

DESCHUTES COUNTY OFFICIAL RECORDS  
MARY SUE PENHOLLOW, COUNTY CLERK

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# DESCHUTES COUNTY CLERK

  

# CERTIFICATE PAGE



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**BYLAWS  
of  
ELKAI WOODS FRACTIONAL HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE 1  
PLANNED COMMUNITY PLAN OF  
LOT OWNERSHIP; DEFINITIONS**

**1.1. Lot Ownership.** Lots 1 through 44 and 78 through 82 and the adjacent common area of Elkai Woods, in Deschutes County, Oregon (the "Property" or "Project"), is submitted to the provisions of the Oregon Planned Community Act, Oregon Revised Statutes, Sections 94.550, *et seq.*

**1.2. Bylaws Applicability.** The provisions of these Bylaws are applicable to the Lots 1 through 44 and 78 through 82, the Elkai Woods Fractional Homeowners' Association, Inc. ("Association"), and the entire management structure thereof.

**1.3. Personal Application.** All present or future Owners, tenants, occupants, their guests and employees, or any other person that might use the facilities of the Project in any manner, are subject to the regulations set forth in these Bylaws.

**1.4. Definitions.** The terms herein shall have the same meaning as set forth in Article 1 of the Declaration of Covenants and Restrictions.

The acquisition, occupancy or rental of any of the Lots of the Project or the mere act of occupancy of any said Lots will constitute acceptance and ratification of these Bylaws and agreement to comply with all the provisions hereof.

**ARTICLE 2  
ASSOCIATION MEMBERSHIP, VOTING,  
MAJORITY OF OWNERS, QUORUM, PROXIES**

**2.1. Membership in the Association.** Upon recordation of a conveyance or contract to convey a Lot, the grantee or purchaser named in such conveyance or contract shall automatically be a member of the Association, and shall remain a member of said Association until such time as such person's ownership ceases for any reason. For all purposes of the Declaration and the administration of the property, Lot ownership shall be determined from the records maintained by the Association. The record shall be established by the Owner filing with the Association a copy of the deed to or land sale contract for his or her Lot, to which shall be affixed the certificate of the recording officer of the County of Deschutes, Oregon, showing the date and place of recording of such deed or contract. No person shall be recognized as an Owner unless a copy of the deed or contract has been filed with the Association as provided above showing him or her to be the current Owner or contract purchaser of a Lot. Notwithstanding the foregoing, the Declarant shall be the Owner of all previously unsold Lots, although no deed or land sale contract, with respect to such Lots, has been filed with the Association.

**2.2. Voting Rights.** The Association shall have one class of voting members. Each one-tenth ownership interest shall be entitled to a one-tenth vote, regardless of how many persons own the one-tenth interest. Each Lot/Unit shall be accorded one vote based upon a majority (6/10) of the total votes cast within such Lot/Unit.

The Declarant, its successors and assigns, shall have three (3) votes for each Lot or Unit owned; regardless of whether the Lot is within the one-fifth interest section or full ownership section. Provided, however, that these special Declarant's voting rights shall cease upon the earlier of a date seven years from the recording of this Declaration or the conveyance by the Declarant of Lots or Units representing 75% of the total number of votes. Thereafter, the Declarant, shall be entitled to one vote for each Lot or Unit owned. The total number of votes shall be equal to the total number of Lots annexed to the Property and subjected to this Declaration.

**2.3. Majority of Owners.** As used in these Bylaws, the term "Majority" shall mean those Owners holding over fifty percent (50%) of the voting rights allocated to the Owners in accordance with the Declaration and Section 2.2 above. "Majority of Owners present" shall mean Owners holding over fifty percent (50%) of the votes present at any legal meeting.

**2.4. Quorum.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners holding forty percent (40%) or more of the outstanding votes in the Association, as defined in Section 2.2, shall constitute a quorum. A legal meeting is one duly called pursuant to these Bylaws where a quorum is present in person or by proxy at a formal gathering, or if a vote is taken by written ballots, when ballots are returned representing more than forty percent (40%) of the vote.

**2.5. Place of Meetings.** Formal meetings of the Association shall be held at the principal office of the Project or such other suitable place convenient to the Owners as may be designated by the Board of Directors. Any vote taken by written ballot shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots. Each Owner shall be notified by mail or other delivery of written notice of the results of the ballot meeting or that a quorum of ballots was not returned, within ten (10) days after the ballots have been counted.

**2.6. Turnover Meeting.** The Declarant shall call a meeting for the purpose of turning over administrative control of the Association from the Declarant to the members within one hundred twenty (120) days of the earlier of:

- (a) A date five (5) years from the date this Declaration is recorded; or
- (b) The date that Lots representing seventy-five percent (75%) of the total number of votes have been conveyed to persons other than the Declarant.

The Declarant shall give notice of the meeting to each Owner as provided in the Bylaws. If the Declarant does not call the meeting required under this section, any Owner may do so.

At the turnover meeting the Declarant shall relinquish control of the administration of the Association and the Owners shall assume such control and the Owners shall elect a board of directors in accordance with the provisions of Article 3 of these Bylaws. Additionally, the Declarant shall deliver to the Association those items specified in the Oregon Planned Community Act to be turned over by the Declarant at the turnover meeting.

**2.7. Transitional Advisory Committee.** The Declarant shall form a Transitional Advisory Committee to provide for the transition of administrative control of the Association from the Declarant to the Class A members. Not later than the sixtieth (60th) day after the Declarant has conveyed Lots representing fifty percent (50%) of all votes in the Project, the Declarant shall call a meeting of Owners for the purpose of selecting a

Transitional Advisory Committee. The committee shall consist of three (3) members. The committee shall have reasonable access to such information and documents as the Declarant is required by law to make available. If the Declarant fails to call the meeting required under this section, any Owner may do so.

The function of the transitional committee shall be to facilitate transition from control of the administration of the Association by the Declarant to control by the Owners. The committee shall have access to the information, documents and records which the Declarant must turn over to the Owners under the Oregon Planned Community Act.

The Declarant shall give notice of the meeting required under this Section 2.7 to each Owner at least seven (7), but not more than fifty (50) days prior to the meeting. The notice shall state the purpose of the meeting and the time and place where it is to be held. If such meeting is not called by the Declarant within the time specified, the meeting may be called and notice given by a Owner. If the Owners, other than the Declarant, do not select members for the committee under this Section 2.7, the Declarant shall have no further responsibility to form the committee.

**2.8. Annual Meetings.** The first annual meeting of the Association shall be held in the calendar year following the calendar year in which the turnover meeting is held and shall be set by action of the Board of Directors. The date for this meeting, at the discretion of the Board of Directors, may be changed from time to time, but must be held annually under the rules and regulations as set out in the Bylaws. At such meetings, new members of the Board of Directors shall be elected by the Owners in accordance with the requirements of Section 3.9 of these Bylaws, to replace those directors whose terms have expired. The Owners may also transact such other business of the Association as may properly come before them.

**2.9. Special Meetings.** It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by twenty-five percent (25%) or more of the Owners having been presented to the Secretary. All meetings called because of petition of Owners shall be held at a formal gathering and not by ballot, and shall be held within sixty (60) days after receipt of the petition. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of all the Owners of the Lots or as otherwise set out in these Bylaws.

**2.10. Notice of Meetings.** It shall be the duty of the Secretary to mail a notice of each annual, special or meeting by ballot, stating the purpose thereof and the time and place where it is to be held, to each Owner of record at least seven (7) but not more than fifty (50) days prior to such meeting or the date when ballots for a ballot meeting are required to be returned. The mailing shall be to the Owner's address last given the Secretary in writing by the Owner or his or her vendee. If Lot ownership is split or the Lot has been sold on a contract, notice shall be sent to a single address of which the Secretary has been notified in writing by such parties. If no address has been given the Secretary in writing, then mailing to the Project Lot address shall be sufficient. The mailing of a notice in the manner provided in this Section shall be considered notice legally served.

**2.11. Adjourned Meetings.** If any gathering of Owners is not a legal meeting because a quorum has not attended, the Owners who are present, either in person or by

proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than ten (10) days from the time the original meeting was called. The adjournment provisions of this Section do not apply to meetings by ballot.

**2.12. Order of Business.** The order of business at annual meetings shall be as follows:

- (a) Roll call.
- (b) Proof of Notice of meeting or waiver of notice.
- (c) Reading of minutes of the preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

### **ARTICLE 3 BOARD OF DIRECTORS**

**3.1. Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons, each of whom must be an Owner of a Lot. An officer or employee of a corporation, or the trustee of a trust, or personal representative of an estate, or an employee of the trust or estate may serve on the Board of Directors, if the corporation, trust or estate owns a Lot.

**3.2. Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Owners.

**3.3. Other Duties.** In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors shall have authority to carry out and be responsible for the following matters:

- **3.3.1** Care, upkeep and supervision of the Common Property.

- **3.3.2** Establishment and maintenance of replacement reserve accounts and other reserves which are required to be maintained by the Oregon Planned Community Act, the Declaration or these Bylaws and such other reserve accounts as are permitted by these Bylaws.

- **3.3.3** Designation and collection of monthly assessments from the Owners, in accordance with these Bylaws, the Declaration and the Oregon Planned Community Act.

**3.3.4** Establishment of a budget and payment of all common expenses of the Association and institution and maintenance of a voucher system for such payment, which shall require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of Association funds.

**3.3.5** Obtaining and maintaining insurance policies and payment of premiums therefor out of the common expense funds in respect to both the Common Property and Living Units as more specifically provided in Article 7 of these Bylaws.

**3.3.6** Designation and dismissal of the personnel necessary for the maintenance and operation of the Project.

**3.3.7** Causing the preparation and distribution of annual financial statements of the Association to each of the Owners as more specifically provided in section 3.6.

**3.3.8** Adoption and amendment of administrative rules and regulations governing the details of operation and use of the Common Property. Provided, however, any such rules or regulations shall always be subject to rescission or amendment by the Association upon majority vote of Owners present at any properly called meeting.

**3.3.9** Causing the Association to comply with the Oregon Planned Community Act relating to maintenance of documents delivered to the Association by the Declarant and maintenance and distribution of financial statements. Also to maintain copies suitable for duplication of the following: Declaration, Bylaws, Association rules and regulations and any amendments thereto, the most recent annual financial statement and the current operating budget of the Association.

**3.4. Limited Authority.** The Board of Directors shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the owners other than the Declarant:

**3.4.1** Entering into a contract with a third party wherein the third person will furnish goods or services for the common area or the Association for a term longer than one year with the following exceptions:

(a) Management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.

(b) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(c) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits short rate cancellation by the insured.

(d) Lease agreements for laundry room fixtures and equipment of not to exceed five years duration provided that the lessor under the agreement is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(e) Agreements for cable television services and equipment or satellite television services and equipment of not to exceed five years duration provided that the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(f) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five years duration provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

**3.4.2** Incurring aggregate expenditures for capital improvements to the common area of any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

**3.4.3** Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

**3.4.4** Paying compensation to members of the Board of Directors or to officers of the Association for services performed in the conduct of the Association's business

