RESTATED BYLAWS OF
MICHELBOOK FIFTH AND SIXTH ADDITIONS
HOMEOWNER’S ASSOCIATION

THIS RESTATED BYLAWS, made this 12th day of May, 2006 by MICHELBOOK ESTATES, INC., an Oregon corporation, hereafter called the “Developer”. The ORIGINAL BYLAWS was made 4th day of February, 1999 and amendments to the ORIGINAL DECLARATION were made 26th day of June, 2001

CHAPTER 1
DEFINITIONS

1.05 The following words when used in these Bylaws shall have the following meanings:

1.10 “Association” shall mean and refer to the Michelbook Homeowners’ Fifth and Sixth Additions Association, a non-profit corporation organized and existed under the laws of the State of Oregon.

1.15 “Association of Members” shall mean all the owners and other persons entitled to vote, acting as a group, in accordance with the Declaration and By Laws.

1.20 “Building” shall mean a multiple unit building or a single unit building, or any combination thereof, comprising a part of the property.

1.25 “Common Expenses” shall mean the expenses of administration, maintenance, repair or replacement of the private commons, expenses agreed upon as common by the owners, and expenses declared common by these Bylaws of this Association and the Declaration of Covenants and Restrictions.

1.30 “Declaration” shall mean the covenants and restrictions, previously filed in Yamhill County plus amendments and supplements thereto.

1.35 “Lot” shall mean a part of the property, including a building of one or more rooms intended for any type of independent use, and with a direct exit to a public street or highway or to a common area or areas leading to a public street or highway.

1.40 “Majority of Members” shall mean those persons or entities holding fifty-one percent (51%) of the votes in accordance with the percentages and voting rights assigned in the Declaration.
1.45 "Manager" shall mean the manager of Board of Managers or other person or persons in charge of the administration of or managing the Association and the properties.

1.50 "Members" shall mean that person or entity having a voting right in the Association pursuant to the Declaration and the Articles of Incorporation, and these Bylaws.

1.55 "Owner" shall mean the record owner, or contract purchaser, whether one or more persons or entities, or a fee simple title to any lot, plot or living unit situated upon the properties, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee or holder of a trust deed unless and until such mortgagee or holder of a trust deed has acquired full title pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.60 "Private Commons" shall mean parks, commons, streets, footways, buildings, structures, walls, roofs, personal properties, and any and all other properties maintained by the Association for the common benefit of all the members of the Association.

1.65 "Properties" or "Property" shall mean the land, whether leasehold or in fee simple, all buildings, improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which are under these Bylaws, the Declaration and Articles of the Association.

CHAPTER 2
MEMBERSHIP

2.05 The method of selection of members and the rights of members are as set forth in the Declaration, the Articles of Incorporation and these Bylaws.

2.10 The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against each owner of, and becomes a lien upon, the property against which such assessments are made as provided in the Declaration to which the properties are subject and recorded and the Articles of Incorporation.

2.15 The membership rights of any person whose interest in the properties are
subject to assessment under the Declaration, Articles of Incorporation and these Bylaws, may be suspended by action of the directors during the period when the assessments remain unpaid; but upon payment of such assessments, his rights and privileges shall be automatically restored.

CHAPTER 3
PROPERTY RIGHTS AND RIGHTS
OF ENJOYMENT OF COMMON PROPERTY

3.05 Each member and guest shall be entitled to the use and enjoyment of the private commons and facilities provided by the Declaration and the Articles of Incorporation and these Bylaws.

CHAPTER 4
BOARD OF DIRECTORS

4.05 The affairs of the Association shall be governed by a Board of Directors composed of five (5) persons, from among the members, provided that husband and wife may not serve as directors simultaneously.

4.10 The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts as are not by law or by these Bylaws directed to be done by the owners specifically. The directors’ responsibilities include but are not limited to the care, upkeep and surveillance of the properties; the collection of monthly assessments from the owners in accordance with these Bylaws; the designation and dismissal of personnel necessary for the maintenance and operation of the properties, the private commons, and this Association; to call special meetings of the members as set forth in these Bylaws; to adopt and publish rules and regulations governing the use of the private commons and the personal conduct of the members and their guests; to cause to be kept complete records of all its acts and corporate affairs and present a statement thereof to the members at the annual meeting of the members or at any special meeting at which such statement is requested in writing by five percent (5%) of the voting membership as provided by these Bylaws.

4.15 The Board of Directors may employ and establish compensation for a management agent who shall be an officer or assistant officer of the Association to perform such duties and services as the Board shall authorize, including but not limited to the carrying out of the duties set forth in Section 4.10 of this chapter.

4.20 The first meeting of the 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 such directors were elected and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

4.25 Regular meetings of 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. Notice of regular meetings of the Board of Directors shall be given by the Secretary on five (5) days’ notice to each Director, personally or by mail, telephone, e-mail or telegraph, which notice shall state the time and place of the meeting.

4.30 Special meetings of the Board of Directors may be called by the President on twenty-four (24) hours’ notice to each director, given personally or by mail, telephone, e-mail or telegraph, which notice shall state the time, place 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 any one (1) director.

4.35 Before or at any meeting of the Board of Directors, any director may, in writing or orally, 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 meeting.

4.36 Board members who are personally involved in a decision that must be made by the Board, or a committee that answers to the Board, must dismiss themselves from the process.

4.40 The Board of Directors shall require that all officers and employees of the Association handling, or responsible for, Association funds shall furnish adequate fidelity bonds, the premiums on such bonds to be paid by the Association.

CHAPTER 5
NOMINATION, ELECTION, AND TERM OF OFFICE OF DIRECTORS

5.05 Nominations for elections to the Board of Directors shall be made by a Nominating Committee constituted as set forth in these Bylaws.

5.10 A Nominating Committee shall meet at least fifteen (15) days prior to the annual meeting and shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. The Nominating Committee shall make every effort to ensure that each division (Turnberry, Michelbook 5th, and Michelbook 6th) of the HOA is represented, by offering this opportunity during the election process.
5.15 At the annual meeting or at a special meeting called for elections, the Nominating Committee shall present its nominations to the membership, and the President shall thereupon invite additional nominations from the floor. No nominee may be nominated by the committee or from the floor without the express oral consent of the nominee having been obtained prior to the nominee’s nomination. After the nominations are closed, the president shall call for the election of the directors by the Voting Members orally unless at least three (3) Voting Members demand that the election shall be in writing, in which event, the President shall immediately direct the Secretary to prepare written ballots and the election shall proceed by written ballot. The announcement of the winners shall be made at the meeting or as soon thereafter, in the event of a written ballot, as may be conveniently made in writing to the members. The President may designate an Election Committee to count the ballots from among the Voting Members.

5.20 At any regular or special meeting of the members duly called, any one or more of the directors may be removed with, or without, cause by a two-thirds (2/3) vote of the Voting Members present, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

5.25 Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Association shall be filled by a vote of the majority of the remaining directors, and each person so elected shall be a director until his successor is elected at the next annual meeting of the Association or a special meeting called for that purpose.

5.30 At the first meeting of the directors following the first meeting of members, the directors shall determine as between themselves by lot, that the term of two directors shall be for three (3) years, the term of two directors shall be for two (2) years, and the term of one director shall be for one (1) year. At the expiration of the initial term of office for each director, his successor shall be chosen for a term of three (3) years as provided in these Bylaws.

CHAPTER 6
OFFICERS

6.05 The principal officer of the Association shall be a Chairperson, hereinafter call President, a Vice President, and a Secretary-Treasurer, all of whom will be elected by and from the Board of Directors. The directors may appoint an Assistant Treasurer or Assistant Secretary and such other officers as in their judgment may be necessary, which said officer or assistant officer need not be members of the Association.
6.10 The officer of the Association shall be elected annually by the Board of Directors, at the organizational meeting of each new Board, and shall hold office at the pleasure of the Board.

6.15 Upon the affirmative vote of a majority of the members of the Board of Directors, an officer may be removed either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or any special meeting of the Board called for such purpose.

6.20 The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of President of an association, including but not limited to the power of appoint committees from among the owners from time to time as he may, in his or discretion, determine as appropriate to assist in the conduct of the affairs of the Association.

6.25 The Vice President shall take the place of the President and perform the President’s duties whenever the President shall be absent or unable to act, and have such other and further duties as the President shall determine. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on a temporary basis.

6.30 The Secretary-Treasurer shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association, shall have charge of the books, records, and papers of the Board of Directors and of the Association, and shall have the responsibility of the Association’s funds and securities, and be responsible for keeping full and accurate accounts of all receipts and disbursements and books belonging to the Association. The Secretary-Treasurer shall carry out other and further duties and oversee the responsibilities of Assistant Secretaries and Assistant Treasurer under and pursuant to the direction and control of the Board of Directors. The Secretary-Treasurer may be compensated in such manner and in such amount as the Board of Directors shall deem appropriate.

6.35 The Architectural Review Committee shall not only oversee all community construction as set down by the Declaration, but also oversee and enforce lot maintenance and house/lawn maintenance as set forth by Declaration Article VIII Section 8 & 9.

6.40 Officers and directors other than the Secretary-Treasurer shall serve without compensation unless the owners, by a two-thirds (2/3) vote, shall approve of compensation for such officers or directors. Directors may receive reimbursement for all expenses incurred on behalf of the Association.
CHAPTER 7
MEETINGS OF MEMBERS

7.05 Meeting of the Association will be held at the principal office of the Association or at such other suitable place convenient to the owners as may be designed by the Board of Directors.

7.10 The second annual meeting of the Association will be held on the third Wednesday of June, and thereafter, the annual meetings of the Association will be held on the same day of each succeeding year if the same is not a holiday, and if it is a holiday, on the next succeeding business day. At such meetings, there shall be an election for the members of the HOA Board of Directors in accordance with these Bylaws, and the members may also transact such other business of the Association as may properly come before them.

7.15 The President may call a special meeting of the members at any time and shall do so upon request of two (2) Directors or upon a petition signed by ten percent (10%) of the members and having been duly 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.

7.20 It shall be the duty of the Secretary-Treasurer to mail a notice of each annual or special meeting, stating the purpose thereof, including a statement as to any extraordinary business to be considered, as well as the time and place where it is to be held, to each member, at least ten (10) but not more than thirty (30) days prior to such meeting. The mailing of a notice in the manner provided in this section shall be considered the serving of notice.

7.25 The presence in person or by proxy of fifty-one (51%) of those eligible to vote in accordance with the percentages assigned in the Declaration shall constitute a quorum.

7.30 Votes may be cast in person or by proxy. Proxies must be filed with the Secretary in writing before the appointed time of each meeting.

7.35 If any meeting of members cannot be organized because a quorum is not in attendance, the members 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 of original meeting was called.
7.40 Except where there is something in the Articles, Declaration, or in these Bylaws to the contrary, the order of business and the method of proceeding with business shall be as set forth in the latest published revision of Roberts Rules of Order.

CHAPTER 8
COMMITTEES

8.05 The standing committees of the Association shall consist of an Architectural Review Committee (as established in the Declaration), and, such other standing committees as the Board of Directors shall determine. Subject to the Declaration, the duties of each committee shall be set forth by the Board of Directors and their membership shall be made up in such manner as may be determined, from time to time, by the Board of Directors.

8.10 In addition to the standing committees, the Association may have other temporary or special committees carrying out such duties and responsibilities as the Board of Directors may, from time to time, determine.

CHAPTER 9
OBLIGATIONS OF THE ASSOCIATION

9.05 Private Commons. The Association shall be responsible for the maintenance, upkeep and repair of all commons within the development. This shall be done in accordance with the Declaration and applicable city standards as set by the City of McMinnville.

CHAPTER 10
OBLIGATIONS OF THE OWNERS

10.05 Annual Assessment. All owners are obligated to pay, on a yearly basis during the second calendar quarter, the annual assessment imposed by the Association to meet all Association common expenses, which include but are not limited to a liability insurance policy, and a property and extended coverage insurance policy. Such assessment shall also include payments for general operating expenses and a reserve “rainy day” fund for maintenance, replacements, and upkeep of private commons.

(a) A Rainy-Day-Reserve of $5,000 shall be established and maintained by the
Board of Directors. This reserve is to be reviewed and adjusted annually as appropriate during the budget process in the second calendar quarter of each year. Any draw down or adjustment of said account will be completed via the next annual budget and assessment collection effort. The reserve shall be maintained in a CD or other interest bearing account.

(b) The Board of Directors will prepare the HOA annual fiscal year itemized budget (July 1st to June 30th) prior to mailing the annual assessment bills during the second calendar quarter. A copy of the new fiscal budget and associated ownership dues will arrive with the annual billing.

(b) The annual owners fee will be determined as follows:

Total operating forecasted expenses (based on historical actuals) plus a 20% funding allowance minus the current treasury balance divided by 69 (total HOA ownership units) equals the annual assessment per ownership unit.

10.10 Special Assessment. All owners are obligated to pay a special assessment for capital improvements, replacements or repairs. The nature and amount of such special assessments shall be approved by a majority of the members at a regularly scheduled meeting.

10.15 Each owner must perform promptly all maintenance and repair work on his own lot and building which, if omitted, would affect the properties belonging to other owners, be expressly responsible for damages and liabilities that his failure to do so may engender. An owner shall reimburse the Association for any expenditure incurred by it in repairing or replacing any part of the private commons damaged through the fault or negligence of an owner.

10.20 An owner shall not place or cause to be placed in the private commons any objects which could or do block normal transit through such private commons. An owner shall take no action which would unreasonably interfere with the use of the private commons by other owners.

10.25 Restrictions:

(a) No resident of a unit shall post any advertisement or poster of any kind in or upon the properties except as authorized by the Association.

(b) Residents shall exercise care about making noise that may disturb other residents.
10.30 Failure by the owner to pay any assessment by the Association shall be a default by the owner and subject the owner and the unit to the obligations of these Bylaws and the Declaration.

CHAPTER 11
AMENDMENTS

11.05 These Bylaws may be amended by the Association at a duly constituted meeting called for such purpose, but no amendment shall be effective unless approved by at least ninety percent (90%) of the Voting Members and until such amendment has been certified by the President and Secretary of the Association.

CHAPTER 12
ADMINISTRATIVE RULES AND REGULATIONS

12.05 The Board of Directors may promulgate, by two-thirds (2/3) vote, such additional administrative rules and regulations governing the details of the operation and use of the private commons as they shall, in their discretion, determine. Such rules and regulations shall be furnished to all members and shall be subject to change without notice.

CHAPTER 13
FINANCIAL ADMINISTRATION OF THE ASSOCIATION

13.05 In addition to a managing agent, the Board of Directors may employ for the Association such other and different persons necessary, useful or desirable for the maintenance, upkeep and repair of the private commons, or other Association purposes, as the Board of Directors shall determine.

13.10 Then managing agent shall have the authority to disburse funds only up to, but no in excess of, an amount to be determined by the Board of Directors. For any expenditure of funds over and above the said sum, the check or draft therefore shall contain the approval of, and the signature of, one of the three officers of the corporation in addition to that of the managing agent. The Association shall maintain such adequate books and records of account as good general business practice requires and for the purpose hereof may acquire the services of a professional accountant, public accountant, or certified public accountant.

13.15 The fiscal year of the Association shall be a calendar year such other year as the Board of Directors shall determine.
CHAPTER 14
INSURANCE

14.05 The private commons, including all parks, common streets, footways, buildings, structures, walls, roofs, personal properties, and any and all properties maintained by the Association for the common benefit and enjoyment of all members, Shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

(b) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

(c) Public liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the owners as a group to an owner.

14.10 Workman’s Compensation policy to meet the requirements of law.

14.15 Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

14.20 Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

14.25 All insurance policies purchased by the Association shall be for the benefit of the Association and the owners, and shall provide that all proceeds covering property losses shall be paid to the Association. The duty of the Association shall be to receive such proceeds as are paid and hold the same for the purposes elsewhere stated herein and the benefit of the owners.

14.30 Proceeds of insurance policies received by the Association shall be distributed for the benefit of the owners in the following manner:

(a) Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof. Any proceeds remaining after defraying such cost shall be held by the Association and distributed for the benefit of the owners as the Association may direct.
(b) Failure to reconstruct or repair. If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be held by the Association and distributed for the benefit of the owners as the Association may direct.

14.35 The Association is hereby irrevocably appointed agent for each owner and for each owner of a mortgage or other lien or any other interest in the private commons to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

CHAPTER 15
INDEMNIFICATION OF DIRECTORS AND OFFICERS

15.10 The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney’s fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he or she acted in good faith, and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

15.20 The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney’s fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the corporation and except that no indemnification shall be made in respect of any claim,
issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court is which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

15.30 To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorney’s fees) actually and reasonably incurred by such person in connection therewith.

15.40 The corporation may pay for or reimburse reasonable expenses incurred by a person who is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative if such party furnishes the corporation a written affirmation of their good faith belief that he or she acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful, and the party furnishes the corporation a written undertaking, executed personally or on the party’s behalf, to repay the advance if it is ultimately determined that said party did not meet such standard of conduct.

15.50 A director of the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice the court considers necessary, may order indemnification if it determines the party is entitled to mandatory indemnification in which case the court shall also order the corporation to pay the party’s reasonable expenses incurred to obtain court ordered indemnification, or if the party is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the conduct of the party was in good faith, in a manner which the party reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, the party had no reasonable cause to believe that his or her conduct was unlawful.

15.60 Notwithstanding anything contained above, the corporation shall not indemnify a director unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth above. Such determination that indemnification of a director is permissible shall be made by the Board of Directors by a
majority vote of a quorum consisting of directors not at the time parties to the proceeding; provided, however, if a quorum of the Board of Directors cannot be obtained, the determination shall be made by special legal counsel selected by the Board of Directors.

15.70 The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, agreement, vote of shareholders, or disinterested directors or otherwise, both as to action in his or her official capacity and as action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

15.80 The directors of the corporation have the authority on behalf of the corporation to authorize the purchase and maintenance of insurance on behalf of any person who is or was a director, officer, employee or agent of another corporation, or is or was serving at the request of the corporation, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against and incurred by such person 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 this Article.

This SECOND AMENDMENT to the Bylaws, duly, regularly and unanimously passed by the Board of Directors of Michelbook Fifth and Sixth Additions Homeowners’ Association on the ___________ day of ____________, 2006.

By: 

Jim Thigpen – President

By: 

Hank Pfrehm – Secretary

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