

TINA AVENUE CONDOMINIUM ASSOCIATION, INC.

BYLAWS 2006



200723840

Page: 1 of 17  
09/13/2007 09:16A

Missoula County Vickie M Zeier BL

Bk-805 Pg-846

**Tina Avenue Condominium Association, Inc. Bylaws**

**ARTICLE I**

Introduction - Plan of Unit Ownership .....	3
Section 1. ....	3

**ARTICLE II**

Name and Offices of Association .....	3
Section 1. ....	3

**ARTICLE III**

Definitions .....	3
Section 1. ....	3
Section 2. <u>Association</u> .....	3
Section 3. <u>Bylaws</u> .....	3
Section 4. <u>Declaration of Condominium</u> .....	3
Section 5. <u>Declarant</u> .....	3
Section 6. <u>Project</u> .....	3
Section 7. <u>Unit Ownership Act</u> .....	4

**ARTICLE IV**

Membership and Voting .....	4
Section 1 .....	4
Section 2 .....	4
Section 3 .....	4
Section 4 .....	4

**ARTICLE V**

Meeting of Members .....	5
Section 1 .....	5
Section 2 .....	5
Section 3 .....	5
Section 4 .....	5

**ARTICLE VI**

Board of Directors .....	6
Section 1 .....	6
Section 2 .....	6
A. Election of First Board of Directors .....	6
B. Election of Subsequent Boards .....	7
Section 3 .....	7
Section 4 .....	7
Section 5 .....	7
Section 6 .....	7
Section 7 .....	7
Section 8 .....	7
Section 9 .....	7
Section 10. ....	9
Section 11. ....	9
Section 12. ....	9

200723840  
Page: 2 of 17  
09/13/2007 09:16A  
Bk-805 Pg-846  
Missoula County Vickie M Zeier BL

ARTICLE VII

Officers .....	10
Section 1 .....	10
Section 2 .....	10
Section 3 .....	10
Section 4 .....	10
Section 5 .....	10

ARTICLE VIII

Finance .....	10
Section 1 .....	10
Section 2 .....	11
Section 3 .....	11
Section 4 .....	11
Section 5 .....	11
Section 6 .....	11

ARTICLE IX

Indemnification of Directors, Officers, Agents, and Employees .....	11
Section 1. Indemnification of Directors .....	12
Section 2. Advance Expenses for Directors .....	13
Section 3. Indemnification of Officers, Agents and Employees .....	13
Section 4. Mandatory Indemnification .....	13
Section 5. Common Expense .....	13

ARTICLE X

Amendment .....	13
Section 1. ....	13
Section 2 .....	14

ARTICLE XI

Recording .....	14
Section 1 .....	14

ARTICLE XII

Miscellaneous .....	14
Section 1 .....	14
Section 2 .....	14
Section 3 .....	14
Section 4 .....	14
Section 5 .....	14
Section 6 .....	14
Section 7 .....	14
Section 8 .....	15

ARTICLE XIII

Conflicts .....	15
Section 1 .....	15

200723840  
Page: 3 of 17  
09/13/2007 09:16A  
Bk-805 Pg-846  
Missoula County Vickie N Zeier BL

TINA AVENUE  
CONDOMINIUM ASSOCIATION, INC.  
BYLAWS

ARTICLE I

Introduction - Plan of Unit Ownership

Section 1. The provisions of these Bylaws apply to the use and occupancy of Tina Avenue Condominium development located on a parcel of real property in the City of Missoula, Missoula County, Montana as more specifically described on Exhibit "A" attached hereto and by this reference made a part hereof as if set forth in full at this point, and as shown in the official records of the Missoula County Clerk and Recorder, and as shown and described in the Declaration of Condominium under Union Ownership Act submitted herewith pursuant to the requirements of Chapter 23, Title 70 of the Montana Code Annotated.

ARTICLE II

Name and Offices of Association

Section 1. The name of this association shall be Tina Avenue Condominium Association Inc., (a Montana corporation) with offices located at 7753 Alta View, Missoula, MT 59804, or at such additional or other locations as determined from time to time by the Board of Directors.

ARTICLE III

Definitions

Section 1. Unless the context hereof requires otherwise and except as otherwise provided in the other Sections of this Article or as otherwise expressly defined in the Declaration of Condominium, the terms used in these Bylaws and the Declaration of Condominium to the extent covered thereby, shall be those set forth in Section 70-23-102, MCA.

Section 2. Association. Association means Tina Avenue Condominium Association Inc.

Section 3. Bylaws. Bylaws means the Bylaws of Tina Avenue Condominium Association Inc.

Section 4. Declaration of Condominium. "Declaration of Condominium" or "Declaration" means the Declaration for Condominium Under Unit Ownership Act Pertaining to the Tina Avenue Condominium, dated September 13, 2006 and recorded contemporaneously herewith in the office of the Missoula County Clerk and Recorder, which relates to the Project.

Section 5. Declarant. The term Declarant shall mean and refer to Tina Avenue LLC a Montana limited liability company, and its successors and assigns.

Section 6. Project. The term Project means The Tina Avenue Condominium project including the real property, multi-family residential buildings and other improvements constructed therein as set forth in the Declaration of Condominium, including all common elements (both general and limited.)

200723840  
Page: 4 of 17  
09/13/2007 09:15A  
BK-805 Pg-846  
Missoula County Vickie H Zeiler BL

Section 7. Unit Ownership Act. "Unit Ownership Act" means Title 70, Chapter 23, of the Montana Code Annotated, as amended.

#### ARTICLE IV

##### Membership and Voting

Section 1. All owners of Units in the Project shall be members of and constitute the Association. The owner of any Unit shall automatically become a member of the Association and shall remain a member thereof until such time as the ownership of such Unit ceases for any reason, at which time the corresponding membership in the Association shall cease hereunder or under Montana law; provided, however, that to such extend and for such purposes, including voting, as shall be provided under the terms of any lease, purchase agreement (including a contract for deed) or security document of any Unit filed with the Board of Directors of the Association, the lessor/landlord or purchaser of such Unit, or the mortgagor/grantor under any security document shall be deemed to be the owner thereof, unless otherwise expressly provided in the lease, sale contract (including a contract for deed) or security document.

Section 2. Voting shall be done on a percentage basis, and the percentage of the total vote to which each Unit is entitled shall be the undivided pro-rata interest in the general common elements assigned to such Unit as set forth in the Declaration of Condominium. Votes may be cast in person or by proxy by the respective Unit owners as shown in the record of ownership of the Association. A personal representative, guardian or trustee ("Representative Owner") may vote for any Unit owned or controlled by the Representative Owner in such capacity, whether or not the same shall have been transferred to the Representative Owner's name in the Association's record of ownership, provided that the Representative Owner shall first present evidence satisfactory to the Secretary or Presiding Officer that the Representative Owner owns or controls such Unit in such capacity. The vote for any Unit owned of record by two or more persons may be exercised by any one of them present at any meeting in the absence of protest by the other or others, and in case of protest each co-tenant shall be entitled to only a share of such vote in proportion to such co-tenant's share of ownership in such Unit. The vote for any Unit owned by an entity may be exercised by an authorized representative of the entity (e.g., an officer, director, partner, or member), provided that the entity owner shall first present evidence satisfactory to the Secretary or Presiding Officer that the representative has the authority to vote on behalf of the entity.

Section 3. The authority given by any Unit owner to another person to represent the Unit owner at meetings of the Association shall be in writing, signed by such Unit owner and filed with the Secretary on a form approved by the Board, and unless limited by its terms shall continue until revoked by writing filed with the Secretary or by the death, incapacity or dissolution of such Unit owner. Voting rights transferred or pledged by mortgage, deed of trust or agreement of sale of any Unit or interest therein, a true copy of which is filed with the Board through the Secretary, shall be exercised only by the person designated in such instrument until the written release or other termination thereof is filed with the Board in like manner.

Section 4. The total number of votes of each Unit shall be the undivided pro-rata interest of the owner of each Unit in the general common elements as set forth in the Declaration of Condominium (the "Ownership Percentages").

200723840  
Page: 6 of 17  
05/13/2007 09:16A  
Missoula County Vickie H Zeier BL  
BK-805 Pg-846

## ARTICLE V

### Meeting of Members

Section 1. There shall be an annual meeting of voting members of the Association on the third Wednesday after the end of each fiscal year of the Association (or on such other date that the Board may agree upon) at a time and place in Missoula County designated in the written notice thereof delivered to voting members personally or by first class mail by the Board of Directors at least ten (10) days but not more than thirty (30) days prior to the date of said meeting. At the annual meeting, the Board of Directors shall present a written statement to each voting member of the financial condition of the Association, itemizing receipts and disbursements for the preceding calendar year with the allocation thereof to each owner. Any voting owner not present shall be sent said statement by first class mail within ten (10) days after the annual meeting. At the annual meeting the members shall elect the Directors and transact other business as may come before the meeting.

Section 2. Special meetings may be called any time for the purpose of considering matters which require the approval of members. Such a special meeting shall be called by written notice personally delivered or mailed at least five (5) days but not more than twenty (20) days prior to the date of such meeting of all voting owners. Such written notice may be initiated by a majority of the Board of Directors or by twenty-percent (20%) of the voting owners of Units computed on the basis of their Ownership Percentages. Such notice shall specify the date, time and place of the meeting as well as all matters to be considered. Notice of the special meetings may be waived in writing by two-thirds (2/3) of the voting members of the Association, computed on the basis of their Ownership Percentages.

Section 3. The presence at any meeting in person or by proxy of the voting owners having a majority of the total votes shall constitute a quorum. The term "majority" herein means the owners of Units to which are appurtenant more than fifty percent (50%) of the Ownership Percentages as established by the Declaration of Condominium. Unless otherwise expressly provided herein or by statute, any action may be taken at any meeting of the voting owners upon the affirmation vote of the voting owners having a majority of the total votes present at the meeting, computed on the basis of their Ownership Percentages.

If, however, such a quorum shall not be present or represented at any meeting, a majority of the owners entitled to vote at such a meeting shall have the power to adjourn the meeting to a date not less than five (5) days nor more than thirty (30) days from the meeting date, at which meeting the quorum requirements shall be twenty-five percent (25%) in person or by proxy of the total voting owners based on Ownership Percentages. The time and place for the adjourned meeting may be fixed by those in attendance at the original meeting, or if for any reason a new time and place is not fixed, the time and place for the adjourned meeting will be set by the Board of Directors after adjournment. Notice of the time and place of the adjourned meeting shall be given to owners in the manner prescribed for annual meetings.

The owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum; provided that at least twenty percent (20%) of the total voting owners based on Ownership Percentages remains present in person and/or by proxy, and provided further that any action taken shall be approved by a least a majority of the owners required to constitute a quorum.

Section 4. In the event of a deadlock in the voting process, which deadlock is preventing action or non-action by the Association, then the members shall meet and confer in good faith to resolve the

200723840  
Page: 6 of 17  
09/13/2007 09:18A  
Bk-605 Pg-646  
Missoula County Vickie M Zeiler BL

deadlock. If the deadlock cannot be resolved, the members shall submit the deadlock to arbitration under Article XII, Section 8.

## ARTICLE VI

### Board of Directors

Section 1. Until the special meetings provided for in Section 2, below, the business and property of the Association shall be managed by a Board of Directors consisting of the following two (2) Directors:

Albert Oselleme  
Lucus Oselleme

The Board provided for in this Section 1 shall be called an "Interim Board."

After the special meetings provided for in Section 2, below, the business and property of the Association shall be managed by a Board of Directors ultimately consisting of five (5) Directors who shall be elected by the members of the Association. The size of the Board will be phased in over a period of time based on the number of Unit owners, as set forth in Section 2, below. Each Subsequent Director shall be an owner (or an authorized representative of an owner) of a Unit in Tina Avenue Condominium. All Directors who are acting as the authorized representative of a Unit owner, shall file proof of the authority with the Association. Provided further, that for as long as Declarant is the owner of any Unit, Declarant is entitled to have its authorized representative fill at least one (1) of the Director's seats. Unless expressly reserved to the members hereunder or under the Unit Ownership Act, the Board shall have the authority to manage and make all decisions on behalf of the Association.

### Section 2.

A. Election of First Board of Directors. Within ninety (90) days after the last to occur of (I) the recording of these Bylaws, or (ii) the conveyance by Declarant of twenty-five percent (25%) of the Units, a representative of the Declarant shall call and chair a special meeting of voting owners. Written notice of said special meeting shall be personally delivered or mailed to all voting owners at least ten (10) days prior to the meeting. At such special meeting, the first Board of Directors consisting of three (3) Directors shall be elected to replace the Interim Board to serve until the following annual meeting of voting owners. At the first annual meeting, the first Board shall be replaced by three (3) regular Directors as follows: One (1) Director shall be elected for a term of three (3) years; One (1) Director shall be elected for a term of two (2) years; and One Director shall be elected for a term of one (1) year. Thereafter (subject to the provisions of subparagraph B, below), the necessary number of Directors shall be elected at each annual meeting of the members to replace the Director(s) whose term(s) has/have expired. In any event, as required by applicable Montana law, the term of at least one-third (1/3) of all Directors will expire annually.

Subject to Declarant's right to have a representative occupy at least one (1) Board seat, the Board will nominate Unit owners to be Directors and will send the slate of nominees with the notice of the annual meeting. Unit owners may also nominate other Unit owners to be Directors in writing sent to the Board (which nominees will be included on the slate of nominees sent by the Board if the nominations are received before the notice is sent) or from the floor at the annual meeting. The Board members will be elected by a plurality vote of the Unit owners (computed on the basis of Ownership Percentages.)

200723840  
Page: 7 of 17  
09/13/2007 09:16A  
Bk-805 Pg-846  
Missoula County Vickie M Zeier BL

B. Election of Subsequent Boards. Additional special meetings will be called and conducted as provided in Section 2A, above, when Declarant has conveyed fifty percent (50%) of the Units and when Declarant has conveyed seventy-five percent (75%) of the Units. At the first such meeting (i.e., after 50% of the Units have been conveyed), an additional Board member shall be elected to bring the total number of Directors to four (4). At the second such meeting (i.e., after 75% of the Units have been conveyed), an additional Board member shall be elected to bring the total number of Directors to five (5). Such Directors will be elected for such staggered terms as may be necessary to provide that at all times at least one-third (1/3) of the Directors' terms expire each year as required by Montana law. If necessary the Declarant shall be entitled to appoint one (1) of the Directors to permit Declarant to have at least one representative as a Director at all times while Declarant is an owner of an Unit. Such elections shall be conducted subject to Declarant's right to have a representative occupy at least one (1) Board seat for so long as Declarant is the owner of at least one (1) Unit.

Section 3. Regular meetings of the Board of Directors shall be held a minimum of four (4) times per year; immediately after the adjournment of the annual meeting of members, and at approximately quarterly intervals thereafter.

Section 4. Special meetings of the Board of Directors may be called by the President or in the President's absence, by any other two Directors jointly. By unanimous consent of the Directors, a special meeting may be held without notice at any time or place.

Section 5. Notice of all regular and special meetings, except those specified in the second sentence of Section 4 of this Article, shall be personally delivered, mailed or sent by facsimile to each Director by the Secretary at least seven (7) days prior to the time fixed for the meeting. Such notices shall specify the time and place of the meeting, and in the case of special meetings shall state the purpose or purposes thereof. Before or at any meeting of the Board of Directors, any Director may in writing waive notice of such meeting. Any Director shall be allowed to participate in any regular or special meeting by means of any form of communication (e.g., telephonic conference call) by which all Directors participating in the meeting may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

Section 6. A quorum for the transaction of business at any regular or special meeting of the Board shall consist of three (3) Directors. Provided, a quorum for the Interim Board and the first Board (i.e., when there are three (3) Directors) shall be two (2) Directors.

Section 7. The Directors shall elect the officers of the Association specified in Article VII of these Bylaws at the Directors' meeting following each annual meeting of the members of the Association. An officer may be removed at any time by a two-thirds (2/3) vote (computed on the basis of Ownership Percentages) of the membership of the Association.

Section 8. Any vacancy or vacancies on the Board of Directors may be filled by the remaining Directors at any special or regular Directors' meeting. Death, incapacity, or resignation of any Director, or such Director's failure to attend at least three (3) consecutive meetings, shall cause such Director's office to become automatically vacant.

Section 9. The Board of Directors shall have the responsibility for and authority to do the following:

- (a) To call annual meetings of the Association and give due notice thereof.

200723840  
Page: 8 of 17  
09/13/2007 09:16A  
BK-805 Pg-846  
Missoula County Vickie N Zetter BL



- (b) To conduct elections of the Board of Directors.
- (c) To enforce the provisions of the Declaration of Condominium and Bylaws by appropriate action.
- (d) To promulgate and adopt rules and regulations for the use of and conduct in the common elements and for the occupancy of the Units so as to not interfere with the peace and quiet of all the Unit owners. Such rules must be approved by a vote of a majority in interest of the Unit owners at any regular or special meeting of the Association, based on Ownership Percentages.
- (e) To provide for the management of the Project, by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the general common and limited common elements.
- (f) To levy assessments as allowed by the Declaration of Condominium, these Bylaws and the State of Montana, and to provide for the collection, expenditure and accounting of said assessments.
- (g) To pay for the expenses of the maintenance, repair, upkeep and replacement of the common elements (including the limited common elements as may be necessary and appropriate) and to approve payment vouchers either at regular or special meetings.
- (h) To delegate authority to the Manager as provided in Section 10 for the conduct of Condominium business, to carry out the duties and powers of the Board, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.
- (i) To provide reasonable means of hearing grievances and foreclosure proceedings of Unit owners.
- (j) To meet at regularly scheduled times and hold such meetings open to all Unit owners.
- (k) To prepare an annual budget for the Condominium in order to determine the amount of the assessments payable by the Unit owners to meet the common expenses and allocate and assess such charges among the Unit owners according with their respective Ownership Percentages, and to submit such budget to the Unit owners on or before the date of the annual meeting, all as set forth in the Declaration of Condominium.
- (l) To levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operation or maintenance expenses, costs, or additional capital expenses, or because of emergencies, as provided in the Declaration of Condominium.
- (m) To take appropriate legal action to collect any delinquent assessments, payments, or amounts due from Unit owners or from any person or persons owing money to the Condominium, and to levy a penalty and to charge interest on unpaid amounts due and owing.



- (n) To defend in the name of the Association any and all lawsuits wherein the Condominium is a party defendant.
- (o) To enter into contracts with third parties to carry out the duties herein set forth, for and on behalf of the Board and the Association.
- (p) To establish a bank account for the Condominium, and to keep therein all funds of the Association. Withdrawals of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- (q) To make repairs, alterations, improvements, and replacements to the common elements (including the limited common elements as necessary and appropriate) consistent with managing the Condominium in the best interest of the Unit owners.
- (r) To arrange, keep, maintain, and renew the insurance for the Association as set forth in the Declaration.
- (s) To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Declaration.
- (t) Obtain Directors' and Officers' liability insurance coverage if the Board deems it reasonably necessary to do so, the cost of which will be a common expense.
- (u) To establish a fiscal year for accounting purposes.
- (v) To make arrangements to have all tax returns filed on behalf of the Association.
- (w) In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration of Condominium and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Condominium.
- (x) To take any other action necessitated by the terms of the Declaration or Bylaws.

To the extent they are inconsistent with the terms of these Bylaws, the terms of the Declaration of Condominium shall prevail.

Section 10. The Board of Directors shall have the authority (but not the obligation) to engage the services of a Manager, or management service, including the fixing of such Manager's compensation and specifying such Manager's duties and responsibilities. Provided, however, that the membership may veto a decision to appoint a Manager or veto the appointment of a particular Manager or management service, based on a vote of a majority in interest computed on the basis of Ownership Percentages.

Section 11. All checks, drafts, notes, acceptances, conveyances, contracts, and other instruments shall be signed on behalf of the Association by such person or persons as shall be so authorized by general or special resolution of the Board of Directors or, in the absence of any such resolution applicable to such instrument, by the President and the Treasurer or Secretary.

Section 12. The Board may, if it deems it reasonably necessary to do so, appoint annually a

200723840  
Page: 10 of 17  
09/13/2007 09:16A  
BK-805 Pg-846  
Missoula County Vickie M Zeier BL

certified public accountant or accounting firm, to prepare and file on behalf of the Association, the necessary and required state and federal tax returns and to provide other financial and accounting advice and assistance. The cost for such items shall be part of the common expenses. The Board may also engage the services of legal counsel if it deems it reasonably necessary to do so, the cost of which shall be part of the common expenses.

## ARTICLE VII

### Officers

Section 1. The officers of the Association shall be a President, a Secretary and a Treasurer, each of whom shall be elected for a term of one (1) year and shall hold office until their successors are duly elected and qualified. The Board may elect a Vice President if it deems it necessary. No one shall be eligible for any office who is not a Unit owner (or such Unit owner's authorized representative). The Board may appoint committees (and committee chairpersons) as appears necessary in its judgment. Any committees will be advisory only to the Board and will have no authority to bind the Association. One (1) person may hold more than one (1) office, except no person shall be both President and Treasurer.

Section 2. The President shall preside at all Directors' and members' meetings; shall have general supervision over the affairs of the Association and shall perform all such other duties as are incident to the office. In case of the absence or disability of the President, the President's duties shall be performed by the Vice President (or the Treasurer if there is no Vice President).

Section 3. If the Board of Directors elects a Vice President, the Vice President shall perform the President's duties if the President is absent, dies, is unable to act. If the Vice President acts, the Vice President shall have all presidential powers and be subject to all the restrictions upon the President. (If there is no Vice President, or the Vice President is unable or refuses to act, then the Treasurer shall perform the presidential duties.) The Vice President shall perform any other duties that the President or Board may assign to the Vice President.

Section 4. The Secretary shall issue notices of all Directors' and members' meetings and shall attend and keep the minutes of the same; shall have charge of all Association books and records and papers perform all such other duties as are incident to the office.

Section 5. The Treasurer shall have custody of all money and securities of the Association and shall give bond in such amounts as may be required by the Directors, conditioned upon the faithful performance of the duties of this office. The Treasurer shall keep regular books of account and shall submit them, together with all vouchers, receipts, records, and other papers to the Directors for their examination and approval, at least quarterly or as often as they may require; and shall perform all such other duties as are incident to this office.

## ARTICLE VIII

### Finance

Section 1. The funds of the Association shall be deposited in such bank or banks, building and loan or savings and associations or other federally insured banking or investment institutions or companies as the Directors shall designate and shall be withdrawn only upon the check or order of an officer of the

200723840  
Page: 11 of 17  
05/13/2007 09:16A  
Bk-805 Pg-846  
Missoula County Vickie N Zeier BL

association duly authorized by the Board of Directors, or by a Manager if so authorized.

Section 2. (a) The Directors shall establish an operating fund from which payment of the Association's common expenses shall be made. All cash received from Unit owners for payment of common expenses shall, except as otherwise provided for in Section 3, below, be deposited in the operating fund so established.

The Board of Directors will annually make an estimation of the Association's expected annual common operating expenses as required by the Declaration of Condominium. Each Unit owner will pay at such time(s) set by the Directors such Unit owner's pro-rata share of the estimated annual common expenses, all as set forth in the Declaration of Condominium.

(b) In addition, if the Directors deem it advisable and upon written notice to the Unit owners, the Unit owners shall pay to the Association in advance up to two

(2) months' estimated monthly charges for common expenses for the first year of operation.

(c) Within thirty (30) days following the end of each calendar quarter or, at the Directors' option, each calendar or fiscal year, the Directors shall furnish each Unit owner with a statement covering the calendar quarter (or year as appropriate) just expired, certified as correct by an authorized representative of the Board of Directors, showing the total of the common operating expenses, the amount of each Unit owner's proportionate share of the common expenses for such calendar quarter (or year as appropriate) and the payments made by each Unit owner with respect to such period, as set forth in subparagraphs (a) and (b) above. If a Unit owner's share of the common expenses exceeds the Unit owner's payments so made, the Unit owner shall pay the Association the deficiency within ten (10) days after receipt of such statement and a request for payment. If said payments exceed the Unit owner's share of the common expenses, the Unit owner shall be entitled to offset the excess against payments next thereafter due the Association, as set forth in subparagraphs (a) and (b).

Section 3. In the event of default by any Unit owner in paying to the Association the assessed common charges the Board of Directors shall have all the rights and remedies, including lien rights, provided in the Declaration of Condominium and Montana law.

Section 4. The Board of Directors shall promptly provide any Unit owner who makes a request in writing with a written statement of such owner's unpaid common charges.

Section 5. The Directors shall have the authority to borrow money to meet any deficiency in the payment of common expenses or to meet any emergency that may arise in the management of the Project. Provided, any borrowing in excess of \$50,000.00 shall require the approval of the members, based on the affirmative vote of a majority in interest (computed on the basis of Ownership Percentages).

Section 6. The Board of Directors shall keep detailed records of the actions of the Board of Directors and the managing agent, minutes of the meetings of the Board, minutes of the meetings of the Unit owners and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures as well as a separate account for each Unit relating to a single owner, which amount other things shall contain the account of each assessment of common charges against such Unit, the date when due, the amount paid thereon, and the balance remaining unpaid.

## ARTICLE IX

### Indemnification of Directors, Officers, Agents, and Employees

#### Section 1. Indemnification of Directors.

The Association shall indemnify any individual made a party to a proceeding because he or she is or was a Director of the Association, against liability incurred in the proceeding, but only if such indemnification is both (i) determined permissible and (ii) authorized, as defined in subsection (a) of this Section 1. (Such indemnification is further subject to the limitation specified in subsection (c).)

##### (a) Determination and Authorization.

The Association shall not indemnify a Director under Section 1 of Article IX unless:

(1) Determination. A determination has been made in accordance with the procedures set forth in Montana Business Corporation Act that the Director met the standard of conduct set forth in subsection (b) below, and

(2) Authorization. Payment has been authorized in accordance with the procedures set forth in the Montana Business Corporation Act based on a conclusion that the expenses are reasonable, the Association has the financial ability to make the payment, and the financial resources of the Association should be devoted to this use rather than some other use by the Association.

##### (b) Standard of Conduct.

The individual shall demonstrate that:

(1) the individual acted in good faith; and

(2) the individual reasonably believed:

- (i) in acting in an official capacity with the Association, that the individual's conduct was in the Association's best interests;
- (ii) in all other cases, that the individual's conduct was at least not opposed to the Association's best interests; and
- (iii) in the case of any criminal proceedings, that the individual had no reasonable cause to believe that the conduct was unlawful.

##### (c) No indemnification Permitted in Certain Circumstances.

The Association shall not indemnify an individual under Section 1 of Article IX if:

- (1) the individual was adjudged liable to the Association in a proceeding by or in the right of the Association; or
- (2) the individual was adjudged liable in any other proceeding charging that the Director



improperly received personal benefit, whether or not the individual acted in an official capacity.

(d) Indemnification in Derivation Actions Limited.

Indemnification permitted under Section 1 of Article IX in connection with a proceeding by the Association or in the right of the Association is limited to the reasonable expenses incurred in connection with the proceeding.

Section 2. Advance Expenses for Directors.

The Association shall pay for or reimburse, in advance of final disposition of the proceeding, the reasonable expenses incurred by a Director who is a party to a proceeding if:

(a) by following the procedures of the Montana Code Annotated, the Board of Directors determined that the Director met requirements (c) - (e) listed below; and

(b) by following the procedures and standards set forth in the Montana Code Annotated, the Board of Directors authorized an advance payment to a Director; and

(c) the Director has furnished the Association with a written affirmation of the Director's good faith belief that the Director has met the standard of conduct described in Section 1 of Article IX; and

(d) the Director has provided the Association with a written undertaking, executed personally or on the Director's behalf, to repay the advance if it is ultimately determined that the Director did not meet the standard of conduct; the Director's undertaking must be an unlimited general obligation, but need not be secured, and the Association may accept the undertaking without reference to financial ability to make repayment; and

(e) the Board of Directors determines that the facts then known to it would not preclude indemnification under Section 1 of this Article IX or the Montana Business Corporation Act.

Section 3. Indemnification of Officers, Agents and Employees.

The Board of Directors, by Board resolution, may elect to indemnify and advance expenses to any officer, employee, or agent of the Association, who is not a Director of the Association, to any extent consistent with public policy.

Section 4. Mandatory Indemnification.

Notwithstanding any other provisions of these Bylaws, the Association shall indemnify a Director or officer who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the Director or officer of the Association, against reasonable expenses incurred by the Director or officer in connection with the proceeding.

Section 5. Common Expense.

Any costs, expenses or amounts paid or agreed to be paid by the Association by reason of the indemnification provisions of this Article IX, shall be a part of the common expenses of the Project.

200723840  
Page: 14 of 17  
09/13/2007 09:18a  
Missoula County Vickie M Zeiler BL  
Bk-805 Pg-846

## ARTICLE X

### Amendment

Section 1. No amendment of these Bylaws shall be effective unless approved by an affirmative vote of at least seventy-five percent (75%) of the Unit owners computed on the basis of the Ownership Percentages, and until a copy of the Bylaws, as amended, certified by the presiding officer and Secretary of the association, is recorded with the Missoula County Clerk and Recorder.

Section 2. An amendment may be proposed at any regular or special meeting of the Board of Directors by a majority of such Directors, or it may be proposed by written petition signed by at least thirty percent (30%) or more of the Unit owners (computed on the basis of Ownership Percentages) and presented at a regular or special meeting of the Board of Directors. Such proposed amendments shall be personally delivered or sent by first class mail to each Unit owners, and shall be voted upon by Unit owners at an election to be set by the Board of Directors no more than one month after such amendment is proposed.

## ARTICLE XI

### Recording

Section 1. A copy of these Bylaws certified by the Declarant and the Presiding Officer and Secretary of the Association, shall be recorded simultaneously with the Declaration of Condominium.

## ARTICLE XII

### Miscellaneous

Section 1. All notices to the Board of Directors shall be personally delivered to a Director or sent by first class mail, in care of the managing agent or if there is no managing agent, to the office of the Board of Directors as may be designated from time to time, and all notices by the Board of Directors to Unit owners shall be personally delivered or sent by first class mail, to the address furnished by each Unit owner. Notice shall be deemed given when personally delivered or when deposited in the US Mail in the manner provided in this Section 1, postage prepaid.

Section 2. The invalidity of any part of these Bylaws shall not affect or impair in any manner the validity, enforceability, or effect of the balance of these Bylaws.

Section 3. No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches thereof which may occur.

Section 4. Lucas Osellame, Albert Osellame, and Albert Osellame as authorized representatives of the Declarant shall serve as Presiding Officer, Secretary, and Treasurer respectively of this Association until the Interim Board of Directors elects officers.

Section 5. These Bylaws shall be governed by and construed in accordance with Montana law.

Section 6. In construing these Bylaws, feminine or neuter pronouns shall be substituted for those



masculine in form and vise versa, and plural terms shall be substituted for singular and vice versa, in any place where the context so requires.

Section 7. The Board will adopt a conflict of interest policy for the Association that is consistent with and at least as protective as the applicable conflict of interest provisions of the Montana Business Corporation Act (the "Act"). If no policy is adopted, the Act will govern.

Section 8. The parties agree to meet and confer in good faith to resolve any dispute or controversy arising out of or relating to the operation of the Condominium. Any controversy not resolved in this manner arising out of or relating to these Bylaws or the Declaration of Condominium, and management decisions of the Board or where the required member approval cannot be obtain, shall be settled or made by binding arbitration pursuant to the Montana Uniform Arbitration Act or other applicable Montana law, and where not inconsistent, in accordance with the Commercial Arbitration Rules of the American Arbitration Association now or hereafter in effect. If the Board or members are unable to unanimously agree upon the appointment of an arbitrator within ten (10) days of meeting to appoint an arbitrator, then the arbitrator shall be appointed by the American Arbitration Association. The Director or members shall confer with the arbitrator and together shall decide upon a time and place for an arbitration hearing. The arbitrator's fees and costs shall be paid by the Association as part of the common expenses, unless the arbitrator determines that any Director or member has asserted an unreasonable business position during the arbitration, in which event the arbitrator's fees and costs shall be paid by the Director or member who asserted an unreasonable business position.


#### ARTICLE XIII


##### Conflicts

Section 1. These Bylaws are set forth to comply with the requirements of Chapter 23 of Title 70, MCA. In the event that any of these Bylaws conflicts with the provisions of such statutes or of the Declaration of Condominium, the provisions of such statute or of the Declaration of Condominium shall control.

IN WITNESS WHEREOF, the undersigned Declarant, Presiding Officer and Secretary for and on behalf of the Association of Unit owners of Tina Avenue Condominium at Missoula, Montana, have hereunto executed these Bylaws effective as of the 4<sup>th</sup> day of October 2006 and certify that such Bylaws were adopted as the Bylaws of Tina Avenue Inc.

Tina Avenue Condominium Association, Inc.

By:   
Its President

By:   
Its Secretary





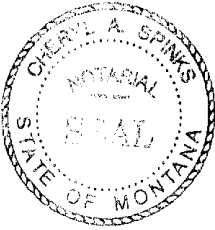
DECLARANT: Tina Avenue, LLC

By:

Albert Osellame  
Albert Osellame, Member

STATE OF MONTANA  
County of Missoula

This instrument was acknowledged before me on the 4th day of October 2006 by Albert Osellame, as President of Tina Avenue Condominium Inc.



Cheryl Spinks  
Notary Public for the State of Montana  
CHERYL A. SPINKS

Printed Name of Notary  
Residing at: Missoula, MT  
My Commission expires: 02-28-2008

STATE OF MONTANA  
County of Missoula

This instrument was acknowledged before me on the 4th day of October 2006 by Albert Osellame, member of Tina Avenue, LLC.



Cheryl Spinks  
Notary Public for the State of Montana  
CHERYL A. SPINKS

Printed Name of Notary  
Residing at: Missoula, MT  
My Commission expires: 02-28-2008

STATE OF MONTANA  
County of Missoula

This instrument was acknowledged before me on the 4th day of October 2006 by Albert Oselleme, as Secretary of Tina Avenue Condominium Inc.



Cheryl Spinks  
Notary Public for the State of Montana  
CHERYL A. SPINKS

Printed Name of Notary  
Residing at: Missoula, MT  
My Commission expires: 02-28-2008

06144bylaws

200723840  
Page: 17 of 17  
09/13/2007 09:16A  
BK-805 Pg-846  
Missoula County Vickie M Zeier BL