

**AMENDED AND RESTATED
BYLAWS
OF
TIMPHAVEN HOMES INC.**

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**AMENDED AND RESTATED
BYLAWS
OF
TIMPHAVER HOMES INC.**

Adopted by Resolution of the
Board of Trustees dated January 1, 2007

ARTICLE 1: DEFINITIONS

1.1 **Declaration.** As used herein, "Declaration" means the Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Timphaven Homes Plats 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, as the same may be amended from time to time, recorded in the office of the Utah County Recorder.

1.2 **Other Definitions.** Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

ARTICLE 2: OFFICE

The Association is a Utah nonprofit corporation, with its registered office at 1890 North 1450 East, Provo, Utah 84604-5759.

ARTICLE 3: VOTING

3.1 **Voting.** Votes shall be allocated as set forth in Article III of the Declaration.

3.2 **Quorum.** Except as otherwise required by law or by the Articles, the number of Members participating in a meeting in person, by proxy or by written ballot shall constitute a quorum.

3.3 **Voting Method.** Votes may be cast in person, by proxy or by written ballot.

3.4 **Action by Proxy.** Every proxy must be executed in writing by the Member or his duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting.

3.5 **Action by Written Ballot.**

(a) Any action that may be taken at any meeting of Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. Such written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(b) All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter other than election of directors, specify the time by which a ballot must be received by the Association in order to be counted, and be accompanied by written information sufficient to permit each Member casting the ballot to reach an informed decision on the matter.

(c) A written ballot may not be revoked.

(d) Action by written ballot has the same effect as action taken at a meeting of Members.

(e) The number of votes cast by written ballot shall constitute a quorum for action on the matter.

(f) A written ballot may also be used in connection with any meeting of Members, thereby allowing Members the choice of either voting in person or by written ballot delivered by a Member to the Association in lieu of attendance at such meeting. A valid written ballot shall be counted equally with the votes of Members in attendance at any meeting for every purpose, including satisfaction of a quorum requirement. Members participating in a meeting by written ballot shall be considered present at the meeting for all purposes.

(g) After fixing a record date for a notice of a meeting or for determining the Members entitled to take action by written ballot, the Association shall prepare a list of the names of all Members who are entitled to notice of the meeting, and to vote at the meeting or to take the action by written ballot. Such list shall show the address of each Member entitled to notice of, and to vote at, the meeting or to take such action by written ballot, and show the number of votes each member is entitled to vote at the meeting or by written ballot. If prepared in connection with a meeting of Members, the list required by this Section shall be available for inspection by any Member entitled to vote at the meeting beginning the earlier of ten (10) days before the meeting for which the list was prepared or two (2) business days after notice of the meeting is given, and continuing through the meeting, and any adjournment of the meeting, and at the Association's principal office or at a place identified in the notice of the meeting in the city where the meeting will be held. The Association shall make the list required by this Section available at the meeting. Any Member entitled to vote at the meeting or an agent or attorney of a Member entitled to vote at the meeting is entitled to inspect the list at any time during the meeting or any adjournment thereof. A Member entitled to vote at the meeting, or an agent or attorney of a Member entitled to vote at the meeting, is entitled on written demand to inspect and, subject to Sections 16-6a-1602 and 16-6a-1603 of the Utah Revised Nonprofit Corporation Act, to copy the list required by this Section during regular business hours and the period it is available for inspection; and at the Member's expense.

3.6 Majority Vote. At any meeting of Members, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Members, unless the vote of a greater number is required by law, the Declaration, the Articles, or these Bylaws.

3.7 **Greater Quorum or Voting Requirements.** An amendment to the Articles or these Bylaws that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote required to take action under the greater of the quorum and voting requirements then in effect or proposed to be adopted.

ARTICLE 4: MEETINGS

4.1 **Semiannual Meetings.** Semiannual meetings of the Members shall be held each year in May and November on the first Saturday of each such month at a time designated by the Board, for the purpose of electing Trustees and for the transaction of such other business as may come before the meeting.

4.2 **Special Meetings.** Special meetings of the Members, for any purpose, unless otherwise prescribed by statute, may be called by the president or by a majority of the Trustees and shall be called by the president at the request of Members entitled to vote thirty percent (30%) or more of the total votes of all Members.

4.3 **Place of Meetings.** The Board may designate any place within Utah County, Utah, as the place for any semiannual meeting or for any special meeting called by the Board. Members may participate in meetings by any means of electronic or telephonic communication through which all Members and other participants may simultaneously hear one another during the meeting. Members who participate in a meeting by such means shall be considered present for all purposes, including the presence of a quorum.

4.4 **Notice of Meetings.** Written notice of any meeting of Members, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally or by mail, fax or email to each Member entitled to vote at such meeting not less than ten nor more than fifty days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears in the office of the Association or in the records of the Utah County Recorder, with postage thereon prepaid. If faxed or emailed, such notice shall be deemed delivered when and if receipt is confirmed by the receiving Member. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members, the Board may set a record date for such determination of Members, in accordance with the laws of the State of Utah. If requested by the Person or Persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

4.5 **Informal Action by Members.** Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Members.

ARTICLE 5: BOARD

5.1 Number and Election of Trustees. The Board shall consist of nine (9) Trustees. Subject to the terms and conditions of Sections 5.2 and 5.3 below, the Trustees shall serve staggered three-year terms, which terms shall commence at the close of the semiannual meeting at which the Trustee is elected and expire at the close of the semiannual meeting at which the Trustee's successor is elected. The Members shall elect the Trustees at the semiannual meetings held in May.

5.2 Removal of Trustees. A Trustee may be removed, with or without cause, by a vote of at least sixty-seven percent (67%) of the Members.

5.3 Replacement of Trustees.

(a) A vacancy on the Board created by the removal, resignation or death of a Trustee shall be filled by majority vote of the Board, though less than a quorum. Notwithstanding the foregoing, any vacancy on the Board created pursuant to Section 5.2 shall be filled by a majority vote of the Members.

(b) Any Trustee elected or appointed pursuant to this Section 5.3 shall hold office for the remainder of the unexpired term of the Trustee being replaced.

5.4 Resignations; Vacancies. Any Trustee may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.5 Regular Meetings. Regular meetings of the Board may be held without call or formal notice and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, a semiannual meeting of Members, or any special meeting of Members at which Trustees are elected.

5.6 Special Meetings. Special meetings of the Board may be held at any time when called by the president, or by two or more Trustees, upon the giving of at least three (3) days' prior notice of the time and place thereof to each Trustee by fax, email or telephone or by leaving such notice with such Trustee or at such Trustee's residence or usual place of business, or, upon at least seven (7) days' notice, by mailing it prepaid and addressed to such Trustee at such Trustee's address as it appears on the books of the Association. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Trustees shall be required.

5.7 Place of Meetings. The Board may designate any place within or outside the State of Utah to hold a regular meeting of the Board and any place within the State of Utah to hold a special meeting of the Board. Trustees may participate in any meeting of the Board by any means of electronic or telephonic communication through which all participants may

simultaneously hear one another during the meeting. Trustees who participate in a meeting by such means shall be considered present for all purposes, including the presence of a quorum.

5.8 Quorum. A majority of the number of Trustees as set by the Articles shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the Trustees in attendance shall, except where a larger number is required by law, by the Articles, or by these Bylaws, decide any question brought before such meeting.

5.9 Waiver of Notice. Before, at, or after any meeting of the Board, any Trustee may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Trustee at any meeting of the Board shall be a waiver of notice by such Trustee except when such Trustee attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

5.10 Informal Action by Trustees. Any action required or permitted to be taken at a meeting of the Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Trustees.

ARTICLE 6: OFFICERS AND AGENTS

6.1 General. The officers of the Association shall be a president (who shall be chosen from among the Trustees), one or more vice presidents, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as it may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by these Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

6.2 Removal of Officers. The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

6.3 Vacancies. A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

6.4 President. The president shall be the chief officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents, and employees. The president of the Association is designated

as the officer with the power to prepare, execute, certify, and record amendments to the Declaration and the Articles on behalf of the Association.

6.5 Vice Presidents. The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Board. In the absence of the president, the vice president designated by the Board or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation is made, all vice presidents may exercise such powers and perform such duties.

6.6 Secretary. The secretary shall:

- (a) keep the minutes of the proceedings of the Members meetings and of the Board meetings;
- (b) see that all notices are duly given in accordance with the provisions of these Bylaws and the Declaration and as required by law;
- (c) be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board;
- (d) maintain at the Association's principal offices a record containing the names and registered addresses of all Members, the designation of the Lot(s) owned by each Member, and, if such Lot is mortgaged, the name and address of each mortgagee; and
- (e) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

6.7 Treasurer. The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his possession or under his control belonging to the Association. He shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

ARTICLE 7: PROOF OF OWNERSHIP; REGISTRATION OF MAILING ADDRESS; AND LIENS

7.1 **Proof of Ownership.** Each Person on becoming an Owner of a Lot shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that Person with an ownership interest in the Lot. Such copy shall remain in the files of the Association. Owners who fail to satisfy this requirement shall not be deemed to be Members in good standing and shall not be entitled to vote at any meeting of Members.

7.2 **Mailing Address.** Each Member is required to register a mailing address with the Association within ten days of becoming a Member. The mailing address of each Member will be kept on file at the office of the Association. Members must notify the Association of any change in mailing address within ten days of such change. Any notice mailed to a Member's registered address or to the address on file with the Utah County Recorder shall be deemed duly delivered.

7.3 **Liens.** Any Owner who mortgages or grants a deed of trust covering his Lot shall give the Association written notice of the name and address of the mortgagee and shall file true, correct, and complete copies of the note and security instrument with the Association.

7.4 **Address of the Association.** The address of the Association shall be 361 East 1200 South, Orem, Utah 84058-6904. Such address may be changed from time to time upon written notice to all Members and all listed mortgagees.

ARTICLE 8: SECURITY INTEREST IN MEMBERSHIP

The Owner of a Lot shall have the right to appoint the mortgagee of the subject Lot as its true and lawful attorney-in-fact to exercise any and all rights, privileges, and powers that such Owner has as a Member. Unless otherwise expressly provided in such proxy, such proxy shall become effective when filed with the secretary of the Association. A release of the mortgage covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve an Owner of its duties and obligations as a Member or to impose upon a mortgagee the duties and obligations of an Owner.

ARTICLE 9: FISCAL YEAR

The fiscal year of the Association shall be the calendar year.

ARTICLE 10: AMENDMENTS

10.1 **By Trustees.** Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal these Bylaws at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is present. Notwithstanding the foregoing, the Board may not amend or repeal any bylaw created by the Members in such manner as to defeat or impair the object of the Members in taking such action.

10.2 **By Owners.** Except as limited by law, the Articles or the Declaration, these Bylaws may be amended or repealed by a vote of at least sixty-seven percent (67%) of the votes entitled to be cast by the Owners at any semiannual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

EXHIBIT A
to
AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TIMPHAVER HOMES
Plats 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12

Legal Description of the Property

Plats 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Timphaven Homes, Planned Dwelling Group, Utah County, Utah, according to the official plats thereof, on file and of record in the office of the Utah County Recorder, including the following lots:

Plat	Lot	Serial Number
1-A	1	53-028-0001
1-A	2	53-028-0002
1-A	5	53-028-0005
1-A	6	53-028-0006
1-A	9	53-028-0009
1-A	10	53-028-0010
1-A	11	53-028-0011
1-A	12	53-028-0012
1-A	13	53-028-0013
1-A	14	53-028-0014
1-A	15	53-028-0015
1-A	16	53-028-0016
1-A	17	53-028-0017
1-A	20	53-028-0020
1-A	21	53-028-0021
1-A	24	53-028-0024
1-A	25	53-028-0025
1-A	26	53-028-0026
1-A	27	53-028-0027
1-A	28	53-028-0028
1-A	29	53-028-0029
1-A	30	53-028-0030
1-A	31	53-028-0031

Plat	Lot	Serial Number
2	2	53-029-0001
2	5	53-029-0004
2	6	53-029-0005
2	7	53-029-0006
2	8	53-029-0007
2	9	53-029-0008
2	10	53-029-0009
2	11	53-029-0030
2	12	53-029-0011
2	13	53-029-0012
2	14	53-029-0013
2	15	53-029-0014
2	16	53-029-0015
2	17	53-029-0016
2	18	53-029-0017
2	19	53-029-0018
2	20	53-029-0019
2	21	53-029-0020
2	22	53-029-0021
2	23	53-029-0022
2	24	53-029-0023
2	25	53-029-0024
2	26	53-029-0025

Plat	Lot	Serial Number
2	29	53-029-0028
2	30	53-029-0029
3	1	53-030-0001
3	2	53-030-0002
3	4	53-030-0004
3	5	53-030-0005
3	10	53-030-0010
4	1	53-115-0001
5	1	53-120-0001
6	1	53-127-0001
7	6	53-192-0006
7	7	53-192-0007
7	8	53-192-0008
7	9	53-192-0009
8	1	53-212-0001
8	2	53-212-0002
9	1	53-213-0001
9	2	53-213-0002
10	1	53-227-0001
10	2	53-227-0002
11	1	53-352-0001
11	2	53-352-0002
12	1	53-365-0001