

**AMENDMENT TO  
BY-LAWS OF TEMPE GARDENS TOWNHOUSE CORPORATION**

This Amendment to the By-laws of Tempe Gardens Townhouse Corporation (“Amendment”) is made as of the date set forth below by Tempe Gardens Townhouse Corp., an Arizona non-profit corporation (“Association”).

**RECITALS**

A. The Association and its Members are subject to the Declaration of Restrictions, recorded on April 8, 1964 at Instrument Number 1964-0195830 in the Official Records of Maricopa County (“CC&Rs”).

B. The CC&Rs are silent regarding the individual owners’ obligations to maintain their townhouses.

C. The Arizona Condominium Act (“Act”), at A.R.S. § 33-1247(A), provides, in part:

Except to the extent provided by the declaration, subsection C of this section or section 33-1253, subsection B...each unit owner is responsible for maintenance, repair and replacement of the unit...

D. The Bylaws of Tempe Gardens Townhouse Corporation (“Bylaws”), at Article IV, Section 2, provide, in part:

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the corporation, 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 members. The powers of the Board of Directors shall include, but not be limited to...the power to promulgate such rules and evaluations pertaining to such rights and duties as may be deemed proper and which are consistent with the foregoing...

E. The Bylaws, at Article IX, Section 2, provide:

The Directors of the corporation by the affirmative vote of three-fourths (3/4) of all the Directors of the corporation may amend or alter the by-laws of the corporation at any regular

meeting or at any special meeting provided that no such alteration or amendment by the Board of Directors shall increase the power of the Board of Directors...These by-laws may not be amended insofar as such amendment would be inconsistent with the recorded restrictions of the property.

F. The Board has determined, based on the omission of the CC&Rs and the requirements of the Act pertaining to the owners' maintenance obligations for their townhouses, it is in the best interests of the Association to amend the Bylaws to set forth the nature and extent of the owners' maintenance responsibilities to comply with the law.

G. The Board has determined this Amendment will not increase its power and this Amendment will not be inconsistent with the CC&Rs, which are silent on the matter.

H. At a duly called meeting of the Board at which a quorum was present, three-fourths (3/4) of all the directors voted to approve this Amendment.

### **AMENDMENT**

**NOW, THEREFORE**, the Bylaws are hereby amended by inserting a new Article X immediately following Article IX as follows:

#### ARTICLE X

##### Owners' Townhouse Maintenance Responsibilities

**Section 1. General Obligation.** Each owner is solely and entirely responsible for all maintenance, repair, and replacement of the owner's townhouse as defined in Section 2 of the Declaration, which includes, but is not limited to, all improvements located within the townhouse. Unless otherwise required by the Declaration or law, the Association will have no responsibility for any damage or loss related to any property within the scope of the owner's obligations hereunder.

**Section 2. Fixtures, Appliances, and Other Improvements.** Without limiting the generality of Section 1 of this Article, and unless inconsistent with the Declaration, this obligation will include, but is not limited to, the maintenance, repair, and replacement of:

- A. All fixtures, appliances, cabinets, hardware, countertops, and any pipes, wires, ducts, chutes, flues, wires, or conduits to the extent located within the boundaries of the townhouse.
- B. All flooring, paint, wallpaper, or other surfacing or covering that may be placed or installed upon or adjacent to the bare walls and floors of the townhouse.

- C. All furniture and other personal items or effects that may be kept within the townhouse.
- D. Pursuant to the Declaration, at Article 13, all electricity, plumbing, and other utilities within the townhouse and extending to the connection to the line, wire, pipe, or other conduit that serves more than one townhouse.

**Section 3. Limitation of Application.** Nothing in this Article X shall be construed to limit, reduce, restrict, or otherwise affect any owner’s maintenance, repair, or replacement obligation provided by law or provided in the Declaration, including but not limited to, any obligation related maintenance, repair, or replacement necessitated by an owner’s negligence or willful conduct or related to party walls.

**IN WITNESS WHEREOF**, the Association has executed this Amendment as of the date set forth below.

**TEMPE GARDENS TOWNHOUSE CORP.,**

an Arizona nonprofit corporation

By: William Axel Ferguson  
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 Its: President

DATE: 12/2/2021

**SECRETARY’S ATTESTATION**

I, Lucy Logan, being the duly elected Secretary of Tempe Gardens Townhouse Corp., hereby attest that a majority of the directors at a meeting of the Board at which a quorum was present voted to approve the foregoing Amendment.

Signed by:  
 By: Lucy Logan  
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**Secretary, Tempe Gardens Townhouse Corp.**