

Ent 901652-Bk 1376 Pg 1231
Date 7-Oct-2005 4:15PM Fee \$30.00
Michael Gled, Rec. - Filed By SP
Cache County, UT
For HIGHLAND ESTATES PUD

AMENDED BYLAWS

OF

HIGHLAND ESTATES P.U.D., INC.
HOMEOWNERS' ASSOCIATION

SECTION 1: OBJECT AND DEFINITIONS

1.1 Purpose. The purpose for which this Association is formed is to govern the Planned Unit Development Property situate in the County of Cache, State of Utah, which property is described in Exhibit A attached hereto and by this reference is made a part hereof, and which Property has been submitted to the provisions of the P.U.D. ordinance of Smithfield City, Utah, and the Condominium Ownership Act of the State of Utah by a Declaration entitled "Declaration of Covenants, Conditions, and Restrictions" establishing a plan for condominium/P.U.D. ownership of the Highland Estates P.U.D. (hereinafter referred to as the "Declaration"). All provisions of the Declaration are hereby incorporated by reference.

1.2 Assent. All present or future Owners, tenants, future tenants, or any other person using the facilities of the Project in any manner are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of any of the condominium Units (hereinafter referred to as "Units") in the Project or the mere act of occupancy of any of said Units shall constitute ratification of these Bylaws.

1.3 Definitions. Unless otherwise specified, all terms shall have the same meaning in these Bylaws as such terms have in the Declaration. The terms "Owners" and "Members" as used herein shall be synonymous.

SECTION 2: MEMBERSHIP, VOTING, MEETINGS AND ADMINISTRATION

2.1 Annual Meeting. The first annual meeting of the Members shall be held on the third Tuesday of September, 2001 (September 18, 2001), and each subsequent regular annual meeting of the Members shall be held on the third Tuesday of September of each year thereafter, at the hour of 7:00 o'clock p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

2.2 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Trustees, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A Membership.

2.3 Notice of Meetings. Written 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 mailing to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in case of a special meeting, the purpose of the meeting.

2.4 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of Membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

2.5 Proxies. At all meetings of Members; each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Unit.

2.6 Voting by Mail. The Board may decide that voting of the Members shall be by mail with respect to any particular election of the Board or with respect to adoption of any proposed amendment to the Declaration, Articles, or Bylaws, or with respect to any other matter for which approval by Owners is required by the Declaration, Articles, or Bylaws, so far as it is permitted by the laws of the State of Utah.

Ent 901652 Bk 1376 Pg 1232

SECTION 3: BOARD OF TRUSTEES

3.1 Number. The affairs of the Association shall be governed by a Board of three (3) Members.

3.2 Election and Term of Office. At the first annual meeting of the Members, the Board of Trustees shall be elected by the Owners and shall serve for a two (2) year term of office, or until their successors are elected, whichever last occurs. Until such meeting, the initial Board of Trustees shall be as provided in the Articles of Incorporation.

3.3 Vacancies. Vacancies in the Board caused by any reason other than the removal of a Board Member by a vote of the Association shall be filled by vote of the majority of the remaining Board Members, even though they may constitute less than a quorum; and each person so elected shall be a Board Member until a successor is elected at the next annual meeting of the Association.

3.4 Removal. Any Trustee may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Trustee, the successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

3.5 Compensation. No Trustee shall receive compensation for any service that may be rendered to the Association. However, any Trustee may be reimbursed for actual expenses incurred in the performance of Trustee duties.

3.6 Action Taken Without a Meeting. The Trustees shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.

3.7 Organization Meeting. The first meeting of a newly elected Board shall be held immediately following the annual meeting and no notice shall be necessary to the newly elected Board Members in order to legally constitute such meeting.

3.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Board Members, but at least two (2) such meetings shall be held during each fiscal year and one (1) such meeting shall be held immediately following the annual meeting of Owners.

Ent 901652 # 1376 Pg 1233

3.9 Special Meetings. Special meetings of the Board may be called by the President on three (3) days notice to each Board Member. Special meetings of the Board shall be called by the President or Secretary on the written request of at least one (1) Board Member.

3.10 Waiver of Notice. Before, at or after any meeting of the Board, any Board Member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board Member at any meeting of the Board shall be a waiver of notice of the time and place thereof. If all the Board Members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

3.11 Quorum. At all meetings of the Board, a majority thereof shall constitute a quorum for the transaction of business, and the acts of the majority of the Board Members present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time.

3.12 Fidelity Bonds. The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

3.13 Nomination. Nomination for election to the Board of Trustees shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Trustees, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Trustees prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

3.14 Election. Election to the Board of Trustees shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

3.15 Powers. The Board of Trustees shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

Ent 901652 Rk 1376 Pg 1234

(b) suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not

reserved to the Membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) declare the office of a Member of the Board of Trustees to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and

(e) employ a manager, an independent contractor or such other employees as they deem necessary, and to prescribe their duties.

3.15 Duties. It shall be the duty of the Board of Trustees to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;

(b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

Ent 901652 Bk 1376 Pg 1235

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

SECTION 4: OFFICERS

4.1 Designation. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board. The President and Vice President shall be Members of the Board.

4.2 Election of Officers. The officers of the Association shall be elected annually by the Board for a one (1) year term at the organization meeting of each new Board and shall hold office at the pleasure of the Board. Any person may hold concurrently any two (2) offices, except that the same person may not concurrently hold the offices of President and Secretary.

4.3 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may from time to time determine.

4.4 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.5 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

4.6 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to paragraph 4.3 of this Article.

4.7 President. The President shall be the chief executive office of the Association. He shall preside at all meetings of the Association and the Board. He shall have all of the general powers and duties which are usually vested in the office of the President of a nonprofit association including, but not limited to, the power to appoint committees from among the Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

4.8 Vice President. The Vice President shall act in the place and stead of the President in the event of the President's

Ent 901652 Bk 1376 Pg 1236

absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

4.9 Secretary. The Secretary shall keep the minutes of meetings of the Board and minutes of meetings of the Association; he shall have charge of such books and papers as the Board may direct; and he shall in general perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up to date at the principal office of the Association a complete list of Members and their registered mailing addresses. Such list shall also show opposite each Member's name, the number, or other appropriate designation of the Unit owned by such Member. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

4.10 Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Managers.

4.11 Nominating Committee. The Association shall appoint a Nominating Committee as provided in these Bylaws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purpose.

SECTION 5: INDEMNIFICATION OF OFFICERS AND MANAGERS

5.1 Indemnification. The Association shall indemnify every Board Member and officer, and his or her heirs, executors and administrators as provided in paragraph 24 of the Declaration.

SECTION 6: BOOKS AND RECORDS

6.1 Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Ent 901652 # 1376 Pg 1237

SECTION 7: OBLIGATIONS OF OWNERS

7.1 Use of Common Areas and Limited Common Areas. Each Owner shall use the Common Areas and the Limited Common Areas in

accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Owners.

7.2 Right of Entry.

7.2.1 An Owner shall permit the Managing Agent or other person authorized by the Board the right of access to the Owner's Unit and appurtenant Limited Common Areas from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of the Common Areas, or at any time deemed necessary by the Managing Agent or Board for the making of emergency repairs or to prevent damage to any of the Common Areas.

7.2.2 An Owner shall permit the Managing Agent or other persons authorized by the Board, or other Owners, or their representatives, when so required, to enter the Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical services, or to the Unit and Limited Common Areas of such other Owners; provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of an emergency, such right of entry shall be immediate.

7.3 Destruction or Obsolescence. Each Owner shall, upon becoming an Owner of a Unit, execute a power of attorney in favor of the Association, irrevocably appointing the Association attorney-in-fact to maintain, repair and improve the Building and General and Limited Common Areas, and to deal with the Owner's Unit upon its destruction or obsolescence and regarding insurance proceeds as is provided in the Declaration. The purpose of such execution shall be more fully to evidence such appointment, but failure to execute such power of attorney shall in no way derogate from the appointment provided in the Declaration.

SECTION 8: ASSESSMENTS

8.1 As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property; and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of a Unit.

SECTION 9: CORPORATE SEAL

9.1 The Association shall have a seal in circular form having within its circumference the words: Highland Estates P.U.D., Inc.

SECTION 10: AMENDMENTS

10.1 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B Membership.

10.2 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

SECTION 11: MORTGAGES

11.1 Notice to Association. An Owner who mortgages his Unit shall notify the Association through the Managing Agent, if any, or the President of the Board, giving the name and address of his mortgagee. The Association shall maintain such information in a book or list entitled "Mortgages of Units".

11.2 Notice of Unpaid Assessments. The Association shall at the request of a mortgagee of a Unit report any unpaid assessments due from the Owner of such Unit.

SECTION 12: EVIDENCE OF OWNERSHIP

12.1 Any person on becoming an Owner of a Unit shall furnish to the Managing Agent or Board a photocopy of a certified copy of the recorded instrument vesting that person with an interest or ownership, which instrument shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor be entitled to vote at any annual or at a special meeting of Members unless this requirement is first met.

Ent 901452 Bk 1376 Pg 1239

SECTION 13: CONFLICT WITH DECLARATION OR LAW

13.1 These Bylaws are intended to comply with and supplement the requirements of the Utah Condominium Ownership Act, the Smithfield City P.U.D. Ordinance, and the Declaration. If any of these Bylaws conflict with the provisions of said statutes or Declaration, the provisions of the statute and Declaration will control.

SECTION 14: NONPROFIT ASSOCIATION

14.1 This association is not organized for profit. No Member, Member of the Board or person from whom the Association may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operations thereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of any Members of the Board. The foregoing, however, shall neither prevent nor restrict the following: (1) reasonable compensation may be paid to any Member or manager while acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association, and (2) any Member or Board Member may, from time to time, be reimbursed for actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

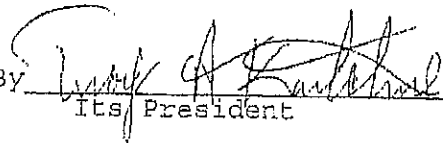
SECTION 15: FISCAL YEAR

15.1 The fiscal year of the Association shall begin on January 1, and end on December 31.

ADOPTED AS BYLAWS by the Declarant, and as amended on this 18th day of July, 2001, by duly called special meeting of the association.

DECLARANT:

HIGHLAND ESTATES P.U.D., INC.

By 
Its President

j\mpj\corp\
highland estates.bylaws
N-6558.11

EXHIBIT "A"

PART OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 NORTH,
RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN DESCRIBED AS
FOLLOWS:

BEGINNING EAST, 21.75 CHAINS BY RECORD AND NORTH 00°54'17" EAST,
1045.00 FEET (NORTH, 1043.00' BY RECORD) OF THE SOUTHWEST CORNER OF
SAID SECTION 34;

AND THENCE SOUTH 89°12'23" EAST (EAST BY RECORD), 760.00 FEET
TO THE WEST LINE OF 250 EAST STREET;

THENCE NORTH 01°21'23" EAST, 321.10 FEET TO THE SOUTH LINE OF
800 SOUTH STREET (NORTH, 303 BY RECORD);

THENCE SOUTH 89°44'03" WEST ALONG 800 SOUTH STREET, 762.69
FEET (WEST, 765.00' BY RECORD);

THENCE SOUTH 00°54'17" WEST (SOUTH BY RECORD), 306.99 FEET TO
THE BEGINNING.

CONTAINING 5.49 ACRES +/- 08-117-0014

f:\mpj\corp\
highland estates.bylaws
N-5558.11

Ent 901652 Bk 1376 Pg 1241