When recorded, return to:
The Capes Homeowners' Association
605 Capes Dr.
Tillamook, OR 97141

Tillamook County, Oregon
09/14/2026 01:26:49 PM
2026-004162
DEED-BYLAA
$85.00 $11.00 $61.00 $30.00 - Total =$187.00
00262243202600041620170175
I hereby certify that the within instrument was received for record and recorded in the County of Tillamook, State of Oregon.
Christy Nyseth, Tillamook County Clerk

FIFTH AMENDED AND RESTATED BYLAWS

THE CAPES HOMEOWNERS' ASSOCIATION, INC.

Adopted
September 8, 2026

(Amending Bylaws previously recorded in Tillamook County, Oregon on October 29, 2010 with recording number 2010-006541)

FIFTH AMENDED AND RESTATED BYLAWS
THE CAPES HOMEOWNERS' ASSOCIATION, INC

ADOPTED
SEPTEMBER 8, 2026
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FIFTH AMENDED AND RESTATED BYLAWS
THE CAPES HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
DEFINITIONS

In construing these Bylaws,

1.1 "**Architectural Review Committee**" means the committee appointed pursuant to Article VII of the Declaration.
1.2 "**Association**" means the Corporation as defined in these Bylaws.
1.3 "**Board**" means the Board of Directors of this Corporation constituted in accordance with Article V of these Bylaws.
1.4 "**Membership**" means all Owner
1.5 "**Common Areas**" means those tracts designated as "tracts" or "common area" or "open space" on any plat of the Property subject to this Declaration, or in any declaration annexing property to The Capes, including any Improvements thereon. The Common Areas shall include all areas designated Common Area on the Plat of The Capes, all roads, Manager's House, Bridge House, properties so designated by recorded amendment (including Lots 1, 2, 131, and 172), parking areas and a gate as shown on the plat subject to this Declaration.
1.6 "**Corporation**" means The Capes Homeowners' Association, Inc., an Oregon nonprofit corporation.
1.7 "**Declaration**" means the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Capes, and all of the easements, covenants, restrictions and charges set forth therein, together with any rules or regulations promulgated thereunder, as the same may be amended or supplemented from time to time in accordance with the provisions thereof.
1.8 **"Director"** means a director of the Corporation as described in and elected in accordance with Article V of these Bylaws.
1.9 **"Improvement"** means every temporary or permanent structure or improvement of any kind, including but not limited to any fence, wall, driveway, swimming pool, landscaping, storage, shelter or other product of construction efforts on or pertaining to the Property, and every alteration, painting or reconstruction thereof.
1.10 **"Lot"** means a platted or partitioned lot within the Property, including both Attached Lots and Detached Lots, and a Condominium Unit, with the exception of any tract or Lot marked on a plat of the Property as being common or open space or so designated in the Declaration or the declaration annexing such property to The Capes.
1.11 **"Officer"** means an officer of the Corporation as described in and elected in accordance with Article VI of these Bylaws.
1.12 **"Owner"** means the person or persons owning any Lot in the Property, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Lot or a vendor under a land sales contract who has relinquished possession to a vendee. The rights, obligations and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an owner from obligations incurred prior to termination.
1.13 **"President"** means the President of the Corporation as described in Article VI, Section 5 of these Bylaws.
1.14 "**The Property**" means The Capes as defined in the Declaration.

1.15 "**Secretary**" means the Secretary of the Corporation as described in Article VI, Section 6 of these Bylaws.

1.16 "**Sold**" means that legal title has been conveyed or that a contract of sale has been executed and recorded under which the purchaser has obtained the right to possession.

1.17 "**Treasurer**" means the Treasurer of the Corporation as described in Article VI, Section 7 of these Bylaws.

ARTICLE II
OFFICES

The principal office of the Corporation in the State of Oregon shall be located in the City of Portland, County of Multnomah. The Corporation may have such other offices, either within or without the State of Oregon, as the Board may determine or as the affairs of the Corporation require from time to time. The Corporation shall have and continuously maintain in the state of Oregon a registered office, and a registered agent whose office is identical with such registered office, as required by the nonprofit corporation laws of the State of Oregon. The registered office may be, but need not be, identical with the principal office in the State of Oregon, and the address of the registered office may be changed from time to time by the Board.

ARTICLE III
MEMBERSHIP, VOTING RIGHTS, AND POWERS AND OBLIGATIONS

Section 1. Membership. Every Owner of one or more Lots within the Property shall be a member of the Association. Such membership shall commence, exist and continue simply

Section 2. Voting Rights. Voting rights within the Association shall be allocated as follows:

- **(a)** Lots shall be allocated one vote per Lot.
- **(b)** When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more voting rights be cast with respect to any Lot.

Section 3. Powers and Obligations. The Corporation shall have, exercise and perform all of the following powers, duties, and obligations:

- **(a) Declaration.** The powers, duties and obligations granted to the Corporation by its Articles of Incorporation, the Declaration, and these Bylaws.
- **(b) Statutory Powers.** The powers, duties, and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Oregon and of a homeowners association of a planned community pursuant to the Oregon Planned Community Act, as either or both may be amended from time to time.
- **(c) General.** Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Corporation pursuant to the Declaration or otherwise promoting the general benefit ofthe Owners within the Property. The powers and obligations of the Corporation may from time to time be amended, repealed, enlarged or restricted by changes in the Declaration made in accordance with the provisions therein, accompanied by changes in the Articles of Incorporation of the Corporation or these Bylaws made in accordance with such instruments of Oregon.

ARTICLE IV
MEETINGS OF OWNERS

Section 1. Annual. Meetings. A meeting of Owners shall be held annually in the month of April. Such meeting shall be called in accordance with Section 2 below.

Section 2. Notice of Meeting. Any meeting held pursuant to this Article IV shall be held on such date, at such time, and at such place within Oregon as may be designated by the Secretary. Written or electronic notice of each meeting of the Owners under this Article IV shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days before such meeting, to each Owner entitled to vote, addressed to the Owner's address last appearing on the books of the Corporation, or supplied by such Owner to the Corporation for the purpose of notice, and to any mortgagee having requested notice thereof: Mortgagees (as such term is defined in the Declaration) may designate a representative to attend a meeting called under this Section 2. Such notice shall specify the place, day, and hour of the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, or any proposal to elect or remove a Director or Officer. Notice of any such meeting may be waived by any Owner at any time. No Owner who is present at a meeting may object to the adequacy or timeliness of the notice given.

Section 3. Proxies; Quorum; Voting. Any Owner may give a proxy to any person, so long as such proxy is in writing, dated, and signed by such Owner, and filed with the Secretary. A proxy shall expire on the earlier of (a) 11 months after the date of the proxy or (b) the date of the sale of the Owners Lot by its Owner. The presence, in person or by proxy, of Owners together entitled to cast at least twenty percent (20%) of the total votes entitled to be cast at any meeting shall constitute a quorum. The affirmative vote of a majority of the votes represented and voting shall constitute the act of the Owners. Voting of the Owners may be by mail with respect to any matter before the Owners. In any case in which voting by mail is necessary or desirable, the Secretary shall give written notice to all Owners, which notice shall (a) include a written resolution setting forth the proposed action, (b) state that the Owners are entitled to vote by mail for or against such resolution, and (c) specify a date not less than-fifteen (15) days after the date of such notice by which all votes must be received at the registered office of the Corporation. Votes received after the date specified shall be of no effect.

Section 4. Annual Meetings. At any annual meeting of Owners, the President, and any other Officer the Board or the President may designate, shall report on the activities and financial condition of the Corporation.

Section 5. Special Meetings. Special meetings of the Owners may be called at any time by the President or a majority of the Board, or upon written request of at least twenty-five percent (25%) of all Owners who are entitled to vote.

ARTICLE V
BOARD OF DIRECTORS

Section 1. General. The affairs of the Corporation shall be managed by the Board, which shall be comprised of the number of Directors determined as provided in Section 2 of this Article V. The Board shall have all requisite power, duty and authority to perform its obligations under the Declaration, including, without limitation, the power, duty, and authority to enforce the provisions of the Declaration and to acquire and pay for, out of the funds provided by assessments pursuant to the Declaration, all goods and services necessary or appropriate for the proper functioning of the Corporation in accordance with the Declaration.

Section 2. Election of Directors. The Board shall consist of seven (7) Directors, all of whom shall be elected by the Owners. All Directors must be Owners. All Directors shall be elected by a majority vote of the Owners taken at the annual meeting or at a special meeting called therefor, with each Owner entitled to the votes specified in Article III above.

Section 3. Terms of Directors. All Directors shall serve three-year terms. Any Director may serve more than one term.

Section 4. Resignation. Any Director may resign at any time by sending a written notice of such resignation to the Secretary. Unless otherwise specified in such notice, a resignation shall take effect upon receipt of the notice by the Secretary.

Section 5. Vacancies. Vacancies on the Board caused by the death or resignation of a Director shall be filled by vote of the majority of the remaining Directors, even if they constitute less than a quorum. Any Director so elected shall serve the remainder of the replaced Director's term.

Section 6. Action by Written Ballot. Unless prohibited or limited by the Articles of Incorporation of the Association, any action that may be taken at any annual or special meeting of the Owners may be taken without a meeting if the Association delivers a ballot to every Owner entitled to vote on the matter as provided in ORS 94.647, except action by ballot may not substitute for an annual meeting, a meeting to remove a director or special meeting called at the request of the Owners. Such ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. A proposed action shall be deemed to be approved by ballot when the number of votes cast by ballot equals or exceeds any quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The Board must provide Owners with at least ten (10) days' notice as required by ORS 94.647(2)(c) before ballots are mailed or otherwise delivered. If, at least three (3) days before ballots are scheduled to be mailed or otherwise distributed, at least ten percent (10%) of the Owners petition the Board requesting secrecy procedures, then the Board shall institute procedures to safeguard the anonymity of owners with respect to any written or electronic ballot cast. Ballots that are returned using secrecy procedures may not be examined or counted before the date certain specified in the solicitation or any extension thereof.

Section 7. Meetings of the Board.

7.1 All meetings of the Board shall be open to all Owners, except for Executive Sessions of the Board held to discuss personnel matters, pending litigation and/or other matters permitted by law for Executive Session. For other than emergency meetings, notice of Board meetings shall be mailed to all Owners, at the last address for each Owner in the records of the Corporation, not less than seven (7) days before the meeting; or posted at a place or places on the Property at least three (3) days prior to the meeting; or provided by a method (such as posting on The Capes internet site and/or e-mail) otherwise reasonably calculated to inform Owners of the meeting. Emergency meetings may be held without notice, if the reason for the emergency is stated in the minutes of the meeting. Only emergency meetings of the Board may be conducted by telephonic communication.

7.2 The Board shall meet at least annually, within thirty (30) days after each annual meeting of the Owners. At each annual meeting, in addition to the actions required by Article X of the Declaration, the Treasurer shall present to the Board a report on the financial condition of the Corporation, including a report of receipts and disbursements for the preceding calendar year, the allocation thereof to each Lot, and the estimated receipts and expenses for the coming year.

7.3 Special meetings of the Board may be called at any time by the President or two Directors. Such meetings shall be scheduled by the Secretary within thirty (30) days after the Secretary's receipt of written requests signed by two or more Directors; provided that if the purpose of a special meeting is to elect a successor Secretary pursuant to Section 2 of Article VI or to consider removal of the Secretary pursuant to Section 3 of Article VI, such meeting may be scheduled by the President or, if the meeting is also for the purpose of electing a successor President or removing the President, any other Director.

7.4 Meetings of the Board shall normally be held at The Bridge House on The Capes property, or when necessary, at such place within Oregon as may be designated from time to time by the Board.

7.5 Except for emergency meetings, the Secretary shall give written and/or email notice to each Director of each Board meeting at least seven (7), but not more than thirty (30), days prior to the date set for such meeting, stating the purpose, time, and place of the meeting. Notice shall be sent to the address of each Director as listed on the books of the Corporation, or to such other address as any Director may designate by written notice to the Secretary given at least ten (10) days prior to the giving of notice of the meeting. Notice of any meeting may be waived by any Director at any time. No Director who is present at a meeting may object to the adequacy or timeliness of the notice given. When a meeting is adjourned for fewer than thirty (30) days, whether or not a quorum is present at the adjourned meeting, no notice of the resumption or reconvening of such adjourned meeting need be given other than by announcement at the meeting at which such adjournment takes place.

Section 8. Voting by the Board. Each Director shall have one vote. So long as a quorum is constituted, the vote of Directors together holding more than fifty percent (50%) of the total votes shall be a binding vote of the Board for all purposes, unless a greater percentage is required by law or the Declaration.

Section 9. Quorum. The presence in person of a majority of the Directors shall constitute a quorum for voting at a Board meeting. The Board shall have the power to adjourn a meeting even if less than a quorum is present.

Section 10. Removal. Any Director may be removed, with or without cause, by the affirmative vote of Owners present and entitled to vote at any meeting of the owners at which a quorum is present. No removal of a Director is effective unless the matter of removal was included in the notice of the meeting. At such meeting, the Owners shall elect a replacement Director to serve the remainder of the replaced Director's term.

ARTICLE VI
OFFICERS

Section 1. Officers. The Officers shall be the President, the Vice-President, the Treasurer, and the Secretary, each of whom shall be Directors and Owners and shall be elected by the Board. The same person may not concurrently hold more than one office. The Board may designate such additional Officers as it deems appropriate.

Section 2. Election and Term of Office. The Officers of the Corporation shall be elected annually by the Board and shall hold office at the pleasure of the Board and until their successors are elected and qualified. If any office becomes vacant, the Board shall elect a successor to fulfill the unexpired term at a special meeting of the Board called for such purpose.

Section 3. Removal. The Board may remove any officer, at any time, with or without cause, and a successor may be elected at a special meeting of the Board called for such purpose.

Section 4. Compensation. Except for reimbursement of out-of-pocket expenses incurred on behalf of the Corporation, no officer or Director of the Corporation shall receive any compensation for serving in such capacity.

Section 5. President. The President shall be the chief executive officer of the Corporation. The President shall preside at all meetings of the Board, and, except to the extent otherwise provided in the Declaration, shall have all of the general powers and duties normally incident to the office of the chief executive officer of a corporation

Section 6. Secretary. The Secretary shall keep the minutes of all proceedings of the Board and all other Corporation records and shall attend to the giving of all notices to the Board and other notices pursuant to these Bylaws or the Declaration or required by law. The Secretary shall perform all other duties incident to the office of secretary of a corporation or as may be directed by the Board.

Section 7. Treasurer. The Treasurer shall be ultimately responsible for Corporation funds and shall, with the assistance of The Capes manager, keep full and accurate financial records and books of account sufficient for proper accounting purposes showing all receipts and disbursements necessary for the preparation of all financial data and tax returns. The Treasurer shall be ultimately responsible for the deposit of all Corporation funds in such depositories as may from time to time be designated by the Board, and shall disburse Corporation funds for such purposes as may be permitted under these Bylaws or the Declaration. The Treasurer shall be the primary check-signer and contract-signer for the Corporation, responsible for verifying that funds have been budgeted for the applicable expenditure/contract before signing any check or contract. The Treasurer shall perform all other duties incident to the office of the Treasurer of a corporation or as may be directed by the Board.

Section 8. Vice President. The Vice President shall perform tasks as directed by the President. The Vice President shall perform all duties at the expense of the Corporation.

ARTICLE VII
SHARES OF STOCK AND DIVIDENDS PROHIBITED

The Corporation shall not have or issue shares of stock. No dividends shall be paid and no part of the income of the Corporation shall be distributed to its Directors or Officers, or to the Owners.

ARTICLE VIII
LOANS TO DIRECTORS AND OFFICERS PROHIBITED

Section 1. No Loans to Directors or Officers. No loan shall be made by the Corporation to its Directors or Officers. The Directors of the Corporation who vote for or assent to the making of a loan to a Director or Officer of the Corporation, and any Officer or Officers participating in the making of such loan, shall be jointly and severally liable to the Corporation for the amount of such loan until the repayment thereof.

Section 2. Contribution; Subrogation. Any Director against whom a claim shall be asserted under or pursuant to this Article VIII shall be entitled to contribution from the other Directors who voted for the action upon which the claim is asserted. To the extent that any Director is required to pay such claim, he shall be subrogated to the rights of the Corporation against the debtor on the loan

ARTICLE IX
CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section 1. Contracts. The Board may authorize, by vote during a regular or emergency meeting, the President, Secretary or Treasurer of the Corporation, or in their confirmed absence any other Officer of the Corporation, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. An official contract in proper legal form shall be the normal instrument to secure services/goods for expenditures of the Corporation that exceed $2,500. Among other things, such contracts may provide for the employment of personnel necessary for the maintenance, upkeep, and repair of the Common Areas and certain maintenance on the attached units as provided in the Declaration. All expenditures of $2,500 or more require prior approval by a majority of the Board. For budgeted expenditures of the Corporation less than $2,500, services/goods may be procured by the Corporation without the need for a vote by the Board, must be evidenced by a term-sheet signed by an authorized representative of the Corporation and the vendor involved. Such authorized representatives must be the Corporation's Officers, employee(s), and/or committee chairs. The term-sheet shall specify services/goods requested, anticipated date of completion/delivery of the services/goods, and agreed upon price.

Section 2. Checks. Drafts. Etc. All checks, vouchers, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation (collectively, "Instruments") shall be routinely signed or authorized (which may be by electronic means) by the Treasurer, provided that in the absence or unavailability of the Treasurer, the President, Secretary or other duly authorized Officer may alternatively sign or authorize (which may be by electronic means) checks or other Instruments that are needed for urgent delivery or payment before the Treasurer's return or availability. Any check or other Instrumentissued by the Association in excess of $14,999 shall be co-signed or co-authorized (which may be by electronic means) by the Treasurer and any of the President, Secretary or other duly authorized Officer.

Section 3. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

Section 4. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the Corporation.

ARTICLE X
ARCHITECTURAL AND DESIGN CONTROL

Section 1. Establishment of the Architectural Review Committee. The Architectural Review Committee shall consist of as many owners, but not less than three (3), as the Board may appoint from time to time. The Board Directors shall be responsible for recruiting owners to serve on the Architectural Review Committee. The Corporation shall keep on file at its registered office a list of the names and addresses of the members of the Architectural Review Committee. If the Board has assumed the responsibility for appointment of the members of the Architectural Review Committee and fails to make such appointments, the Board shall serve as the Architectural Review Committee. The members of the Architectural Review Committee shall appoint a chairperson, who shall initially serve a term of 2 years, and who may be reappointed to additional term(s) as chair at the discretion of the Committee members.

Section 2. Duties and Powers. The Architectural Review Committee shall perform and shall be empowered to perform all acts as provided in Article VII of the Declaration.

ARTICLE XI
OTHER COMMITTEES

Section 1. Establishment of Other Committees. The Board may, from time to time, establish other committees for specific purposes, such as for oversight of landscape maintenance issues, facilities maintenance, resolution of view issues, budget or otherwise. Such other committees shall be comprised of as many owners as the Board shall specify. The Board Directors shall be responsible for recruiting owners to serve on such other committees. Owners may designate a family member who is a regular occupant of their Capes property to be their representative on any such other committee. Each such committee will appoint its own chairperson, who shall initially serve a term of two years, and may be reappointed to serve additional 1term(s) as chair at the discretion of the committee members.

Section 2. Duties and Powers. Any Other Committees established by the Board shall perform and shall be empowered to perform only such acts as the Board specifically empowers them to perform.

ARTICLE XII
FINANCIAL MATTERS AND RECORDS

Section 1. General. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board and committees having any of the authority of the Board and shall keep at its registered or principal office a record giving the names and addresses of the Directors. All books and records of the Corporation may be inspected by any Director, or his agent or attorney, for any proper purpose at any reasonable time.

Section 2. Financial Statements. The Board may appoint a certified public accountant or certified public accounting firm as auditor, who shall not be an Officer or own any interest in any Lot, to audit the books and financial records of the Corporation. Within ninety (90) days after the end of each fiscal year, the Board shall distribute to each owner and, upon request, any mortgagee of a Lot a copy of the annual financial statement of the Corporation, consisting of a balance sheet and income and expense statement for the preceding fiscal year. The Corporation shall make available to Owners and to holders, insurers or guarantors of any mortgage (as such term is defined in the Declaration) on a Lot, for their inspection and copying, upon request, during normal business hours or under other reasonable circumstances, current copies of (a) the Declaration, Articles of Incorporation, Bylaws, and rules concerning the Property, (b) the Corporation's most recent financial statement, (c) the current operating budget of the Corporation, and (d) all other records of the Corporation, including all information delivered to the Corporation by Declarant pursuant to ORS 94.616. Upon written request of a prospective purchaser of a Lot (who has signed a conditional purchase agreement or earnest money agreement), the Corporation shall make available for examination and duplication during reasonable hours the documents and items described in items (a) through (c) in the preceding sentence. The Corporation may charge a reasonable fee for furnishing copies of any documents, information, or records described in this Section 2.

Section 3. Tax Returns. The Board shall cause to be filed the necessary income tax returns for the Corporation.

Section 4. Fiscal Year. The Corporation's fiscal year shall commence January 1 and shall end on December 31

ARTICLE XIII
INSURANCE

Section 1. Casualty and Liability Insurance. The Board shall at all times cause any insurable Improvements located on the Common Areas, and each Owner shall at all times cause all insurable Improvements located on his or her Lot, to be insured against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, for the full replacement value thereof. Owners may obtain any other insurance they deem prudent. The insurance coverage obtained and maintained by the Board may not be brought into contribution with insurance bought by Owners or their mortgagees. The Board shall also at all times maintain public liability insurance covering all Common Areas and all damage or injury caused by the negligence of the Corporation in an amount of at least one million dollars ($1,000,000.00) for bodily injury and property damage for any single occurrence, which policy shall provide that it cannot be canceled or substantially modified without at least ten (10) days written notice to the Corporation. Any insurance policy obtained by the Corporation pursuant to this Section I shall show the Corporation as the named insured and shall, if possible, be written by an insurer with a "B" general policyholder's rating and a "III" financial size category in Best's "Key Rating Guide." The policies obtained by the Corporation pursuant to this Section I may contain a reasonable deductible not to exceed the lesser of Ten Thousand and No/100 Dollars ($10,000.00) or one percent (1%) of the face value of the policy, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance equals at least the required full replacement cost.

Section 2. Director and Officer Insurance. At the discretion of the Board, the Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of the Articles of Incorporation of the Corporation.

Section 3. General Provisions. Premiums for insurance obtained by the Board pursuant to this Article XII shall be a common expense of the Corporation. At least every two years, the Board shall review the insurance coverage of the Corporation. If reasonably available, the Board shall obtain insurance policies with the provisions specified in ORS 94.680 and with an "inflation guard" endorsement.

ARTICLE XIV
RULES AND REGULATIONS

The Board shall have power to adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Owners and their guests and tenants thereon, and to establish penalties for the infraction thereof. Such rules and regulations may be adopted upon a majority vote of the members of the Board present at a meeting at which there is a quorum of Board members and as to which notice has been given as provided in these Bylaws. Such notice shall include a verbatim copy of all proposed rules and regulations. No rule or regulation shall be adopted without a copy thereof first having been delivered or mailed to each Owner at the last address for such Owner in the records of the Association. Upon adopting any such rules and regulations, the Board shall cause copies thereof to be delivered to each Owner. Any rule or regulation which conflicts with these Bylaws or the Declaration shall be null and void.

ARTICLE XV
MAINTENANCE, UTILITIES AND SERVICE

Section 1. Maintenance and Lighting of Common Areas. The Corporation shall perform all maintenance upon, and where the Corporation deems appropriate provide exterior lighting for, the Common Areas and other areas not yet annexed to The Capes but which in the Corporation's reasonable judgment benefit Owners of property in The Capes, including, but not limited to, Manager's House, Bridge House, grass, trees, walks, parking areas, walkways and trails, unless the maintenance thereof is assumed by a public body. Such areas shall be maintained in a safe condition to at least applicable Tillamook County standards, and in a good and workmanlike manner such that the areas may be used for the purpose for which they are intended.

Section 2. Maintenance of Utilities. The Corporation shall perform or contract to perform maintenance of all private utilities within Common Areas, such as sanitary sewer service lines, domestic water service lines, storm water detention facilities, and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. Each Owner shall be responsible for maintaining utility lines within his Lot, except for those lines for which a public authority or utility company is responsible.

ARTICLE XVI
ASSESSMENTS

Section 1. Governed by Declaration. All Lots shall be subject to assessment in accordance with the provisions of the Declaration.

Section 2. Assessment Formula. Subject to the provisions of Section 10 of the Declaration, all Lots shall be assessed one assessment unit per Lot. The amount of an assessment per assessment unit shall be determined by dividing the amount of the annual budget or other aggregate assessment by the total number of assessment units. The common profits of the Corporation shall be allocated on the basis applied to assessments in this Section 2.

Notwithstanding the other provisions of this Section 2, the Corporation may assess a Lot for the full amount of any common expense, the incurring of which is unquestionably and solely attributable to the negligence or willful misconduct of the Owner of such Lot or his family members or invitees.

Section 3. Default in Payment of Assessments; Enforcement of Lien. If an assessment or other charge levied under these Bylaws or the Declaration is not paid within thirty (30)days of its due date, such assessment or charge shall become delinquent and shall bear interest from the due date until paid at the rate set forth below and, in addition, the Corporation may exercise any or all of the following remedies:

(a) **Suspension of Rights; Acceleration.** The Corporation may suspend such Owner's voting rights and right to use the Common Areas until such amounts, plus other charges under the Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment or any other amounts owed by such Owner to the Corporation immediately due and payable. In no event, however, shall the Corporation deprive any Owner of access to and from such Owner's Lot.

(b) **Lien.** The Corporation shall have a lien against each Lot for any assessment levied against the Lot and any fines or other charges imposed under the Declaration or these Bylaws against the owner of the Lot from the date on which the assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 87.352 to 87.382 shall apply to the Corporation's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Corporation, through its duly authorized agents, may bid on the Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Lot. If any assessment is payable in installments, the full amount of the assessment is a lien from the date the first installment of the assessment becomes due.

(c) **Suit or Action.** The Corporation may bring an action to recover a money judgment for unpaid assessments, fines and charges under the Declaration or these Bylaws without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) **Other Remedies.** The Corporation shall have any other remedy available to it by law or in equity.

Section 4. Interest. Expenses, and Attorneys' Fees. Any amount not paid to the Corporation when due in accordance with these Bylaws or the Declaration shall bear interest from the due date until paid at a rate three (3) percentage points per annum above the rate offered by the bank in Portland, Oregon, with the largest number of deposits as of the due date therefor, or such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board not to exceed 30% of such assessment. In the event the Corporation shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Corporation shall bring any suit or action to enforce the Declaration or these Bylaws, or to collect any money due hereunder or thereunder or to foreclose a lien, the Owner-defendant shall pay to the Corporation all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof.

Section 5. Nonexclusiveness and Accumulation of Remedies. An election by the Corporation to pursue any remedy provided for herein shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided herein are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Corporation.

ARTICLE XVII
AMENDMENTS TO BYLAWS

Except as expressly provided in the Declaration, these Bylaws may be amended or repealed and new bylaws may be adopted by a majority of the Directors present at any regular meeting or at any special meeting, if at least ten (10) days written notice is given to the Directors and Owners of intention to amend or repeal and adopt new bylaws at such meeting accompanied by a copy or summary of the amendment; provided, however, that the Board shall have no authority to amend or repeal any provision of these Bylaws relating to the election, qualifications, powers, duties or terms of Directors without the approval of the owners given at a special meeting called for such purpose.

ARTICLE XVIII
WAIVER OF NOTICE

Whenever any notice is required to be given under the proVIs1ons of the nonprofit corporation laws of the State of Oregon, as it exists or may be amended in the future, or under the provisions of the Articles of Incorporation or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIX
HEADINGS

The headings contained in these Bylaws are for convenience and shall not in any way affect the meaning or interpretation of these Bylaws.

ARTICLE XX
ACTION WITHOUT A MEETING

Any action which applicable law, the Declaration or these Bylaws require or permit the Owners or the Board to take at a meeting may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the Owners or Directors entitled to vote on the matter. The consent, which shall have the same effect as the Owners or the Board, as the case may be, shall be filed in the records. of minutes of the Corporation.

ARTICLE XXII
CONFLICTS

These Bylaws are intended to comply with applicable law and the Declaration. In case of any irreconcilable conflict, applicable law and the Declaration shall control over these Bylaws, any amendments hereto and any rules or regulations adopted hereunder.

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The undersigned President and Secretary of The Capes Homeowners' Association, Inc. hereby certify that the foregoing Fifth Amended and Restated Bylaws were duly adopted by action of not less than a majority of the Directors at a duly called meeting on September 8, 2026, revised effective and recorded on September 8, 2026.

The Capes Homeowners Association, Inc.
an Oregon non-profit corporation

By: ______________________
Melissa Myers
President

ACKNOWLEDGMENT

STATE OF Utah COUNTY OF Utah

On 9/8/2026 Personally appeared before me melissa myers

__ whom I know personally

X whose identity I verified on the basis of UT DL

__ whose identity I verified on the oath or affirmation of

__ a credible witness to be a signer of the above and he/she acknowledged that he/she signed it.

Notary Public Alexandra Higginson
My Commission Expires: 10/29/2029

ALEXANDRA HIGGINSON
Notary Public - State of Utah
Comm. No. 745860
My Commission Expires on
Oct 28, 2029

By: ______________________
Roger Bivans
Secretary

OFFICIAL STAMP
TIFFANY MCNUTT
NOTARY PUBLIC - OREGON
COMMISSION NO. 1060937
MY COMMISSION EXPIRES AUGUST 03, 2029