AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS
FOR
FALLATIN HOMEOWNERS’ ASSOCIATION
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AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
FALLATIN HOMEOWNERS’ ASSOCIATION

This Amended & Restated Declaration of Covenants, Conditions and Restrictions (the “Restrictions”) was adopted on March 9, 2008, by the Fallatin Homeowners’ Association, an Oregon non-profit corporation (the “Association”), with the approval of the owners representing at least 75% of the total votes of the owners.

RECITALS


B. Pursuant thereto, the Association is to have the rights of the original owners and developers to enforce this Declaration.

C. The original owners and developers also filed and recorded two sets of Declarations of Covenants, Conditions and Restrictions, one dated December 2, 1976, and recorded January 18, 1977, and one dated February 1, 1977, and recorded on February 2, 1977 (the Original CC&R’s). Subsequently, the original owners and developers recorded Reservations and Restrictions for Fallatin 2, Fallatin 3, and Fallatin 4 declaring that the Original CC&R’s recorded by them be a part of all conveyances in Fallatin 2, Fallatin 3, and Fallatin 4.

D. The original owners and developers also filed and recorded Bylaws for the Association, dated January 12, 1977, and recorded February 10, 1977, in Book 1143, Pages 823-832. Subsequently the Members of the Association adopted the second set of Bylaws dated June 29, 1987, and recorded July 13, 1987, Recorders No. 87035625, in the records of Washington County, Oregon, which superseded and replaced the Bylaws dated January 12, 1977, and contain, in addition to provisions normally contained in Bylaws, provisions more appropriately contained in a Declaration of Covenants, Conditions and Restrictions and therefore more appropriately contained in this Declaration. Those provisions contained in the second set of Bylaws which more appropriately belong in this Declaration are: Article XI (Assessments), Article XIII (Leases), Article XIV (Property Maintenance and Use) and Article XV (Structures) and are hereby replaced by the provisions dealing with those matters in this Declaration, and from the
date of recording of this Declaration, the provisions contained herein dealing with those subjects control.

E. The Association wishes to amend and restate the Original CC&R’s to remove obsolete references to the original owners and developers and to create one document containing all Covenants, Conditions and Restrictions which affect the Property, after the adoption of which it will file Amended Bylaws containing only those provisions normally contained in Bylaws that deal with the manner in which an Association conducts its business.

F. The Association, with the approval of at least 75% of its Members, hereby declares that all of the Property described above shall be held, sold and conveyed subject to the covenants, conditions and restrictions contained herein which are adopted, amended and restated for the purpose of protecting the value and desirability of and which shall run with the Property and be binding on all parties having a right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each present and future owner thereof.

ARTICLE 1
DEFINITIONS

1.1 Architectural Control Committee or “ACC” shall refer to that committee constituted and acting pursuant to Article 5 of this Declaration.

1.2 Articles shall mean the Articles of Incorporation for the nonprofit corporation, Fallatin Homeowners’ Association (“Fallatin”), as filed and currently existing with the Oregon Secretary of State.

1.3 Association shall mean FALLATIN HOMEOWNERS’ ASSOCIATION, as created by the Articles, its successors and assigns.

1.4 Board shall mean the Board of Directors of the Association.

1.5 Boat shall mean every description of water craft used or capable of being used as a means of transportation on or in the water, including but not limited to, power boats, row boats, kayaks, canoes, inflatable rubber boats, rafts, jet skis and other personal water craft, but does not include such items as air mattresses, beach and water toys, or single inner tubes.

1.6 Building Permit shall mean the written document issued by the Board to authorize an improvement pursuant to Article 5.

1.7 Bylaws shall mean the Bylaws of the Association as they may be amended and/or restated from time to time and which have been recorded in the Washington County, Oregon, deed records.
1.8 *Common Areas* shall mean Tracts A, B, C, D, E, F, and G FALLATIN, J, K, L, M, N, & O Fallatin 2, R, S, T Fallatin 3, and U, V, W, and X, Fallatin 4, Washington County, Oregon, as shown on the recorded Plats of the Property, including any improvements located thereon. The Common Areas and improvements are intended to be devoted to the common use and enjoyment of the Members and owned by the Association.

1.9 *Declaration* shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Fallatin Homeowners' Association.

1.10 *Hammerheads* shall mean and refer to Common Areas that have been paved as streets to provide access to and egress from Lots abutting such Common Areas.

1.11 *Home* shall mean and refer to any portion of a structure situated on a Lot and designed and intended for use and occupancy as a residence by a single family or household.

1.12 *Lot* shall mean one of the 112 numbered parcels on the plats referred to in the description of the Property above, and any lots hereafter added to and subjected to this Declaration.

1.13 *Members* shall mean the Owners of Lots in Fallatin.

1.14 *Occupant* shall mean the occupant of any Home, whether such person is an Owner, a lessee, or any other person authorized by the Owner to occupy the Home.

1.15 *Owner* shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession of a Lot under a land sale contract. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation.

1.16 *Plat* shall mean any Plat referred to in Recital A above.

1.17 *Property* shall mean all 112 lots in the plats described above in Fallatin, Fallatin 1, Fallatin 2, Fallatin 3, Fallatin 4 the Common Areas and any additional lots or plats hereafter subjected to this Declaration.

1.18 *Reserve Account(s)* shall mean an account set up by the Board to hold funds for construction, improvements, or maintenance of the Common Area.

1.19 *Rules and Regulations* shall mean any documents containing rules and regulations and policies adopted by the Board or the Architectural Review Committee, as may be amended from time to time.
1.20 *Setback* shall mean the minimum distance between the dwelling, house or other structure referred to and a given street or property line.

1.21 *Single Family* shall mean either one or more persons all related by blood, adoption or marriage, or one or more persons living together as a family unit or household.

1.22 *Street* shall mean the right-of-way for any street, highway or other thoroughfare as shown on a Plat.

**ARTICLE 2**

**OWNERSHIP AND VOTING RIGHTS**

2.1 *Ownership of Lots.* If more than one person and/or entity own an undivided interest in the same Lot, such persons and/or entities shall constitute one Owner.

2.2 *Membership.* All Owners of one or more Lots shall be Members of the Association so long as they are Owners.

2.3 *Voting Rights.* The Owner of each Lot shall have one vote for each Lot owned.

2.4 *Ownership of Common Areas.* The Association owns the Common Areas.

**ARTICLE 3**

**EASEMENTS**

3.1 *Easements.* Individual deeds to Lots may, but shall not be required to, set forth the easements specified or referred to in this Article.

3.2 *Easements on Plat.* The Common Areas and Lots are subject to the easements and rights-of-way shown on the Plats.

3.3 *Easements for Common Areas.* Every Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Areas. Any interests of the Owners in the Common Areas are appurtenant to their respective Lots. Such easement is subject to ORS 94.665, as may be amended from time to time.

**ARTICLE 4**

**MAINTENANCE & USE OF LOTS AND HOMES**

4.1 *Use.* Lots shall be used only for single-family residential purposes and not for trade or business purposes, except that Occupants of any Lot may, with the Board’s written approval, (a) give instruction in the arts and similar activities; (b) furnish child care services; and
©) conduct other home businesses, in each case as the Board deems reasonably appropriate to the Fallatin residential community, and if approved by the Board and under such terms and conditions as may reasonably be imposed by the Board, provided that such approval may be revoked, if the Board finds that such activity is conducted in such a manner as to violate the provisions of subparagraph 4.8 of this Article.

4.2 Construction of Buildings. No building may be erected or maintained on any Lot except one single-family Home not more than two stories in height, designed for occupancy for not more than one family, together with a private garage attached to the Home which shall not be used for dwelling purposes, and shall conform generally in architectural design and exterior materials and finish to the Home to which it is attached; except that outbuildings, sheds or similar structures may be placed, erected, maintained or constructed upon the written approval of the Board, but in no event shall be used for dwelling purposes. The complete structure consisting of the main structure and garage must contain a minimum of 2100 square feet of interior space. The ground floor area of the Home exclusive of the garage and one-story open porches shall be not less than 850 square feet in the case of a one-story structure and not less than 800 square feet in the case of a structure with more than one story. An Owner shall have the right to replace a Home on the Owner’s Lot with a Home not taller than the prior Home, but must not build a replacement Home taller than the prior Home without advance written permission from the Board which shall give due consideration to the height of structures on adjacent Lots in reaching its decision.

4.3 Maintenance of Lots and Homes. It is the duty of the Owner and any Occupant of any Lot or Home to maintain the entire Lot as well as the property described in sub-paragraph 4.4 of this Article, and all improvements thereon, including without limitation, windows, doors, garage doors, walks, patios, chimneys and other exterior improvements and services, in good order and repair and in an attractive and neat condition, including but not limited to:

a. All exterior finishes of structures shall be in a color harmonious with the general plan of improvement of the Lot and other structures in the immediate vicinity;

b. Yards shall be attractively landscaped, properly cultivated and maintained in a neat and orderly manner free of weeds and debris with at least twenty percent (20%) of the total area of each Lot landscaped;

c. Driveways and sidewalks shall be maintained in good, weed-free condition and repair; and

d. Trees, shrubs and plants shall be trimmed when necessary for appearance, and as necessary to maintain such height, spacing and density limitations as the Association may require, and to avoid interference with pedestrian
traffic and to maintain safe sight lines for vehicular traffic on or onto the adjoining streets.

Repainting or restaining and exterior remodeling shall be subject to prior review and approval by the Board as provided in Article 5.

4.4 Duty to Maintain Rights-of-Way. It is the duty of the Owner and any Occupant of any Lot to maintain the area between the property line of that Lot and the nearest curb or improved portion of any street, including public sidewalks within such area in accordance with the standards set forth in Section 4.3 of this Article. No object or vehicle which is prohibited by this Declaration from being parked or stored outside of a fully-enclosed structure, no other object or vehicle the presence of which violates the provisions of Section 4.7 of this Article, and no sign which violates the provisions of Section 4.9 of this Article shall be placed, erected, maintained or constructed within the area above described or on the public streets within or adjacent to property subject to these restrictions.

No structure or object of any kind shall be placed, erected, maintained or constructed, within the area above described, except:

a. driveways, sidewalks, parking areas;

b. mailboxes, pedestal lighting, yard lighting and their ornamental supports and enclosures;

c. commonly-used landscaping materials used as landscaping including, but not limited to, gravel, rock, railroad ties, dimension lumber;

if permitted by all applicable laws, ordinances and regulations and by the Association pursuant to Article 5

4.5 Rental of Homes. An Owner may rent or lease such Owner’s Home provided that any tenant shall be subject to and shall comply with all provisions of this Declaration as if tenant were an Owner, and all lease or rental agreement shall be in writing and provide that a failure to comply with any provision of this Declaration shall constitute a default under the lease or rental agreement.

4.6 Prohibited Vehicles and Objects on Lots. No vehicle, or attachment thereto, principally designed, used, or conspicuously marked for commercial purposes or designed or used for sleeping purposes, and no pickup or other truck, trailer, camper, coach, canopy, tent, boat, or inoperable vehicle (including any vehicle which is not currently registered with the Department of Motor Vehicles), shall be parked, placed, erected, maintained or constructed on any Lot for any purpose except:

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a. any of the vehicles or objects enumerated above may be parked or stored completely within a fully-enclosed structure so long as it is not used for living purposes; and

b. pickup trucks, together with any cover over or attachment thereto, which (i) are not marked, designed or used for commercial purposes, (ii) are rated one ton or less, (iii) have a maximum of four wheels, (iv) do not exceed 80 inches in height from the ground, and (v) are not used for living purposes on the Property, are not restricted by this sentence.

Any vehicle which is not restricted by the preceding sentence and not otherwise prohibited, may, if well maintained, be placed, parked or maintained on the Property only:

a. in a fully-enclosed structure,

b. in a carport,

c. on an approved driveway, or

d. in any other location which has been approved in writing by the Board.

4.7 **Parking on Hammerheads.** The Board may establish rules and regulations to regulate the manner in which Hammerheads may be used to assure that access to and egress from each Lot abutting the Hammerhead is unobstructed by vehicles or other objects for Members, Members’ guests and invitees, and service and emergency vehicles.

4.8 **Nuisances.** No noxious or offensive activity shall be carried on or upon any Lot, or on the public streets or rights-of-way within or adjacent to the Property, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood, or detract from its value as a high-class residential district. The manufacture, sale, distribution, or use of illegal drugs, promoting or engaging in prostitution, or illegal gambling are conclusively presumed to be noxious and offensive activities.

4.9 **Signs.** No sign of any kind shall be displayed on any Lot except:

a. one professional sign, not more than five feet square advertising the Property for sale or rent;

b. political signs in connection with an upcoming election placed in the yard not more than 60 days prior to the election to which the sign refers, not exceeding 18 inches by 24 inches in size which must be removed by not later than three (3) days after the election.
4.10 **Antennas and Receivers.** Antennas and dish receivers of any type mounted above ground level shall have dimensions of no more than three (3) feet high and three (3) feet wide. Any other type of external antenna or satellite device must be approved in writing by the Board.

4.11 **Pets.** No animals or fowl shall be raised, kept or permitted upon any Lot or any part thereof, excepting only caged pet birds kept within the Home, and dogs and cats, provided said pet birds, dogs, cats are not kept, bred or raised for commercial purposes or in unreasonable numbers.

4.12 **Rights of Entry by Association.** The Association shall have the right at all times to enter upon any Lot that is unoccupied after reasonable notice to the Owner, to remove debris, weeds or other waste therefrom, and to trim, cut back, cultivate and/or maintain hedges, trees, shrubs, plants or lawns, and to charge the expense thereof to the Owner.

4.13 **Grandfathered Structures.** Any structure existing on any Lot on the date of the adoption of this Declaration which was constructed in compliance with the Original CC&Rs shall be permitted to remain, so long as well maintained, throughout its useful life, even if not in compliance with any provision of this Declaration which amend the Original CC&Rs.

**ARTICLE 5**

**BUILDING APPROVAL REQUIREMENTS**

5.1 **Building Permits Required.** No home, garage, shed, outbuilding, fence, hedge, pool, driveway, runway, walkway, ground-level slab, wall, or other structure (collectively “Improvement”) shall be placed, erected, maintained or constructed upon any portion of any Lot, and no alteration which would materially alter the exterior appearance of any Improvement shall be made, unless a complete set of plans and specification therefore, including the exterior color scheme, together with a plat plan indicating the exact location on the Lot of the proposed Improvement, has first been submitted to and approved in writing by the Board. The Association shall keep a copy of the approved plans, specifications and building permit in its permanent records.

5.2 **Setbacks.** Dwelling houses, garages and other structures, excluding however fences, hedges, walls, small moveable sheds and similar structures, driveways, walkways, basketball backboards and their supports, placed, erected, maintained or constructed on any Lot shall have minimum setbacks from streets of 10 feet, from rear lines of 15 feet and from sidelines of 5 feet, except for corner lots where there shall be a minimum setback of 10 feet on the side abutting the street. The nature and placement of items excluded from the setback shall be determined by the Board as part of the building permit procedures as provided for in this Article 5. No fence, hedge or sight-obscuring structures or landscaping shall be placed between the front of the Home and the street.
5.3 Approval of Plans and Specifications. The approval of plans and specifications may be withheld not only because of their non-compliance with any of the specific conditions, covenants, and restrictions contained in this Declaration, but also because of dissatisfaction of the Board with any or all other matters or things which, in the judgment of the Board, would render the proposed Improvement inharmonious with the general plan of improvement of the Property or neighboring properties, or with the Improvements erected on other Lots in the immediate vicinity of the Lot upon which the Improvement is proposed to be erected. The Board may place reasonable conditions upon its approval, including, but not limited to, the time allowed for completion, and the agreement of the Owner to any structure which is permitted to be placed in a set back if it interferes with any easement previously granted for the period of time such easement needs to be utilized.

5.4 Right of Entry. Any agent or officer of the Association may at any reasonable hour(s), after reasonable notice, enter and inspect any of the Property as to its maintenance or Improvements and determine if there has been compliance with the provisions hereof; and the Association and/or any agent or officer thereof, shall not thereby be deemed guilty of any manner of trespass for such entry or inspection.

5.5 Architectural Control Committee. The Board is authorized to appoint an Architectural Control Committee (“ACC”) to constitute a review board. The duties of the ACC shall be to assist the Board in all matters referred to in this Article and to perform such other functions as the Board may assign to it from time to time. Decisions of the ACC shall be final unless appealed to the Board within thirty (30) days after notice of the ACC’s decision has been given to the Members, by filing written notice with the Board specifying the ACC’s action which the Member contests, setting forth the reasons for the Member’s objections. The Board will have final authority to decide all questions raised.

ARTICLE 6
ASSESSMENTS

6.1 Assessments. All of the Lots shall be subject to annual assessments, special assessments for capital improvements and unusual expenses, and individual assessments. Each Owner of any Lot, by acquiring ownership thereof, is deemed to covenant and agrees to pay to the Association all assessments provided for in this Article, to be established and collected as hereinafter provided. All such assessments when imposed shall be upon and against each Lot subject thereto and be the personal obligation of the Owner(s) of the Lot at the time the assessment fell due.

6.2 Annual Assessments. Commencing January 1, 2007, the annual assessment shall be a uniform amount of $190.00 per Lot, which may be increased as hereinafter provided.

   a. Increases in Annual Assessments. Commencing January 1, 2008, the maximum annual assessment may be increased each year by action of the
Board to an amount not to exceed three percent (3%) more than the previous highest assessment, and may be increased above the three percent (3%) in any year by the Members, voting in person or by proxy, at a meeting duly called for that purpose pursuant to and in the manner set forth in Section 6.4.

b. **Fixing of Annual Assessments.** Each such annual assessment for each calendar year shall be:

i. fixed by the Board in advance on or about the first day of that year;

ii. due and payable on the 27th day of February in the year for which it is fixed; and

iii. be delinquent if not paid on or before the 30th day of March, in the year in which it is fixed, and bear interest thereafter at ten percent (10%) per annum or such other rate as may be established by resolution of the Board from time to time, not to exceed the lawful rate of interest under the laws of the State of Oregon.

c. **Use of Proceeds.** The proceeds received from such assessments or charges shall be applied to payment for any or all of the following:

i. Promotion of recreation, health, safety and welfare of the residents of the Property;

ii. Improvement and maintenance of the Common Areas;

iii. Payment of real and personal property taxes and assessments levied by any municipal or other governmental authority upon the Common Areas now or hereafter owned by the Association;

iv. Erecting and maintaining adequate signs and signposts for the marking of streets within the Property;

v. Expenses incident to the enforcement of the provisions of this Declaration and the collection of charges or assessments provided for in this Article; and
vi. Expenses incident to the conduct of the business of the Association, and all licenses, franchises or other taxes and assessments levied against the Association or payable by it.

6.3 Special Assessments for Capital Improvements and Unusual Expenses. In addition to the annual assessments authorized in Section 6.2 above, the Association may levy in any assessment year a special uniform assessment applicable to that year only for the purpose of paying in whole or in part costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto or unusual expenses related to the Association's operations, provided that any such assessments shall have the approval of the majority of Members voting in person or by proxy, at a meeting of the Members called for that purpose pursuant to Section 6.5. Unless otherwise provided in the resolution adopting the assessment, special assessments shall be due sixty (60) days after the Board has given written notice to the Owners of the amount of the special assessment adopted.

6.4 Individual Assessments. The Association may assess charges and levy assessments directly against a Lot ("Individual Assessments") for (1) assessments levied against any Lot for costs (including attorney fees) incurred in bringing any Lot or its Owner into compliance with the provisions of this Declaration, or the policies, rules and regulations of the Association; and (2) fines or other charges imposed pursuant to this Declaration or resolution of the Board. Unless otherwise provided by the Board, Individual Assessments shall be due thirty (30) days after the Board has given written notice to the Owner(s) of the Lot subject to the Individual Assessment.

6.5 Notice and Quorum. For any assessment authorized under this Article which requires a vote of Members, written notice of any meeting called for that purpose shall be sent not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first meeting called, the presence of Members and proxies entitled to cast fifty percent (50%) of all the votes of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the previous meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.6 Obligations to pay Assessments. All assessments and charges provided for in this Article shall constitute a lien on the entire Lot which respect to which it is levied and shall bear interest from and after the due date at the rate of ten percent (10%) per annum or such other rate as may be established by resolution of the Board from time to time, but not to exceed the lawful rate of interest under the laws of the State of Oregon. Such lien may be enforced by the Association in the manner provided by law. The Owners shall be liable for the expenses, costs and disbursements, including reasonable attorney's fees, of the Association in processing and, if necessary, enforcing such liens, and collecting such assessments, all of which expenses, costs and
disbursements and attorney's fees shall be secured by such lien. In the event of foreclosure of such lien, the Owner shall be liable for all costs and disbursements together with reasonable attorney's fees of the Association, all of which costs, disbursements, and fees shall be secured by such lien. The Association may bring an action at law against the Owner personally obligated to pay the assessment and may foreclose the lien against the Lot. The secretary of the Association may file for recording in the appropriate public records of Washington County, State of Oregon, a statement of the amount of any charges and assessments together with interest aforesaid, which shall become delinquent with respect to any portion of said Property and upon payment in full shall execute and file a proper release. No Owner may waive or otherwise escape liability for any assessment provided for herein by non-use of the Common Area or abandonment of his or her Lot.

6.7 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to such payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE 7
GENERAL PROVISIONS

7.1 In construing this Declaration or any part of it, stipulations which are necessary to make this Declaration or any of its terms or provisions, reasonable, are implied.

7.2 The determination by any court that any of the provisions of this Declaration are unlawful or void shall not affect the validity of any of the other provisions hereof.

7.3 All of the covenants, conditions, and restrictions set forth in this Declaration are imposed upon the Property for the direct benefit thereof and of the Owners thereof as a part of the general plan of development, improvement, building, occupation and maintenance and are hereby adopted and ratified by the Association and the Members; and such covenants, conditions and restrictions shall run with the land and continue and be in full force and effect, until July 1, 2025, and shall, as then in force, be continued automatically and without further notice from that time for a period of twenty-five (25) years and thereafter for successive periods of twenty-five (25) years each without limitation unless at least two (2) years prior to July 1, 2025, or at least two (2) years prior to the expiration of any successive twenty-five (25) year period thereafter, a written agreement executed by the then Owners of seventy-five percent (75%) or more of the Owners be placed on record in the office of the County Clerk of Washington County, Oregon, changing, modifying or extinguishing any of said covenants, conditions and/or restrictions as to all or any part of the Property then subject thereto in the manner and to the extent therein provided, in which event, the unextinguished, unchanged, and unmodified covenants, conditions and restrictions and the covenants, conditions and restrictions as therein changed or modified...
shall continue in force for successive periods of twenty-five (25) years each unless and until further changed, modified or extinguished in the manner herein provided, provided, however, that said covenants, conditions and restrictions, or any of them, may be changed, modified or extinguished at any time by an instrument executed by the Association, acting by its President and Secretary, under authority of a resolution to that effect adopted by a majority of seventy-five (75%) percent or more of the votes of all Members at any meeting of the Members of the Association called for that purpose upon such notice to said Members as may be prescribed by the Bylaws of the Association. The foregoing provisions in this Article shall not affect any perpetual utility easements hereinbefore reserved.

ARTICLE 8
ATTORNEY FEES

In the event the Association employs an attorney to enforce or restrain a violation of this Declaration, or any provisions thereof, even if no suit or action is commenced, and in any bankruptcy proceeding in connection therewith, or to collect any money due hereunder, or in connection with, or to foreclose a lien, the Association shall be entitled to its attorney's fees incurred therewith. In any legal or equitable proceedings or arbitration between the Association and the Owner or Owners of any Lot(s) or any of their legal representatives, heirs, successors or assigns, for the enforcement, or to restrain a violation, of this Declaration or any provisions hereof, the losing party shall pay to the prevailing party such attorney's fees as the trial court may deem reasonable in such suit or action, and, if any appeal is taken, the prevailing party's reasonable attorney's fees on appeal. All such charges shall constitute a lien on the whole Lot with respect to which they were incurred in accordance with the provisions of Article 6.6 of this Declaration. However, nothing contained in this Declaration shall be deemed to vest or reserve in the Association any right of reversion or re-entry for breach or violation of any one or more of the provisions hereof.

ARTICLE 9
BINDING EFFECT OF RESTRICTIONS

The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Association, and the Owner or Owners of any Lot, and their legal representatives, successors, heirs and assigns, and failure by the Association or by any of the Owners or their legal representatives, heirs, successors or assigns to enforce any of such covenants, conditions, or restrictions shall in no event be deemed a waiver of the right to do so. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted under this Declaration. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association.
IN WITNESS WHEREOF, the undersigned hereby certify that this AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for FALLATIN HOMEOWNERS’ ASSOCIATION was adopted in accordance with the Original CC&R’s, and the provisions of ORS 94.590, by the approval of at least seventy-five percent (75%) of the total votes in the Association, and hereby execute this document on the 19th day of March, 2008.

FALLATIN HOMEOWNERS’ ASSOCIATION

By ______________________
Fred Eckrosh, President

By ______________________
Patricia Jones, Secretary

STATE OF OREGON  
County of Washington

Personally appeared before me Fred Eckrosh and Patricia Jones, who, being duly sworn, each for himself/herself and not one for the other, did say that the former is the President and the latter is the Secretary of the Fallatin Homeowners’ Association, a nonprofit corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and each of them acknowledged said instrument to be its voluntary act and deed.

DATED this 19th day of March, 2008.

Notary Public for Oregon

SUBMITTED BY:
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