

BENTON COUNTY, OREGON 2013-504205

DE-CCR

Cnt=1 Stn=9 PF

\$40.00 \$11.00 \$17.00

03/13/2013 1:35:52 PM

\$68.00

Tax statements shall be sent to and after recording return to:

Uplands at Timberhill HOA
2397 NW Kings Blvd #172
Corvallis OR 97330-3986



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



AMENDED AND RESTATED BYLAWS OF THE TIMBERHILL FOURTH ADDITION PHASE II AND III HOMEOWNERS ASSOCIATION ALSO KNOWN AS "THE UPLANDS AT TIMBERHILL HOMEOWNERS ASSOCIATION", CORVALLIS, BENTON COUNTY, OREGON

The true consideration for this instrument is \$0.00. This document amends and restates the entire Bylaws of this organization and supersedes and replaces all previous versions, including those recorded as M163432-93 on May 4, 1993, and 2012-498173 recorded on October 16, 2012, and any other recorded or unrecorded variations.

Timberhill Fourth Addition Phase Two & Three Homeowners Association ("The Uplands at Timberhill HOA") is an Oregon Mutual Benefit Nonprofit Corporation which has been established to manage and maintain the common areas and neighborhood appearance, and to enhance the value, desirability, and attractiveness of certain legal lots which are described in the Declaration of Protective Covenants, Conditions and Restrictions recorded in Benton County as M263333-99 on March 15, 1999. Other important documents referring to this organization are summarized in the table below.

Benton County Record Identifier	Date Recorded	Document Description
163431-93	May 4, 1993	Declaration of Protective Covenants, Conditions and Restrictions for Timberhill Fourth Addition of Phase II ("CCRs") <i>[Superseded by 263333-99]</i>
163432-93	May 4, 1993	Bylaws of Timberhill Fourth Addition Phase II ("Bylaws") <i>[Superseded by 2012-498173]</i>
183686-94	May 9, 1994	Phase III of the property was added to Phase II
263333-99	March 15, 1999	Amended Declaration of Protective Covenants, Conditions and Restrictions for Timberhill Fourth Addition (Phases II and III) ("Amended CCRs")
2012-498173	October 16, 2012	Restatement of Bylaws of Timberhill Fourth Addition Phases II and III ("Restated Bylaws") <i>[Superseded by this document]</i>

The Uplands at Timberhill H.O.A. has the authority to make these amendments to the Bylaws pursuant to ORS sections 94.630, 94.640, and 94.777, Amended CCR Articles II and VII, and Bylaws Articles II, VII, and X.

**ARTICLE I
MEMBERSHIP**

Section 1.1. TERMS

Unless otherwise provided herein, definitions of Terms used in these Bylaws shall be those provided in Article I of the Declaration of Covenants and Restrictions (hereafter the "Declaration") for Phase II, which includes therefore Phases III and IV, or either of them, as described in the Declaration.

Section 1.2. MEMBERS

Every person or entity who is a record owner (including contract purchasers) of a fee or undivided fee interest in any private lot in Phase II, Benton County, Oregon, by virtue of such ownership shall be a

member of this corporation ("the Association"), including owners of lots in Timberhill Fourth Addition Phase Three (hereafter "Phase III") and Timberhill Fourth Addition Phase Four (hereafter "Phase IV") if annexed as provided in the Declaration. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or the General Public or City of Corvallis as owners of any streets, tracts, rights-of-way, or easements. Membership shall be appurtenant to and may not be separated from ownership of any lot made subject to the jurisdiction of the Association. Such ownership shall be the sole qualification for membership, and shall automatically commence upon a person becoming such owner, and shall automatically terminate and lapse when such ownership in a lot shall terminate or be transferred.

Section 1.3. VOTING

The Association shall have one class of voting membership as described in Article III of the Declaration.

Section 1.4. TRANSFER OF MEMBERSHIP

No membership in this Association shall be assigned or transferred by the member, or by operation of law, including transfer by descent or devise, except as provided above in Article I, Section 1.2.

Section 1.5. ANNUAL MEETING

The annual meeting of the members of the Association shall be held at such time, date, and place as is designated by the Board of Directors not less than once per calendar year.

Section 1.6. SPECIAL MEETINGS

Special meetings of the members may be held at any place designated by, and upon call of, the president or the Board of Directors.

Section 1.7. PROXY AND BALLOT

Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before or during the appointed meeting. The proxies may require the holder to cast a vote for or against special proposal set out in the notice calling the meeting. A meeting of the Association may be by proxy ballot, as the Directors may elect, rather than at a formal gathering. Ballots for such meeting must be properly executed and returned in sufficient quantity to constitute a quorum and to pass the proposal specifically propounded on the ballot. Unless withdrawn, a proxy given to another person to vote at a specific meeting shall also be valid at an adjourned meeting. The Secretary may accept electronic proxies and electronic ballots consistent with Oregon Law.

Section 1.8. NOTICE

Not less than ten (10) nor more than fifty (50) days before the date of any meeting, the secretary shall cause a written or printed notice stating the place, day, and hour of the annual or special meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, to be sent to each member. Notices may be deposited in the United States mail, with postage prepaid, addressed to each member at such member's most recent address on the Association's records, sent via reliable electronic mail ("email") as agreed to by the member and as limited by ORS 94.652(2) and (3), or personally delivered to each member. Provided, however, any member may, as to such member, waive in writing the requirement of such notice. Provided; further, that any member present at any such meeting shall be conclusively deemed to have timely received the required notice of such meeting. A member's provision of his or her email address shall be deemed an ongoing waiver by said member to receive notices by any other method other than electronically.

Anything in these Bylaws to the contrary notwithstanding, notice is required for any meeting at which action is to be taken by the members concerning membership approval under ORS 65.361, 65.407, 65.437, 65.464, 65.487, 65.534, 65.621 or 65.624; which such notice shall be given as provided above.

Each member shall maintain with the secretary the member's correct email address (if any) and mailing address for the purpose of receiving such notice. Any notices sent to the last known address or email address shall constitute notice to the member.

Unless otherwise specified, all notices sent by the organization shall be effective as of the time of delivery.

Section 1.9. QUORUM

Except as otherwise provided in the Declaration, members present in person or by proxy of Owners holding twenty percent (20%) or more of the outstanding votes in the Association as described in Section 1.2, above, shall constitute a quorum at any regular or special meeting of the members.

Section 1.10. PROCEDURE

At all meetings of the members, the president, or in the president's absence, the vice-president, or in the absence of both the president and vice-president, a presiding officer chosen at the meeting shall preside. The secretary, or in the secretary's absence, the assistant secretary, if any, or a person appointed by the presiding officer, shall act as the secretary of the meeting and keep a record of the proceedings. The procedure for conducting the meeting shall be established by the presiding officer. The order of business for the regular annual meeting should include the following: verification of quorum, approval of minutes of the previous meeting, reports from officers and committees, election of directors, and conducting any unfinished or new business appropriate to the meeting.

ARTICLE II

BOARD OF DIRECTORS

Section 2.1 NUMBER

The business and affairs of the Association shall be vested in and controlled by a board of not less than three (3) nor more than nine (9) directors; the exact number to be fixed from time to time by resolution of the board of directors. No decrease in the number of directorship positions shall have the effect of shortening the term of any incumbent director. The directors shall exercise all of the powers of the Association except such as are by law or by the Articles of Incorporation or by these By-laws conferred upon or reserved to the members.

Section 2.2 AUTHORITY

Each director shall be elected by a majority vote at the annual meeting of members. The Board shall have the power and authority to make rules and regulations not inconsistent with the laws of the State of Oregon and the Articles of Incorporation and Bylaws of the Association for the guidance of the officers and employees of the Association and for the transaction of the Association's business; to call meetings of the members when deemed advisable; and generally to exercise all powers necessary for carrying out the Association's purposes. It is expressly understood that nothing herein contained shall be deemed to limit or restrict the general authority vested in said Board for the management and control of the Association.

Section 2.3 ELECTION AND REMOVAL

A director may be removed by the affirmative vote of two-thirds (2/3) of the remaining Directors. Removal may be with or without cause.

Section 2.4 VACANCIES

Whenever any vacancy shall occur in the Board of Directors by death, resignation, disqualification or from any other cause, the vacancy shall be filled by appointment of a replacement by a majority of the remaining Directors without undue delay. A Director appointed to fill a vacancy shall hold office for the unexpired term of the Director who he or she succeeds, and until his or her successor shall have been appointed and qualified.

Section 2.5 MEETINGS

(a) Regular Meetings. A regular meeting of the Board of Directors of the Association shall be held immediately following each annual meeting of the members.

(b) Special Meetings. Special meetings of the Board of Directors may be called by any officer or two Directors of the Association at any reasonable time.

Section 2.6 NOTICE

Notice of a regular or special meeting of the Board of Directors shall be mailed in the United States mail, postage prepaid, addressed to the last known address, or delivered by email to the last known email address, or delivered in person, to reach all association members at least three (3) days before the date of any meeting. The attendance of any Director at any meeting, or his or her written consent to the holding thereof, shall be deemed waiver of this notice.

Section 2.7 QUORUM

A majority of the members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Association. In the event there shall be in attendance at any meeting of the Board of Directors less than a quorum, then a majority of those present may adjourn the meeting to another day, and at any such subsequent meeting at which a quorum shall be present, transact any business which might have been transacted at the meeting which was adjourned.

Section 2.8 PROCEDURE

- (a) Business at meetings of the Board of Directors shall be transacted in such order as the Board of Directors from time to time may determine.
- (b) At all meetings of the Board of Directors, the president or in the president's absence, the vice-president or in the absence of both, the secretary of the Association shall preside.
- (c) All decisions of the Board of Directors shall be approved by a majority of the directors present at a meeting, unless a greater number is required by these Bylaws or Oregon law.

Section 2.9 CONTRACTS

Inasmuch as the Directors of this Association may be connected with other companies with which this Association may have business dealings, no contracts or other transactions between this Association and any other company shall be affected by the fact that the Directors of this Association are interested in or are directors or officers of such other company. Any Director may be a party to, or interested in, any contract or transaction with this Association provided (a) the "interest" of the Director is disclosed to the Board; (b) the Board approves the transaction at a regular or special meeting.

Section 2.10 TELEPHONIC MEETINGS

Telephonic meetings may be held by the Board of Directors only in conformance with ORS 94.640(10)(c). Such telephonic meetings shall be carried on by means of a "conference call" or "video conference" in which each Director may speak with and hear any of the other Directors. The Directors shall keep telephone numbers on file with the President to be used for telephonic meetings. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 2.11 ACTION WITHOUT MEETING

Action of the Board may be taken without a meeting if the action is taken by all members of the Board of Directors. Any action shall be evidenced by one or more written consents describing the action taken, signed by each Director, and included in the minutes or file with the corporate records reflecting the action taken. Action taken without a meeting is effective when the last Director signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Section 2.12 COMPENSATION OF DIRECTORS

No Director shall be compensated in any manner, except for out-of-pocket expenses, unless such compensation is approved by vote of the Owners.

ARTICLE III

OFFICERS OF THE CORPORATION

Section 3.1 ENUMERATION AND QUALIFICATION

The officers of the Association shall consist of the President, Vice-President, Secretary and Treasurer. The Board of Directors may, if it sees fit, elect an assistant secretary and any such other officer as in their judgment may be necessary. Any number of offices may be held by the same person, except that the offices of President and Secretary must be held by different individuals.

Section 3.2 ELECTION AND TERMS

At its regular annual meeting the Board of Directors shall elect all of the officers of the Association, but in event of failure to elect officers on the day designated, the officers shall continue to hold office and perform their duties until their successors are elected and qualified.

- (a) Unless otherwise provided by law, all officers shall be subject to removal, with or without cause, and at any time, by the affirmative vote of a majority of the Directors present at any meeting at which there is a quorum.
- (b) In event of vacancy in any office, the Board of Directors, by an affirmative vote of the majority present at any meeting at which there is a quorum, shall fill the same for the unexpired term.

Section 3.3 POWERS AND DUTIES

- (a) PRESIDENT. The President shall be the presiding officer of the Board of Directors. He or she shall give such counsel and advice as he or she deems essential to the best interest of the Association, and see that all orders and resolutions of the Board of Directors are carried into effect and shall have the general power and duties of supervision usually vested in the office of the president of a corporation. He or she shall execute all contracts and agreements authorized by the Board of Directors. He or she

shall execute all deeds and other instruments to be under the seal of the Association and he or she shall perform all other duties required of him or her by the laws of the State of Oregon. He or she shall perform such other duties as from time to time may be assigned to him or her by the Board of Directors.

(b) VICE-PRESIDENT, In the absence of the President, the Vice-President shall have all the power and shall perform all the duties of the President.

(c) SECRETARY. The Secretary shall supervise the recording of the minutes of all the meetings and proceedings of the Board of Directors and the membership in a book or books provided for that purpose. He or she shall cause to be given and served all notices to the members and directors of the Association and shall affix the corporate seal, attested by his or her signature, to all instruments to be under the seal of the Association. He or she shall cause to be kept a list of the members of the Association. He or she shall, in general, perform such other duties as may be prescribed by the Board of Directors or the President or are incident to the office of the secretary of a corporation under the laws of the State of Oregon.

(d) TREASURER. The Treasurer shall be the official custodian of all funds and securities of the Association, and shall cause the same to be deposited in such banks or other depositories as the Board of Directors may designate or approve. Whenever required by the President, the Treasurer shall render regular or special statements of any or all of the Association accounts. In general, the Treasurer shall perform all acts incident to the office of treasurer of a corporation under the laws of the State of Oregon, subject to the control of the Board of Directors.

(e) ASSISTANT SECRETARY. The Assistant Secretary shall perform the ministerial duties of the Secretary, but shall have no discretionary authority.

ARTICLE IV

FISCAL MATTERS

Section 4.1 SIGNATURES.

(a) Checks. All checks of the Association shall be signed by one or more of the officers of the Association, or other persons, as specifically authorized by the Board of Directors.

(b) Debt Instruments, All notes, bonds, or other promises to pay money, shall be signed by any two officers of the Association.

Section 4.2 ENDORSEMENTS.

Checks, drafts, notes and other negotiable instruments payable to the Association, or its order, shall be endorsed for collection or deposit by any officer of the Association or person so authorized by the Board of Directors.

Section 4.3 FISCAL YEAR

The Association shall conduct its fiscal affairs on the basis of a fiscal year ending on December 31 of each year.

ARTICLE V

COMMITTEES

The President with Board approval, or the Board of Directors, may appoint or establish such committees as either sees fit. Committees may include non-board members, provided that each committee is chaired by a member of the Board of Directors.

ARTICLE VI

SEAL

The Board of Directors may provide a corporate seal which shall be circular in form and have inscribed in it the name of the Association and the words "corporate seal."

ARTICLE VII

INDEMNIFICATION

Section 7.1 Subject to the terms, conditions and limitations set forth in this Article, the corporation shall indemnify and reimburse every director, officer, or other agents of the corporation,

who is made or threatened to be made a defendant or respondent to any threatened or pending civil, criminal, administrative or investigative action or other proceeding, for all expenses reasonably and actually incurred in or as a result of, and for all liabilities arising out of, such action or proceeding, including but not limited to court costs, attorney fees, judgments, settlements, penalties and fines, if the action or proceeding arises out of or is in anyway related to the conduct of such person in his or her official capacity of director, officer or agent of the corporation.

Section 7.2 No indemnification or reimbursement shall be provided by the corporation to any Director or Officer for any liability or expense relating to any claim or finding in an action or other proceeding brought by or on behalf of the corporation or any shareholder thereof wherein it is determined that such director or officer:

- (a) committed a breach of the director's or officer's duty of loyalty to the corporation or its members;
- (b) engaged in any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law;
- (c) engaged in any conduct resulting in a distribution of assets of the corporation which was unlawful;
- (d) engaged in any transaction from which the director or officer derived an improper personal benefit; or
- (e) engaged in any act or omission in violation of ORS 65.361 to 65.367

Section 7.3 No indemnification or reimbursement shall be provided by the corporation to any Director or Officer for any liability or expense pertaining to or arising out of any action or other proceeding wherein it is determined that such person engaged in conduct:

- (a) involving a breach of the person's duty of loyalty to the corporation or its members;
- (b) involving a knowing violation of law; or
- (c) as a result of which the person derived an improper personal benefit.

Section 7.4 The termination of any action or other proceeding by judgment, order, conviction, settlement or plea of no contest or its equivalent shall not by itself be determinative as to whether the person in question did not meet the standards of conduct described in Sections 7.2 or 7.3 of this Article, as the case may be.

Section 7.5 The indemnification and reimbursement provided for in this Article shall be provided regardless of whether the occurrence of the conduct giving rise to the proceeding or action in which expenses or liabilities are incurred was prior to or after the adoption of this Article.

Section 7.6 The indemnification and reimbursement provided for in this Article shall be provided regardless of whether the person to be indemnified or reimbursed is an officer, director, or agent of the corporation at the time indemnification or reimbursement is sought or granted.

Section 7.7 The indemnification and reimbursement provided for in this Article shall not be exclusive of any other rights or remedies, and shall apply fully to the successors, heirs, conservators and executors of any persons entitled to indemnification or reimbursement.

Section 7.8 Expenses and liabilities incurred by an officer, director, or agent of the corporation which are subject to reimbursement or indemnification under this Article may be paid or reimbursed by the corporation in advance of the final disposition of an action or proceeding.

Section 7.9 Nothing contained in this Article shall in any way limit the power of the corporation to purchase and maintain liability insurance on behalf of any person who is or was a director, officer, or agent of the corporation, and if such insurance is in force, the indemnification and reimbursement provided for in this Article shall apply only to those expenses and liabilities reasonably and actually incurred which were not paid or reimbursed by insurance.

Section 7.10 The provisions of this Article are severable and if any provision of this Article shall be deemed invalid by a court of law as against public policy, or for any other reason, the remaining provisions shall remain in full force and effect.

ARTICLE VIII

AMENDMENTS

The Board of Directors shall have power, by the vote of a majority of those Directors present at any meeting at which there is a quorum present, to make, alter, amend or rescind the Bylaws of the Association.

ARTICLE IX

COMPLIANCE

In case of any conflict between the provisions of these Bylaws and the Declaration, the provisions on the Declaration shall apply.

ARTICLE X

ASSESSMENT COLLECTION COSTS: SUITS AND ACTIONS

Owners shall be obliged to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments. In addition to the assessment for operating expenses and the funding of reserves, such assessments may include fees, late charges, fines and interest imposed.

In the event suit or action is commenced by the Directors for the collection of any amounts due pursuant to these Bylaws or for the enforcement of any provisions of the Declaration or Bylaws, the Owner or Owners, jointly and severally, will in addition to all other obligations, pay the costs of such suit or action, including reasonable attorney fees to be fixed by the trial court and, in the event of an appeal, the cost of the appeal, together with reasonable attorney fees in the appellate court to be fixed by such court.

ARTICLE XI

DISPUTES AND VIOLATIONS; MEDIATION AND FINES

Section 11.1 MEDIATION

Upon its own initiative or the initiative of any member, the Board of Directors may submit or recommend to mediation any dispute between members or any alleged violation of the Declarations or these Bylaws by any member or tenant of an Owner. The goal of mediation is to help association members resolve the issues informally. The mediator shall report to the Board the findings and outcomes of any mediation. The costs of mediation under this section shall be borne by the association.

Section 11.2 VIOLATION NOTICES

The Board of Directors shall cause a "first notice of violation" to be sent to the Owner for any dispute which is not or cannot be satisfactorily remedied by mediation. The first notice of violation should inform the Owner of the violation, state the actions reasonably required to cure the violation, and state a reasonable time frame within which the Owner may cure.

If a violation is not cured or abated within the time frame provided, or a substantially similar violation by the same owner or tenant reoccurs within three (3) months following the first violation, the Board of Directors may deliver a "second notice of violation." The second notice of violation shall demand that the Owner take specific actions reasonably necessary to cure the violation within ten (10) days, notify the Owner of the potential to incur fines, and inform the Owner of the method by which those fines will be calculated.

Copies of violation notices may be delivered to tenants of the Owner.

Section 11.3 FINES

A schedule of fines may be established or amended by the vote of the Directors. In no case may any single violation carry a fine under this section greater than \$150 per occurrence plus \$150 per month while ongoing. Any schedule of fines becomes effective upon notice, including electronic notice, containing the schedule to each member. A copy of the schedule of fines shall be sent promptly to any new member.

Fines may be assessed in accordance with this schedule and are due within thirty (30) days after notice of the fine is given to the Owner.

Section 11.4 HEARINGS

The Board of Directors shall freely grant a hearing to any Owner who is given any notice of a violation or a fine for a violation under this section and who, within thirty (30) days following the notice of violation or notice of fine, requests the opportunity to be heard. Such a hearing shall be at a regular or special meeting of the Board of Directors. The Directors will accept and evaluate all evidence, and shall vote to uphold, overturn, delay, defer, or modify any notice, fine, or requirements to cure. Although fines continue to accrue, collection of any fine shall be stayed until the hearing takes place and a final decision is made.

Section 11.5 COLLECTIONS

Any fine shall become part of the Owner's assessment which may be collected by any method provided by the Declarations or these Bylaws, including the right to record and foreclose a lien against Owner's property and to assess late fees, interest, attorneys' fees, and any other fees incurred in collecting the assessment.

Section 11.6 OTHER RIGHTS NOT AFFECTED

Nothing in this Article is meant to limit or modify any other right or claim held by the Association, Directors, or any Owner, member, or any other person entitled to enforce any other provision under the Declarations or these Bylaws.

The provisions of this Article are severable. If any provision of this Article shall be deemed invalid by a court of law as against public policy, or for any other reason, the remaining provisions shall remain in full force and effect.

WE THE UNDERSIGNED HEREBY CERTIFY that the Board of Directors at their meeting on Sunday, March 10, 2013, approved these amended and restated Bylaws and directed that these revised Bylaws shall be recorded in the Deed Records of Benton County, Oregon.

DATED: 3/13/13

X 

Raymond F. Tucker, President

DATED: 3-13-13

X 

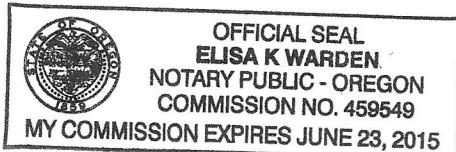
Elizabeth L. Brose, Secretary

STATE OF OREGON

ss.

County of Benton

The foregoing instrument was acknowledged before me by Ray Tucker and Elizabeth Brose this 13 day of March 2013.



X 

Notary Public for Oregon

My commission expires: June 23, 2015