

SANDS OF ELK RAPIDS CONDOMINIUM

ASSOCIATION BY-LAWS

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SANDS OF ELK RAPIDS CONDOMINIUM
ASSOCIATION BY-LAWS

ARTICLE 1 - ADOPTION OF CONDOMINIUM BY-LAWS

1.1 ADOPTION OF CONDOMINIUM BY-LAWS. The By-Laws, as amended and to be amended, of SANDS OF ELK RAPIDS CONDOMINIUM (hereinafter known as the Condominium By-Laws) as attached to the Master Deed and recorded in Liber 359, Pages 0431 through 0485, Antrim County Records, are hereby incorporated by reference and adopted in their entirety as a part of the By-Laws of this Corporation.

ARTICLE 2 - MEMBERSHIP

2.1 MEMBERS QUALIFICATION. The members of the Association shall be the owners of legal title to the units as set forth in Article I, Section 2(a) of the Condominium By-Laws. The foregoing is not intended to include persons who hold their interest merely as security for the performance of an obligation. Membership shall become effective upon the occurrence of the last to occur of the following events:

- A. Recording in the public records of a deed or other instrument evidencing legal title to the unit in the member.
- B. Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.
- C. Delivery to the Association, if required, of a written designation of a primary occupant.

In the case of a unit subject to an agreement for deed, the contract vendee shall be deemed the owner of the unit for purposes of determining membership and use rights.

2.2 VOTING RIGHTS. The members of the Association are entitled to vote as set forth in the Condominium By-Laws, as amended. The one vote of a unit is not divisible. The right to vote shall be denied while assessments are delinquent. If a condominium unit is owned by one natural person, his right to vote shall be established by the record title to the unit. If a unit is owned jointly by two or more natural persons who are not acting as trustees, that unit's vote must be cast by the person designated by the co-owners in accordance with Article I, Section 2(d) of the Condominium By-Laws. If the owner of a unit is not a natural person or is a trustee, the vote of that unit shall be cast by the unit's primary occupant designated as set forth in Section 2(e) of Article I of the Condominium By-Laws.

2.3 APPROVAL OR DISAPPROVAL OF MATTERS. Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such unit if in an association meeting, unless the joinder of record owners is specifically required.

2.4 CHANGE OF MEMBERSHIP. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new member's membership becoming effective as provided in 2.1 above; and the membership of the prior owner shall thereby be automatically terminated.

2.5 TERMINATION OF MEMBERSHIP. The termination of a membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the condominium during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

ARTICLE 3 - MEETINGS

3.1 MEETINGS. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the co-owners as may be designated by the Board of Directors. Voting shall be as provided in the Condominium By-Laws. Meetings of the Association shall be conducted in accordance with Sturgis' Code of Parliamentary Procedure, Roberts Rules of Order, or some other generally recognized manual of parliamentary procedure, when not otherwise in conflict with the Articles of Incorporation, the By-Laws of the Corporation, the Condominium Master Deed, or the laws of the State of Michigan.

3.2 ANNUAL MEETING. The annual meetings of members of the Association shall be held on the Labor Day weekend of each year at such time and place as shall be determined by the Board of Directors. At such meetings there shall be elected by ballot of the co-owners a Board of Directors in accordance with the requirements of Article 4 of these By-Laws. The co-owners may also transact at annual meetings such other business of the Corporation as may properly come before them.

3.3 SPECIAL MEETINGS. It shall be the duty of the President to call a special meeting of the co-owners as directed by resolution of the Board of Directors or upon a Petition signed by eight (8) of the co-owners who have been designated as entitled to vote and presented to the Secretary of the Association. Notice of any special meeting shall state the time and place of such meeting and the purposes thereof. No business shall be transacted at a special meeting except as stated in the notice.

3.4 NOTICE OF MEETING. It shall be the duty of the Secretary (or other Association officer in the Secretary's absence) to serve a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, upon each co-owner of record, at least ten (10) days but not more than thirty (30) days prior to such meeting. The mailing, postage prepaid, of a notice to the representative of each co-owner at the address shown in the notice required to be filed with the Association by Article I, Section 2(e) of the Condominium By-Laws shall be deemed notice served. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association shall be deemed due notice.

3.5 QUORUM. If any meeting of owners cannot be held because a quorum, as defined in Article I, Section 2(g) of the Condominium By-Laws, is not in attendance, the owners who are present may adjourn the meeting to a time not less than twenty-four (24) hours from the time the original meeting was called.

3.6 ADJOURNED MEETINGS. Any duly called meeting of the members may be adjourned to a later time by vote of the majority of the voting interests present at a meeting where a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance.

3.7 ORDER OF BUSINESS. The order of business at members' meetings shall be substantially as follows:

- A. Call of the roll or certification of quorum.
- B. Proof of notice of meeting or waiver of notice.
- C. Reading or disposal of minutes of previous members' meeting.
- D. Reports of Officers.
- E. Reports of Committees.
- F. Election of Directors (Annual meeting only).
- G. Unfinished business.
- H. New business.
- I. Adjournment.

3.8 MINUTES. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at all reasonable times and for a period of seven years after the meeting.

3.9 ACTION BY MEMBERS WITHOUT MEETING. Except as otherwise provided by law, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents, setting forth the action to be taken, are signed by the members having not less than the minimum number of votes that would be necessary to take such action at a meeting, as required by the Condominium By-Laws. If the requisite number of written consents are received by the Secretary within thirty (30) days of mailing notice of the proposed action to the members, a resolution passed by the Board of Directors on the action so authorized shall be of full force and effect as if a full membership meeting had been held. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership, as elsewhere provided in these By-Laws. The written consents used to authorize an action without a meeting shall become a part of the Association's Official Records. If the vote is obtained by polling the unit owners by mail, the unit owners list on record with the Association, in accordance with Article I, Section 2(e) of the Condominium By-Laws, at the time of mailing the voting material shall be the list of qualified voters.

ARTICLE 4 - BOARD OF DIRECTORS

4.1 QUALIFICATIONS OF BOARD MEMBERS. The affairs of the Corporation shall be governed by a Board of Directors, all of whom must be members of the Corporation, or spouses, officers, partners, trustees, employees or agents of members of the Corporation, except for the first Board of Directors designated in the Articles of Incorporation of the Association. Directors shall serve without compensation.

4.2 TERM OF BOARD MEMBERS. The first Board of Directors designated in the Articles of Incorporation shall be composed of three persons, and such first Board of Directors shall manage the affairs of the Corporation until a successor Board of Directors is elected at the meeting of members of the Corporation convened at the time required by Article 3.2 of these By-Laws. At the first meeting of members of the Corporation, three Directors shall be elected. The Director receiving the largest number of votes shall serve a term of two (2) years, and the remaining Directors shall each serve a term of one (1) year. In the event that two or more Directors receive the largest, but equal, number of votes, the Directors shall, by vote of the three Directors among themselves, decide which Director shall serve the two-year term. At each annual meeting of the Corporation held thereafter, two or three Directors, depending on the number of vacancies, shall be elected in a similar manner. The Directors shall hold office until their successors have been elected and hold their first meeting.

4.3 NOMINATIONS AND ELECTIONS. At each annual meeting the members shall elect as many Directors as there are regular terms of Directors expiring or vacancies to be filled. The nominating committee, if any, shall submit its recommended nominees for the office of Director on the floor at the annual meeting, at which time any other eligible person who has agreed to be a candidate may also be nominated. Directors shall be elected by a plurality of the votes cast at the annual meeting. In the election of Directors, there shall be appurtenant to each unit as many votes for Directors as there are Directors to be elected. No more than one vote may be cast by a unit owner for each nominee, it being the intent hereof that voting for Directors shall be non-cumulative. The candidates receiving the highest number of votes shall be declared elected, except that a run-off shall be held to break a tie vote.

4.4 POWERS AND DUTIES. The Board of Directors shall have the powers and duties set forth in the Condominium By-Laws.

4.5 VACANCIES. Vacancies in the Board of Directors (including the first Board of Directors named in the Articles of Incorporation) caused by any reason other than the removal of a Director by a vote of the members of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

4.6 REMOVAL OF DIRECTORS. At any regular or special meeting of the Association duly called, any one or more of the Directors may be removed with or without cause by a majority of the co-owners, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the co-owners shall be given an opportunity to be heard at the meeting.

4.7 FIRST MEETING OF NEW BOARD OF DIRECTORS. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

4.8 REGULAR MEETINGS OF BOARD OF DIRECTORS. Regular meetings of the Board of Directors may be held at such times and places as shall be determined from time to time by a majority of the Directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail, telephone or telegraph, at least ten (10) days prior to the date named for such meeting.

4.9 SPECIAL MEETINGS OF BOARD OF DIRECTORS. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of one Director.

4.10 WAIVER OF NOTICE OF MEETING. Before or at 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 meetings of the Board shall be deemed a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

4.11 PARTICIPATION BY TELEPHONE CONFERENCE. Members of the Board of Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.12 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 a 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. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such Director for purposes of determining a quorum.

4.13 BONDS. The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds furnish adequate fidelity bonds. The premiums on such bonds shall be expenses of administration.

ARTICLE 5 - OFFICERS

5.1 OFFICERS. The principal officers of the Association shall be a President, who shall be a member of the Board of Directors, a Vice-President, Secretary and a Treasurer. The Directors may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in their judgment may be necessary. Any two offices, except that of President and Vice-President, may be held by one person.

5.2 ELECTION. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

5.3 REMOVAL OF OFFICERS. Upon 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 called for such purpose.

5.4 PRESIDENT. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the President of an Association, including, but not limited to, the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in the conduct of the affairs of the Association. He shall execute on behalf of the Association all bonds, mortgages, and contracts requiring the seal of the Association.

5.5 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 of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

5.6 SECRETARY. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Association; he shall have charge of the corporate seal and of such books and papers as the Board of Directors may direct; and he shall, in general, perform all duties incident to the office of the Secretary. The foregoing duties may be performed by an Assistant Secretary if one has been designated by the Board of Directors.

5.7 TREASURER. The Treasurer shall have responsibility for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit

of the Association, and in such depositories as may, from time to time, be designated by the Board of Directors. Any of the foregoing duties may be performed by an Assistant Treasurer who need not be a member of the Association, if one is designated by the Board of Directors.

5.8 OTHER DUTIES. The officers shall have such other duties, powers, and responsibilities as shall, from time to time, be authorized by the Board of Directors.

ARTICLE 6 - SEAL

6.1 SEAL. The Corporation shall have a seal which shall have inscribed thereon the name of the Corporation, the words "Corporate Seal", and "Michigan".

ARTICLE 7 - FISCAL MATTERS

7.1 FINANCES. The finances of the Corporation shall be handled in accordance with the Condominium By-Laws.

7.2 FISCAL YEAR. The fiscal year of the Corporation shall be an annual period commencing on such date as may be initially determined by the Directors. The commencement date of the fiscal year shall be subject to change by the Directors for accounting reasons or other good cause.

7.3 INVESTMENT OF FUNDS. The funds of the Corporation shall be deposited in such bank as may be designated by the Directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time. The Board may invest Association funds in interest bearing accounts or certificates of deposit covered by FDIC insurance or in United States Government Securities.

7.4 BUDGET. The Board of Directors, on or before July 15th of each year, shall formulate a proposed budget for the ensuing year and schedule a Board meeting for the adoption thereof during the month of August. A copy of the proposed budget and a notice stating the time, date and place of the Board meeting shall be mailed to or served on the owner of each unit not less than ten (10) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

7.5 RESERVES FOR CAPITAL EXPENDITURES AND MAINTENANCE. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building maintenance, building painting and pavement resurfacing. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item. Reserves funded under this paragraph shall be used only for the purposes for which they were reserved, unless their use for other purposes is first approved by a majority of the voting interests present and voting at a members' meeting called for the purpose.

7.6 GENERAL RESERVES. In addition to the statutory reserves provided in 7.5 above, or in place of them if the members so vote, the Board may establish one or more additional reserve accounts for contingencies, operating expenses, repairs, minor improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.

7.7 ASSESSMENTS. Regular annual assessments based on the adopted budget shall be paid in monthly installments, in advance, due on the first day of each month. Notice of each change in the amount of the monthly installment shall be given to each registered owner. Failure, however, to give or receive such notice shall not excuse the obligation to pay. If any amount is delinquent in excess of fifteen (15) days, the Board may impose a late charge therefor. If an annual budget has not been adopted at the time a monthly installment is due, it shall be presumed that the amount of such installment is the same as the last monthly installment, and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage calculated shall be added or subtracted from each unit's next due installment.

7.8 SPECIAL ASSESSMENTS. Special assessments subject to Article II, Section 3 of the Condominium By-Laws may be imposed by the Board of Directors when necessary to meet unusual, unexpected, emergency or non-recurring expenses, or for such other purposes as are authorized by the Condominium By-Laws and these By-Laws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any special assessment must contain a statement of the purpose(s) of the assessment, and the funds collected must be spent for the stated purpose(s) or returned to the members. Notice of a Board meeting at which a special assessment will be considered must contain a statement to that effect, and must disclose the nature of the assessment.

7.9 FINANCIAL INFORMATION. Not later than ninety (90) days after the close of each fiscal year, the Board shall prepare and distribute a financial statement showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement for the year, detailed by accounts. Copies of these statements shall be furnished to each member.

7.10 APPLICATION OF PAYMENTS AND CO-MINGLING OF FUNDS. All monies collected by the Association may be co-mingled in a single fund or divided into two or more funds, as determined by the Board of Directors. All payments on account by a unit owner shall be applied as to interest, delinquencies, costs and attorney's fees, other charges, and regular or special assessments, in such manner and amounts as the Board of Directors may determine, subject to the provisions of the Condominium By-Laws.

7.11 AUDITS. A formal, certified audit of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Board of Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

ARTICLE 8 - USE RESTRICTIONS

8.1 RULES AND REGULATIONS. The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the operation, use, maintenance, management and control of the common elements and the operation of the Association, and prescribe reasonable sanctions, penalties and fines for violation thereof. Copies of such rules and regulations shall be furnished to each unit owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the unit owners and uniformly applied and enforced.

ARTICLE 9 - COMPLIANCE AND DEFAULT

9.1 REMEDIES. In addition to the remedies provided in Article II, Section 6 and Article XIV of the Condominium By-Laws, the provisions hereinafter set forth in this Article shall apply.

9.2 FINES. The Board of Directors may levy reasonable fines against units whose owners commit violations of the Condominium Act, the provisions of the Condominium documents or Association Rules and Regulations, or condone such violations by their family members, guests, or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by law or Article XIV, Section 1(d) of the Condominium By-Laws. No fine shall be imposed until the unit owner has been given reasonable notice and an opportunity to be heard before the Board.

The procedure for imposing such fines shall be as follows:

- A. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:
 1. A statement of the date, time and place of the hearing;
 2. A statement of the provisions of the Condominium By-Laws, Association By-Laws, or Association Rules and Regulations which have allegedly been violated; and,
 3. A short and plain statement of the matters asserted by the Association.
- B. The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

9.3 CORRECTION OF HEALTH AND SAFETY HAZARDS. Any violations which are deemed by the Board of Directors to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the unit owner.

9.4 ENFORCEMENT OF RULES AND REGULATIONS. If any dispute over the enforcement or interpretation of the Condominium By-Laws, Association By-Laws or Association Rules and Regulations should arise, either between two or more unit owners, or between the Association and one or more unit owners, it is intended that such dispute be resolved by agreement or by voluntary binding arbitration, and not by resort to the courts.

9.5 VOLUNTARY BINDING ARBITRATION. In the event of a dispute between one or more unit owners and/or the Association arising from the operation of the Condominium, the parties shall submit the dispute to voluntary binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association as provided for in Article IV of the Condominium By-Laws.

9.6 AVAILABILITY OF REMEDIES. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

ARTICLE 10 - AMENDMENTS

10.1 INITIATION. Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors or by one-third (1/3) or more in number of the members, or by instrument in writing signed by them.

10.2 AMENDMENT AT MEETINGS. These By-Laws may be amended by the Association at any regular annual meeting, or a special meeting called for such purpose, by an affirmative vote of not less than sixty-six and two-thirds per cent (66 2/3%) of all co-owners.

10.3 NOTICE OF AMENDMENTS TO MEMBERS. A copy of each amendment to the By-Laws shall be furnished to every member of the Association after adoption; provided, however, that any amendment to these By-Laws that is adopted in accordance with this Article shall be binding upon all persons who have an interest in the Project irrespective of whether such persons actually receive a copy of the Amendment.

ARTICLE 11 - CONSTRUCTION AND EFFECT OF BY-LAWS

11.1 These By-Laws are set forth to comply with the requirements of Act No. 59 of the Public Acts of Michigan of 1978, as amended, and with the duly recorded Master Deed of the Condominium and Exhibits attached thereto, being the Condominium By-Laws and the Subdivision Plan. In case any of these By-Laws conflict with the provisions of said statute or with the provisions of said Master Deed or the Exhibits attached thereto, the provisions of the statute and said Master Deed shall be controlling.