

Fairlington Commons Council of Co-Owners

3367 South Wakefield Street
Arlington, Virginia 22206

By-Laws of Fairlington Commons

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**Exhibit "B" to Master Deed
By-Laws of Fairlington Commons
(As Amended January 19, 1993)¹**

Article I—Plan of Condominium Family Unit Ownership

Section 1. Condominium Family Unit Ownership. The project located at South 34th Street and South Utah Street, County of Arlington, State of Virginia, known as "Fairlington Commons," is submitted to the provisions of Chapter 4.1, Title 55, Code of Virginia 1950, as amended (the "Act").

Section 2. By-Laws Applicability. The provisions of these By-Laws are applicable to the project. (The term "project" as used herein shall include the land.)

Section 3. Personal Application. All present or future co-owners, tenant, future tenants-or their employees, or any other person that might use the facilities of the project in any manner, are subject to the regulations set forth in these By-Laws and to the property maintenance agreement, attached as Exhibit "C" to the recorded Master Deed.

The mere acquisition or rental of any of the condominium family units (hereinafter referred to as "family units") of the project or the mere act of occupancy of any said family units will signify that these By-Laws and the provisions of the property maintenance agreement are accepted, ratified and will be complied with.

Article II—Voting Majority of Owners, Quorum, Proxies

Section 1. Voting. Voting shall be on a percentage basis and the percentage of the vote to which the owner is entitled is the percentage assigned to the family unit or family units in the Master Deed.

Section 2. Proportion of Co-Owners. As used in these By-Laws the term "majority of owners" shall mean those co-owners holding more than fifty percent (50%) of the votes in accordance with the percentages assigned in the Master Deed. Other proportions of owners shall mean those co-owners holding the proportion of votes specified in accordance with the percentages assigned in the Master Deed.

Section 3. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "one-third (1/3) of the co-owners" as defined in Section 2 of this Article shall constitute a quorum.

Section 4. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of each meeting.

¹ Master Deed recorded at Deed Bk 1790; Pp. 554 es seq.; July 26, 1972; First Amendment recorded at Deed Bk 24331 Pp. 485-498; May 24, 1990; Second Amendment recorded at Deed Bk 2570: Pp. 139-141; Jan. 19, 1993.

Article III—Administration

Section 1. Council Responsibilities. The co-owners of the Family Units will constitute the Council of Co-Owners (hereinafter referred to as “Council”) who have the ultimate responsibility of administering the project, approving the annual budget, establishing the monthly assessment for the subsequent year and reviewing the Board of Directors’ arrangements for the management of the Project. Except as otherwise provided, decisions and resolutions of the Council shall require approval by a majority in interest of co-owners.

Section 2. Annual Meeting. The annual meeting of the Council shall be held in the County of Arlington during the first two weeks of October. The date shall be determined by the board of directors. At such meetings there shall be elected by ballot of the co-owners a board of directors in accordance with the requirements of Section 5 of Article IV of these By-Laws. The co-owners may also transact such other business of the Council as may properly come before them.

Section 3. Budget Meeting. The budget meeting of the Council shall be held in the County of Arlington during the first two weeks in December. The date shall be determined by the board of directors. At such meetings there shall be a vote of the Council of Co-Owners on a budget recommended by the board of directors for the next fiscal year. The co-owners may also transact such other business of the Council as may properly come before them.

Section 4. Special Meetings. It shall be the duty of the president to call a special meeting of the co-owners as directed by resolution of the board of directors or upon a petition signed by the majority in interest of the co-owners having been presented to the secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths of the co-owners present either in person or by proxy.

Section 5. Notice of Meetings. It shall be the duty of the secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each co-owner of record. Notice of the annual meeting and any meeting at which amendments to these By-Laws are to be considered will be mailed at least twenty-one (21) but no more than forty-five (45) days before such meeting. Notice for the budget meeting shall be mailed at least ten (10) days before the meeting but not before the annual meeting. Notice of all other meetings shall be mailed not less than ten (10) days before the meeting, but no more than forty-five (45) days before such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

Section 6. Adjourned Meetings. If any meeting of co-owners cannot be organized because a quorum has not attended, the co-owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 7. Presentation of Credentials. At meetings of the Council of Co-Owners, those attending shall identify themselves, submit proxies, and give notice of revocation of proxies to the presiding officer or the presiding officer’s representative. Upon acceptance of their credentials, they shall be issued ballots. The presiding officer or the presiding officer’s

representative shall determine whether a quorum is present in person and proxy. The presiding officer may call the meeting to order and commence with business after the announced time of the meeting but before it has been determined that a quorum is present. However, no vote shall be taken the Council of Co-Owners on items of business announced in the notice of meeting, on unfinished business, or on new business in the absence of a quorum.

Section 8. Order of Business. The order of business at all meetings of the co-owners of Family Units shall be as follows:

- (a) Proof of notice of meeting or waiver of notice.
- (b) Reading of minutes of preceding meeting.
- (c) Reports of officers.
- (d) Report of committees.
- (e) Business announced in the notice of meeting.
- (f) Unfinished business.
- (g) New business.

Section 9. Committee of the Whole. If a quorum of the Council of Co-owners is not present, the presiding officer may form a Committee of the Whole. This committee can vote on business announced in the notice of meetings*, unfinished business, and new business, but the votes shall be for the advice of the Council of Co-Owners and the board of directors only. These votes shall not limit the board of directors from exercising any of its proper powers, including the appointment of directors to fill vacancies on the board of directors and the establishment of a budget.

Article IV—Board of Directors

Section 1. Number and Qualification. The affairs of the Council shall be governed by a board of directors composed of five (5) persons, all of whom must be co-owners of Family Units in the project.

Section 2. Powers and Duties.

- (a) The board of directors shall have the powers and duties necessary for the administration of the affairs of the Council and may do all such acts and things as are not by law or by these by-laws directed to be exercised and done by the co-owners.
- (b) The board of directors shall establish fees to promote the enforcement of rules and govern special usage of the general common elements. The secretary shall notify all owners and residents of new fees and fee changes.
 - (1) A fee for condominium disclosure documents, no greater than allowed by law, shall be established.
 - (2) A fee for late monthly assessments, not to exceed 20% of the monthly assessment for a Clarendon unit shall be established. Monthly assessments are due on the first (1st) of each month, and the board shall allow a grace period of five (5) days.
 - (3) The board shall establish penalty charges for fees which are at least three months overdue, and for which at least one month written notice that they are overdue has been given.
 - (4) A fee shall be established for use of the swimming pool by more than one guest at a time.

- (5) A fee for returned checks shall be established, not to exceed 15% of the monthly assessment of a Clarendon unit.
- (6) The board of directors shall have the power to establish other fees at a reasonable level.
- (7) The board of directors shall have the authority to waive any fee or penalty which circumstances warrant.

Section 3. Other Duties. In addition to duties imposed by these by-laws or by resolution of the Council, the board of directors shall be responsible for the following:

- (a) Care, upkeep and surveillance of the project and the common areas and facilities.
- (b) Making interim adjustments in the monthly assessments, if necessary.
- (c) Collection of monthly assessments from co-owners.
- (d) Designation and dismissal of the personnel necessary for the maintenance and operation of the project, the common areas and facilities.

Section 4. Management of the Project. Subject to the review and approval of the Council of Co-owners, the board of directors shall arrange for the management of the Project pursuant to an agreement containing provisions relating to duties, operations, removal and compensation of the management agent.

Section 5. Election and Term of Office. Directors shall be elected by the Council of Co-owners for a term of three (3) years. The directors shall hold office until their successors have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the board of directors caused by any reason other than the removal of a director by a vote of the Council shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the Council.

Section 7. Removal of Directors. At any regular or special meeting duly called, any one or more of the directors may be removed with or without cause by a majority of the co-owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the co-owners shall be given an opportunity to be heard at the meeting.

Section 8. Organization Meeting. The first meeting of a newly elected board of directors shall be held within ten (10) days of election at such place as shall be fixed by the directors at the meeting at which the directors were elected, and no notices shall be necessary to the newly elected directors in order legally to constitute such meeting, provided a majority of the whole board shall be present.

Section 9. Regular Meetings. Regular meetings the board of directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the board of directors shall be given to each director, personally or by mail, telephone, or telegraph, at least three (3) days prior to the day named for such meeting.

Section 10. Special Meetings. Special meetings of the board of directors may be called by the president on three (3) days notice to each director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinafter provided) and purpose of the meeting, Special meetings of the board of directors shall be called by the president or secretary in like manner and on like notice on the written request of at least three (3) directors.

Section 11. Waiver of Notice. Before or at any such meeting of the board of directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meetings.

Section 12. Board of Directors' Quorum. At all meetings of the board of directors, a majority of directors shall constitute a quorum for the transaction of business, and the acts of the majority of directors present at a meeting, at which a quorum is present shall be the acts of the board of directors. If, at any meeting of the board of directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Fidelity Bonds. The board of directors shall require that all officers of the Council handling or responsible for the Council funds shall furnish adequate fidelity bonds. The premium on such bonds shall be paid by the Council.

Article V—Officers

Sections 1. Designation. The principal officers of the council shall be a president, a vice president a secretary and a treasurer, all of whom shall be elected by and from the board of directors. The directors may appoint an assistant treasurer, an assistant secretary and such other officers as in their judgment may be necessary.

Section 2. Election of Officers. The officers of the council shall be elected annually by the board of directors at the organization meeting of each new board and shall hold office at the pleasure of the board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the board of directors, any officer may be removed, either with or without cause, and his successor elected at a regular meeting the board of directors or at any special meeting of the board called for such purpose.

Section 4. President. The president shall be the chief executive officer of the council. He shall preside at all meetings of the council and of the board of directors. He shall have all the general powers and duties which are usually vested in the office of president of a council, including but not limited to the powers to appoint committees from among the co-owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the council.

Section 5. Vice President. The vice president shall take the place of the president and perform his duties whenever the president shall be absent or unable to act. If neither the president nor the vice president is able to act, the board of directors shall appoint some other members of the board to so do on an interim basis. The vice president shall also perform such other duties as shall from time to time be imposed upon him by the board of directors.

Section 6. Secretary. The secretary shall keep the minutes of all meetings of the board of directors and the minutes of all meetings of the council; he shall have charge of such books and papers as the board of directors may direct; and he shall, in general, perform all the duties incident to the office of secretary.

Section 7. Treasurer. The treasurer shall have responsibility for council funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the council. He shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the council in such depositories as may from time to time be designated by the board of directors.

ARTICLE VI—Obligations of the Owner

Section 1. Assessments. All co-owners are obligated to pay monthly assessments imposed by the council to meet all project common expenses, including premiums for insurance as required by the Master Deed, and further invoicing water and sewer bills for the Family Units (water and sewer bills are common and not individual bills). The assessment shall include monthly payments to a general operating reserve and reserve funds for replacements as required in the Property Maintenance Agreement attached as Exhibit “C” to the Master Deed. The monthly assessment herein provided shall be a charge on the Family Unit and shall be a continuing lien upon the Family Unit against which the assessment is made. The lien of the assessment provided for herein shall be subordinated to the lien of any first mortgage or mortgages. The sale or transfer of any Family Unit which is subject to any first mortgage or added of trust, pursuant to a Decree of Foreclosure under such first mortgage or deed of trust or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessment as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve Family Unit from liability for any assessment thereafter becoming due or from the lien thereof.

In the event that the monthly assessment adopted by the council shall prove to be insufficient to meet the actual operating expenses and the reserve funds required in said Property Maintenance Agreement, the board of directors shall have the right and obligation to enact a new schedule of assessments to eliminate such insufficiency.

Section 2. Maintenance and Repair.

- (a) Every co-owner must perform promptly all maintenance and repair work within his Family Unit which, if omitted, would effect the project in its entirety or in a part belonging to other co-owners, and is expressly responsible for the damages and liabilities which may result from his failure to do so.
- (b) All repairs of internal installations of the Family Unit such as water, light, gas, power, sewage, telephone, air conditioners, sanity installations, doors, windows, lams and all other accessories belonging to the Family Unit area shall be at the co-owners’ expense.

- (c) A co-owner shall reimburse the council for any expenditures incurred in repairing or replacing any common element damaged through his fault.

Section 3. Use of Family Units—Internal Changes.

- (a) All Family Units shall be utilized for residential purposes only.
- (b) An owner shall not make structural modifications or alterations in his Family Unit or installations located therein without previously notifying the council in writing, through the management agent, if any, or through the president of the board of directors, if no management agent is employed. The council shall have the obligation to answer within thirty (30) days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration.

Section 4. Use of General Common Elements. A co-owner shall not place or cause to be placed in the general common elements any objects of any kind which tend to obstruct the reasonable use of the general common elements by any other co-owner. The hallways, sidewalks, driveways, roads and roadways shall be used for no other purpose than for normal transit through them.

Section 5. Right of Entry.

- (a) A co-owner shall grant the right of entry to the management agent or to any other person authorized by the board of directors of the council in case of any emergency originating in or threatening his Family Unit, whether the co-owner is present at the time or not.
- (b) A co-owner shall permit other co-owners, or their representatives, when so required, to enter his Family Unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services necessary to be done in his Family Unit, provided that requests for entry are made in advance and that such entry is at a time convenient to the co-owner. In case of any emergency, such right of entry shall be immediate.

Section 6. Rules of Conduct.

- (a) The greens and walkways in front of the Family Units and the entranceways to the Family Units shall not be obstructed or used for any purpose other than ingress to and egress from the Family Units.
- (b) No article shall be hung or shaken from the doors or windows or placed upon the window sills of the Family Units.
- (c) No bicycles, scooters, baby carriages, or similar vehicles or toys or other personal articles shall be allowed to stand in any of the common areas, except the common area designated for these vehicles or articles.
- (d) No co-owners shall make or permit any noises that will disturb or annoy the occupants of any of the Family Units in the project or do or permit anything to be done that will interfere with the rights, comfort, or convenience of other co-owners.
- (e) No shades, awnings, window guards, ventilators, fans, or air conditioning devices shall be used in or about the buildings except such as shall have been approved by the board of directors.
- (f) No sign, notice, or advertisement shall be inscribed or exposed on or at any window or other part of the Family Unit, except such as shall have been approved in writing by the board of directors, nor shall anything be projected out of any window without similar approval.

- (g) All refuse shall be deposited with care in containers intended for such purpose only at such times and in such manner as the board of directors may direct. All disposals shall be used in accordance with the instructions on the board of directors.
- (h) No owner shall send any employee of the condominium on any private business of the owner.
- (i) In no event shall dogs be permitted in any of the public portion of the Project unless carried or on a leash. The owner shall indemnify the council and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal in the Project. If a dog or other animal becomes obnoxious to other co-owners by barking or otherwise, the co-owner thereof must cause the problem to be corrected or if it is not corrected, by co-owner, upon written notice by the board of directors, will be required to dispose of the animal.
- (j) No radio or television aerial shall be attached to or hung from the exterior of the Family Units without written approval of the board of directors.
- (k) No vehicle belonging to any co-owner or to a member of the family or guest, tenant, or employee of a co-owner shall be parked in such manner as to impede or prevent ready access to another parking space. The co-owners, their employees, servants, agents, visitors, licensees, and the co-owner's family will obey the parking regulations posted at the private streets, parking areas, and any other traffic regulations promulgated in the future for the safety, comfort, and convenience of the owners, and all regulations with respect to use of the parking spaces that the board of directors may formulate.
- (l) Any co-owner wishing to plant flowers, trees, or shrubs outside of his patio area must obtain written permission from the board of directors before doing so.
- (m) The co-owners must keep the interiors of the patios and storage areas clean and free from obstructions. Nothing shall be hung in the patios above the fence lines. The council of co-owners assumes no liability for loss or damage to articles stored in or on the patios, terraces, or storage areas.
- (n) Any damage to the buildings, recreational facilities, or other common areas or equipment caused by any co-owner, his tenant, guest, children, or pets shall be repaired at the expense of the co-owner.
- (o) Parents are responsible for the actions of their children and their guests.
- (p) Children are allowed to play in designated areas, private patios, and service streets, etc., only. They are not allowed to play on greens or in entranceways in front of Family Units.
- (q) Requests for service and for enforcement of rules shall be made in such a manner as the board of directors shall determine and announce. Complaints about the management of the project shall be made in writing to the board of directors.
- (r) Any consent or approval given under these rules of conduct by the board of directors shall be revocable at any time.
- (s) The co-owners shall obey any standing rules of conduct that the council of co-owners or the board of directors may establish.

Section 7. Suspension of Rights to Use of Recreational Facilities. In addition to all other rights that it has for nonpayment of assessments, the board of directors of the council of co-owners shall have the right to suspend the right to the use by a co-owner and his family of the recreational facilities (including the right to use of the swimming pool) as provided for in the Master Deed for any period during which the assessment provided for in Article VI of these By-

Laws remains unpaid and for a period not to exceed thirty (30) days for any infraction of the rules of conduct specified in Article VI, Section 6 of these By-Laws. This right of suspension shall not affect in any manner the obligations of such co-owner. The board shall have the right to delegate to the lifeguards the authority to expel people from the swimming pool for violating the rules of conduct or for engaging in improper behavior.

Section 8. Financial Obligations. Co-owners will pay their monthly assessments by the first of each month, and shall pay in a timely manner other fees and assessments that are properly established and announced.

Section 9. Legal Fees and Expenses. In the event that a conflict arises between a co-owner (or group of co-owners) and the council of co-owners (or board of directors) and such conflict results in legal action, seeking either injunctive or monetary relief, the prevailing party in such action shall be entitled to recover his or her reasonable attorneys' fees and costs from the non-prevailing party. With respect to the collection of overdue monthly assessments, a delinquent co-owner shall reimburse the council of co-owners for all reasonable legal costs associated with efforts to obtain collection of any overdue monthly assessments, including but not limited to the preparation and filing of liens, motions for judgment, warrants n debt, and related correspondence and court appearances, even if the overdue fees are ultimately paid without a judgment being entered or resort to foreclosure and sale of the property.

ARTICLE VII—Amendment to the By-Laws

Section 1. Proposing Amendments to the By-Laws. Amendments to these By-Laws are proposed in the following manner:

- (a) amendments can be proposed by the board of directors or by ten (10) percent of the co-owners. In the latter case, the proposed amendments shall be submitted to the board of directors in writing with a reason why each should be adopted and signed by the co-owners proposing the amendment. The board of directors shall have up to thirty (30) days to review and make a recommendation on the amendments.
- (b) Upon completion of the review and recommendations of the board of directors, the secretary shall place the proposed amendments on the agenda for one of the next two meetings of the council of co-owners that is at least twenty-one (21) days away and for which the meeting notices have not been sent. If the next such meeting is at least forty-five (45) days away, the secretary must place it on the agenda for the next meeting .The secretary shall include a copy of the amendments, reasons for the amendments, and recommendation of the board with the notice of meeting sent to all co-owners, and shall send that notice of meeting in accord with the provisions of Article III of these By-Laws.

Section 2. Amending the By-Laws. These By-Laws may be amended by the council in a duly constituted meeting for such purposes and no amendment shall take effect unless approved by co-owners representing at least sixty percent (60%) of the total value of all Family Units in the project as shown by the Master Deed and recorded among the land records of Arlington County with marginal notation thereof where the Master Deed is recorded.

ARTICLE VIII—Mortgages

Section 1. Notice to Council. A co-owner who gives a deed of trust on his family unit shall notify the council through the management thereof, if any, or the president of the board of directors in the event there is no management agent, of the name and address of the party secured thereby and the amount of the lien secured thereby and the council shall maintain such information in a book entitled *Parties Secured by Deed of Trusts of Family Units*.

Section 2. Notice of Unpaid Assessments. The council shall at the request of a party security by a deed of trust of a family unit report any unpaid assessments due from the co-owner of such family unit.

ARTICLE IX—Compliance

These By-Laws are set forth to comply with the requirements of Section 55-79.11 of the Code of Virginia 1950, as amended. In case any of these By-Laws conflict with the provisions of the Act, it is hereby agreed and accepted that the Act will apply in the case of such conflict. All other By-Laws not in conflict with the provisions of the Act shall remain in full force and effect.