

PDX Commons Condominium Home Owners' Association

House Agreement

**Authorization to Borrow from Reserve Accounts**

(To pre-fund cost of repair for insured damages)

**Responsible: Finance & Administration**

Adopted by PDX Commons 9/20/2020

Last reviewed 9/20/2020

**Purposes**

Authorize Association borrowing from reserve funds to provide immediate cash to repair damage to insured property, noting provisions to refund those reserves through collection of deductibles, policy proceeds, or special assessments to owners.

Reiterate responsibility of each owner to insure for Association insurance policy deductibles.

**Background On Property Insurance, Earthquake Insurance and associated deductibles**

PDX Commons annually purchases insurance coverages that comply with the Bylaws (Section 10 "Insurance"). Some coverages have deductibles owed before the insurance policy will pay.

The Bylaws say that insurance deductibles, for specified coverages, must be reserved for in Association accounts for those situations where the Association is 100% responsible to pay:

6.3 Determination of Common Expenses. Common expenses shall include:

6.3.1 Expenses of administration.

6.3.2 Cost of insurance or bonds obtained in accordance with these Bylaws.

**6.3.3 A general operating reserve, sufficient to pay the amount of the deductible on any insurance policy held by the Association under Section 10.1.1.**

However, the Association is not always 100% responsible for funding the deductible. The party responsible for paying the deductible depends on where the damage occurs: for damage and repairs in a private unit (even when insured by an Association policy), the private unit owner pays; for damage/repairs in common space, the Association pays; if damage/repairs are in some of each, the deductible is split between owners of private units affected and the Association by % of total repair bill within each area. This is spelled out in Bylaws 10.6.1 and 10.6.2.

Policy deductibles are allocated and funded differently, depending on the type of insurance coverage. Coverages required by the Bylaws have deductibles allocated as explained above. Required coverages at the Association level are defined in Section 10.1.1. (emphasis added here with bold typeface):

## 10. Insurance

10.1. Types. Each Owner shall be responsible for obtaining, at his or her own expense, insurance covering his or her property not insured under Section 10.1.1 below and against his or her liability not covered under Section 10.1.2 below, unless the Association agrees otherwise. **For the benefit of the Association and the Owners, the Board of Directors shall obtain and maintain at all times, and shall pay for out of the common expense funds, the following insurance:**

**10.1.1 Insurance covering loss or damage under an all-risk replacement cost policy, which coverage must include fire, extended coverage, vandalism and malicious mischief (but need not include flooding and earthquake coverage) and such other coverages as the Association may deem desirable,** for not less than the full insurable replacement value, including the cost of replacement in compliance with the then applicable building codes, .....

Earthquake insurance is *not* required by 10.1.1. and is thus purchased by PDX Commons outside of the requirement of 10.1.1. Therefore, the deductible attached to earthquake coverage is not included in the Association operating reserve funding requirement of Section 6.6.3.

**Scope of Earthquake Insurance.** Earthquake insurance provides protection for possible catastrophic damage to the common elements or common area of PDX Commons as defined in the Declaration and on the Plat. In addition and depending on the terms of the purchased policy, the Association EQ policy may cover damage to fixed features and improvements inside private units. However, the Association policy for earthquake coverage does not provide any protection for the personal property of a member whether located in the unit or elsewhere in the community.

Earthquake insurance available to PDX Commons has a substantial deductible to the stated policy limit. As currently structured, the deductible approaches \$500,000 and will rise in the years ahead. As a step in emergency preparedness in light of Portland's high risk for a catastrophic earthquake, PDX Commons will set these priorities to meeting/funding any deductible and will seek policy coverage to repair all damage in excess of the deductible.

**Authorization to Borrow from Association Accounts to Repair Earthquake Damage and Pay the EQ Insurance Deductible.** The following steps, in order, will be pursued until the earthquake-caused repair expenses are reimbursed by insurance or otherwise refunded.

*Step One.* Funding for the catastrophe repairs, including the EQ deductible, will be made from the Operating Reserve, the Capital Reserve, and/or any reserve established for insurance deductible, held by PDX Commons Condominium Owners' Association.

*Step Two.* Subsequent *re-funding* of utilized reserve accounts will be made with insurance proceeds; the deductible amount not covered by insurance will be refunded by levying a special assessment for the amount of the catastrophe deductible expense. The special assessment will be

calculated per-unit by using the same allocation formula used to determine a private unit's share of PDX Commons' operating expenses covered by annual fee assessments.

**Reminder: Obligations of All Private Unit Owners.**

**Owners must insure for the deductible amounts** under Association policies. Bylaws 10.6

- **\$10,000 limit for maximum loss assessment associated with non-earthquake property damage (limit may change with annual policy renewal).** Insurance agents may counsel a higher limit to cover possibility of additional assessment if Association insurance limits are insufficient to complete repairs.
- **Unit Owner's share of the maximum loss assessment associated with the Association earthquake damage insurance deductible.** As limits of coverage and deductibles are re-set with each renewal, the Association will annually inform Owners of any changes.

The Association will notify the unit owner as soon as possible of any specific financial obligation that a unit owner may have to fund an Association policy deductible.

Any amount owed by the unit owner will be treated as an assessment against the unit as provided in the Declaration.