, or by deed (or assignment) in lieu of foreclosure, and not required to be paid by such acquirer; deficits remaining from any prior assessment period, and the cost of all fidelity bonds.

Section 8.15 Rates, Fees and Charges: All rates, fees, charges, fines and penalties imposed by the Board against, or due from any Member or Unit may be collected and enforced as an assessment.

ARTICLE IX SUBDIVISION, CONVERSION, RELOCATION AND ALTERATIONS OF UNITS

Section 9.01 Prohibition on unauthorized boundary changes: No Owner may subdivide, convert, relocate or alter the boundaries of his or her Unit, except as otherwise set forth in the Declaration.

ARTICLE X COMPLIANCE, ENFORCEMENT, FINES AND PENALTIES

Section 10.01 Compliance: Each Owner, Occupant and Mortgagee, shall be governed by and shall comply with the terms, conditions, obligations, and provisions of the Act, the Declaration, the Articles, these Bylaws, and the Rules and Regulations, as the same may be amended from time to time.

Section 10.02 Default and Remedies: A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Act, the Declaration, these Bylaws, or the rules and regulations, as the same may be amended from time to time, by any Owner or occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election for any action or cause of action to receive fines and penalties for such default or failure as determined by the Board, sum due for damages, an injunction, or any combination thereof, and which relief may be sought by the Association or, if appropriate, by any one or more aggrieved Members, or both. Also, if any Member fails to perform any obligation under the Act, the Declaration, these Bylaws, or such rules and regulations then the Association may, but is not obligated to, perform the same for the Member's account, and at such purpose may enter upon his Unit, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a Special Assessment against the Unit owned by such defaulting Member.

Section 10.3 Notice of Default and Failure to Cure: In the event of any such default or failure, the Association shall promptly serve upon or mail to the defaulting Member and each first Mortgagee of that Member's Unit, a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time specified in the notice, the defaulting Member may cure the default specifically or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon the defaulting Member, and to each such first Mortgagee, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable.

The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting Member and each such first Mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting Member and to each such first Mortgagee, a copy of its determination. If the defaulting Member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting Member, and to each such first Mortgagee a written notice of such Member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

Section 10.04 Remedy of Abatement in Addition to Other Remedies: In the event a Member fails to effect the cure specified by the Board in the notice of default within the

time specified in such notice, where the default relates to a structure, thing, or condition existing in or on the premises of the Member's Unit, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the Member's Unit in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting Member's expense (and levy an assessment therefor), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives shall not thereby be deemed guilty of any manner of trespass.

Section 10.05 Recovery of Attorneys' Fees and Costs: In any proceeding arising because of an alleged default by a Member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court, with interest thereon at eighteen (18%) percent per annum from the dates such costs are incurred until paid.

Section 10.06 Nonwaiver of Covenants: The failure of the Association or of any Member thereof to enforce any term, provision, rights, covenant, or condition that may be granted by the Declaration, these Bylaws, the rules and regulations or the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a Member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

Section 10.07 Assessment Lien: Assessment liens shall be enforced pursuant to Article **8.04** hereof and not pursuant to this Article **10.07**.

ARTICLE XI AMENDMENT

Section 11.01 Declarant Approval Contingency. Unless Declarant otherwise agrees in writing to permit an amendment to the bylaws in accordance with this Article, for so long as a Declarant is the owner of unit representing an aggregate of ten percent (10%) or more of the units in which votes in the Association are allocated, the by laws may only be amended with the affirmative vote of at least sixty-seven percent (67%) of the unit owners of units to which votes in the Association are allocated.

Section 11.01 Procedure for Amendments. An amendment to these Bylaws shall be made and approved in the manner set forth in Section 448.3-106 of the Act and by not less than a majority of the Unit Owners of Units to which the votes in the Association are allocated.

ARTICLE XII GENERAL PROVISIONS

Section 12.01 Rules and Regulations: The Board may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation, and use of the Common Elements so as to promote the common use and enjoyment thereof by Owners and occupants, and for the protection and preservation thereof.

In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Units to provide for the common good and enjoyment of all Owners and occupants, including, without limitation, the right to adopt such rules and regulations with reference to children, animals and leases. Also, the Board may from time to time establish penalties for infraction of such rules and regulations. Copies of all such rules and regulations and any amendments thereto shall be furnished to all Members, and a copy shall be posted or otherwise made available to Members at the office of the Association. However, failure to furnish or pose such rules or regulations shall not affect in any way their validity or enforceability. Any such rule or regulation adopted by the Board may be amended, modified, or revoked, and new and additional rules and regulations may be adopted, by the Members at an annual or special meeting of the Members. Any such act of the Members shall control over any contrary rule or regulation then or thereafter adopted by the Board. All rules and regulations shall be equally and uniformly applicable to all Owners, occupants and Units, but need not be equally uniformly applicable if it is determined that such unequal or nonuniform application is in the best interest of the Association or if equal and uniform application is not practicable.

Section 12.02 Parliamentary Authority: Robert's Rules of Order, Newly Revised, shall govern the conduct of Association proceedings when not in conflict with the Declaration, these Bylaws, the Act or any statutes of the State of Missouri applicable thereto. The chairman of the meeting shall have the authority to appoint a parliamentarian if he deems it necessary.

Section 12.03 Compliance with the Act; Conflict; Severability: These Bylaws are established in compliance with the Act. Should any of the terms, conditions, provisions, paragraphs, or clauses of these Bylaws conflict with any of the provisions of said Act, the provisions of said Act shall control. In the case of any conflict between the provisions of these Bylaws and the Declaration, the Declaration shall control.

If any such term, provision, limitation, paragraph or clause of these Bylaws or the application thereof to any person or circumstance, is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these Bylaws, or the application thereof to any other person or circumstance.

Section 12.04 Interpretation of Bylaws: Whenever appropriate the singular number may be read as the plural, and the plural may be read as the singular. The masculine gender may be read as the feminine gender or as the neuter gender. Compound words beginning with the prefix "here" shall be read as referring to this entire set of Bylaws and not merely to the part of it in which they appear.

Section 12.05 Organized as non-profit corporation: The Association is not organized for profit. No Member of the Association, Director or person from whom the Association may receive any property or funds will receive or will be lawfully entitled to receive any pecuniary profit from the operations of the Association, and in no event will any part of the funds or assets of the Association be paid as a divided or to distributed to, or inure to

the benefit of, any Director; provided, however, that upon dissolution of the Association, the assets remaining after payment of outstanding liabilities shall be transferred to all of the then owners of the Units as tenants in common, in proportion of their Allocated Interests.

CERTIFICATE

I hereby certify that I am the Secretary of The Metropolitan Condominium Association, a Missouri nonprofit corporation (herein the "Association"), and the keeper of its corporate records; that the Bylaws to which this Certificate is attached were duly adopted by said Association's Board of Directors as and for the Bylaws of the Association effective as of March 30, 2004; and that these Bylaws constitute the Bylaws of the Association and are now in full force and effect.

Alan Waterman, Secretary