

Exhibit D

MORNINGSIDE COMMONS ASSOCIATION

BY-LAWS

ARTICLE I

General

1.1 Morningside Commons. The property is in the Town of Brattleboro, Windham County, Vermont, and is described in the Amended Declaration of Condominium (“the Declaration”) dated February 15, 1988 and recorded at Book 204, Page 614 of the Brattleboro, Vermont Land Records, and subsequently amended thereafter.

1.2 Definitions and Conflicts. The words and phrases defined in the Declaration shall have the same meaning when used herein. In the event any of the provisions of these By-Laws conflict with the Declaration, the provisions of the Declaration shall control.

1.3 The Association. The Morningside Commons Association (“the Association”) is an unincorporated association formed pursuant to the Condominium Ownership Act for the purpose of maintaining and/or improving the Common Elements and governing their use, and in general administration and enforcing the Declaration, these By-Laws, and the rules and regulations promulgated pursuant thereto.

1.4 Members. An owner of record of a Unit (“Unit Owner”) shall automatically become a member of the Association, and the membership of an owner shall terminate when he, she, or it ceases to be an Owner, with such membership automatically transferred to such member’s successor in interest. All present and future Owners, mortgagees, lessees and occupants of Units, their employees, all associate members and any other persons who may use the Common Elements in any manner, are subject to these By-Laws, the Declaration, the Articles, and the rules and regulations referred to in Section 5.14. The acceptance of a deed, and/or the conveyance, letting, or occupancy of a Unit, shall constitute an agreement that these By-Laws, the Declaration, the Articles, and the rules and regulations, as they may be amended from time to time, are accepted.

ARTICLE II

Board of Directors

2.1 Number and Term. Except as provided in Section 2.4, the Board of Directors, (“the Board”) shall be composed of five persons elected by the Unit Owners. Except as provided in

Section 2.4, a Director shall be an individual, who, alone or with other persons, is an Owner of record of a Unit or Units, or an officer of or partner in an entity which is such an Owner. Each Director shall be elected for a three (3) year term but shall hold office until his successor has been elected.

2.2 Powers and Duties. The Board shall act for and on behalf of the Association in all matters, unless otherwise required by the Declaration, Articles, or these By-Laws, to be decided by the Unit Owners. The Board shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all things related thereto except those specifically restricted by law or by the Declaration, Articles, or by these By-Laws. Such powers and duties of the Board shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep, repair and maintenance of the Common Elements;
- (b) Exercising a right of entry upon any unit to make emergency repairs and upon reasonable notice to do other work reasonably necessary for the proper maintenance or operation of the Condominium pursuant to Section 12 (a) of the Declaration;
- (c) Collection of assessments from the Owners;
- (d) Employment and dismissal of personnel and firms appropriate to the operation and affairs of the Condominium;
- (e) Obtaining insurance and bonds for the Association and Common Elements as provided in Section 5.7;
- (f) Making replacements, additions, improvements or alterations to the Common Elements as provided herein;
- (g) Granting permits, licenses and easements over the Common Elements for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium and acquiring and reallocating easements as necessary for such purposes;
- (h) Determining the Common Expenses appropriate to the affairs of the Condominium including, without limitation, the equitable apportionment of expenses incurred with respect to the Common Elements and other property, and allocating items of income and expense;
- (i) Adoption, amendment, and administration (including waiver) of reasonable rules and regulations covering the operation and use of the Common Elements, and levying or abating fines against Owners for violation thereof, which fines shall be additional Assessments constituting a lien on the Unit as provided in Section 5.5. The amount of each fine shall be determined by the Board, approved by a majority of Unit Owners by vote at the Annual Meeting at which a quorum shall be present, and published in the Rules and Regulations. A fine may be levied for any one violation, but each day a violation continues after notice, shall constitute a separate violation subject to progressive fines;

- (j) Opening of bank accounts on behalf of the Association and designating the signatories required therefore;
- (k) Purchasing, owning, conveying, mortgaging, encumbering, leasing and otherwise dealing with Units;
- (l) Incurring indebtedness to meet operating expenses;
- (m) Bringing or compromising claims or conducting litigation as to any course of action involving the Association or Units owned by the Association or involving the Common Elements, or arising out of the enforcement of the By-Laws, rules and regulations or restrictions in the Declaration; and
- (n) Altering the layout, location, nature, and use of any Common Elements, making installations therein, and moving and removing the same.

2.3 Managing Agent. The Board may employ for the Association a Managing Agent at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including but not limited to those duties described in subparagraphs (a) through (f) of Section 2.2. The Board may delegate to the Managing Agent those powers granted to it by these By-Laws other than the powers set forth in subparagraphs (g) through (n) of Section 2.2.

Any management agreement of the Association may not exceed three (3) years, but may be renewable by agreement of the parties for successive periods of up to three years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee upon not more than (90) days written notice.

2.4 OMITTED INTENTIONALLY

2.5 Removal. At any regular or special meeting of the Association, a Director may be removed for cause by an affirmative vote of a majority of Unit Owners and a successor or successors shall thereafter be elected by the Unit Owners. The term of any Director shall automatically come to an end if, during his or her term of office, he or she shall cease to be an owner of a Unit as provided in Section 2.1.

2.6 Vacancies. Vacancies in the Board caused by reason other than removal of a member by vote of the Unit Owners shall be filled by vote of a majority of the remaining Directors at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall become a member of the Board for the remainder of the term being filled and until a successor is elected.

2.7 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 members of the Board, but at least four (4) such meetings of the Board shall be held during each fiscal year. Meetings shall be held in Brattleboro, Vermont or at some other location convenient for Unit Owners and Board Members to attend. Notice of regular meetings of the Board shall be given to each member of the Board

and each Unit Owner by the Secretary, by mail, e-mail, or telephone, at least ten (10) days prior to the day named for such meeting. Alternative notice to Unit Owners may be given in advance with a written schedule of planned meetings. Emergency meetings of the Board may be called by the President on twenty-four (24) hours notice to each member of the Board, given by mail, e-mail, or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in a like manner, and on like notice, on the written request of any two members of the Board. Any member of the Board may at any time waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him or her of the time and place thereof. Members of the Board may participate in a meeting of the Board by means of conference telephone or similar communications equipment which enables all persons participating in the meeting to hear each other at the same time, and participation by such means shall constitute presence in person at such meeting. If all of the members of the Board are present at any meeting of the Board, no notice to Board Members shall be required and any business may be transacted. Meetings of the Board are open to all Unit Owners except such portion as may be held in executive session for all such purposes permitted by 27 V.S.A. § 3-108 (b) (1) (A) (for example: consultation with attorneys; discussing potential or actual litigation or related proceedings; discussing labor or personnel matters; discussing contracts, leases, etc., including bid review and upon reasonable determination of the board that public discussion would violate the privacy of a person.)

Unit Owners shall be given reasonable opportunity to comment upon matters concerning the Condominium Association. All materials distributed to the Board prior to meeting shall also be made available at the same time to Unit Owners except unapproved minutes or executive session materials.

2.8 Quorum and Voting. At all meetings of the Board, a majority of the members thereof shall constitute a quorum for the transaction of business. Each Director shall have one vote. A majority of the votes cast by members of the Board present and voting at a meeting at which a quorum is present shall constitute the decision of the Board. Any action which might be taken at a meeting of the Board may be taken without a meeting if a written consent to the action is signed by all the Directors. Notice of such action shall be given to each Unit Owner. Such consent shall be treated for all purposes as a unanimous vote of the Board. If at any meeting there is less than a quorum present, a majority of Directors present may adjourn the meeting from time to time; and at any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may then be transacted without further notice.

2.9 Compensation. No member of the Board of Directors shall receive any compensation from the Association for acting as such.

2.10 Liability of Board of Directors. The members of the Board of Directors shall not be liable to the Unit Owners for any mistaken judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, and the Unit Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of contracts made by

the Board of Directors on behalf of the Association, unless any such contracts shall have been made in bad faith or contrary to the provisions of these By-Laws. The liability of the Unit Owners arising out of any act or neglect of the Board, or of any Director, or out of the aforesaid indemnity in favor of the members of the Board of Directors, shall be a common expense. Every agreement made by the Board of Directors or by a Managing Agent, or by a Director on behalf of the Association, shall provide that the party so contracting is acting only as agent for the Unit Owners and shall have no personal liability thereunder. Board members are subject to conflict of interest prohibitions such as are applicable to Trustees of not-for-profit corporations under Vermont law and shall also exercise the standard of care and loyalty required of such Trustees.

ARTICLE III

Unit Owners

3.1 Annual Meetings. Annual meeting shall be held during the month of November each year, and on a day to be designated by the Board of Directors and reflected in the notice provided for in Section 3.4 below. At such meeting the Unit Owners shall transact such business of the Association as may properly come before them.

3.2 Place of Meeting. Meetings of the Unit Owners shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

3.3 Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners when so directed by the Board of Directors, or upon presentation to the Secretary of a petition signed by the Owners of at least twenty (20%) percent of the Units.

3.4 Notice of Meetings. It shall be the duty of the Secretary to give notice by mail, e-mail, hand-delivery or telephone of each annual or special meeting, stating the purpose thereof as to the time, date and place where it is to be held, and a list of agenda items, to each Unit Owner of record at least ten but not more than sixty business days prior to such meeting.

3.5 Adjournment of Meetings. If any meeting of the Unit Owners cannot be held because a quorum (as defined in Section 3.10) has not attended, a majority of the Unit Owners who are present at such meeting, either in person or by proxy, shall adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called and at any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may then be transacted without further notice.

3.6 Consent in Lieu of Meeting. Any action to be taken by the Unit Owners may be taken without a meeting if all Unit Owners entitled to vote on the matter consent to the action by a writing filed with the records of meetings of Owner Units. Such consent shall be treated for all purposes as a vote at a meeting.

3.7 Title to Units. Title to Units may be taken in the name of an individual, or in the names of two or more persons as tenants in common or as joint tenants, or in the name of a corporation or partnership, or in the name of a fiduciary.

3.8 Voting. Each member who has paid all Assessments due on his or her Unit by ten (10) days prior to a meeting of the Unit Owners, and who is otherwise qualified under the Declaration and these By-Laws, shall be entitled to cast the vote appurtenant to such Unit on each matter submitted to a vote at that meeting of members. When any Unit is owned by more than one person or entity in joint tenancy, tenancy in common, or any other manner of joint or common ownership or interest, such persons or entities collectively shall be entitled to cast only one (1) vote, and if such persons or entities cannot jointly agree as to how such vote shall be cast, no vote shall be allowed with respect to such Unit. Unless notified in writing to the contrary, the Association shall be allowed to assume that the vote of one Owner is authorized by the other Owner (s). An Owner may designate some other person to act as proxy on his or her behalf. The designation of any such proxy shall be made in writing to the Secretary and shall be revocable at any time prior to the vote by written notice to the Secretary by the Owner or Owners so designating. In the cases of Units owned by more than one person or entity, the vote of such Unit may be cast, or proxy therefore executed, by any single Owner (or duly authorized fiduciary of an Owner), and in such case the Association shall be entitled to assume that such vote or proxy represents the unanimous vote of the Owners of such Unit.

3.9 Majority of Unit Owners. The vote of a majority of Unit Owners at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where in the Declaration or these By-Laws, or by law, a higher percentage of vote is required.

3.10 Quorum. Except otherwise provided in these Bylaws, the presence in person or in proxy of Owners of 33 1/3 % of Units shall constitute a quorum at all meetings of the Unit Owners.

3.11 Counting of Votes. The vote appurtenant to any Unit shall carry the same weight as the percentage of individual ownership in the Common Elements appurtenant to that Unit. As used herein, the term "majority of Unit Owners" or reference to a given percentage of Unit Owners shall mean those Unit Owners having the applicable percentage of the total authorized votes of all Unit Owners present, in person or by proxy, and voting at any meeting of the Unit Owners. The vote of a majority of Unit Owners at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where the Declaration or these By-Laws, or by law, a higher percentage is required. In the discretion of the Board, a ballot vote (electronic or paper) may be utilized to allow absent Unit Owners to vote.

ARTICLE IV

Officers

4.1 Designation. The principal officers of the Association shall be the President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors from among its membership. The Board of Directors may appoint an assistant treasurer, Vice-President and assistant secretary, as needed, and these other officers need not be members of the Board of Directors.

4.2 Election of Officers. The officers of the Association shall be elected annually by the Board of Directors and shall hold office at the pleasure of the Board of Directors and until their successors are elected.

4.3 Removal of Officers. Upon the 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 may be elected at any regular meeting of the Board, or at any special meeting called for such purpose.

4.4 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Unit Owners and of the Board of Directors; shall have all of the general powers and duties which are incident to the office of President of a stock corporation organized under the Vermont Business Corporations Act, including, but not limited to, the power to appoint committees from among the unit Owners from time to time, as the President may, in his or her discretion decide are appropriate, to assist in the conduct of the affairs of the Association.

4.5 Secretary. The Secretary shall keep the minutes of all meetings of the Unit Owners and of the Board of Directors; shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of Secretary of a stock corporation organized under the Vermont Business Corporations Act.

4.6 Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. He or she shall be responsible for the deposit of all moneys and other valuable effects in the name of the Association, or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors, and shall, in general, perform all the duties incident to the office of Treasurer of a stock corporation organized under the Vermont Corporations Business Act. No payment vouchers shall be paid unless approved by the Treasurer. The Treasurer shall take the place of the President and perform his or her duties whenever the president is absent or unable to act.

4.7 Agreements. Contracts. Deeds, Checks, etc. All agreements, contracts, deeds, leases, or other instruments of the Association, and all checks for amounts in excess of \$1,000, shall be executed by any two officers of the Association, or by any one officer and such other person or person(s) as may (be) designated by the Board of Directors.

4.8 Compensation of Officers. No officer shall receive any compensation from the Association for acting as such.

4.9 Certification. It shall be the duty of the Board of Directors, or any officer or Director, as the case may be, when so requested by any Unit Owner, or any mortgagee of a Unit, to certify to matters relating to the Association. Any instrument signed by members of the Board, as they appear of record, representing a majority of the votes on the Board, and duly attested as the act of the Association, may be relied on as conclusively establishing that such instrument was the free act of the Association, and shall bind the Association. No purchaser, mortgagee, lender or other person dealing with the Board, as they appear of record, shall be bound to ascertain or inquire

further as to the persons who are then members of the Board nor be affected by any notice, implied or actual, relative thereto, other than a recorded certificate thereof, and such recorded certificate shall be conclusive evidence of the members of the Board and of any changes therein. The records of the Association shall be made available to Unit Owners for inspection and copying upon payment of the reasonable expenses for such copying.

ARTICLE V Operation of the Association

5.1 Determination of Common Expenses and Fixing of Common Charges. The fiscal year of the Association shall be a calendar year. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of the Common expenses payable by the Owners to meet the expenses of the Association and, by majority vote, assess such Common Expenses among the Owners according to their respective interests in the Common Elements. The Common Expense, shall include such amounts as the Board Of Directors may deem proper for the operation and maintenance of the Common Elements including, without limitation, an amount for the working capital of the Association, for a general operating reserve for replacements of Common Elements, to pay any taxes or special assessments assessed against the Common Elements, to pay insurance premiums and to cover deductible amounts in any insurance policy, and to make up any deficit in the Common Expenses for any prior year. If during the course of any year, it appears to the Board that the Common Expenses previously assessed are insufficient, then the Board shall prepare a supplemental budget, and the expenses thereof shall likewise be assessed among Owners. It is anticipated that a supplemental budget will be necessary upon the annexation of each new Phase. The Board of Directors shall advise all Owners promptly of the amount of the Common Expenses assessed to and payable by each of them, and shall furnish copies of each budget on which such Common Expenses are based to all Owners and to any of their mortgagees who so request in writing. A meeting of all Unit Owners shall be scheduled not less than ten (10) days following and no more than sixty (60) days following adoption of such budget by the Board. The purpose of the meeting is whether to ratify the adopted budget.

5.2 Allocation of Common Expenses

- (a) The Board of Directors shall determine the budget for the fiscal year to determine total annual Common Expenses;
- (b) The total budgeted Common Expenses for each fiscal year shall be divided by twelve to determine the monthly Common Expenses;
- (c) The monthly Common Expenses shall be assessed to each Unit Owner in proportion to the percentage of undivided interest in the Common Elements appurtenant to that Owner's Unit as shown on Exhibit C to the Declaration, as amended.

5.3 OMITTED INTENTIONALLY

5.4 Operating Reserve. The Board of Directors shall build up and maintain an adequate operating reserve and reserve for periodic maintenance, repair, and replacement of the Common Elements ("the Reserve"), which shall be funded by regular monthly payments allocated from Common Expense assessments. At the end of each fiscal year, all reserve funds accumulated during such year shall be placed in a separate bank account, segregated from the general operating funds, and used only for such purposes. If for any reason, including non-payment of any Owner's assessment, the reserves are inadequate, the Board of Directors may at any time levy a further assessment as provided in Section 5.1. The Board shall maintain the Reserve, in an amount sufficient, at a minimum, to cover the following items:

(a) The total of all deductible amounts under all insurance policies maintained by the Association; and

(b) An appropriate reserve for replacement of Common Elements with a limited useful life, determined with reference to the estimated useful life and replacement cost of each item of Common Elements as determined by the Board.

5.5 Payment of Common Expenses. Owners shall pay the assessed Common Expenses monthly in advance, or at such other times as the Board shall determine, without notice other than as provided in Section 5.1, and without any right of set off or counterclaim. If an Owner fails to pay such assessment when due, the amount thereof, with interest, costs, and reasonable attorney's fees, shall constitute a lien on such Owner's Unit. No person shall be liable for the payment of an assessment of Common Expenses made after the person has conveyed his or her unit to a new Owner. Such person shall, however, be personally liable for Common Expenses assessed prior to a conveyance. A conveyance for this purpose shall be deemed to occur when the deed is recorded. In a voluntary conveyance of a Unit, a purchaser of a unit shall be jointly and severally liable with the seller for the payment of unpaid assessments against the latter, without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefore. Nevertheless, a purchaser may request a statement from the Board of Directors setting forth the amount of the unpaid assessments against the seller, and the purchaser shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the seller in excess of the amount set forth in such statement. A sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer, and the new Owner shall have no liability for such unpaid assessments. The foregoing limitation shall not prevent the subsequent pro rata assessment among all Owners, including a new Owner who takes (possession) pursuant to a foreclosure of a first mortgage, of such unpaid assessments.

5.6 Collection of Assessments. The Board shall take prompt action to collect any assessments due from any Owner which remain unpaid for more than 30 days from the due date for payment thereof. If an Owner defaults in paying his or her assessment, he or she shall pay interest at the rate of 1.5% per month on such assessment from the due date thereof, together with all expenses, including reasonable attorney's fees, incurred by the Board in any collection proceeding. The Board may recover such assessment, together with interest thereon, and the expenses of the proceedings, including reasonable attorney's fees, in an action at law or in equity to recover the same brought against such Owner, or by foreclosure of the lien on such Unit. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing

or waiving the lien securing the same. In the event of foreclosure of the Association's lien, the Owner of a foreclosed Unit may be required to pay a reasonable rental for the Unit, and the Board of Directors shall be entitled to the appointment of a receiver to collect such rental.

5.7 Insurance and Fidelity Bonds. The Board shall obtain and maintain, to the extent obtainable, the following policies of insurance covering the interests of the Association, the Board, and all unit Owners and their mortgagees (provided the Board is given written notice of such mortgagees), as their interests may appear:

(a) Property damage insurance covering: (i) all of the Common Elements, including the limited common areas, except that land, foundation, excavation, and other items normally excluded from coverage need not be covered; (ii) fixtures and building service equipment to the extent they are part of the Common Elements; (iii) personal property and supplies belonging to the Association; and (iv) such fixtures, equipment, and/or other property as are considered to be part of a Unit for the purposes of sale, purchase, or mortgage of such unit (for example, such kitchen appliances and other mechanical and electrical equipment as are originally installed in the Units by the Declarant and subsequent replacements therefore). Except as herein provided, furniture, furnishings, or other household or personal property installed by Unit Owners shall not be covered by such policy. Such property damage insurance shall cover 100% of the current replacement cost of all items listed herein, and shall, as a minimum, insure against loss or damage by all perils normally covered by the standard "all risk" endorsement. The Board shall redetermine the current replacement cost of such items annually.

The Board shall obtain the following endorsements, or their equivalent, to the extent available and applicable

(i) Agreed Amount and Inflation Guard Endorsements;

(ii) Construction Code Endorsements, if any provision of applicable construction of building codes requires changes to undamaged portions of any insured building even when only a portion of the Condominium is destroyed by an insured hazard; ~, Demolition Cost Endorsement, Contingent Liability from Operation of Building Laws Endorsement, and Increased Cost of Construction Endorsement; and

(iii) Steam Boiler and Machinery Coverage Endorsement, with coverage at least equal to the lesser of \$2,000,000 or the insurable value of the building housing the boiler or machinery coverage.

(iv) Special Condominium Endorsement, or its equivalent, which should provide, as a minimum, that:

-Any Insurance Trust Agreement will be recognized;

- The insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Association; and

-The policy will be primary, even if a Unit Owner has other insurance that covers the

same loss;

-The right of subrogation against Unit Owners will be waived;

- The maximum deductible for such policy shall be the lesser of \$10,000 or one (1%) percent of the policy face value.

(b) Flood Insurance, if any part of the Condominium is in a special flood hazard area as shown on any applicable map issued by the National Flood Insurance Administration. Such flood insurance shall be a "master" or "blanket" policy covering all buildings and other Common Elements in an amount at least equal to the lesser of 100% of the insurable value or the maximum coverage available under the appropriate National Flood Insurance program. The maximum deductible amount for such a policy shall be the lesser of \$5,000 or one (1%) percent of the policy face amount.

(c) Workmen's Compensation Insurance if applicable;

(d) Comprehensive general liability insurance covering all Common Elements, public ways, and any other areas that are under the Association's supervision, insuring the Association, the Board, the officers, the managing agent, if any, and the unit Owners. Such policy shall provide for at least \$1,000,000 of coverage per occurrence for bodily injury, death, or property damage, with such higher limits as the Board deems prudent from time to time. Coverage under the policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and death of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association. The maximum deductible shall be the lesser of \$10,000 or one (1%) percent of the policy face amount. The policy shall include "severability of interest" in its terms or a specific endorsement to preclude the insurer's denial of a unit Owner's claim because of negligent acts of the Association or other Unit Owners.

e) A blanket fidelity bond, for all officers, agents or employees of the Association handling or responsible for Association funds. The Association shall be named as the obligee on the bond. If the Association should employ a Managing Agent that handles funds for the Association the Board shall require that such Managing Agent purchase a fidelity bond naming the Association as an additional obligee, and shall require deposit of a current certificate of coverage with the Board. Any fidelity bond provided in accordance with the Section shall cover the maximum amount of funds that will be in the custody of the Association or its Managing Agent during the period covered by the bond, but such coverage shall be for no lesser amount than the sum of three months' assessments on all Units, plus the amount in the Working Capital Fund. The maximum deductible for such bond shall be the lesser of \$10,000 or one (1%) percent of the policy face amount.

(f) Such other insurance as the Board may determine.

The premiums on all policies and bonds listed above shall constitute a Common expense. Funds sufficient to cover the deductible amounts shall be included in the Association's Operating Reserve.

All such policies or bonds shall show the following named insured: "Morningside Commons Association, for the use and benefit of the individual Owners", and shall provide that adjustment of loss shall be made by the Board and that the net proceeds thereof shall be payable to the Association. The Board shall receive, hold, and dispose of any proceeds of insurance in trust for Unit owners and their mortgagees, as their interests may appear. In the event proceeds are to be distributed pursuant to the provisions of applicable law, the Declaration, or these By-Laws, the Board shall distribute such proceeds to the Unit Owners or their mortgagees, as their interests may appear. Notwithstanding anything to the contrary contained therein, no provision of these By-Laws and rules and regulations hereto, the Declaration or the Unit Deeds shall give any Unit Owner, or any other party, priority over any rights of the first mortgagee of the Unit, pursuant to its mortgage, in the case of a distribution to such Unit Owner of insurance proceeds for losses to Units and/or Common Elements.

All policies of insurance obtained by the Board shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all eligible holders. Certificates of such insurance and all renewals thereof, together with proof of payment of premiums, shall be delivered to Unit Owners and their mortgagees upon request.

In obtaining and maintaining the insurance coverage referred to in this Section, the Board shall be entitled to rely on the advice and/or judgment of any independent insurance broker or Agent.

Each Unit Owner shall promptly notify the Board of any and all improvements valued in excess of \$1,000.00 to be made to his or her Unit. Such notice shall state in reasonable detail the nature of the improvements and the value thereof. Upon notification of such improvements to be made to a Unit, the Board shall promptly notify the insurer of the Condominium, and, if appropriate increase the amount of insurance coverage. Any increase in insurance premiums resulting from such improvements may be assessed and paid by the Unit Owner making the improvements in addition to the regular monthly assessment.

Owners may carry insurance for their own benefit insuring their furniture, furnishings and other personal property. Nothing shall be done by an Owner which will increase the rate of, or cause the cancellation of insurance on, all or any part of the Common Elements, nor shall the liability of the carriers issuing insurance obtained by the Board be affected or diminished by reason of any such insurance carried by any Owner.

Any insurance obtained by the Board with respect to the Common Elements or occurrences thereon shall include a clause or endorsement denying the insurer rights of subrogation against a Unit Owners to the extent rights have been waived by the insured hereunder prior to occurrence of injury or loss. Any insurance obtained by any Unit Owner insuring his or her furnishings or owner personal property shall include a clause or endorsement denying the insurer rights of subrogation against the Association and other Unit Owners to the

extent rights have been similarly waived hereunder. Notwithstanding any provisions of the Declaration or these By-Laws to the contrary, the Association and each of the Unit Owners hereby waive any rights of recovery that each may have against any other for injury or loss due to hazards covered by such insurance to the extent of the indemnification received thereunder.

5.8 Maintenance and Repairs.

(a) All maintenance and replacement of and repairs to any Unit shall be performed by the Unit Owner at the Unit Owner's sole expense.

(b) All maintenance, repairs, and replacements to the Common Elements, including emergency works, shall be performed by the Board and shall be charged to all the Owners as a common expense, except to the extent that the same are necessitated by the negligence, misuse or neglect of a member, in which case such expense shall be charged to such member.

(c) The Association shall also be responsible for maintaining the lighted walkway from the recreation area to the Southerly portion of Royal Road, and for maintaining all fire hydrants located on the Common Elements.

5.9 Restrictions on Use of Units and Common Elements.

(a) The Common Elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incidental to the use and occupancy of units.

(b) Parking shall be prohibited on either side of the interior road that passes through the Condominiums, and the Town of Brattleboro shall be permitted to designate a fire lane or lanes on the sides of such roads. Parking shall also be prohibited within 6 feet of any fire hydrant.

(c) No nuisance or noisy, immoral, improper, offensive, or unlawful use shall be made of the Condominium or any Unit or part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Condominium, shall be cured promptly by and at the sole expense of the Unit Owner or the Board, whichever shall have the obligation to maintain the portion of the Condominium in violation.

(d) No Unit Owner may lease less than the entire Unit, nor may a unit be leased for a period of less than 30 days. Any lease agreement for a Unit shall be in writing and shall provide that the terms of the lease are subject in all respects to the provisions of the Master Deed, these By-Laws, and rules and regulations pursuant hereto, and that any noncompliance therewith by the lessee shall constitute a default under the lease. Other than the foregoing, no restriction is placed upon the right of a Unit Owner to lease his or her Unit.

5.10 Improvements.

(a) If fifty percent or more but less than seventy-five percent of the Unit Owners agree to

make an improvement to the Common Elements, the cost of such improvement shall be borne solely by the Unit Owners so agreeing.

(b) Seventy-five percent or more of the Unit Owners may agree to make an improvement to the Common Elements and assess the cost thereof to all Owners' as a Common expense.

5.11 Additions, Alterations, or Improvements by Unit Owners. No Unit Owner shall make any structural addition, alteration, or improvement in or to his unit, without the prior consent thereto of the Board, which consent shall not unreasonably be withheld. The Board shall answer any written request by a unit Owner for consent under this Section within thirty (30) days after such request, and failure to do so shall constitute a consent by the Board to the proposed addition, alteration, or improvement; notwithstanding the foregoing, however, no Unit Owner may do any work which would jeopardize the soundness or safety of the Condominium, reduce the value thereof, or impair an easement or hereditament without first obtaining the unanimous consent of all the Unit Owners, and no consent by the Board to, or failure of the Board to respond to a request for approval of any such work, shall result in any liability of the Association, the Board, or the individual directors for damages occasioned by such work. Any application to any department of the Town of Brattleboro, or to any other governmental authority, for a permit to make an addition, alteration, or improvement in or to any Unit, shall be executed by the Board alone, without, however, incurring any liability on the part of the Board or any of them to any contractor, subcontractor, or materialman on account of such addition, alteration, or improvement, or to any person having any claim for injury to person or damage to property arising therefrom.

5.12 Right of Access. Each Unit Owner hereby grants a right of access to his Unit to any person authorized by the Board, for the purpose of making inspections or for the purpose of correcting any conditions originating in his Unit and threatening another Unit or any of the Common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements or for inspecting or exterminating vermin or pests, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

5.13 Water, Gas, Electricity. Each unit Owner shall pay for separately metered electric, gas, and water and sewer service to his Unit. Services to the Common Elements shall be separately metered, and shall be a common expense.

5.14 Rules and Regulations. The Board of Directors may from time to time adopt the Rules and Regulations governing the operating and use of the Common Elements and may amend or rescind the same as they deem necessary or desirable. Copies of Rules and Regulations and any amendments thereto shall be furnished to each Owner prior to the time when the same shall become effective.

ARTICLE VI Transfer

6.1 No Severance of Ownership. No unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his or her Unit, without including therein the interest of such Unit Owner in the Common Elements and other assets of the Association, it being the intention hereof to prevent any severance of such combined ownership; nor shall any Owner so convey his or her Unit without reference to the easements, restrictions, and covenants contained in the Declaration and any amendments thereto.

6.2 Purchase of Units by Board of Directors. Acquisition of Units by the Board on behalf of the Association may be made from the working capital or any reserve of the Association, or if such funds are insufficient, the Board may levy an assessment against each unit Owner as a common expense, or the Board, in its discretion, may borrow money to finance the acquisition of such Unit, provided, however, that no financing may be secured by an encumbrance of any property other than the Unit, together with its appurtenant interests, so to be acquired by the Board. The decision to acquire any unit shall be by vote of at least seventy-five percent of all Unit Owners at a special meeting called for that purpose, such majority to be calculated by excluding the interest of any Unit which the Board is considering for purchase.

Any Unit or Units owned by the Association shall not be Common Elements, but shall be held of record in the name of the Association, or a nominee. Units owned by the Association shall not be entitled to vote.

No right of first refusal or similar restriction in favor of the Association shall be imposed upon the right of the unit Owners to sell, transfer, or otherwise convey their units.

6.3 Payment of Assessments. No Owner shall sell, mortgage, lease or otherwise convey his Unit until he shall have paid in full to the Board all unpaid assessments against his Unit.

ARTICLE VII Condemnation

In the event of a total or partial taking of the Condominium by eminent domain, the Unit Owners shall be represented by the Board of Directors. Any resulting award (or proceeds of settlement) shall be payable to the Board. The award shall be allocated among the respective Unit Owners (or their mortgagees, as their interests may appear) in proportion to their percentage interests in the Common Elements, except as to any portion or portions of the award attributable to direct or consequential damages suffered by particular Units, which shall be payable to the Owners of such units or their mortgagees, as their interests may appear. Allocations of such awards to Unit Owners shall be applied first to payment of any outstanding liens of the Association on such Owner's Unit prior to disbursement. Notwithstanding anything to the contrary contained herein, no provision of these By-Laws and rules and regulations hereto, the Declaration or the Unit Deeds shall give any Unit Owner or any other party, priority over any rights of the first mortgagees of the Unit, pursuant to its mortgage, in the case of a distribution to such Unit Owner of condemnation awards for taking of Units and/or Common Elements.

ARTICLE VIII

Records

The Board of Directors shall keep or cause to be kept minutes of the meetings of the Board of Directors, minutes of the meetings of the Unit Owners, and financial records and books of account of the Association, including a chronological listing of receipts and expenditures specifying and itemizing the maintenance and repair expenses relating to the Common Elements, and any other expenses incurred, as well as a separate account for each Unit, which, among other things, shall contain the amount of each assessment of common charges against such Unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. An annual report of the receipts and expenditures of the Association shall be rendered by the Board of Directors to all unit Owners promptly after the end of each fiscal year. The minute books, financial records, and payment vouchers, as well as copies of the Declaration, these By-Laws, and any rules and regulations hereunder, (as the same may be amended from time to time), shall be maintained at the office of the Board of Directors and shall be available for inspection by Unit Owners, the holder, insurer, or guarantor of any first mortgage on a Unit, and the authorized agents of any of them during business hours. If any such holder, insurer, or guarantor so requests in writing, the Board of Directors shall provide it with an audited financial statement for the Association for the preceding fiscal year.

