

# **PROPOSED CONDOMINIUM BY-LAW NO. 1**

**PROPOSED STANDARD CONDOMINIUM PLAN  
761 WATERLOO STREET, SAUGEEN SHORES (PORT ELGIN), ONTARIO**

**By-Law Number 1 of**

**Bruce Standard Condominium Corporation No. \_\_\_\_\_**

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**Preamble**

*(Certain explanatory notes may appear in brackets and italics in this by-law. These notes are intended for information purposes only. If there is a conflict between the body of the by-law and the explanatory notes, the body of the by-law prevails.)*

In this by-law references to the “Act” are to the *Condominium Act, 1998*, its amendments and regulations including any successor legislation.

*(The Act addresses many procedural and organization matters that could also be referred to in this by-law but are not. If there is a conflict between this by-law and the Act, the Act prevails. Procedural matters addressed in the Act are not dealt within this by-law in an attempt to avoid confusion. Provisions of the Act change from time to time. This by-law must be read in conjunction with the Act.)*

Bruce Standard Condominium Corporation No. \_\_\_\_\_<sup>1</sup>enacts the following by-law:

**Article I. Board of Directors**

a. *(Number of Board Members and Term of Office)*

There shall be three members of the Board, who are not required to be owners of units. Their term of office shall be one year.

b. *(Notification and Consent to be a Director)*

Notification of candidacy pursuant to subsections 28(2) and/or (3) of the Act shall be deemed to be consent in writing to act as director unless the individual should, prior to or at the meeting and prior to the vote for director election, give written notice to the property manager (if any), the Board or any member thereof that such individual has withdrawn his or her candidacy.

c. *(Indemnification of Officers and Directors)*

Every Director and Officer<sup>2</sup> of the Corporation and his or her heirs, executors, administrators, estate trustees and other legal personal representatives shall from time to time be indemnified and saved harmless by the Corporation from and against,

- any liability and all costs, charges and expenses that the director or officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against the person for or in respect of anything that the person has done, omitted to do or permitted in respect of the execution of the duties of office; and
- all other costs, charges and expenses that the person sustains or incurs in respect of the affairs of the corporation.

No director or officer of the corporation shall be indemnified by the corporation in respect of any liability, costs, charges or expenses that the person sustains or incurs in or about an action, suit or other proceeding as a result of which the person is

<sup>1</sup>References in this by-law to the “Corporation” shall mean Bruce Standard Condominium Corporation No. \_\_\_\_\_.

<sup>2</sup>References in this by-law to an “Officer” or “officer” shall mean an Officer of the Corporation.

adjudged to be in breach of the duty to act honestly and in good faith.

d. *(Board shall purchase liability insurance for Directors and Officers)*

If the insurance is reasonably available, the corporation shall purchase and maintain insurance for the benefit of a director or officer against all liability and all costs, charges and expenses that the director or officer sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against the person for or in respect of anything that the person has done, omitted to do or permitted in respect of the execution of the duties of office except there shall be no such insurance provided to protect a director or officer against a liability, cost, charge or expense of the director or officer incurred as a result of a breach of the duty to act honestly and in good faith.

e. *(Deemed resignation)*

A Director is deemed to have resigned:

- if he or she missed more than fifty per cent of the meetings of the Board in any 12 month period or should he or she fail to attend three (3) sequential Board of Directors meetings;
- forthwith upon becoming a party (be it applicant, plaintiff, complainant, defendant, respondent or otherwise) to a law suit or application wherein the Corporation is an opposing party to such Director.

**Article II. Meetings of the Board**

a. *(Meetings of the Board are to be held locally)*

After the turnover meeting of the condominium, all meetings of the Board are to be held within the Town of Saugeen Shores at such specific location as the Board may determine by resolution in accordance with the further provisions hereof. Until the turnover meeting of the condominium meetings of the Board may be held anywhere in the province of Ontario.

b. *(Meeting Schedule and Calling Meetings)*

The Board may by resolution determine the frequency, times and locations of its regular meetings, provided that the Board shall meet not less than four (4) times within any fiscal year of the Corporation.

In addition, the Board has the power at any such regularly scheduled meeting of directors, or other meeting of directors, provided a quorum of directors is present at the time of the resolution, to resolve not to hold one or more of such regularly scheduled meetings of the Board and if it so chooses. The Board may also resolve to hold one or more meetings at a different date(s), place(s) and/or time(s) in lieu of any such regularly scheduled meeting(s).

No notice of the changed time, date or place need be given to any director who was present at the meeting when the resolution with respect to the same was passed. However, notice of the first changed meeting date, time and place and a copy of the resolution must be given to each director who was not so present at least 48 hours prior to the first of any such changed meetings but not thereafter for any subsequent meetings whose dates, times or locations were changed or set by the said resolution.

c. *(Means of giving notice to the Directors of meetings of the Board)*

Notice of meetings of the Board is to be given in writing to each Director by:

- personal delivery of the notice of meeting at least forty-eight (48) hours before the time when the meeting is to be held;
- mailing the notice of meeting by ordinary mail at least seven days before the time when the meeting is to be held;
- facsimile (telecopier) transmission at least forty-eight (48) hours before the time when the meeting is to be held; or,
- any other generally accepted means of giving notice, electronic or otherwise as well as any means of notice that the Director to be given notice has agreed to in writing provided that such notice is given at least forty-eight (48) hours before the time when the meeting is to be held.

Notice is to be directed to the director at the latest address, facsimile or electronic mail address of the director as shown on the records of the corporation.

d. *(Potential for meetings of the Board to be held by conference telephone call)*

One or more Directors may participate in a meeting of the Board by means of such telephonic, electronic or other communications facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously. Any Director participating in a meeting by such means is deemed to be present at the meeting.

All of the Directors must consent in writing to such means of holding a meeting generally or in respect of a particular meeting. Such consent is effective whether it is given before or after the meeting to which it relates. A general written consent to such form of meeting need only be given once by a Director and is effective for all subsequent meetings of the Board unless and until cancelled by an instrument in writing delivered to the Board by the Director in question.

**Article III. Meetings of Owners**a. *(Meetings to be held locally)*

After the turnover meeting of the condominium, all meetings of the Owners are to be held within the Town of Saugeen Shores at such specific location as the Board may determine by resolution in accordance with the further provisions hereof. Until the turnover meeting of the condominium meetings of the Owners may be held anywhere in the province of Ontario.

b. *(Representation at meetings of corporate owners and those who do not attend or are unable to be present or represent themselves)*

The following persons may represent owners or mortgagees at meetings of the owners and may vote in the same manner and to the same extent as such owners or mortgagees:

- an executor/estate trustee;
- an administrator;
- an attorney for property;
- a committee of a mentally incompetent person;
- a guardian;
- a trustee;
- if a corporation is an owner or acts as one of the foregoing, any person duly appointed a proxy for such corporation;  
or
- a properly appointed proxy;

upon filing with the Secretary of the meeting sufficient proof of his, her or its appointment, prior to the commencement of the meeting in question.

c. *(Provisions relating to requisitioned meetings)*

A requisition for a meeting of owners may be made pursuant to section 46(1) of the Act by those owners who, at the time the Board receives the requisition,

- own at least 15 per cent of the units of the condominium,
- are listed in the record maintained by the corporation under subsection 47(2) of the Act, and
- are entitled to vote.

In order to permit the Board to determine if the persons signing the requisition are shown on the register and entitled to vote, the names of all the requisitionists must be legibly printed or typed under the signature of each requisitionist.

Any signature that is not identified by a legibly printed or typed name of the signatory shall not be counted or otherwise considered in determining if the requisite percentage of owners have signed the requisition for meeting.

d. *(Provisions relating to the use of Proxies)*

Only the forms of proxy as are contained in the regulations to the Act may be used at any meeting of owners. No other form of proxy is allowed. Notwithstanding the foregoing, such form of proxy may have added to it such additional instructions as are required by the grantor to ensure the proxy holder can act or vote at the meeting in accordance with the grantor's intentions are permitted to be added to the proxy.

At the discretion of the chairperson of any meeting of owners, proxies may be used as ballots for the election or removal of directors.

e. *(Proxies and nominations for directors from the floor of an owners' meeting)*

Since:

- (a) An instrument appointing a proxy for the election or removal of a director at a meeting of owners' is required by the Act to state the name of the directors for and against whom the proxy is to vote; and
- (b) a proxy may only vote for or against candidates listed in the proxy instrument;

it is important for the meeting to be able to establish which candidates were voted for (or against) by a proxy. Consequently, any vote for a position on the Board at which one or more proxies is to vote must be conducted by use of a ballot that must indicate if the ballot is being voted by a proxy and if so for which unit it is being voted. Alternatively, as prescribed by Section

52 of the Act the vote can be conducted as a recorded vote should any person entitled to vote at the meeting request that a recorded vote be held either before or promptly after the vote.

In order to permit owners voting through a proxy to know the name(s) of any individuals running for the position of a director there can be no nomination made for the position of director "from the floor" of a meeting for other than candidates who have given notification of their candidacy to the Board pursuant to subsections 28(2) and/or (3) of the Act unless there are insufficient candidates who have given notification of their candidacy to the Board in that manner actually nominated at the meeting from the floor to fill all the vacant positions to be filled at the meeting in question.

f. *(Provisions relating to the election of a director to the "Owner Occupied" position)*

The Act requires that where at least (15) per cent of the units of a condominium corporation are owner-occupied there must be one position on the board of directors designated such that only the owners of owner-occupied units may elect a person to or remove a person from such position (the "owner-occupied position"). A unit is considered "owner-occupied" where:

- the unit is a residential unit;
- the owner of the unit is entitled to vote at a meeting of owners to elect or remove a director; and
- the record required to be kept by the corporation pursuant to section 83(3) of the Act does not indicate that the unit was leased within the 60-day period prior to notice of the meeting being given.

An individual may stand for both the owner-occupied position on the Board and that of regular Board member. If an election is to take place at a meeting for both positions, the election for the owner-occupied position must be held first. Anyone who has stated an intention to stand for both positions and given notice as required by subsection 28(2) and (3) of the Act and who is elected to be the owner-occupied position is deemed to have withdrawn his or her candidacy for the regular Board position(s). However, should the said individual not be elected to be the owner-occupied position, such individual may then be considered for the position of a regular Board member at the election to be held following the election of the owner-occupied position at the same meeting.

g. *Provisions relating to the Section 47 Record and Voting*

For the purposes of the record required to be maintained by the Corporation pursuant to Section 47(2) of the Act (the "Section 47(2) Record"), each owner of every Unit is required to provide the Corporation with written notice of such owner's name and current address for service immediately:

- when such owner acquires any ownership interest in the Unit; and
- subsequently upon there being any change to such owner's name and/or address for service.

In the event of any dispute or question as to the correct name and address for service for the owner of a Unit, reference shall be had to the most recent written notice received by the Corporation in accordance with this provision and the same shall be deemed to be correct as at the date of such dispute or question. In the event no such notice has been received by the Corporation with respect to a Unit, then regardless of whether or not the owner of the Unit resides in the Unit the name of the owner(s) as registered on title to the Unit and the municipal address of the Unit shall be deemed to be, respectively, the owner's name and address for service for the purposes of the Section 47(2) Record. Furthermore, each owner of a Unit must advise the Board of Directors in writing of the name of any person who occupies or lives in the Unit owned by such owner forthwith upon any such person occupying or commencing to live in the Unit.

For the purposes of ensuring that votes for each Unit are properly cast and counted in accordance with the provisions of section 51 of the Act, the Board is entitled to require:

- each Unit Owner to inform the Corporation in writing as to whether the Unit Owner holds title to such Unit Owner's Unit exclusively, or as a "joint tenant" or "tenant in common" with another Owner (s) and to provide the legal name(s) of such other Owner(s); and
- each Unit Owner holding title to such Owner's Unit as a tenant in common to inform the Corporation in writing of such Owner's percentage ownership interest in the title to the Unit; and,
- any Unit Owner to provide a copy of the registered transfer/deed of such Owner's Unit to the Board,

and such information shall be entered into the Section 47(2) Record upon receipt.

Where the Section 47(2) Record provides that title to a Unit is held by Unit Owners as joint tenants, and only one (1) of the Unit Owners of the Unit attends a meeting of the Corporation in person or by proxy, the Corporation shall be entitled to:

- count such attendance toward quorum for the meeting, and
- rely on a vote cast by such Unit Owner and treat the same as valid and representing and being the vote on behalf of all of the Unit Owners of the Unit unless the Corporation is advised in writing to the contrary by any other Unit Owner of the Unit in question prior to such vote being cast.

Where the Section 47(2) Record provides that title to a Unit is held by Unit Owners as joint tenants, and more than one (1) of the Unit Owners of the Unit attends a meeting of the Corporation in person or by proxy, the Corporation shall be entitled to:

- count such attendance toward quorum for the meeting, and
- rely on a vote cast by such Unit Owner(s) or any one of them and treat the same as valid and representing and being the vote on behalf of all of the Unit Owners of the Unit,

unless the Corporation has been advised in writing to the contrary by any other Unit Owner of the Unit in question prior to the vote being cast; and

- provided no other Unit Owner of the Unit purports to vote on the same question by a separate vote; and
- no objection to the vote being made by such Unit Owner or Owners, as the case may be, is made to the Chair by any other Unit Owner of the Unit who is present at the meeting in person or by proxy, prior to the vote in question being cast.

In determining if the majority of the Unit Owners of the Unit in question are agreed on how to exercise a vote, the Board shall assume that any and all other joint tenant Unit Owner(s) of the Unit not present at the meeting in person or by proxy is/are in agreement with the opinion of the majority of the Unit Owners of the Unit who are present in person or by proxy at the meeting unless the Corporation has been advised in writing to the contrary by any other Unit Owner of the Unit in question who is not so present at the meeting prior to the vote being cast.

In determining if the majority of the Unit Owners of the Unit in question are agreed on how to exercise a vote, in circumstances where the joint tenant Unit Owners of the Unit who are present in at the meeting in person or by proxy are evenly divided on how to exercise the vote, the Board shall assume that any joint tenant Unit Owner(s) of the Unit who is not present at the meeting in person or by proxy is abstaining from voting or having any opinion on the vote in question so that the vote of the Owners of the Unit in question shall not be counted.

Where the Section 47(2) Record provides that title to a Unit is held by Unit Owners as tenants in common, and only one (1) of the said Unit Owners attends a meeting of the Corporation, the Corporation is not required to:

- count such attendance toward quorum for the meeting, or
- rely on a vote cast by such tenant in common Unit Owner or treat the same as valid and binding upon the Unit,

unless the Chair of the meeting in question is satisfied that,

- such attendance (for the purpose of counting toward quorum) and/or casting of a vote (for the purpose of voting) is by proxy and,
- the proxy is granted by a tenant in common Unit Owner of the Unit who possesses the majority ownership interest in the Unit, or
- the proxy is granted by two (2) or more tenants in common Unit Owners of the Unit whose interests taken together constitute the majority ownership interest in the title to the Unit, or
- there is more than one (1) proxy each of which is granted by one (1) or more of the tenants in common Unit Owners of the Unit whose interests, when taken together, constitute the majority ownership interest in the title to the Unit and such proxies wish to vote for the same conclusion or outcome, or
- such attendance (for the purpose of counting toward quorum) and/or casting of a vote (for the purpose of voting) is in person by either, the tenant in common Unit Owner who possesses the majority ownership interest in the title to the Unit, or Unit Owners whose interests taken together constitute the majority ownership interest in the title to the Unit and such Unit Owners wish to vote for the same conclusion or outcome, or such attendance (for the purpose of counting toward quorum) and/or casting of a vote (for the purpose of voting) is by one (1) or more Unit Owners in person and one (1) or more Unit Owners by proxy, whose interests when taken together constitute the majority ownership interest in the Unit and proxy (ies) and Unit Owner(s) wish to vote for the same conclusion or outcome.

If one (1) or more tenancy in common share(s) of the title to a Unit is owned jointly as between or amongst the owners of the tenancy in common share, all of the owners of the Unit shall be deemed to hold title as tenants in common and the joint owners of the tenancy in common share or shares of the title shall each be deemed to own an equal portion of the tenancy in common share of the title of which they are joint owners.

If the most current information provided by or on behalf of the owners of a unit pursuant to Section 47 of the Condominium Act indicates:

- there is more than one (1) Unit Owner of the Unit but fails to set out whether title to the Unit is held in joint tenancy or as tenants in common the Chair of the meeting shall proceed on the basis that the title is held in joint tenancy unless prior to the vote in question the Chair is provided with a copy of the most current transfer/deed of the unit or other reasonable evidence in the discretion of the Chair that establishes that title to the unit is held in other than joint tenancy; or,
- title to the Unit is held by the Unit Owners of such Unit as tenants in common (including any tenancy in common share that is owned jointly as being deemed to be owned by all of the owners as tenants in common) but fails to provide what percentage share each of the owners holds, the Chair of the meeting shall proceed on the basis that the title is held equally as between or amongst the tenants in common unless prior to the vote in question the Chair

is provided with a copy of the most current transfer/deed of the Unit or other reasonable evidence in the discretion of the Chair that establishes that the percentage interests are other than equal as between or amongst the tenancy in common owners.

**Article IV. Provisions Affecting Meetings of the Board and Owners**

a. *(Chairperson of Meetings of the Board and Owners)*

The President is to act as chairperson of meetings of the Board and meeting of owners if the President is present at such meetings.

If the President is not present at a meeting, the Secretary is to act as chairperson of meetings of the Board and owners.

Despite the foregoing provisions, those present at a meeting may vote to have someone else act as chairperson of the meeting, including, for example, the Corporation's solicitor or property manager.

b. *(Voting at meetings of the Board and owners)*

Voting at owners and directors' meetings shall be by a show of hands or recorded vote.

With respect to votes by a show of hands, a declaration by the Chairperson as to the outcome of the vote and an entry to that effect in the minutes of the meeting shall, in the absence of specific evidence to the contrary be accepted. In such case other proof of the number or proportion of the votes recorded in favour of or against any question or resolution is not needed.

If voting by a show of hands is proposed, any Director or owner may demand (prior to the vote being taken) that voting take place by ballot. Such a demand may be withdrawn.

c. *(Rules of Parliamentary Procedure)*

Robert's Rules of Order, as updated or revised from time to time, is adopted with respect to all meetings of the Board and owners.

These rules are the parliamentary authority of the Corporation. At any meeting of the Board or owners, the meeting may, by a vote of a majority of those in attendance who are entitled to vote at the meeting, adopt special rules of order or modify or suspend portions or all of such Rules of Order. Such adoption, modification or suspension remains in effect for such length of time as determined by the said vote and may extend if so determined by such vote to subsequent meetings.

d. *(Rescheduling of meetings lacking sufficient attendance)*

If, thirty (30) minutes after the time appointed for the holding of any meeting of directors or owners, a quorum (which shall be the minimum number prescribed by the Act) is not present, or should such numbers of persons leave a meeting of directors or owners at which quorum had been attained so that quorum no longer remains, the meeting shall be adjourned.

Any such meeting of directors that does not acquire or loses quorum shall be adjourned to a date, time and place that is established by a quorum of directors and of which notice is given as prescribed herein and by the Act, failing which the same shall automatically be adjourned to the next regularly scheduled meeting of the Board notice of which need not be given to anyone.

Any meeting of owners that does not acquire or loses quorum shall be adjourned to a date, time and place that is established by the Board and of which notice is given as prescribed herein and by the Act. There is no different requirement for notice of such adjourned meeting than there is for any other meeting of owners.

**Article V. Officers**

a. *(Appointment of Officers)*

Subject to any relevant provisions of the Act, an officer does not need to be a member of the Board or an owner, but must be appointed by the Board by resolution.

The Board may remove any officer at its pleasure by passing a resolution removing such officer.

b. *(Duties of Officers)*

The duties and responsibilities of officers are determined by the Board. The following offices shall possess the following minimum duties and responsibilities:

*(The President)*

The President has the responsibility to generally supervise the business and affairs of the Corporation. The President may delegate some or all of his or her authority to another member of the Board. The President must be elected by the directors by show of hands, or by secret written ballot if one of the directors so requests.

*(The Secretary)*

The Secretary is responsible for giving notices of meetings or otherwise as required by the Act. The Secretary is responsible to ensure that proper minutes of meetings are recorded. The Secretary must use his or her best efforts to attend all meetings of the Board and owners. If the Secretary cannot attend a meeting, the Secretary may appoint someone deemed suitable by the Secretary to act in the place of the Secretary. The Secretary is the custodian of all books, papers, records, documents and other instruments belonging to the Corporation other than financial documents to be maintained by the Treasurer. The Secretary may, with the consent of the Board permit the property manager or such other person as the Board deems suitable to be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.

*(The Treasurer)*

The Treasurer is responsible to see that proper financial records of the Corporation are kept. The Treasurer is also responsible for the safe keeping of financial documents and evidence of investment and liability. The Treasurer may, with the consent of the Board delegate some or all of the actual accounting responsibilities and safekeeping of documents to the property manager or such other person as the Board deems suitable.

*(Property Manager)*

The Board may appoint or hire a property manager and authorize such manager to manage some or all of the day to day affairs of the Corporation. The property manager may be delegated some or all of the responsibilities of the officers of the Corporation.

*(Other Officers)*

The Board may appoint such other officers, or assistants to any of the existing officers, as it deems appropriate, including one or more Vice-Presidents and/or authorized signing officers, and may assign such duties to such other officers and/or assistant officers or may re-assign duties as between existing officers and/or assistant officers as the Board in its absolute discretion deems appropriate. The Board may, as it deems appropriate change the titles and/or duties of any of the officers of the Corporation.

c. *(Compensation)*

The Board may determine by resolution from time to time compensation to be paid to any officer of the Corporation for services rendered in such capacity. Furthermore, reimbursement for reasonable out of pocket expenses incurred in connection with the fulfilment of an officer's duties toward the Corporation shall be paid with such reasonable exceptions as the board of directors in their absolute judgement may determine by resolution from time to time.

**Article VI. Banking and Execution of Documents**

a. *(Free to deal with Banks, etc.)*

The Corporation may transact its financial affairs with such banks, credit unions or trust companies as the Board may choose from time to time. The banking of the Corporation may be done by such people and in such manner as the Board may decide.

b. *(Most documents require two signatories)*

Subject to specific resolutions of the Board to the contrary, documents signed on behalf of the Corporation must be signed by any two officers/or directors or by a director and an officer of the Corporation. No director or officer may be a signatory on a cheque made out to such director or officer.

c. *(Specific resolution may permit one person to sign documents)*

The Board may by specific resolution direct who may sign any particular document and whether any particular document need only be signed by one person. A general resolution giving such signing authority to just one person is not permitted unless such person is the property manager appointed by the Board and under contract to the Corporation.

**Article VII. Financial Matters**

a. *(Year end)*

The financial year of the Corporation shall end on the last day of the month which is the first year anniversary month of the creation of the Corporation on account of the registration of the associated condominium declaration and description plans and annually thereafter on the last day of such month or on such other day as the Board by resolution may decide from time to time.

b. *(Borrowing)*

The Directors may from time to time:

- borrow money on the credit of the Corporation on behalf of the Corporation, provided such borrowing is approved by the majority of owners in attendance at a meeting called for such approval;
- issue, sell or pledge securities (including bonds, debentures, debenture stock or other like liabilities) of the Corporation but no invitation shall be extended to the public to subscribe for any such securities;
- charge, mortgage, hypothecate or pledge any existing or future real or personal, movable or immovable property of the Corporation, including book debts, rights, powers, franchises and undertaking, to secure any debt or liability of the Corporation;

- establish a continuing line of credit,

provided the expenditure(s) funded by the borrowing or line of credit is used for expenditures listed in the budget of the condominium for its current fiscal year.

c. *(Matters Relating to Common Expenses)*

- *Assessment*

*(Regular Annual Budget)*

The Board shall from time to time and at least annually prepare a budget for the next fiscal year, or remainder of the current fiscal year. Common expenses are to be assessed to each unit based on such budget and in accordance with the percentages set out in the declaration.

*(Notice of Annual Budget)*

Notice of a budget described in the foregoing paragraph shall be delivered to all unit owners at least 30 days prior to the date on which such budget is to come into effect. Such notice shall contain a copy of the proposed budget and shall set out the start and end dates of the period in respect of which the budget is made. The notice may also set out the amount of the monthly contribution to the common expenses of the Corporation assessed on account of the unit(s) owned by the particular owner to whom the notice is sent.

*(Special Assessments)*

In addition, expenditures not contemplated in the foregoing budget or which exceed the amounts set out in the foregoing budget for contemplated items of expenditure may be assessed any time by the Board. In order to make this assessment, the Board must serve notice of such assessment on all owners. The notice shall include a written statement setting out the reasons for the assessment. The assessment shall be payable by each owner as common expenses at such time or times as determined by the Board and set out in written notice given to the owners.

- *Payment*

The owner of each unit must pay one-twelfth (1/12) of the annual assessment of common expenses levied on account of the unit of such owner on the first day of each month next following delivery of such assessment until a new assessment is delivered to such owner.

- *Application of Payments to Oldest Arrears*

All payments made toward the contribution to common expenses for a unit, whether with respect to the annual assessment or any special assessment or any other amounts duly deemed to be common expenses, shall, notwithstanding any direction by the owner of such unit to the contrary, be applied first toward payment of the oldest arrears of common expenses owing on account of the unit.

This provision is subject to a right of the board to effect differently in respect of any such payment where the board in its sole discretion deems it reasonable and appropriate to do so. Such decision of the board must be evidenced by a written resolution of board kept in the records of the Corporation. No such resolution of the board in respect of any payment shall bind the board with respect to the application of this provision to other payments made on account of the same unit or unit owner.

- *Owners liability ends upon transfer of unit*

If any common expenses are payable after an owner transfers the title to the unit of such owner, such owner is not responsible to pay such common expenses. Any such common expenses shall be paid by the owner of the unit at the time such common expenses are payable.

- *Legal Action to collect Common Expense Arrears*

In addition to any remedies provided by the Act, the Board may bring legal action for the collection of common expenses in arrears for at least 15 days. If such action is commenced the Corporation is entitled to be indemnified by the defaulting owner as part of such action for all costs of such action including legal costs as between a solicitor and his own client.

- *Interest on Common Expenses Arrears*

Arrears of common expenses, whether of a payment of the annual assessment or any special assessment or any other amounts duly deemed to be common expenses with respect to a unit, and any other arrears owing to the corporation by a unit owner, will bear interest calculated monthly at a variable rate equal to the then current rate of interest per annum established and reported by the Corporation's bank at the time to the Bank of Canada from time to time as a reference rate of interest for the determination of interest rates that the Corporation's bank charges to customers of varying degrees of credit worthiness in Canada for Canadian dollar loans made by the Corporation's bank in Canada, plus two percent (2%), provided that if this rate of interest is not capable of being determined for any reason or is no longer in existence, arrears of Common Expenses will bear interest calculated monthly at fixed rate of eighteen percent (18%) per annum.

- *Release or Discharge of Liens*

Upon default of payment of any contribution to the common expenses, whether of a payment of the annual assessment or any special assessment or any other amounts duly deemed to be common expenses with respect to a unit, a lien as defined in the Act arises in favour of the corporation against the unit(s) owned by the defaulting unit owner. Subject to the relevant provisions of the Act and the absolute discretion of the board if expressed in writing and contrary hereto, such lien shall not be released (including that if a certificate of lien has been registered against title to the unit owner's unit(s), the same shall not be discharged) until all amounts owing thereunder, including all interest and allowable expenses, are paid in full.

d. *(Realty Tax Assessments)*

The Corporation is authorized, at the Board's discretion, to object to assessments under the *Assessment Act* or its successor legislation on behalf of owners provided it complies with the Act and its regulations. The costs thereof shall be a common expense of the Corporation.

The Corporation is authorized to defray the costs of a unit owner's objection to an assessment under the *Assessment Act* out of the common expenses, at the sole discretion of the Board.

**Article VIII. Lease or License of the Common Elements and Assets of the Corporation**

The Board is authorized on behalf of the Corporation to enter leases or licence agreements with respect to the common element parking spaces and/or Parking Units owned by the Corporation, the terms and conditions of such licenses and leases to be established by the Board from time to time.

**Article IX. Insurance**

a. *(Canada Mortgage and Housing Corporation ("CMHC") Insurance Requirements)*

*(CMHC has in the past dictated what insurance clauses must be within condominium documentation as a condition to providing mortgage insurance)*

- Any reasonable insurance requirements that are required by any mortgagee on account of the requirements of CMHC or other recognized mortgage insurer or directly by CMHC or other recognized mortgage insurer shall be adhered to by the Corporation if such insurance is required as a precondition to providing mortgage financing or mortgage insurance. The foregoing is subject to the proviso that the Corporation does not have to place insurance that the Board is of the opinion is unusual or expensive.
- Any such requirements for insurance shall be made in writing by the mortgagee, proposed mortgagee or mortgage insurer. Any insurance placed in response to such request need only be kept in place for so long as the mortgagee has a registered mortgage with respect to one or more of the units of this condominium plan or in the case of a mortgage insurer for so long as such mortgage insurer has insured a registered mortgage with respect to one or more of the units of this condominium plan.
- The Corporation shall maintain insurance as required by the Act.

b. *(Deductibles)*

If damage should occur:

- to a unit, and such damage was not caused by the Corporation or any agent or employee thereof acting in such capacity, but is in whole or in part repaired at the expense of the Corporation pursuant to its obligations to repair and/or insure the unit, then the amount that is the lesser of the cost of such repairs and the deductible limit of the Corporation's insurance policy will be the responsibility of the owner of the damaged unit to pay to the Corporation and shall be added to the common expenses for the unit;
- to a part of the common elements, and such damage was caused by the act or omission of a unit occupant (which for clarity includes any owner, resident or guest of a unit or any person present on the condominium property with the permission of the owner of a unit), then the amount that is the lesser of the cost of repairing the damage and the deductible limit of the Corporation's insurance policy shall be the responsibility of the owner of the unit occupant's unit to pay to the Corporation.

The owner of the unit shall be required to pay in accordance with the foregoing notwithstanding any claim such owner has or may have against any third party to be compensated therefor.

**Article X. Standard Unit Definition**

a. *(Recitals)*

WHEREAS:

1. The Act requires that the determination of what constitutes an "improvement" to a condominium unit shall be determined by reference to a "standard unit" definition;
2. Any component of a condominium unit over and above the defined standard unit is considered to be an improvement to the unit;

3. The Corporation is responsible to insure the condominium units of Bruce Standard Condominium Plan No. \_\_\_\_\_ exclusive of such improvements;
4. Each unit owner is responsible to insure the improvements to his or her unit;
5. Subsection 89(2) of the Act provides that the obligation to repair units and common elements after damage does not include the obligation to repair after damage improvements made to a unit; and
6. The Act requires existing condominiums that wish to establish a standard unit definition to do so by by-law.

b. *(Standard Unit for the Residential Units)*

The standard unit shall include only those components of the following that are within the unit boundaries of the units (everything outside of such boundaries being common elements of the condominium plan and therefore not subject of the standard unit definition), such boundaries being determined by reference to the relevant schedule of the declaration and by reference to the description plans:

1. the ceilings completed to the drywall (including taping and sanding but not including priming and painting or plaster finishes such as stucco);
2. walls, and all interior components thereof, forming the perimeter of the Unit (including party walls between the Units) and the interior walls of the Unit, including without limitation all structural and load-bearing walls and all other walls forming part of the Unit as shown on the architectural plan for the Unit forming part of the registered description creating the Plan, all completed to the inside surface of the drywall thereof (including taping and sanding but not including priming, painting or other finishes or wall coverings);
3. other than where the floor is a core slab floor, floor assemblies constructed to and including the sub-floor, but the standard unit shall not include any floor coverings (including underpad);
4. basic unimproved stairways (if any) not including any covering or improvement thereto and not including any upgraded components of stairways or stairways made up of specialty woods such as oak, ash or other materials that by their nature preclude the need for further covering;<sup>3</sup>
5. all installations and facilities with respect to the provision of water and sewage services, save that any water heaters or softeners shall constitute an improvement to the unit;
6. all installations and facilities with respect to the provision of heat and ventilation, excluding any furnace (or other heating device) or air conditioner (or other cooling device) and excluding any and all related equipment and appurtenances to any furnace (or other heating device) or air conditioner (or other cooling device);
7. all installations with respect to the provision of electricity service (including the unit electrical panel), telephone cable and rough ins (maximum of 4 locations), cable television cable and rough ins (maximum of 3 locations), all requisite smoke detectors as required by applicable regulation hard wired into the electrical system, maximum of one battery operated smoke detector, one standard dryer electrical outlet, one standard stove electrical outlet; and
8. such other components of the unit which the declarant of the condominium would have been required to construct by the then current regulations (as at the time of the damage or repair) in order to achieve registration of the condominium plan including without limiting the generality of the foregoing, all conduits, pipes, ducts, cables, wires, service connections, lines, water mains, telephone cables and access transmission lines and public utility lines that, without limiting the generality of the foregoing, provide or transmit power, communication facilities, water, fuel, and/or sewage disposal, provided same are part of the unit.

c. *Standard Unit for Parking Units.*

The standard unit definition for the Parking Units shall include all physical components thereof, if any.

d. *(Exclusions / Improvements)*

Anything within the unit boundaries of a unit which is over and above such minimum requirements set out above shall be considered an improvement to the unit. For greater certainty and by way of example only without limiting the generality of the foregoing:

1. each of the following is considered an improvement to the commercial use units: all components of the ceilings, walls and floor assembly (to the extent same are part of the unit and not common elements); ceiling, wall and/or floor coverings (including underpad, if any); all interior trim (baseboard, interior unit doors and shelving); unit electrical panels; window coverings; plumbing and electrical fixtures; sump pumps; water softeners; lighting; cabinetry; and
2. each of the following is considered to be an improvement to the residential units: all interior trim (baseboard, interior unit doors and shelving); wall coverings (other than primer and paint); floor coverings

<sup>3</sup>It is not intended the standard unit will include stairways that are made up of materials other than basic construction materials meaning the standard unit stairways are not in themselves suitable for use without being carpeted or otherwise covered, stained or painted.

(including underpad); kitchen and bathroom cabinetry; countertops; window coverings; plumbing and electrical fixtures; lighting; sump pumps; water softeners; showers; bathtubs; toilets; sinks.

e. *(Required upgrades)*

If any component of the standard unit must be “upgraded” or changed in order to comply with any applicable governmental or authority regulation or code while being repaired or replaced on account of insurable damage or destruction the said upgrade or change shall be considered part of the standard unit despite not being clearly defined herein as being part of the standard unit.

**Article XI. Records**

a. *(Inspection of Records)*

No owner (and in the case of joint owners this shall mean all such owners) or mortgagee may inspect any records of the Corporation except on two (2) days prior written notice to the Board and then only after prepayment of the costs of such inspection as determined by the Board. Such costs can include costs billed by any property manager for such inspection and in preparing for same, costs of having someone attending to monitor such inspection and any other costs that the Board determines to be attributable to such inspection. Only one inspection per year is permitted without the prior written consent of the Board. If photocopies are made during such inspection the costs of same shall be paid before removal of the copies by the owner. The charge for photocopies shall be the same as that charged by the solicitor of the Corporation to the Corporation.

b. *(Records to be made available on an annual basis)*

Unless otherwise provided (such as with notice of an Annual General Meeting), a copy of the following documents shall be furnished free of charge once per year to any mortgagee or owner on demand:

- the most recent financial statement;
- the most recent report of the auditors; and
- minutes of meetings of the Board and of the owners (for up to one year prior to the date of request).

Any request for more than one copy per year of the documents listed above shall only be complied with upon payment of a reasonable sum representing the costs of production and supply.

c. *(Request to review records)*

A request for review of records must be on a written form prescribed by the Board listing what documents the owner or mortgagee wishes to review and which sets out the reason for such desire for review bearing in mind inspection must be for purposes reasonably related to the Act.

**Article XII. Notice**

a. *(How notice is to be given)*

Other than as set out in this by-law to the contrary, any notice, communication or other document, including budgets and notices of assessments (“Notice Document”) required to be given or delivered by the Corporation shall be sufficiently given by:

- personal delivery of the Notice Document by handing it to the owner of a unit or if jointly owned to one of such joint owners or by simply leaving the Notice Document at the address noted on the Register for the recipient, addressed to the recipient;
- mailing the Notice Document by prepaid ordinary mail or registered mail to the address noted on the Register for the recipient addressed to the recipient; or,
- such other means of electronic transmission as is generally accepted for giving of notice and/or transmission of documents.

b. *(Notice to persons not listed on the Register)*

Notice to persons whose address does not appear on the Register shall be given by forwarding same to any address(es) for such persons known to the Board.

c. *(When notice is deemed to be received)*

Any Notice Document shall be deemed to have been received by the recipient:

- (a) if delivered personally, when delivered;
- (b) if mailed, on the day it is mailed; or,
- (c) if sent by other form of electronic transmission, upon such transmission being made.

- *(Notice to the Corporation)*

Any Notice Document to be given to the Board or Corporation shall be sufficiently given by mailing the Notice Document by prepaid ordinary mail or registered mail to the address for service of the Corporation and shall be deemed to have been received on the fifth business day following mailing.

- *(Failure to give proper or any notice)*

Failure to give proper notice or any notice to anyone entitled to notice shall not invalidate any action taken at any meeting or other proceeding for which notice should have been given.

**Article XIII.     Mediation**

Any mediation involving any of the owners of the condominium plan and/or the Corporation shall, in the absence of a written agreement to the contrary by all participants be conducted in accordance with the provisions of the attached Mediation schedule.

**Article XIV.     Miscellaneous**

- The use of the masculine gender in this by-law shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include plural wherever the context so requires, and vice versa.
- The invalidity of any part of this by-law shall not impair or affect in any manner the validity and enforceability or effect of the balance thereof.
- No restriction, condition, obligation or provision contained in this by-law shall be deemed to have been abrogated or waived because of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.
- The use of headings in this by-law is for convenience of reference only and shall not affect the interpretation of this by-law.

### **Mediation Schedule**

With respect to any matter which is being mediated pursuant to the provisions of the *Condominium Act, 1998* (the "Act") the parties to the mediation (the "Parties") must follow the following procedures and the mediation shall be governed by the same unless all parties to the mediation agree in writing to the contrary.

#### **Confidentiality**

1. The mediation will be a confidential settlement process. Anything discussed in the mediation cannot be used in any proceeding by anyone.
2. Mediation sessions are settlement negotiations and disclosures are inadmissible during any further litigation or arbitration to the extent allowed by law. The parties will not subpoena or otherwise require the mediator to testify or produce records or notes in any future proceedings. No transcripts will be kept of the mediation conference.
3. The parties shall not rely on or introduce as evidence in subsequent arbitral or judicial proceedings:
  - a. any views expressed, or suggestions made, by the other party in respect of the possible settlement of the dispute;
  - b. any admissions made by the other party in the course of the mediation;
  - c. the fact that the other party had indicated a willingness to accept a proposal or recommendation for settlement made by the mediator;
  - d. proposals made or views expressed by the mediator.
4. All mediation conferences shall be held in private.
5. The only persons entitled to be present without the consent of the mediator, shall be the parties and/or their representatives.
6. During the mediation process the mediator may disclose to either party any information provided by either party, unless the disclosing party has specifically requested the mediator to keep the information confidential. The mediator will not disclose to anyone who is not a party to the mediation anything (i.e., any materials submitted to the mediator) except:
  - a. where applicable, to the lawyers or other professionals retained on behalf of the parties or to non-parties consented to in writing by the parties, as deemed appropriate or necessary by the mediator;
  - b. where ordered to do so by a judicial authority or where required to do so by law.
7. The mediator may disclose to any party or to her or his counsel any information provided by the other party which the mediator and the party believe to be relevant to the issues being mediated unless a party or her/his counsel has specifically requested the mediator to keep such information confidential.

#### **Summary of dispute**

8. In order to facilitate a more complete understanding of the controversy and the issues to be mediated, the Parties will each provide the mediator with a written brief (of approximately 3 pages) of the controversy as they see it, not less than two days prior to the first mediation session.

#### **Role of mediator**

9. The mediator's role is to assist the parties to negotiate a resolution of their dispute. The mediator will not make decisions for the parties about how the matter should or must be resolved.

#### **Voluntary participation**

10. Following each party's initial attendance at the mediation session, each party's participation in the mediation is voluntary. Any Party or the mediator may withdraw from the mediation at any time for any reason.

#### **Representation of Parties**

11. Parties to a mediation are entitled to legal representation or advice prior to or during the mediation. They may have lawyers present at the mediation if they so desire. If the mediator selected by the parties is a qualified lawyer she (he) will not provide legal representation or legal advice to any party at any time, and the mediator will have no duty to assist or protect the legal rights and responsibilities of any party, or to raise any issue not raised by the parties themselves, or to determine who should participate in the mediation.

#### **Payment of mediator's fees and expenses**

12. If a settlement is obtained, each party shall pay the share of the mediator's fees and expenses that the settlement specifies. If the mediation fails, each party shall pay the share of the mediator's fees and expenses that the mediator shall specify in the notice outlining the failure.

#### **Choice and role of mediator and mediation agreement**

13. The Parties shall sign the form of mediation agreement (if any) required by the mediator.
14. Mediation shall be conducted by one mediator.
15. If the parties to a mediation do not select a mediator within 60 days after the parties submit the disagreement to

mediation the disagreement shall proceed to arbitration under the *Arbitration Act, 1991* and the mediation shall be deemed to have failed.

16. The selected mediator will not represent either of the parties in any subsequent related legal proceeding between the parties or where they are opposed in interest.

***Initial Meeting***

17. The mediator shall on a date established by the mediator after consultation with the parties and/or their solicitors meet with the parties and/or their solicitors to determine all procedural matters, including the following:
- a. what issues are in dispute and which matters, if any, can be agreed upon;
  - b. what documents, correspondence, books or records exist or can be produced, when they shall be produced or exchanged and by whom;
  - c. whether "on site" inspections and/or interviews shall be part of the proceedings;
  - d. the retainer of experts or consultants by the mediator;
  - e. the basis upon which the mediator's fees shall be calculated, secured and paid, including any deposit to be paid in advance;
  - f. clarification of any initial perceived bias and agreement on dealing with it;
  - g. whether special services such as interpreters, document translations or security measures are required, and how such services shall be provided and paid for;
  - h. fixing the locale where the mediation is to be held; and
  - i. setting the date, time and place of the initial mediation conference.
18. At the initial meeting, the mediator shall disclose any personal interest in the dispute, or any previous relationship with any of the parties, or any specific bias regarding any of the issues.
19. The initial meeting may be held by teleconference with the consent of all parties and the mediator.
20. The address for service for each Party shall be provided by the Parties to the mediator at the preliminary meeting and service to this address shall be deemed good and sufficient.
21. Any consensus reached at the preliminary meeting shall be recorded in writing by the Mediator and such records shall be sent within four days of that meeting to each of the parties.

***Mediation Conferences***

22. The mediator shall schedule the date, time and location for any subsequent mediation conferences after consultation with the parties and/or their solicitors.
23. Unless the Parties otherwise agree, a party may be represented by a lawyer or agent if prior notice including the lawyer or agent's name and address, is given to the mediator and other party(-ies) at least 3 (three) days prior to the mediation conference.
24. A mediation conference may be terminated at any time by any party, her or his counsel or the mediator for any reason.
25. Each party's representative has full authority to settle the dispute at the mediation conference, otherwise agreed in writing.
26. Where a party fails to attend or be represented at a mediation conference despite proper notice, the mediator may adjourn the mediation conference to a later date with 14 days notice to all parties, and costs may be assessed against the defaulting party.

***Report of Settlement***

27. Upon obtaining a settlement between the parties with respect to the disagreement submitted to mediation, the mediator shall make a written report of the settlement which shall form part of the agreement or matter that was the subject of the mediation.

***Notice of failure of mediation***

28. If any one or more of the parties will not cooperate with the other(s) and/or the mediator (as determined by the mediator in the mediator's absolute discretion) or if the parties are unable with the assistance of the mediator, to settle their dispute, the mediator shall deliver a notice to the parties stating the mediation has failed, and if the nature of the dispute concerns a matter that falls within a category of disagreement described in the Act as requiring alternate dispute resolution, the parties agree to resolve their dispute thereafter by arbitration under the *Arbitration Act, 1991* (or its successor legislation).