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PHYLLIS K. WALTERS  
RECORDER-MCHENRY COUNTY, IL  
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GIS FEE 15.00  
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This instrument was prepared by  
And after recording return to:

**(MT)** ANDREW SZOCKA, P.C.  
799 E. Terra Cotta Avenue  
Crystal Lake, IL 60014

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR TIMBERHILL SUBDIVISION, UNITS I-V AND OPEN SPACES**

This instrument is recorded for the purpose of amending and restating the separate Declarations of Covenants, Conditions, and Restrictions for Timberhill Subdivision, Units I-V, and incorporating the Declaration of Covenants, Conditions, Restrictions, and Easements for Preservation of Open Space, pursuant to Sections 2.09 and 8.04, and the Illinois Common Interest Community Association Act, 765 ILCS 160/1-20.

This Declaration is made and entered into this 25<sup>th</sup> day of OCTOBER, 2016, by Timberhill of Prairie Grove Homeowners Association, Inc., an Illinois not-for-profit corporation.

**WITNESSETH:**

WHEREAS, the Timberhill of Prairie Grove Homeowners Association, Inc. ("Association"), through its Board of Directors, oversees administration of the property commonly known as the Timberhill of Prairie Grove Subdivision ("Timberhill"), which is comprised of Units I-V, as legally described in Exhibit A, attached hereto, and an Open Space Parcel, as defined herein.

WHEREAS, the First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Timberhill Subdivision, Units I-V, was recorded on April 13, 2012, with the McHenry County Recorder's Office, as Document No. 2012R0016217. The Amendment deleted and replaced Section 2.03, which allowed for the creation of the present Association.

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Timberhill Subdivision, Unit I, was executed December 1, 1998, by Owner Home State Bank of Crystal Lake, Trust No. 4552; and recorded February 3, 1999 with the McHenry County Recorder's Office, as Document No. 1999R0009752. The Unit 1 Plat of Subdivision was recorded February 3, 1999 with the McHenry County Recorder's Office, as Document No. 1999R0009750.

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Timberhill Subdivision - Unit II, was executed October 12, 2000, by Owner Home State Bank of Crystal Lake, Trust No. 4552; and recorded October 13, 2000 with the McHenry County Recorder's Office, as Document No. 2000R0056058. The Unit 2 Plat of Subdivision was recorded September 22, 2000 with the McHenry County Recorder's Office, as Document No. 2000R0051767.

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WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Timberhill Subdivision Unit 3, was executed July 30, 2002, by Owner Home State Bank of Crystal Lake, Trust No. 4552; and recorded July 31, 2002 with the McHenry County Recorder's Office, as Document No. 2002R0066467. The Unit 3 Plat of Subdivision was recorded July 15, 2002 with the McHenry County Recorder's Office, as Document No. 2002R0061394.

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Timberhill Subdivision Unit 4, was executed July 30, 2002, by Owner Home State Bank of Crystal Lake, Trust No. 4552; and recorded July 31, 2002 with the McHenry County Recorder's Office, as Document No. 2002R0066468. The Unit 4 Plat of Subdivision was recorded July 15, 2002 with the McHenry County Recorder's Office, as Document No. 2002R0061396.

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Timberhill Subdivision Unit 5, was executed January 25, 2002, by Owner Home State Bank of Crystal Lake, Trust No. 4703; and recorded January 28, 2002 with the McHenry County Recorder's Office, as Document No. 2002R009181. The Unit 5 Plat of Subdivision was recorded January 28, 2002 with the McHenry County Recorder's Office, as Document No. 2002R009180.

WHEREAS, the Timberhill Subdivision Unit 5 Declaration of Covenants, Conditions, Restrictions, and Easements for Preservation of Open Space, was executed January 25, 2002, by Owner Home State Bank of Crystal Lake, Trust No. 4703; and recorded January 30, 2002 with the McHenry County Recorder's Office, as Document No. 2002R0010386. The Unit 5 Plat of Subdivision was recorded January 28, 2002 with the McHenry County Recorder's Office, as Document No. 2002R009180.

WHEREAS, it is the intention and desire of the Association, its successors and assigns that Timberhill be maintained in an orderly manner, as set forth herein, with due regard for aesthetic considerations, preservation, enhancement of property values, and protection of the health and well-being of its inhabitants.

WHEREAS, in furtherance of such intention and desire, it is the present purpose of the Association, its successors and assigns hereby to fix and establish certain restrictions with respect thereto, and also to declare, grant, and reserve certain easements and rights as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises, the Association does hereby declare and make known:

#### **ARTICLE ONE DEFINITIONS**

1.01 "Association" shall mean and refer to the Timberhill of Prairie Grove Homeowners Association, Inc., an Illinois not-for-profit corporation, its successors and assigns.

1.02 "Board" shall mean and refer to the Board of Directors of the Association as constituted at any time or from time to time, in accordance with the applicable provisions of this Declaration and the Bylaws.

1.03 "Bylaws" shall mean and refer to the "Bylaws of Timberhill of Prairie Grove Homeowners Association," which are recorded with the McHenry County Recorder's Office, as amended, and by this reference made a part hereof.

1.04 "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Timberhill Subdivision, Units I-V and Open Spaces, as amended from time to time.

1.05 "Lot" shall mean and refer to that portion of any of the plots of land shown upon the subdivision plat recorded in the McHenry County Recorder's Office, as stated above, and recording dates and document numbers are attached hereto as Exhibit A.

1.06 "Lot Owner" shall mean and refer to the record title owner, whether one or more persons or entities, of fee simple title to any Lot or Lots.

1.07 "Member" shall mean and refer to a Member of the Association, being the record title owner, whether one or more persons or entities, of fee simple title to any Lot or Lots.

1.08 "Open Space Parcel" shall mean and refer to the open space preservation areas as described in the Open Space Parcel Declaration.

1.09 "Open Space Parcel Declaration" shall mean and refer to the Timberhill Subdivision Unit 5 Declaration of Covenants, Conditions, Restrictions, and Easements for Preservation of Open Space, recorded with the McHenry County Recorder's Office, as Document No. 2002R0010386.

1.10 "Open Space Parcel Owner" shall mean and refer to the record title owner, whether one or more persons or entities, of fee simple title to the Open Space Parcel, as defined in the Open Space Declaration.

1.11 "Plat of Survey" shall mean and refer to each Plat of Survey for Units I-V, as recorded with the McHenry County Recorder's Office, as stated above.

## **ARTICLE TWO ADMINISTRATION AND ENFORCEMENT**

2.01 The Association has been created following the dissolution of the developer entity, and at the election of Timberhill and the Village of Prairie Grove. The Bylaws of Timberhill of Prairie Grove Homeowners Association are recorded with the McHenry County Recorder's Office, and incorporated herein, as amended.

2.02 The Association, through its Board of Directors, may designate and appoint any qualified person or qualified persons acting as a committee to act in its behalf in the administration and enforcement of these covenants.

2.03 The purpose of the Association shall be to perform all the functions provided in this Declaration and the Association shall have and possess such powers as shall be necessary or appropriate for the accomplishment thereof.

2.04 Purchase of a Lot entitles the record title owner to membership in the Association.

2.05 The record title owner of each Lot shall be a Member of the Association, and shall be entitled to cast votes upon all matters which the Member shall be entitled to vote, one vote for each Lot, regardless of the number of persons or entities who shall share in the title to or be beneficially interested in such Lot. Upon sale or other transfer of any ownership interest in any Lot, membership in the Association and the power to vote shall be deemed for all purposes as having been transferred to the person or other entity having acquired such ownership interest in proportion thereto.

2.06 The provisions of this section shall be mandatory. No record title owner of any interest in any Lot shall have any right or power to disclaim, terminate, or withdraw from his or her membership in the Association or any of his or her obligations as such Member, and no purported disclaimer, termination, or withdrawal thereof or therefrom on the part of any such record title owner shall be of any force or effect for any purpose.

2.07 The powers of the Association shall be vested in the Board of Directors and shall consist of not less than five (5) nor more than nine (9) Members. Elections shall be held in such manner and at such intervals as the corporate charter and Bylaws of the Association shall provide from time to time.

2.08 All power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise, shall be vested in its Board of Directors and its officers under the direction of said Board, and shall not be subject to any requirement of approval on the part of its Members except as provided by the terms of this Declaration or within the charter or Bylaws of the Association may include such provisions for the protection and indemnification of its officers and directors as shall be permissible by law.

2.09 The making of changes or amendments in this Declaration or in the easements, restrictions, and rights herein set forth, and the amendment modification and revocation thereof, all pursuant to the powers granted or reserved to the Association in and by this Declaration, shall be done by the Association only upon recommendation of its Board of Directors with the majority approval by affirmative vote of Members entitled to vote not less than one-fifth (1/5) all the votes which the Members shall then be entitled to vote, unless otherwise provided within this Declaration. In addition, no amendment or modification which affects the rights of the Village of Prairie Grove may be made without the consent of the Village of Prairie Grove.

2.10 The Association, by resolution of its Board of Directors, shall have the right to call for an initial capital funding assessment as against each Member in an amount not to exceed the sum of Two Hundred Fifty Dollars (\$250.00). Any such capital funding assessment shall be enforceable by the Association as against any Member in the same manner as provided in Article Three of this Declaration.

2.11 The common areas to be maintained by the Association shall include, but not be limited to, the entry area(s), entry monument(s), entry lighting and entry plantings, entry roadway median area and median plantings, and subdivision lighting and street signs not maintained by the Village of Prairie Grove.

2.12 Each Member is responsible for the ordinary maintenance of detention basins, storm water inlets and outlets, and related surface structures located on each Lot in the subdivision. Members shall keep said areas free of debris and shall not place structures upon areas designated as detention easements nor allow plantings or obstructions to interfere with the function of said area.

2.13 Major maintenance of detention areas shall be the responsibility of the Association or the Village of Prairie Grove. Major maintenance shall include, but is not limited to, repair or replacement of structures, basins, and systems utilized in the storm water system of the subdivision. For the purpose of this section each Member grants to the Association or to the Village of Prairie Grove access, ingress and egress for the purpose of maintenance repair or replacement of the detention areas, and storm water sewer system.

2.14 The regular landscaping or lawn maintenance of Lots shall be maintained by the record title owner in accordance with the landscape standards maintained by the Association, a copy of which is attached hereto as Exhibit B. The Association will retain the right, but not the obligation, to perform any maintenance on any unimproved Lot at the Lot Owner's expense.

2.15 Each Member hereby covenants, and each purchaser of any such Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, as may from time to time be levied; each of such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, shall also be the personal obligation of the person or entity who was the owner of such lot at the time when the assessment was due.

2.16 The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare, and preservation of the environment of the Members and in particular for the improvement, maintenance, and provision of such services and facilities devoted to this purpose the related to the use and enjoyment of the common areas and storm water system, the improvements situated thereon, the repair, replacement, and the erection or construction of any additions thereto, as well as the cost of labor, equipment, materials, maintenance, management, and supervision thereof. In the event a Member fails to perform ordinary maintenance on the detention areas as provided in Section 2.12 herein, then the Association may enter onto the Member's property for the purpose of performing such maintenance, in the event that the Association is required to enter Members' property only for such purpose. Each Member grants an easement for the right of access, ingress, and egress to Member's property. In the event the Association is required to perform an item of ordinary maintenance,

said amount may be charged to the Member and a lien for the payment thereof may be levied against the property as provided in paragraph 2.15 herein.

2.17 The Association shall obtain such funds as it shall require from time to time by assessment of the Members. The amount of such assessments shall be determined not less frequently than annually by the Board of Directors of the Association, who shall notify the Members thereof of the imposition not less than thirty (30) days before such action becomes effective. All assessments shall be levied equally upon each Member and shall be paid annually. Said payments as required herein shall be prorated to the date the purchasers shall receive fee title to the Lot. The annual amounts assessed may include provision for such reserves for future expenditures as the Board of Directors shall deem appropriate.

2.18 In addition to the annual assessments authorized by Section hereof, the Association may levy in any assessment year a special assessment or assessments, applicable to that year only, for the purpose of defraying in whole or in part, the unexpected cost of any construction or reconstruction, repair or replacement of improvements, landscaping, or other items upon the Common areas or storm water system, including such necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of all the votes which all Members of the Association shall then be entitled to vote at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

2.19 To the extent necessary to provide for expenditures for which the requisite funds shall not have been provided by such assessments, the Association shall have power to borrow monies from such sources and upon such terms and with such security as the Board of Directors shall determine, provided however, that no property owned by the Association shall be encumbered to secure such borrowing without the affirmative vote of Members entitled to vote not less than two-thirds (2/3) of all votes which the Members of the Association shall then be entitled to vote.

2.20 The Association shall not distribute to its Members any sums in the nature of dividends and to the extent that funds shall not be required for current expenditures or for such reserves, the next to become due assessment may be eliminated of the amount thereof appropriately reduced. Such reduction shall not prevent reinstatement of or increase in such assessments when required, but such reinstatement or increase shall not be retroactive.

2.21 The powers conferred upon the Association as set forth herein shall include, without limitation, the power to assess upon and collect from the individual Member and all persons having the rights and obligations of Members, their respective proportionate share of funds required for the carrying out of all the duties and obligations of the Association.

2.22 The Association shall have the right to engage the services of contractors or persons or entities for the purpose of providing such services inclusive of management as are delegated to the Association by this Declaration on such terms as it shall deem appropriate.

2.23 In the event the Association fails or refuses to perform the duties required with respect to the storm water system of Timberhill, the Village of Prairie Grove has the opportunity but not the requirement to assume the responsibilities therein required. In the event the Village elects to take responsibility for such activity it also has the right of access egress, egress upon said properties, and the right to assess each member of the Association and each assessment shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made.

2.24 Pursuant to Sections 2.13 and 2.23, the Association entered into a Maintenance Agreement with the Village of Prairie Grove for the maintenance of storm water improvements and landscaped median areas. The Agreement executed on May 20, 2014 is attached hereto and made a part hereof as Exhibit C.

### **ARTICLE THREE DURATION**

3.01 Until January 1, 2019, each and every "Lot" shall be subject to the following restrictions, which shall each be construed as a covenant running with the land; and for and during an additional period of twenty-one (21) years from and after such first mentioned date.

3.02 Each Lot shall continue to be subject to such restrictions until and unless the record title owners of two-thirds (2/3) in number of such Lots in the subdivision shall file in the McHenry County Recorder's Office, a written statement, signed and acknowledged by such record title owners stating that such restrictions, or certain articles thereof, shall become ineffective prior to the end of such additional period and also the Village of Prairie Grove, Illinois, shall approve such action, in which event such restrictions, or those specified in such written statement, shall become ineffective on the date stated in such written statement.

### **ARTICLE FOUR USE RESTRICTIONS**

4.01 All Lots shall be used exclusively for residential purposes and no building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling.

4.02 No building shall be located on any Lot nearer to the front Lot line than the minimum building setback lines shown on the recorded Plat of Subdivision. No building shall be located nearer than twenty (20) feet to a rear or side Lot line, except as shown on the recorded Plat of Subdivision. In the event current Village of Prairie Grove requirements are more stringent than these requirements, the Village requirements shall prevail.

4.03 None of said Lots shall be re-subdivided in any fashion except that any person owning two or more adjoining Lots may consolidate such Lots for the purpose of building one single-family residential dwelling upon the consolidated Lots. If two or more adjoining Lots are consolidated for the purpose of construction of one residence, all provisions of this Declaration shall be applied to the consolidated Lots as if they were one original platted Lot.

4.04 No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other domestic household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

4.05 No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, or any other outbuilding shall be used on any Lot at any time as a residence. No part of a residence shall be occupied or used prior to completion of the entire residence.

4.06 No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

4.07 No manufacturing, industrial, or business use will be allowed on any Lot.

4.08 No Lot shall be maintained as a dumping ground for rubbish or trash; and no garbage or other waste shall be kept except in sanitary containers. The Association shall retain the right to enter any Lot for the removal of rubbish or trash. The Lot Owner shall be responsible for any charges incurred by the Association during removal.

4.09 No signs of any character shall be allowed on any Lot except one sign of not more than five square feet advertising the property for sale or rent.

4.10 No truck, bus, trailer, or recreational vehicle shall be left parked in the street in front of any Lot, except for construction and repair equipment while a residence or residences are being built or repaired in the immediate vicinity. No truck, bus, trailer, boat, or similar articles shall be parked or stored, either temporarily or permanently, on any Lots unless it is under a permanent roof and in an enclosed building.

4.11 No septic tank or disposal field shall be erected, placed, or installed within seventy-five (75) feet of a well site. If building, zoning, or health provisions of the Village are more stringent, they shall prevail.

4.12 No visible oil or gas tank for fuel or any purpose shall be erected on any Lot.

4.13 No storage shed shall be erected on any Lot.

4.14 No above ground swimming pool shall be erected on any Lot; however, in ground pools are permitted. Determination of classification of an above ground or in ground pool shall be left to the sole discretion of the Association or its agents.

4.15 No satellite dishes, antennae, or similar apparatus shall be installed in any Lot, other than a small satellite dish which is no larger than thirty-six (36) inches in height and diameter, and is appropriately shielded from view. Whether or not any apparatus complies with this section shall be left to the sole determination of the Association.

4.16 No excavation, building, or landscaping shall be installed or performed upon Lots on which detention basins are located, in such a manner as to interfere with such detention basins.



4.17 Each Lot shall be properly landscaped within nine (9) months of completion of the residence. Whether or not any Lot complies with this section shall be left to the sole determination of the Association.

4.18 The removal of any living tree with a trunk larger than six (6) inches in diameter, measured six (6) inches from surrounding ground level, on any Lot shall require prior approval by the Board.

## **ARTICLE FIVE ARCHITECTURAL CONTROL**

5.01 Notwithstanding that it may comply with the covenants and restrictions herein, no building, fence, wall, or other structure shall be constructed or erected, nor any exterior addition, change or alteration costing in excess of one thousand dollars (\$1,000.00) shall be made, nor shall any terraces, walks, driveways, septic system, or yard light be installed on any Lots, until and unless all plans and specifications for same showing the nature, shape, size, architectural design, materials, color, location, and proposed landscaping thereof and approximate cost, shall first be submitted to and approved by the Board as acknowledged by the signature of the Chairman of the Architectural Review Committee. Before submitting completed plans and specifications, Members should submit preliminary sketches for approval; the sketches should include the plot plan, basic floor plan, the four (4) elevations, the exterior materials and colors. These materials and colors must be carefully chosen, not only for each individual house, but with due regard to the surrounding houses.

5.02 No residence shall be approved which is less than three thousand (3,000) square feet as a single story residence or three thousand six hundred (3,600) square feet as a two-story residence. Whether or not any residence complies with this section shall be left to the sole determination of the Association.

5.03 Pursuant to Article IX of the Bylaws, the Architectural Review Committee shall be responsible to review any Member proposed improvement, replacement, addition to, or modification of any structures or improvements on the Lots and shall make recommendations to the Board with respect thereto.

5.04 The Architectural Review Committee shall report and may, when necessary, investigate any suspected non-compliance of any Lots from the following criteria:

- A. Exterior Material – Brick, stone, cedar, or stucco exteriors are the standard. A minimum of Seventy percent (70%) of the front elevation and twenty-five percent (25%) of all remaining elevations of all dwelling units shall be constructed with brick/stone. Ending the brick/stone at an outside corner which exposes the edge of the facing material is prohibited. Full dimension face brick/stone must be used. Half brick/stone or nail on brick/stone is prohibited. Properly installed dryvit is permitted as an accent feature providing it covers no more than 2% of the exterior surface, or in the opinion of the Architectural Review Committee is integral to the

home design. Masonry walls must be finished to an interior corner, or corner not on the front elevation.

- B. **Roof Pitch** – A minimum roof pitch of 7/12 is required for all roofs across all elevations.
- C. **Gutters** – Gutters shall be provided.
- D. **Roofing Material** – Acceptable roofing materials are slate, dimensional shingles or wood shakes. Standing seam copper is a permitted material for use as a roof accent feature, such as over bay windows and dormers.
- E. **Chimneys** – Stone, brick, or stucco over a masonry construction is required for chimneys on exterior walls.
- F. **Skylights and Roof Windows** – Not permitted on front elevation of home.
- G. **Windows** – Windows shall be better quality clad and window detail shall be carried out on every elevation. Window treatments treatments shall be in keeping with the architectural style. Shutters are suggested and should be sized to match the opening.
- H. **Yard Lights** – Every home site shall have a yard light with preference to a location near the intersection of the roadway and private drive.
- I. **Fencing** – Fencing is only permitted when protective fencing is required by the local building code (e.g. swimming pool). Any fencing must be iron or iron style decorative fencing. The design, location and materials are to be approved by the Board as acknowledged by the signature of the Chairman of the Architectural Review Committee.
- J. **Swimming Pools and Spas** – Swimming pools require proper decking, screening, landscaping, and protective fencing. The design and location are to be approved by the Board as acknowledged by the signature of the Chairman of the Architectural Review Committee.
- K. **Driveways** – Each residence shall have a private drive, equipped with proper culverts where necessary. Driveways shall be paved with concrete, asphalt, or brick.
- L. **Garages** – A garage of no less than two (2) and no more than four (4) car capacity shall be erected with a residence on any Lot. All garages shall be side or rear-loaded, and must not face the front elevation of the home. All garages shall have at least 1 window. Side loaded garages shall have at least 2 windows.

- M. **Playhouse and Recreational Equipment** – The equipment and location are to be approved by the Board as acknowledged by the signature of the Chairman of the Architectural Review Committee.
- N. **Mailbox Post** – Mailbox and mailbox post must adhere to the mailbox design and maintenance standards established by the Architectural Review Committee. Mailboxes and posts must be well maintained and kept in a good condition. Damaged, deteriorating, rusting, peeling, listing or leaning mailbox or posts must be replaced with a new mailbox that adheres to the established mailbox design standards.
- O. **Decks and their supports** shall incorporate materials which relate to the residence, such as brick, stone, etc. Wood decks are permitted where appropriate. They shall be stained to coordinate with the exterior colors of the subject residence. Decks shall conform to all building codes and be structurally sound.
- P. **Walkout basements** are permitted only on the rear and side elevations of the residence.
- Q. **Placement of the subject residence on the lot** shall be compatible with the adjacent residences, the existing topography and the street elevation.
- R. **Landscape plans** shall include the landscaping design for all elevations of the residence. In addition to landscape beds directly adjacent to residence, landscape planting beds are recommended adjacent to driveways and walkways.
- S. **Each house or addition** shall be unique and custom built from plans prepared and approved by an Illinois licensed architect.
- T. **Village architectural guidelines, standards and codes** shall also apply. In the event there is a conflict between these covenants and Village standards or codes, that which is more restrictive or imposes a higher standard shall govern.

5.05 All plans shall be submitted to the Architectural Review Committee and shall include elevations, floor plan, site plan, and landscape plan. Any and all trees (including evergreens) which are to be removed and with a trunk size of six (6) inches or greater in diameter shall be identified on the plan. Approval consists of the signature of the Chairman of the Architectural Review Committee acknowledging Board approval, and may include review by a licensed architect.

## **ARTICLE SIX EASEMENTS**

6.01 An easement is hereby reserved for and granted to the Northern Illinois Gas Company, Comcast, Commonwealth Edison Company, and the Illinois Bell Telephone Company, and their respective successors and assigns, to install, lay, construct, renew, operate, and maintain

conduits, cables, and wires, with all necessary braces, guys, anchors, and other appurtenances for the purpose of serving the subdivision, residence, and owners or property therein or adjoining property with electric, cable television, internet, and telephone service as may be shown by dotted lines on plats recorded or to be recorded and marked "utility easement," including the right to use the streets and public places therein for such purposes where necessary, together with the right of ingress and egress upon the Lots at all times to install, lay, construct, renew, operate, and maintain said conduits, cables, wires, braces, guys, anchors, and other appurtenances on said utility easements, and also the right to cut and remove such trees, bushes, and saplings that interfere or may interfere with said public utility equipment. No permanent buildings shall be placed on said easements, but same may be used for gardens, shrubs, landscaping, and other purposes that do not interfere with said easements for public utility purposes.

6.02 An easement located upon Lot 12 of Unit I is hereby reserved for and granted to the Association for the purpose of erecting a sign identifying the subdivision. The easement shall be maintained by the Association.

6.03 An easement located upon Lot 97 of Unit V is hereby reserved for and granted to the Association for the purpose of erecting a sign identifying the subdivision. The easement shall be maintained by the Association.

#### **ARTICLE SEVEN OPEN SPACE PRESERVATION**

7.01 An open space and conservation easement and covenant was established upon the Open Space Parcel, by the Timberhill Subdivision Unit 5 Declaration of Covenants, Conditions, Restrictions, and Easements for Preservation of Open Space, which was executed January 25, 2002, by Owner Home State Bank of Crystal Lake, Trust No. 4703; and recorded January 30, 2002 with the McHenry County Recorder's Office, as Document No. 2002R0010386.

7.02 The Open Space Parcel Declaration is hereby adopted and incorporated into this Declaration, as if fully set forth herein.

7.03 As stated in the Open Space Parcel Declaration, the Open Space Parcel Owner shall be responsible for the maintenance and preservation of the Open Space Parcel.

7.04 As stated in the Open Space Parcel Declaration, if the Open Space Parcel is not properly maintained as set forth therein, the Association shall have the right, but not the obligation, to implement the preservation and maintenance of open spaces as set forth herein, with the liability and costs for such to be paid to the Association.

7.05 As stated in the Open Space Parcel Declaration, the Village requires that the property be maintained and preserved as an open space with the following activities to be prohibited unless allowed by permit from the Village of Prairie Grove or its successors and assigns:

- (a) The construction of any physical improvement or placement thereon of any tangible personal property;

- (b) The dumping or placing of any physical improvement or placement thereon of any tangible personal property including the depositing of any kind of dredged or fill material;
- (c) The excavation, dredging or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface or to otherwise alter the topography of the flood plain or open space area;
- (d) The removal or destruction of trees, shrubs, or other vegetation in an open space area except that noxious flora may be removed or destroyed, "noxious flora" meaning any tree, shrub, or other vegetation that is not native to the open space or flood plain and that presents a nuisance by virtue of its proliferation or other characteristics that are inimical to the public health (e.g. poison sumac), the determination as to whether or not the item of flora is noxious is to be made by a botanist, ecologist, or open space consultant employed by the Village of Prairie Grove;
- (e) Any active use of said delineated open space area;
- (f) Any mowing of grasses or cutting of trees and shrubs within the open space area except as authorized and directed by the consultant to the Village where the mowing and cutting is appropriate for the open space preservation and removal of invasive vegetation;
- (g) Any activity that would affect drainage, flood control, water conservation, erosion, or soil conservation, or fish and wildlife habitat preservation, and any draining of the delineated open space; and
- (h) The Open Space Parcel Owner will follow the open space management program directed by the Village in accordance with recommendations of an open space consultant, including where necessary, periodic control burns, herbiciding of invasive grasses, forbs, and shrub samplings, cutting of invasive vegetation and, mowing where appropriate for management purposes.
- (i) Any other activities or uses for any purpose other than the maintenance and preservation thereof in its natural, open, and current condition.

**7.06** As stated in the Open Space Parcel Declaration, it is the obligation of Open Space Parcel Owner to comply with its covenants and easements. If the Open Space Parcel Owner fails to do so, the Open Space Parcel Owner and the Adjoining Unit V Lot Owner, as defined therein, shall be liable for any costs incurred by the Association or Village in connection with enforcing the provisions set forth in said Declaration.

**7.07** As stated in the Open Space Parcel Declaration, if the Open Space Parcel Owner and Adjoining Unit V Lot Owner, as defined therein, fail to reimburse the Village or Association,

including reasonable attorney fees incurred by retained personnel, the Village or Association may require said parties to pay any such expenses, and liability shall be joint and several.

7.08 As stated in the Open Space Parcel Declaration, the Village or Association shall have the right, but not the obligation, to maintain or repair any detention, retention, or drainage facilities on the property in the Open Space Parcel. The parties shall be entitled to full and complete reimbursement for all expenses incurred in connection with such, in the event the Open Space Parcel Owner or Adjoining Unit V Lot Owner, as defined therein, fail to perform said maintenance.

7.09 As stated in the Open Space Parcel Declaration, an irrevocable license and easement was granted to the Village and Association, and their successors, to go upon the Open Space Parcel for purposes of maintenance, replacement, and repair of drainage facilities, in the event the Open Space Parcel Owner or Adjoining Unit V Lot Owner, as defined therein, fail to properly maintain such. The Village or the Association shall be empowered to compel correction of problems concerning such with lien rights and reimbursement of costs and expenses and enforcement rights as set forth therein.

## **ARTICLE EIGHT GENERAL PROVISIONS**

8.01 The Association or any Member shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereinafter imposed by the provisions of this Declaration. Failure to enforce any covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter, no matter how many violations or breaches occur.

8.02 Each grantee, of the Association, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, covenants, easements, and restrictions and the jurisdiction, rights, and powers of the Association, created or reserved by this Declaration or by plat or deed restrictions heretofore recorded, and all easements, rights, benefits, and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall run with the land and bind every record title owner of a Lot of any interest therein and inure to the benefit of such record title owner of the Lot in like manner, as though the provisions of this Declaration were recited and set forth at length in each and every such deed of conveyance. Enforcement of the provisions hereof by any such Member, as aforesaid, shall be by proceedings at law or equity against any person or persons violating or attempting to violate any thereof either to restrain violation, to remove such violation, or to recover damages.

8.03 The invalidity of any restriction hereby imposed, or of any provisions hereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.

8.04 The Association shall have the right from time to time hereafter to make all reasonable and necessary modifications, changes, alterations, and additions with respect to these covenants and restrictions herein contained, provided however, that any such modifications,

changes, alterations, and restrictions shall be made only by an instrument in writing signed by the Association or its assigns, and recorded in the McHenry County Recorder's Office.

8.05 The rights, privileges, and powers hereby retained by the Association shall be assignable to, and shall inure to the benefit of, its successors and assigns.

IN WITNESS WHEREOF, the undersigned Association has cause this instrument to be signed and acknowledged.

Dated this 25<sup>th</sup> day of OCTOBER, 2016

TIMBERHILL OF PRAIRIE GROVE  
HOMEOWNERS ASSOCIATION, INC.

By: [Signature]  
Its: President

ATTEST: [Signature: Cynthia Komarek]

STATE OF ILLINOIS        )  
  ) ss.  
COUNTY OF McHENRY    )

BEFORE ME, the undersigned authority, on this day personally appeared Brian Connolly and Cynthia Komarek of TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION, INC., an Illinois not for profit corporation, known to me to be the persons whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER my hand and sea of office on the 25<sup>th</sup> day of November 2016

[Signature: Karen S Brodsky]  
Notary Public

Prepared by:  
ANDREW SZOCKA, P.C.  
799 East Terra Cotta Avenue  
Crystal Lake, IL 60014  
(815) 455-8430



## **EXHIBIT A**

### **Legal Description for Units I–V:**

**Unit I – Plat of Subdivision recorded February 3, 1999 as Document No. 1999R009750**

**BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, OF SECTION 26, AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, ALL IN TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit II – Plat of Subdivision recorded September 22, 2000 as Document No. 2000R0051767**

**BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit III – Plat of Subdivision recorded July 15, 2002 as Document No. 2002R0061394**

**BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, ALL IN SECTION 26, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit IV – Plat of Subdivision recorded July 15, 2002 as Document No. 2002R0061396**

**BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER IN SECTION 26, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit V – Plat of Subdivision recorded January 28, 2002 as Document No. 2002R0009180**

**BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**



## **EXHIBIT B**

### **LAWN AND LANDSCAPE MAINTENANCE OF LOTS**

The record title owner shall perform Lot maintenance in accordance with the requirements stated herein. Each requirement below applies to improved Lots and unimproved Lots unless otherwise stated. The Association will retain the right, but not the obligation, to perform any maintenance on any unimproved Lot at the Lot Owner's expense.

#### **A. Easement Frontage**

1. Wherever feasible, a landscaped frontage of grass or landscape plants should be planted in the easement to provide a neat, maintained, landscaped separation between any natural growing plant areas and the street curb.
2. The naturally occurring plants should be trimmed back from the street curb to provide sufficient clearance for mowing of the planted easement frontage grass or maintenance of the planted landscape plants.
3. The landscaped easement frontage shall be regularly maintained to provide a neat, maintained appearance.

#### **B. Mowing and Weed Control**

1. Lawns of improved Lots shall be mowed as required to provide a neat, maintained appearance. Typically, lawns should be mowed weekly during the growing season and grass should be maintained less than eight (8) inches tall in accordance with the Village of Prairie Grove Municipal Code.
2. Easements of unimproved Lots shall be mowed as required to provide a neat, maintained appearance, except on sloped easements where mowing is impractical. Typically, the easement should be mowed weekly during the growing season and grass should be maintained less than eight (8) inches tall.
3. Excessive grass clippings should not be evident in lawns of improved Lots or easements of unimproved Lots. The clippings can be caught during mowing, mulched during mowing, raked or blown following mowing, and then picked up. Clippings may not be blown or raked into the street.
4. Excessive weeds should not be evident in lawns of improved Lots or easements of unimproved Lots. Weeds that are more evident include those weeds where one or more of the following conditions exist:
  - a. Stay green when the lawn is going dormant,
  - b. Flower such as dandelions or clover, or
  - c. Grow faster than the lawn and therefore are taller between mowings.

- C. Planted Bushes, Ornamental Trees, and Planting Beds**
1. Planted bushes and ornamental trees should be trimmed as appropriate to provide a neat, maintained appearance.
  2. Excessive weeds should not be evident in planting beds.
  3. Mulching of planting beds is encouraged, but not required.
- D. Dead or Dying Tree or Bush**
1. Any Trees or bushes which are dead or dying due to disease, infestation, or old age should be removed in a timely fashion if the dead or dying tree or bush, is:
    - a. Located on an improved Lot and is visible from the street; or,
    - b. Within falling distance of, or viewable from, any easement, street, or another Lot Owner's improved Lot.
    - c. Diseased or infested and could cause other trees to become diseased or infected.
  2. An arborist may be consulted regards the best way or time to cut down or remove diseased or infested trees to prevent cross contamination.
- E. Noxious or Invasive plants**
1. Noxious or invasive plants should be managed so as to minimize their presence or spread, in accordance with the Village of Prairie Grove Municipal Code.

**EXHIBIT C**

**MAINTENANCE AGREEMENT BETWEEN THE VILLAGE OF PRAIRIE GROVE  
AND THE TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION**

This Agreement is entered into this 20th day of May, 2014 by and between the Village of Prairie Grove ("Village") and the Timberhill of Prairie Grove Homeowners Association, Inc. ("Association").

WHEREAS, the Village is an Illinois home rule municipality.

WHEREAS, the Association is a homeowners association incorporated for the purpose of maintaining common elements within its subdivision in the Village.

WHEREAS, the Association and the Village desire to exchange responsibilities each has with respect to certain common elements within the subdivision and public improvements, in accordance with the terms of this Agreement.

WHEREAS, under the existing covenants of the Association, the Association has the obligation to maintain its Storm Water collection and distribution system including lift station pump in Unit 2 throughout the five units of the subdivision ("Storm Water Improvements").

WHEREAS, the Association desires and the Village agrees to take permanent responsibility for the future maintenance of the Storm Water Improvements in accordance with the terms of this Agreement.

WHEREAS, the association understands that Lot 43 in Unit 2 must provide the Village with access to the Unit 2 Pump and all other relevant homeowners within the association must provide access to the Village to provide for maintenance of the Storm Water Improvements in accordance with the terms of this Agreement.

WHEREAS, the entrance road to the subdivision at Barreville Road and Arbor Lane has a landscaped median strip that currently lies within the Village road right of way as well as its two (2) adjacent corners (collectively, "Landscaped Median Areas") and the homeowners desire to take permanent responsibility for the maintenance of the Landscaped Median Areas, pursuant to the terms of this Agreement.

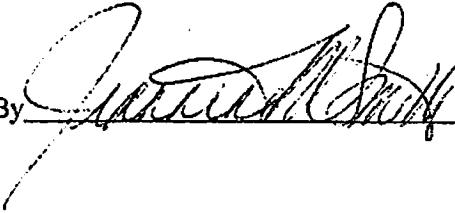
NOW, THEREFORE, in consideration of the promises and agreements made herein, the adequacy and sufficiency of which is acknowledged as being received by the parties hereto, it is agreed as follows:

1. Following execution of this Agreement until terminated, the Village shall maintain, in perpetuity, the Storm Water Improvements. As a condition precedent to the Village's obligation to maintain the Storm Water Improvements, the Association and the owners of property within the Association, including Lot 43, shall provide the Village with access to the Storm Water Improvements.
2. Following execution of this Agreement until terminated, the Association and its homeowners shall maintain, in perpetuity, the Landscaped Median Areas.

3. Either party hereto may terminate this Agreement for any reason or no reason at all upon 365 days' written notice to the other. All notices shall be sent by First Class mail postage pre-paid to the following addresses: To the Village: Village of Prairie Grove, 3125 Barreville Rd., Prairie Grove, Illinois 60012; To the Association: registered agent of the Association at the time of notice.

4. Each party hereby indemnifies the other party for any and all injuries and/or damages to persons and property that may occur as a result of their employees or contractors performing maintenance work within the respective areas in which obligations of maintenance are being assumed under the terms of this Agreement. To secure this obligation, each party shall maintain liability insurance of not less than \$1 million in the aggregate, naming the other party hereto as additional insured thereon and certificates of insurance shall be made available to the requesting party upon written request.

VILLAGE OF PRAIRE GROVE

By  \_\_\_\_\_

Timberhill of Prairie Grove Homeowners  
Association, Inc.

By  \_\_\_\_\_

**APPENDIX**

**BYLAWS  
OF  
TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION  
REVISED AUGUST 2015**

**EXECUTED NOVEMBER 23, 2015**

2015

NY

This instrument was prepared by  
And after recording return to:

ANDREW SZOCKA, P.C.  
799 E. Terra Cotta Avenue  
Crystal Lake, IL 60014

PHYLLIS K. WALTERS  
RECORDER-MCHENRY COUNTY, IL

2015R0044010

11/24/2015 12:36PM PAGES 12  
RECORDING FEE 34.00  
GIS FEE 15.00  
RHSPS HOUSING FEE 9.00

**BYLAWS  
OF  
TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION  
REVISED AUGUST 2015**

WHEREAS, Timberhill of Prairie Grove Homeowners Association is the entity responsible for the administration and operation of the property described on the attached Exhibit A; and,

WHEREAS, Timberhill of Prairie Grove Homeowners Association was incorporated under the Illinois Not-For-Profit Corporation Act on May 31, 2012; and,

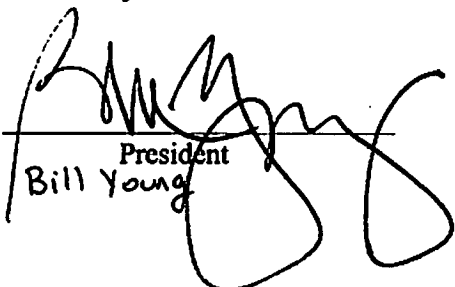
WHEREAS, the original Bylaws of Timberhill of Prairie Grove Homeowners Association were executed on May 2, 2013, and recorded with the McHenry County Recorder on May 20, 2013 as Document No. 2013R0025363; and,

WHEREAS, pursuant to Article X, these Bylaws may be amended, repealed or altered in whole or in part by a two-thirds (2/3) affirmative vote of the votes cast, as defined in Article II and Article III, at any duly organized meeting of the Association;

NOW THEREFORE, the undersigned hereby certifies that the attached instrument is a true copy of the aforesaid amended and revised Bylaws, approved by the Association in accordance with Article X.

WITNESS my signature hereto this 23 day of NOVEMBER 2015, at Prairie Grove, Illinois.

TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION

By:   
President  
Bill Young

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**BYLAWS OF TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION  
REVISED MAY 2015**

**ARTICLE I  
NAME AND PURPOSE**

The name of the corporation is **TIMBERHILL OF PRAIRIE GROVE HOMEOWNERS ASSOCIATION, INC.**, hereinafter referred to as the "Association." The purpose of this corporation shall be to conserve, preserve, protect, maintain, improve and promote the use and enjoyment of Timberhill Subdivision Units I-V, including, but not limited to, the maintenance of common areas in the subdivision such as the entry area(s), entry monument(s), entry lighting and entry plantings, entry roadway median area, and median plantings. The corporation shall have such powers not inconsistent with the General Not-For-Profit Corporation Act of the State of Illinois (as now enacted or may hereafter be amended), the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Timberhill Subdivision Units I-V and Open Spaces, and these Bylaws, to affect any or all of the purposes for which the corporation is organized.

**ARTICLE II  
MEETINGS OF MEMBERS**

**SECTION 1. ANNUAL MEETINGS** – The regular annual meeting of the Members shall be held on the third Wednesday of September at a time and place specified by the Board. Members shall be those as defined in the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Timberhill Subdivision Units I-V and Open Spaces, hereinafter referred to as the "Declaration," to which these Bylaws are incorporated. Pursuant to Section 107.10 of the Not-For-Profit Corporation Act, any action required to be taken at any annual or special meeting of the members entitled to vote, or any other action which may be taken at a meeting of the members entitled to vote, may be taken by ballot without a meeting in writing by mail, e-mail, or any other electronic means pursuant to which the Members entitled to vote thereon are given the opportunity to vote for or against the proposed action, and the action receives approval by a majority of the Members casting votes, or such larger number as may be required by these Bylaws, provided that the number of members casting votes would constitute a quorum if such action had been taken at a meeting. Voting must remain open for not less than 5 days from the date the ballot is delivered; provided, however, in the case of a removal of one or more directors, a merger, consolidation, dissolution or sale, lease or exchange of assets, the voting must remain open for not less than 20 days from the date the ballot is delivered.

**SECTION 2. SPECIAL MEETINGS** – Special meetings of the Members may be called at any time by the president or any director upon written request of any member.

**SECTION 3. NOTICE OF MEETINGS** – Notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by delivering to each member a copy of such notice, at least thirty (30) days before an Annual Meeting, or ten (10) days before a special meeting and in no case no greater than sixty (60) days before the date of any meeting. Such notice shall specify the place, day, and hour of the meeting and in case of

a special meeting, the purpose of said meeting. All required notices may be transmitted by electronic means to the address that appears on the records of the corporation. All references to "writing" and "delivery" in these Bylaws shall be inclusive of electronic transmissions. Permissible electronic delivery includes electronic transmissions to the e-mail address, facsimile number, or other contact information appearing on the records of the corporation.

**SECTION 4. QUORUM** – At the Annual Meetings or any other general meetings of the Association, the presence of one-fifth (1/5) of the Members in person, or by proxy, as defined in Article 2 of the Declarations, shall constitute a quorum. A majority of the Board must be in attendance in person to constitute a valid Board meeting. Other Board Members may be classified in attendance by delivered ballot. At the Annual Meetings or any other general meetings of the Association, official business shall be decided by majority vote of those Members present at such meeting. If, however, such a quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice, other than announcement of the meeting, until a quorum as aforesaid shall be present or represented.

**SECTION 5. PLACE OF MEETING** – All meetings shall be held at such a place as may be designated in the notice of such meeting in the County of McHenry, State of Illinois.

### **ARTICLE III VOTING AND ELECTIONS**

**SECTION 1. BALLOTS** – All matters requiring a vote of the membership may be accomplished through attendance at a meeting, as defined in Article II, by Proxy, or by informal action of the members as described in Section 107.10 of the Not-For-Profit Corporation Act. A description of all matters requiring a vote, Board of Directors ballot, and other ballots will be delivered to each member along with the notice that calls for the meeting. Proxy votes are valid when the voter is a Member on the day the votes are tallied.

**SECTION 2. VOTING PROCESS** – Each Member shall cast one vote per Lot of which they are record title owner. In order for ballots to be valid, the street address shall be clearly marked on the delivered ballot. Board of Director ballots and other delivered ballots shall be returned to the Secretary prior to the meeting. Ballots will be tallied by the Secretary and Treasurer prior to the meeting. A minimum of two people must be present for the tallying of the votes; additional people, if needed, will consist of Members sitting on the Board.

**SECTION 3. VOTING RESULTS** – The results of a vote, either for an Officer election or other business, shall be announced at the Annual Meeting.

**SECTION 4. VOTING PRIVILEGES** – The Association shall have the right to suspend the voting privileges of any Member for any period during which an assessment levied by the Association remains unpaid, in accordance with the payment of dues as set forth in Article IV.



**ARTICLE IV  
BUDGET, DUES, AND FINANCE**

**SECTION 1. ANNUAL DUES** – Each year the Board of Directors elected to office will establish annual dues to meet the continuing operating expenses of the Association. Expenditures from this fund will include, but are not limited to, insurance on the common properties, and the normal maintenance of common property.

**A. REPORTING OF EXPENDITURES** – On or before the date of the Annual Meeting of each calendar year, the Board shall furnish to Members an itemized accounting of the expenses incurred by the Association and dues received by Members for the preceding fiscal year. The intent of the accounting is to ensure awareness of the Association finances and to provide justification for the established annual dues.

**B. PAYMENT OF DUES** – Each Member shall be provided, at least thirty (30) days prior to the adoption by the Board, a copy of the proposed annual budget. Notwithstanding any other provision hereof, notice of any Board meeting to adopt the budget, increase the budget or establish assessments must be mailed not less than ten (10) or greater than thirty (30) days in advance. Members shall be notified in writing of annual dues, payable within thirty (30) days' notice. If the assessment or dues are not paid within thirty (30) days after the due date, the assessment shall incur a late fee not to exceed ten percent (10%) of the total amount of the fees per annum, and the assessment shall bear interest from and after the due date at the lesser of the rate of seven percent (7%) per annum or the highest rate allowed by law. After ninety (90) days delinquency, the Association may revoke a Member's voting privileges and bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Member's Lot, and interest, costs and reasonable attorneys' fees incurred in any such action shall be added to the amount of any such overdue assessment.

**SECTION 2. CONTINGENCY AND REPLACEMENT RESERVE** – The Board shall build up and maintain a reserve for the replacement of capital improvements, other authorized expenditures, and unforeseen expenditures (the "Contingency and Replacement Reserve").

**A. CAPITAL IMPROVEMENTS AND EXPENDITURES** – Capital Improvements and unforeseen or unbudgeted expenditures that may become necessary during the year shall be charged first against the Contingency and Replacement Reserve. Any expenditure from the Contingency and Replacement Reserve having a cost in excess of fifty percent of the reserve funds shall require approval of a Special Assessment, as defined in Article IV, Section 3.

**B. SHORTFALL IN RESERVES** – If the Contingency and Replacement Reserve proves inadequate for any reason, including nonpayment of any Member's assessment, the Board may, at any time, levy a special assessment, which shall be assessed equally among the Members. The Board shall serve notice of any such special assessment on all such Members by a statement in writing giving the amount and reasons therefor, and such

special assessment shall become effective and fully payable twenty (20) days after the delivery of any such notice of assessment.

**SECTION 3. SPECIAL ASSESSMENTS FOR IMPROVEMENTS** – Expenditures and improvements not subject to Section 2 (A) or (B) will be subject to approval of a Special Assessment. Special assessments in addition to dues shall be subject to approval of a two-thirds (2/3) vote of all Members. Votes will be cast as provided in Article III. Failure to return a valid ballot for special assessment will be counted as a “Yes” vote. The collection of dues or assessments is enforceable by lien as provided for in Article VII, Section 2.14 of the Declarations.

**SECTION 4. FIDELITY BOND** – The Association shall obtain and maintain a fidelity bond covering persons, including any managing agent and its employees who control or disburse funds of the Association, for the maximum amount of coverage available to protect funds in the custody or control of the Association, plus the Association reserve fund.

## **ARTICLE V DIRECTORS**

**SECTION 1. NUMBER** – The affairs of this Association shall be managed initially by five (5) directors and may be increased to as many as nine (9) by amendment of these Bylaws. Directors will be elected on an annual basis by the Members in accordance with the voting rights as set forth in Article II of these Bylaws.

**SECTION 2. QUALIFICATIONS OF DIRECTORS** – No person shall be elected a director of the Association unless such person is:

- A. An actual and bona fide resident of Timberhill, residing there not less than six (6) months in each calendar year;
- B. At least eighteen (18) years of age;
- C. A Member of the Association as that term is used in the Declaration;
- D. Not an officer, director, shareholder, servant, agent or employee of any firm or institution with whom the Association has a contractual arrangement or with whom the Association is otherwise doing business

In the event that any director duly elected fails to continuously meet the criteria above enumerated in subsection “A” through “D” or is absent at three (3) Association meetings, such person shall thereafter be disqualified from further service as a director and a new director selected to fill the vacancy so created as in hereafter provided.

**SECTION 3. TERM OF OFFICE** – At each Annual Meeting, the Members shall elect new directors for a term of two (2) years, to succeed those whose terms have expired. Three (3)

directors shall have their term expire on odd years while two (2) directors shall have their term expire on even years.

**SECTION 4. REMOVAL / APPOINTMENT** – Any director may be removed from the Board with or without cause by a majority vote of the Members of the Association. Any director who fails to attend three (3) consecutive meetings of the Board shall be removed from office unless the Board makes a determination that such absence was beyond the director's control or is otherwise excusable due to unusual circumstances or hardship. In the event of death, resignation, disqualification or removal of a director, his or her successor shall be selected by the remaining Members sitting on the Board and shall serve for the unexpired term of his or her predecessor.

**SECTION 5. COMPENSATION** – No director shall receive any compensation for any service he or she may render the Association, however, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

**SECTION 6. MEETINGS** – A majority of the Board must be in attendance to constitute a quorum. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board unless a greater percentage is required by statute or the other provisions hereof. Meetings of the Board shall be open to any Member except for those portions thereof held in closed session pursuant to Section 108.21 of the Not-For-Profit Corporation Act. Notice of meetings of the Board shall be delivered at least seven (7) days in advance of any such meeting.

**SECTION 7. ACTION TAKEN WITHOUT A MEETING** – The directors shall have the right to take any action in the absence of a meeting which they could otherwise take by obtaining the unanimous written approval of the other directors; or by teleconference of a quorum of the Directors of which teleconference minutes shall be kept by the Secretary. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**SECTION 1 – POWERS** – The Board of Directors shall have the power to:

- A. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the ownership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration.
- B. Employ a manager or an independent contractor or such other employees they deem necessary, and to prescribe their duties.
- C. Enforce each and every covenant contained in the aforesaid Declaration and collect for the costs and expenses incurred in connection therewith.

D. Maintain bank accounts and enter into contract on behalf of the Association for Association purposes.

E. Do any and all things necessary or desirable for the promotion, maintenance and development of Timberhill.

**SECTION 2 – DUTIES – It shall be the duty of the Board of Directors to:**

A. Supervise all officers, agents, and employees of the Association to see that their duties are properly performed.

B. As more fully provided in the Declaration, to fix the amount of any assessments, send written notice of same to every Lot owner subject thereto, and to foreclose the lien against any property for which assessments are not paid.

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

**SECTION 1. ENUMERATION OF OFFICERS –** The Officers of the Association shall be a President, Secretary, and Treasurer, who need not be Members of the Association and who shall be elected by the Board of Directors, to hold office until removed by said Board. An officer can hold more than (1) office simultaneously, except the president shall not hold any other office simultaneously.

**SECTION 2. METHOD OF ELECTION –** The Board of Directors shall elect all officers for a term of one year, the President being elected from among the Members of the Board of Directors. A majority of a quorum present shall be necessary to constitute an election.

**SECTION 3. DUTIES OF THE OFFICERS –** The duties and powers of the officers of the corporation shall be as follows:

A. **President –** the President shall preside at the meetings of the corporation and of the Board of Directors, and shall be a member ex officio, with right to vote, of all committees except the Nominating Committee. He or she shall also, at the Annual Meeting of the corporation and such other items as he or she deems proper, communicate to the corporation or to the Board of Directors such matters and make such suggestions as may in his or her opinion tend to promote the prosperity and welfare and increase the usefulness of the Corporation and shall perform such other duties as are necessary or customarily incident to the office of the President.

B. **Secretary –** It shall be the duty of the Secretary to give notice of and attend all meetings of the corporation and its several divisions and all committees and keep a record of their doings; to conduct all correspondence and to carry into execution all orders, votes, and resolutions not otherwise committed; to keep a list of the Members of the corporation; to collect the fees, annual dues, and subscriptions and pay them over to the Treasurer; to notify the officers and Members of the corporation of their elections; to

notify Members of their appointment of the committees; to furnish the chairman of each committee with a copy of the vote under which the committee is appointed, and at his or her request give notice of the meetings of the committee; to prepare, under the direction of the Board of Directors, an annual report of the transactions and condition of the corporation, and generally to devote his or her best efforts to forwarding the business and advancing the interest of the Corporation.

C. Treasurer – The Treasurer shall keep an account of all monies received and expended for the use of the corporation, and shall make disbursements utilizing standard accounting practices. He or she shall deposit all sums received in a state chartered or national bank, or banks and make a report at the Annual Meeting and when called upon by the President. Funds may be drawn only upon the signature of the Treasurer.

The funds, books and vouchers in his or her hands shall at all times be under the supervision of the Board of Directors and subject to its inspection and control. At the expiration of his or her term of office, he or she shall deliver over to his or her successor, all books, monies and other property, or, in the absence of a Treasurer-elect, to the President.

The office of Secretary and Treasurer may be held by the same person.

**SECTION 4. BOND OF TREASURER** – The Treasurer shall, if required by the Board of Directors, give to the corporation such security for the faithful discharge of his or her duties as the Board may direct.

**SECTION 5. VACANCIES** – All vacancies in any office shall be filled by the Board of Directors without undue delay, at its regular meeting, or at a meeting specially called for that purpose. A vacancy shall only be filled for the unexpired portion of the term and shall be pursuant to “Section 2 – Method of Election” above.

**SECTION 6. COMPENSATION OF OFFICERS** – No officer shall receive compensation for any service he or she may render the Association, however, any officer may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

## **ARTICLE VIII INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS**

**SECTION 1.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that such person is or was a director, officer, employee, or agent of the Association, or who is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be

in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment or settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

**SECTION 2.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

**SECTION 3.** To the extent that a director, officer, employee, or agent of the Association has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Sections 2 and 3 above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses actually and reasonably incurred by such person in connection therewith.

**SECTION 4.** Any indemnification under Sections 2 and 3 above shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in said Sections 2 and 3. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by the Members.

**SECTION 5.** Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by, or on behalf of, the director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article.

**SECTION 6.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of Members or disinterested directors or otherwise, both as to action in his or her official capacity and as to action on another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

**SECTION 7.** The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of these sections.

**SECTION 8.** If the Association has paid indemnity or had advanced expenses to a director, officer, employee or agent, the Association shall report the indemnification or advance in writing to the Members with or before the notice of the next Members' meeting.

## **ARTICLE IX COMMITTEES**

**SECTION 1. ARCHITECTURAL REVIEW COMMITTEE** – A Committee composed of at least three persons shall be appointed by the Board as per the Declaration of Covenants. At least one person on the Committee shall be a member of the Board and at least two people shall be non-board members. The size of the Committee may be increased by the appointment of additional members in the Board's discretion as the need may arise. The Committee shall be responsible to assist the Board in assuring compliance with the criteria set forth in the Declaration and to that end shall report and may, when necessary, investigate any suspected non-compliance. The Committee shall be responsible to review any Member proposed improvement, replacement, addition to, or modification of any structures or improvements on the Lots and shall make recommendations to the Board with respect thereto. The Committee shall further carry out such other tasks consistent with its purpose as it may deem appropriate and necessary or as may be requested by the Board. The Architectural Review Committee shall have the authority to act as the Board's agent in all ministerial matters related to the above purposes and responsibilities. Notwithstanding, under no circumstances shall the Committee or any of its members have the authority to make decisions or enact policy on behalf of the Board other than with respect to purely ministerial functions, nor shall it have the authority to impose any penalty, fine or restraint upon any Lot owner or occupant. In all cases, the Committee shall act under the auspices of the Board and is intended to function as the eyes and ears of the Board and as an advisory body.

**SECTION 2. NOMINATING COMMITTEE** – A Committee composed of three persons shall be appointed by the Board, and shall be as representative as possible of the total area. At least one person on the Committee shall not be a member of the Board. The Nominating Committee board member shall be appointed at the Board Meeting following the Annual Meeting of the

Association. The remaining two members shall be appointed at least two months prior to the next Annual Meeting.

The Nominating Committee and its chairperson shall:

- A. Nominate candidates to fill the positions of the retiring Members of the Board of Directors.
- B. Be responsible for seeing that its nominees for the Board of Directors are so selected as to make the Board as representative as possible of the total area and to nominate new Members as often as possible.
- C. File nominations with the Secretary of the Association not less than forty-five days prior to the date of the Annual Meeting.
- D. Assure that a ballot of nominations is prepared by the Secretary and delivered to each member not less than thirty (30) days prior to the Annual Meeting.

Nothing above shall preclude write-in nominations on ballots as defined in Article III, Section 1.

**SECTION 3. STANDING COMMITTEES** – A majority of the Board may appoint not more than four (4) standing committees and designate the chairperson of each committee.

**SECTION 4. SPECIAL COMMITTEES** – The President, subject to the approval of a majority of the Board, may appoint any number of special committees for which there are no Standing Committees, and designate the chairperson of each committee.

**SECTION 5. COMMITTEE VACANCIES** – The President shall have the power to fill vacancies in the ownership of any of the various committees.

## **ARTICLE X AMENDMENTS**

These Bylaws may be amended, repealed, or altered in whole or in part by a two-thirds (2/3) affirmative vote of the votes cast, as defined in Article II and Article III, at any duly organized meeting of the Association. The proposed change shall be delivered to the contact information for each Member appearing on the records of the corporation at least thirty (30) days before the time of the meeting at which the change is to be considered. Such amendments shall be recorded in the Office of the Recorder of Deeds of McHenry County, Illinois.



## **EXHIBIT A**

### **Legal Description for Units I – V:**

**Unit I – Plat of Subdivision recorded February 3, 1999 as Document No. 1999R009750**

**BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, OF SECTION 26, AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, ALL IN TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit II – Plat of Subdivision recorded September 22, 2000 as Document No. 2000R0051767**

**BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit III – Plat of Subdivision recorded July 15, 2002 as Document No. 2002R0061394**

**BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, ALL IN SECTION 26, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit IV – Plat of Subdivision recorded July 15, 2002 as Document No. 2002R0061396**

**BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER IN SECTION 26, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**

**Unit V – Plat of Subdivision recorded January 28, 2002 as Document No. 2002R0009180**

**BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 44 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.**