

Final 06 01 2017

**High Lostine Owners Association  
CC&R Supplemental Information  
Policies, Procedures, Interpretations,  
and  
Recommendations from CC&R Revision Process  
  
(Shorthand: *The Companion Document*)**

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## **Purpose of this document**

The Covenants, Conditions and Restrictions (CC&Rs) establish legal limits that accompany the deed to land within the High Lostine Subdivision. These CC&Rs reside at the Wallowa County Courthouse, and are the final, official authority (subject to state and federal laws) in settling issues and disputes regarding how the lots are developed and used. The High Lostine CC&Rs create an Owners Association, and authorize election of a Board of Directors to implement the CC&Rs. The Board accomplishes this by formally adopting policies and procedures, often using committees and owner membership meetings to gather input. The Board, and its officers and committees then implement the decisions.

In most situations, the CC&Rs are straight forward. The Board simply adds details and specificity for issues that are authorized in the CC&Rs. In a few situations, the CC&Rs are either confusing, self-contradictory, or impractical. In these cases, Oregon law directs the Board of Directors to act in good faith for the best interests of the Owners. The Board is prohibited from making decisions that flatly contradict the CC&Rs (except in cases where the CC&Rs are not consistent with state or federal law.)

The purpose of this CC&R Companion Document is two-fold:

- First, this consolidates the policies and procedures and decisions that the Board has adopted and implemented over its nearly two decade history. By creating this document the association is formalizing these decisions and this experience in a single resource. The intent is to create a document that

improves continuity, consistency and clear communication with the membership. Consolidating these decisions also makes it easier to manage updates and changes.

Second, in 2007 many owners contributed hundreds of hours to committees to recommend changes to the CC&Rs. For a number of reasons these were not formally adopted, though some of the work has provided guidance to subsequent committee and Board decision-making. This document includes

TEXT BOXES FOR PENDING ISSUES
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which reference these recommendations. These boxes are currently still under consideration for possible adoption. The process for this review and adoption have not yet been determined. The purpose of including this material here in the “Companion Document” is to consolidate all past decision-making in a single source for member review and Board planning.

**WARNING:** This document often references the original CC&Rs as appropriate to provide a reference point for the interpretations contained in this Companion Document. However, **this document does not restate all of the CC&Rs.** All Owners should have a copy of the original CC&Rs and understand the restrictions on their lots. Material in this document is only included where elaboration of the CC&Rs has been necessary.

One last note on how this document was created. The formality of the Association’s processes and procedures has increased as the HLOA has grown. The information contained here has been compiled from minutes and memories of the long-term members. Specific language and the dates decisions were adopted are documented only for the more recent issues. The authors have summarized older decisions, but have not systematically reviewed all the old minutes for specific language.

Homeowners are encouraged to review both the original CC&Rs and this Companion Document, and to provide feedback to the Board using a questionnaire provided by the Board. The Board will then review and consider homeowner comments and suggestions before proceeding with the “boxed” (pending) issues .

## Vision Statement

We, the residents of the High Lostine Subdivision, value the natural beauty of the Lostine River Valley with its mountain vistas, forests, abundant wildlife, and pristine river. In part, these most cherished values result from and bind us to the Eagle Cap Wilderness and Wallowa County. We have an obligation to protect and preserve this beauty for future generations. Therefore, we will add to our property values through responsible stewardship with respect and tolerance for the diversity of all our neighbors -- human and others. We want to protect the investment we have made in our property through good stewardship as development proceeds. We promise to abide by our Covenants, Conditions and Restrictions (CC&Rs) and work through our differences as neighbors and friends, honestly and openly, remembering how fortunate we are to be a community at the edge of the wilderness.

## CC&R Supplemental Material

## **CC&R Sections 4: Owners**

Contact Information: The Association Secretary is responsible for maintaining a list of current owners and their mailing address, consistent with the records filed at the Wallowa County Courthouse. This list is available to the public on the HLOA website. In addition owners are requested to voluntarily provide phone and email contact information to the secretary to enable emergency contact and to save mailing costs. The detail contact list is available to all members but will not be sold or given to any non-members.

Procedures for Welcoming New Owners: The President, Treasurer, Water Manager and Secretary need to be informed about any new owners. The Secretary sends a welcome packet directing the owners to the website, emphasizing the importance of following the CC&Rs and highlighting information about the water system and procedures and restrictions regarding any development or building on lots.

Communication with Owners: The *HighLostine.com* website is managed by an owner volunteer under direction of the Board. The President, Committee chairs and the secretary are responsible for giving the content to the webmaster. Although the website and email are economical tools that can be easily kept current, paper-mail communication is used for meeting notices and ballots unless otherwise authorized by an owner. HLOA maintains a post office box for official correspondence, and the officers are responsible for picking up mail and distributing it appropriately.

### Ownership and Voting:

The people who own a lot are ONE owner and have one vote in association matters. There are two exceptions. Owners of more than one lot have one vote per lot for electing Directors to the Board. Owners of more than one lot have one vote per lot for changing the CC&Rs.

## **CC&R Section 5: Meetings of Owners**

5.1 The Membership meets once per year to elect the Board, to learn about Board and committee activity, and to provide advice and input about issues. The date for the meeting is set in the preceding fall by the board, and is usually held in late April or early May. (The meeting is required to be held before June 27.) A “Hold the date” notice is sent by Secretary in February. Attendance of all lot owners is strongly encouraged. The annual meeting is usually accompanied by a work party and a potluck to encourage all owners to be engaged in maintaining our common assets and sense of community. Guest speakers are often invited to discuss issues relevant to owners.

5.1.3 The secretary provides a model proxy with the meeting notice, along with instructions for how it should be filed.

<p>The CC&amp;R Committee proposed adding a restriction that someone who is not an owner may not hold more than one owner’s proxy. This has not been acted upon, and may require a CC&amp;R change. The issue has not been a problem in recent years.</p>
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5.1.4 The interpretation of “quorum” is ambiguous. For the purpose of electing the five Directors, a quorum is the presence of or proxy for owners of 33% of lots. For other purposes a quorum is 33% of the owners. Oregon statute provides a procedure for owners associations to proceed with decision making in the absence of a quorum. As required, the Secretary includes a reference to this procedure in the meeting notice. Obtaining a quorum at the annual meeting has not been a problem in recent years.

### **Ballot in lieu of a meeting**

Oregon law provides a mechanism for owners associations to vote by mail rather than in a face-to-face meeting. This is important to the HLOA because so many members do not reside locally. Following is the HLOA procedure:

## Procedure for Voting by Ballot in Lieu of Meeting (appvd 11/20/2016)

- ◆ This procedure shall be used when a vote during a meeting of the association is not practical, e.g. when the percentage of votes required exceeds the number of owners usually in attendance at a meeting, or at any other time the Board determines it is appropriate.
- ◆ The CC&Rs specify when owners are entitled to a single vote versus a vote for each lot owned. Ballots shall be uniquely prepared for each lot or each owner as appropriate, with a signature line and affidavit for the owner to certify that they are entitled to cast the vote(s). Return envelopes will also uniquely indicate the lot number(s) on the outside to facilitate tracking and reminder calls.
- ◆ Voting information, instructions including a date by which the ballot is to be returned, a stamped return envelope to the association's Lostine post office box, and the unique ballots, shall be sent to all owners by first class mail by the secretary.
- ◆ The Board may ask volunteers to contact all owners who have not returned ballots in a timely manner to encourage full participation. In the event a ballot was not received or is lost by an owner, the Board may send second ballots.
- ◆ Ballots will be held, unopened, by the person picking up the mail at the Lostine post office until such time as the president determines they will be counted. In no case shall that date be more than 30 days after the date the ballot was due.
- ◆ Votes will be counted by a committee composed of the association president, an owner not serving on the Board of Directors, and an association officer, on a date agreeable to all.
- ◆ The names of voting owners, and the total results, shall be officially recorded, but not how individual owners voted. Any owner may request to be present when votes are tallied by contacting the association president by phone.
- ◆ In order for a ballot to be counted the ballot must have a signed affidavit and must be postmarked no later than the day the count takes place.
- ◆ The secretary shall prepare minutes for "Ballot in Lieu of a Meeting" listing the names of owners returning ballots and the final vote tally for approval by the Board. This shall constitute "written approval of (*specific percent*) of the membership" as required by the CC&Rs. (The relevant percent is determined by the type of vote.) These minutes will be kept with the corporate records and be made available to the membership. After approval of the minutes by the board the ballots will be destroyed.
- ◆ In unusual circumstances, or at the initiation of a request from 10% of the members before the ballots are counted, a secret ballot procedure may be administered. In the case that a secret ballot method is chosen prior to mailing, the signature affidavit will be attached to the outside of a second security envelope, rather than to the ballot itself. In the case that a secret ballot method is chosen after ballots are mailed, an additional party will be responsible for opening the envelopes and giving the ballots to the counting committee with the identifying information removed.

### \*Note:

Oregon law requires a secret ballot only if 10% or more of the owners request a secret ballot within proscribed time frames after notification that a vote will be taken. In general the HLOA expects owners to be willing to share their votes and views with others.

### **CC&R Section 6: Board of Directors**

The Association acts through the Board. The Board attempts to make all its activities open to the membership, while also respecting the privacy of individual owners. Discussions of individual owners, such as financial issues and complaints, do not include names or lot numbers in the minutes except in sealed envelopes accompanying

the minutes. Confidential correspondence is also kept in sealed envelopes with the minutes. The Board distributes an annual summary of its decisions to the membership for informational purposes. Minutes are not routinely distributed to the membership, but upon written or email request the Secretary will make minutes available to a member after screening them for confidential issues.

6.3 The HLOA encourages a mix of resident and non-resident owners to serve on the Board at the time of election or when filling vacancies to encourage representation of all interests.

6.6 The Board meets immediately after the annual membership meeting to elect the President, Secretary and Treasurer and to appoint committee chairs. This fulfills the required "official annual meeting of the Board". In addition the Board meets immediately prior to the annual membership meeting and once in the fall. The Board may hold additional meetings as business requires.

6.11 Proxies. The Directors serving on the Board are accountable to the membership for their decisions. Although the CC&Rs permit Directors to vote by proxy, this is not permitted by Oregon law. How each Director votes on every issue is included in the minutes.

6.13 Voting by mail. The CC&R committee recommended that the Board be permitted to vote by email. Oregon Law proscribes when and how this may be done. The Board needs to adopt a formal policy. A formal CC&R change probably isn't necessary.

6.19 Board members are notified of meetings via email unless they have notified the President and Secretary that written notification is necessary.

### **CC&R Section 7: Officers of the Association**

7.1 In order to reduce the burden on our volunteers the Board splits the duties of the Secretary as authorized in the CC&Rs into two separate positions: Secretary and Treasurer. The Board traditionally appoints non-Directors to these two officer positions.

7.6 The Directors and Officers are reimbursed for their expenses, but are not otherwise compensated.

7.9 The Board does not issue certificates of membership because of our small size. In the event of a conflict regarding ownership, the county records prevail.

### **CC&R Section 8: Assessments**

8.1 The General Annual Assessment amount is set by the Board in the fall to cover the expected expenses for the next calendar year. The Board maintains only a small additional balance in this general fund. General assessment invoices are mailed by the Treasurer in January. Traditionally the assessment has been \$100-\$150 per year. \$150 is the maximum allowed in CC&Rs.

The CC&R committee recommended that the maximum allowable amount be allowed to increase up to 5% per year. This would require a formal CC&R change.

8.2 Special Assessments. By written ballots the owners have authorized special assessments of various amounts to support the maintenance and operation of the High Lostine Owners Association water system. The current assessment (approved 02/2016) authorizes the Board to set two annual fees: (a) base-rate-per-lot water fees

and (b) water-usage fees. The amount of the fees are set as reasonable and necessary to ensure the long-term functioning of the water system, and to comply with all laws and regulations as the community grows. The Board is required to annually report to the Owners on all water expenditures and the rationale for setting each assessment. This is usually done at the annual membership meeting. The Board sets the rates in the spring based on budgets and recommendations from the Water Committee. The base amount is due from owners in June for the next 12 months; the use amount is billed retrospectively for June-May. The Board sets rates at a level that will cover operating expenses, prepare for emergency breakages, invest in capital improvements, and contribute to a reserve fund for long-term system needs.

The CC&R committee discussed, but did not decide, on a proposal to change the requirement for voting on special assessments to one vote per lot owned, rather than one vote per owner. This would require a formal CC&R change.

8.4 Record of Assessments. The secretary is responsible for recording the authorization of assessments in meeting minutes, which are kept with corporate records at the office of Baum Smith, LLC, in La Grande. The treasurer keeps records of assessment payments and deposits funds in separate bank accounts for general funds and for the water system. The Treasurer reports revenues and expenditures to the Board semiannually, and to the membership at the annual meeting. The Treasurer assures that property taxes are paid on HLOA common lots and that the HLOA accounts are reviewed annually by a qualified bookkeeper.

The HLOA is beginning to build a water system reserve fund with some of the water system assessments. These must be managed in accordance with Oregon laws. This will require that the Board adopt policies with input from the Water Committee.

8.6 Enforcement of assessments. The Board attempts to accommodate reasonable requests to delay payments based on hardship. The Board also acts as a good steward on behalf of the entire ownership by collecting all of the payments that are owed. Reconciling these two principles is a delicate balance requiring diplomacy and respect. The Treasurer independently develops payment plans with owners who are experiencing hardship. If progress is not being made on payments, the Treasurer alerts the Board for additional enforcement steps in accordance with CC&Rs.

The Board has a policy for reducing water assessments in the event of a leak and for shutting off water for non-payment. See Section 11 below.

### **CC&R Section 9 Architecture and Design Control.**

The Architecture Control Committee (ACC) is an important committee that the Board authorizes to carry out duties of the HLOA. The chair and members are appointed each year with attention to representing the range of views held by the membership. The chair regularly reports activity to the Board and the membership. The ACC is not authorized to make new guidelines without Board approval. In the event that applying and/or enforcing the guidelines addresses new issues, becomes controversial or is adversarial, the issue is directed to the Board for policy development or other action. The ACC meets as needed (in person or electronically) to review and respond to applications in a timely fashion specified below in the procedures.

As authorized in the CC&Rs the ACC has advised the Board to adopt a number of guidelines and procedures for implementation. The Committee keeps the [www.HighLostine.com](http://www.HighLostine.com) website up-to-date with contact information, forms and notices. Following are the items that have been approved by the Board to guide the Committee in carrying out its duties. Only the **additions** to the CC&Rs are included here; there are numerous other restrictions contained in the CC&Rs.

Architectural Control Committee: Intent, Guidelines, and Process (Revised May 2012)

**Statement of Intent.**

The intent of the ACC is to ensure that all lot improvements (a) reflect adequate quality of construction, (b) utilize Northwest-style materials and colors that blend with the natural surroundings, (c) are compatible with existing structures on the applicant's lot and the High Lostine in general, and (d) honor property use restrictions set forth in the High Lostine Covenants, Conditions, and Restrictions (CC&Rs). Homeowners have a responsibility to review these documents prior to submitting an application to the ACC and prior to making improvements.

**General Guidelines for Construction of Improvements.**

1. The ACC shall receive an application prior to improvements to a lot, which are defined here as all structures (residence, parking structure, shed, and other outbuildings), fences or other screens, and exterior lighting. The term "improvements" refers to both new construction and modification of existing structures. The term "application" in this document refers to "Application for ACC Approval of Lot Improvements and Building Plans" (see [www.HighLostine.com](http://www.HighLostine.com) for forms).
2. The Wallowa County Planning Department (WCPD; phone 541-426-4543) should be contacted for the proper permit(s) when construction is being planned. WCPD should be consulted for all improvements, including those that do not require a contractor (e.g, installation of prebuilt sheds, wood storage units, etc). Floor plan and elevations submitted to WCPD can also be used when submitting an application to the ACC. Approval by the County does not imply or guarantee approval by the ACC, as High Lostine regulations and guidelines may be more restrictive.
3. Hookup to the High Lostine water system may occur before or during new construction or the addition of improvements. Owners are reminded that the High Lostine water policies (Section 11) must be adhered to prior to any water hookups.
4. The following restrictions also apply to improvements (see the application and below for complete details).
  - (a) All improvements except for lot perimeter fences are to be set back from lot boundaries (measured at right angles) a distance of at least 25 feet and from the high-water mark of streams and rivers a distance of at least 100 feet.
  - (b) The majority of the structure must have a roof pitch of 4/12 or greater.
  - (c) The height of any structure cannot exceed 32 feet from the highest point of grade (backfill or terrain contacting the foundation).

(d) Fences should consist of natural materials native to, or consistent with, the natural environment, such as poles, boards, stonework, or a combination thereof.

5. In all cases, owners should be considerate of their neighbors. Any RVs, equipment, tarp-covered wood piles, garbage cans, tanks, and similar items should be placed in the least obstructive point in terms of visibility to neighbors and roadways. Please use restraint in the wattage, number, and utilization of exterior lights, and use reflectors that direct light downward.

#### **ACC interpretations of the CC&Rs (Approved 04/28/2000)**

The Architectural Control guidelines in the CC&Rs for the High Lostine Owner's Association provide general language related to maintenance of the appearance of lots that is open to interpretation by the ACC. The decisions described below were made 1) in light of the perceived intent of guidelines, 2) to extend these guidelines with some specificity where it appeared warranted, and 3) to modify the guidelines where their intent appeared contradictory to the safety and best interests of the subdivision and the surrounding forest.

1. Trailers, fifth wheels, campers, tractors, and non-routinely used vehicles. Every attempt is to be made to keep trailers, fifth wheels, campers, tractors, and non-routinely used vehicles as inconspicuous as possible so as not to negatively impact the natural beauty of the forest surroundings and the residential atmosphere of the neighborhood. Whenever possible, some form of visual screening is to be created by either evergreen natural plantings or by manufactured materials of matching or harmonizing color to the natural surroundings.

If unable to effectively provide such screening, trailers, fifth wheels, campers, and non-routinely used vehicles are to be parked behind or beside the main structure on the lot so as to lessen the visual impact from the public way. Any constructed protective structure for such vehicle(s) is also to be located adjacent to the main structure on the lot to lessen the visual impact from the public way, and must be approved by the ACC.

It is understood that such vehicles often require level ground or creation of a pad. Owners are therefore encouraged to submit pad or footprint plans with their main dwelling building plans to the ACC prior to construction. Owners of existing dwellings must also submit plans of vehicle storage structures for ACC review. Please feel free to consult a member of the ACC in advance should you have any questions or concerns.

2. Wood and metal signs. The CC&Rs indicates that signs are to be small and unobtrusive and the language might be interpreted to limit the type of material used in such construction. The CC&Rs do state that there should be no more than one sign per lot. The ACC has interpreted this prohibition as pertaining to the posting of commercial signs as no business is to be established within the development. In the survey, several homeowners identified that their signs might be in violation of this rule. These were signs identifying the owners and the address and signs indicating that there should be no trespassing or similar warnings (e.g. beware of the dog). In the opinion of ACC such signs are deemed acceptable as long as they are of a size deemed reasonable for these purposes and they are not lighted in any way.

Generally, signs identifying the owners would be posted at or near the entrance to the lot and may be constructed of wood or metal. The ACC would rather not be proscriptive on size, but would be happy to



consult with any homeowner that has a question. Having placed a sign to identify the owners will still allow the posting of an additional signs for purposes of warning (e.g. no trespassing, beware of the dog). However, these additional signs should be confined to a single post or tree near the entrance to the lot.

3. Stand-alone metal gates. The CC&Rs make provisions related to fencing, but are not specific with respect to gates. Several homeowners have placed gates, most frequently made of metal, in the absence of fencing. Our records do not show that the ACC had been approached about the gates. The ACC has determined that the gates present as of April 1, 2002 were of a type and style similar to that used by the U.S. Forest Service and would be considered acceptable in the future. That is, a gate must be unobtrusive, simple, and be of natural (green, brown, earth tone) color if painted. Gates must be maintained in good repair and appearance.

The ACC does, however, note that the CC&Rs are specific about fencing. Since gates are usually integral parts of fences, it is believed that the nature and construction of the gate should be specified in applications to the ACC in the future. In the future (i.e. post May 1, 2002) an application should be submitted to the ACC for the installation of gates, even when they stand alone.

4. Removal of trees and brush for fire protection. The CC&Rs allow for removal of trees and shrubbery within the immediate area of the building site and limit removal, except with prior approval of the ACC, on other portions of the lot. The ACC desires that lots be managed to reduce the hazard from wildfire, and will therefore support the judicious removal of ladder fuels and thinning of trees consistent with guidance provided by the Oregon Department of Forestry (ODF). The removal of trees and brush is to be done judiciously, and is not an endorsement for over-thinning of trees or a requirement for removal of all brush. The intent of the CC&Rs is to maintain indigenous vegetation and a woodland quality on the High Lostine lots. A mixture of large and small trees should be retained when thinning trees. To assist in retaining natural grouping of vegetation, owners may elect to retain patches of more dense trees or brush provided they are well separated from other patches. Owners that over-thin their lots, based on the ACC's interpretation of the ODF guidance, will be heavily fined. Therefore, the ACC encourages owners to meet but not exceed ODF guidance. If you have questions, consult with a member of the ACC prior to your thinning activities.

#### **Process for Submitting an Application to the ACC.**

1. Please submit an application as soon as plans are finalized, but no less than 90 days in advance of the intended construction start date. This will greatly reduce the potential for pre-construction delays in approval of the application.
2. Send the application to the chair of the ACC by email. If you do not have access to email, ground mail shall be used to send the application and the ACC response, however 35 day response times will replace the 28 day response times in parts 3 and 4 (Below). After the application has been received by all ACC committee members, the chair will contact you.
3. The ACC chair will provide a response to you within 28 days of when all ACC committee members have received the application. The response will either be approval, a request for additional written information, or a denial stating the points upon which the denial is based.
4. Submission of additional written information or a revision of a denied submittal will start a new 'clock' of 28 days from the time when all ACC committee members have received the new information.

5. Once approval is granted by the ACC:
  - a. Any changes in construction type, siding or roof material, siding or roof color, elevation, or location of the improvement requires a revised application.
  - b. Failure to begin construction within 180 days after approval by the ACC requires that the owner resubmit the application and re-obtain approval from the ACC.
  - c. The exterior of any structure must be completed within 1 year, and other improvements (fences or other screens, exterior lighting) must be completed within 1 year.
  - d. Should the building process exceed one year, a request for extension of time must be submitted to the ACC (see "Application to ACC for Time Extension for Lot Improvements and Building Plans" below), with a copy of the most recent approved application.

The CC&R Committee made a number of recommendations for "cleaning up" the CC&Rs to make them consistent with our actual practices. This includes such things as changing the name to *Design Review Committee*, eliminating requirements to conceal tanks, references to sidewalks, clarifying that foundations are only required for houses, fixing language on signs and gates, etc. The Board could direct the ACC to review the CC&R committee's proposed revisions and make recommendations to the Board for incorporating some or all into the existing documents. Because the CC&Rs give the Board complete authority in this area, all of this is fairly safe to do without changing the CC&Rs.

The CC&R Committee also recommended changes regarding the ACC procedures, authority and enforcement. Because current practices are mostly more responsive to members than the CC&Rs a challenge is not likely. But fixing the CC&Rs in this area at some point, or at least adopting formal bylaws, may be prudent.

The proposed language from the committee is extensive and is available in the association documents.

## **CC&R Section 10 Property Use and Restrictions**

10.1 Improvements Permitted. See 10.5.6 below for further information.

10.2 Residential Use.

### HLOA Policy Regarding Renters. (Approved 4/30/15)

- The owner remains the point of contact for all formal communication regarding the HLOA;
- The owner remains responsible for all assessments;
- The owner is responsible for conveying information and responsibilities regarding the CC&Rs, water, fire, etc. to the renters, and should provide them with relevant copies of documents;
- The owners' rental leases must state that the renters may be evicted for failure to comply with the CC&R's;
- The owner is responsible for resolving any neighbors' complaints regarding the renters;

- Renters are welcome and encouraged to attend committee and membership meetings as well as social events, but they may not vote on any matters;
- The Secretary and Water Manager should be notified of all renters' and their contact information for use in emergencies, such as a "Boil Water Notice."

The CC&R committee recommended that the following policy be adopted: **Rentals are not permitted for hotel, transient, or short-term stay purposes, e.g., AirBnB, HomeAway. Rental of units is restricted to long-term rentals; leases shall be of at least three months duration.**

The Board probably has the authority to adopt such a policy, based on experts advice. Experts recommend stating a rationale for this policy adoption, e.g. HLOA depends extensively on volunteer labor, which is not consistent with short-term renting.

#### 10.5.2 Animals.

10.5.2 The language in the CC&Rs regarding permanently keeping horses and pack animals is confusing and has created substantial controversy in the past. At different times, lawyers have provided opposite interpretations to the Board. A committee has recommended extensive limitations on when and how pack animals may be managed. At this time (May, 2017) no owner is keeping pack animals. Therefore the Board is considering adoption of the following policy, which is consistent with the intent of the original framers of the CC&Rs:

**Pack animals (e.g., horses, mules, lamas, etc) are not allowed to be kept or raised within the High Lostine, either on a temporary or permanent basis. An exception may be made for the single current owner who was raising pack animals at the time the CC&Rs were adopted in 1995. The Board may adopt further provisions regarding how this single owner's pack animals may be managed, permanently and temporarily, if it becomes relevant. These provisions will be consistent with the original recommendations of the committee.**

Fixing the CC&Rs is the preferable solution for fixing the language. In the interim the Board probably has the authority to adopt the above (or alternate) policy because the CC&R language is impossible to interpret without clarification. Member input is needed before proceeding.

10.5.3 Parking. In this rural community, with large lots and abundant equipment, the Board has found the CC&Rs unnecessarily restrictive regarding screening recreational equipment. The Board declines to enforce the restrictions regarding visual screening, but encourages owners to be respectful of neighbors' views.

#### 10.5.6 Temporary and Ancillary Structures

10.5.6 The CC&R committee recommended the following addition. This could be accomplished by Board adoption of policy within the ACC guidelines.

**Incidental Structures.** Structures that are incidental to the permanent residential units (such as garages, storage sheds, studios, barns, greenhouses) are improvements and require approval of the ACC. No incidental structures can be placed on the Lot prior to establishing a service connection to the lot from the community water system. No new incidental structures can be placed on the Lot without installing a functioning septic system or providing a self-contained toilet. The ACC may restrict the number and size of incidental structures prior to building a permanent house.

**Camping Structures.** Camping structures (such as recreational vehicles, trailers, campers, motorhomes, camping trailers, tents, yurts, vans and truck canopies) may not be placed on the lot prior to installing a functioning septic system or providing a self-contained toilet. The self-contained toilets must be naturally screened to the extent possible given the characteristics of the Lot and be minimally visible to neighbors. No camping structures can be placed on the Lot without access to approved connection to the community water system. Camping structures must be naturally screened to the extent possible given the characteristics of the Lot and be minimally visible to neighbors. Camping structures that are placed on a lot prior to initiating construction of a residential unit cannot be used or left on the lot more than 150 days per year, and cannot be left unattended for more than 30 continuous days.

(Note: two owners have asked the CC&R committee to consider changing this to allow semi-permanent camping-type structures (yurts, tiny-homes.)

10.5.11 Water System. Operating and maintaining the HLOA water system is by far our most expensive and complicated activity. The HLOA water system currently consists of a community well (near the northern entrance to the subdivision), a 50,000 gallon water reservoir (on Lot 1100) and a distribution system linking the reservoir to each lot. The original system was bare-bones and in some respects substandard; it has been upgraded in many ways over the years, and will require additional upgrades in the future. Regulation of the system is currently under Oregon statutes and administrative rules for small systems. As the number of permanent residents increases in the HLOA development (probably in the very near future) we will be required to adhere to regulations that are considerably more complex and will require additional revenue. Planning now for a more complex and expensive infrastructure is essential. It is important that all owners have a basic understanding of how support of the water system is organized and their responsibilities for protecting the system.

Additional and extensive information is available from the High Lostine website, the Water System Committee and in the records of the Association. Following are key issues that are important for understanding and implementing the CC&Rs.

#### Authority and Responsibility

The **members** of the HLOA are collectively responsible for assuring that we have a system for delivering safe drinking water to all our lots. With an aging, poorly designed system, and limited financial resources this presents a significant challenge. On behalf of the membership, the all-volunteer, elected Board plans for the long-term availability of water that meets state and federal standards for safety. The Board delegates much of the responsibility to an appointed all-volunteer Water Committee. This committee operates within the parameters described in an extensive Operations and Maintenance Manual

(updated by the Water Committee and approved annually by the Board) and within a Board-approved annual budget. The committee works extensively with rural-water-system experts. The Committee, Board and officers collaborate to provide transparent and comprehensive reports to the membership at the annual membership meeting and in occasional mailings, all available on the HLOA website. The Board appoints volunteer Water System Liaisons, who are trained by the state to carry out water sampling procedures.

## Financing

The HLOA finances the operations, maintenance and infrastructure development of the water system by membership vote of “special assessments” as proscribed in Section 8 of the CC&Rs. As of February, 2016, these assessments consist of two parts: an annual base fee that is the same for all lots (currently \$350/lot), and a variable fee based upon the volume of water used in the previous year (currently \$7.00/1000 gallons). Base fees are paid annually in June in advance. Use fees are paid in June for the preceding 12 months. The amounts are set annually by the Board, based upon input from the Water Committee and from the membership. For any given year, the two fees are available on our website. Water system collections are kept in a separate account by the Treasurer.

At the direction of the HLOA membership at its annual meetings the Board has established goals for creating a reserve account for assuring the long-term viability of financing for the system. Policies for this are currently under development.

## Policies

Following are formal policies that the Board has approved to guide the Water Committee’s work, to inform owners of their responsibilities with respect to protecting their personal safety and safety of the water system, to allocate expenses between the association and owners, and to establish rights in a water system emergency.

### Policy: Water System Participation (approved 1999 or 2000)

With one exception (a well developed prior to the creation of the HLOA), all owners must participate and contribute to maintenance of the HLOA water system. Private wells are not permitted. Formal water rights are being acquired by the HLOA on behalf of all members and the final permit will be formally secured in 2036 once most of the lots are developed.

### Policy: Water System Ownership (approved a long-time ago)

The water system is owned by the Association. Only the water committee and water system liaisons have the authority to interact in any way with the community water system and settings. This includes the meter boxes and valves therein, pump house, reservoir, water mains, and valves on the mains and reservoir. The Association owns the service line into the meter box and equipment in the meter box. The lot owners own their service line from their house or standpipe back to where the line enters the meter box. Owners are not allowed to access meter boxes, and must notify a water committee member if there is an issue or concern with a meter box. Owners are encouraged to monitor their water usage from the above-ground meter read-out. In case of an emergency (for example, water line break/leak, loss of water supply, etc.) owners should contact a member of the water committee immediately to address potential contamination and/or system failure, to prevent water wastage, and to limit the owner’s financial liability. (See [highlostine.com](http://highlostine.com) website for listing).

Policy: Water Pressure Reducing Valve (approved a long-time ago)

Owners on the lower two-thirds of the system, such as along Lostine River Road, experience high water pressure that can damage plumbing and fixtures. Installing a pressure reducing valve on the owner's side of the service line is advisable to reduce this risk. Such valves are the responsibility of owners, not the HLOA.

Policy: Preventing Contamination of the Water System (approved 4/14/2001)

Owners are responsible for ensuring that vacuum-breaking devices are installed on all outlets on the owner's side of the meter box in order to (a) prevent back-siphoning of water from outside the water system into an owner's plumbing system and service line and (b) provide secondary protection of the community water system. Contamination from back-siphoning can occur when there is a drop in, or loss of, water pressure within either the owner's portion or the community portion of the water system. [Addendum to original policy: In 2006 and thereafter, the HLOA installed a backflow prevention valve(s) in each HLOA-owned meter box to protect the community water system, however grit may become lodged in this valve and cause incomplete sealing.] To prevent back-siphoning, owners are responsible for (1) ensuring their plumber installs vacuum-breaking devices on their exterior faucets (including those in garages and shops), outside standpipes, and irrigation lines and (2) ensuring hoses are not left in puddles, buckets, pesticide sprayers, watering troughs, pools, and other containers.

Policy: Protection Against Superheated Water in Home (approved 12/16/2006)

Owners are responsible for ensuring their plumber installs device(s) that protect against formation of superheated water. In the presence of a backflow prevention valve (which are required by law and are in each lot's meter box), if both the hot water heater thermostat and the hot water heater temperature and pressure (T&P) valve malfunctioned simultaneously, superheated water can cause water heaters to explode or can allow scalding steam to be released from faucets upon use. (Additional detail on [highlostine.com](http://highlostine.com) Water System page.)

Policy: Low Lead/Remote Read Meter Requirement (Approved 04/29/2016)

Beginning in 2015, remote-read low-lead water meters are mandatory for all new meter installations. New meter installations are relevant: 1) when an owner **connects** to the water system as specified in the Application for Connection to the HLOA Community Water System; 2) when an owner requests a **voluntary conversion/upgrade** to a remote-read low-lead meter; and 3) when the Association determines a meter needs to be **replaced** as a result of repair costs, performance issues, or a scheduled replacement. The HLOA purchases and supplies the meter and the owner reimburses the HLOA for the cost of the meter and shipping. However, water meters are the property of the HLOA. The charge for meter installation is paid by the owner to the trades people who perform the installation. When multiple meters are being installed at one time the HLOA may pay for the installations and bill each owner for their share of the meter installation costs.

Policy: Water Meter Setters for Improved Structural Integrity (Approved 11/2016)

Beginning November 2016 "Water meter setters" are mandatory when, for any reason, excavation is being performed at a meter box. That is, if a hole is being excavated at, or for, a meter box – regardless

of whether the excavation is initiated by the lot owner or by the water committee – installation of a water meter setter will be piggy-backed onto the other work. The installation will occur regardless of whether a meter currently exists or does not exist in the box (the meter can be connected at a later date). The HLOA water system operating account pays for the meter setter and the cost of its installation. If the excavation is initiated by the lot owner (vs. the HLOA), the owner is responsible for the cost of the excavation.

Policy: Requests for Partial Mitigation of a Water Bill (Approved 09/14/2013)

Owners are responsible for the integrity of their service line (i.e., the line from their meter to points of water use on their lots) and the use of water indicated by the annual reading of the water meter. In no case will a bill be reduced when a problem arises as a result of owner's negligence. However, there may be circumstances that the HLOA may consider partial mitigation of a water bill for cause.

Owners may request partial mitigation of their water bill through the Water Committee. The request should document the reasons for the request in writing. If the excess bill arises through some failure in the service line, frozen water lines, or similar failure the request should document the nature of the problem, when the problem was observed, and when appropriate repairs were made.

The water committee will consider requests individually and make a documented judgment on the extent of the reduction that would be appropriate. This will be made in the form of a recommendation to the Board, with the Board having the final power to determine whether the reduction has been properly justified and finally determines the amount of the reduction. Water committee and Board members are not allowed to participate in discussions of and voting on reductions requested of their own bills.

Policy for Shutting Off Water to a Lot. (Approved: 09/14/2013)

The Water Committee is authorized to shut-off and lock (if necessary) the water supply to a lot for the following reasons:

1. An emergency exists that compromises the supply of water to other lots. This would generally be a break in the service line, pipes within structures, or faults in lines that are used outside structures.
2. Temporarily interrupt service to a group of lots (i.e. determined by the distribution system) to allow repairs to be made to selected sections of the system. Owners shall be notified in advance if the repairs are planned. No notification would be required in an emergency (e.g., a main break).
3. The owner's service line jeopardizes the system. This contingency is most likely to occur if the owners' system poses a risk of cross connections with sewer or septic tank service, an owners' system has a second supply of water whose safety has not been confirmed by appropriate tests, or an owner fails to take precautions to avoid cross connections (classically illustrated by a hose immersed in a bucket, pool, horse trough, etc.)
4. For non-payment of water bills. Water may be shut off in the event of non-payment of water bills, as determined by the Treasurer after repeated attempts to collect, and in no case later than the next water billing cycle. The treasurer will consult with the Board, and direct the water committee to turn an owner's water off. If a bill is under negotiation, water may not be shut off.

### Additional Owners' Responsibilities

Owners' use of and interaction with the HLOA water system can have catastrophic effects. These include risks of draining the entire reservoir, causing excessive pumping, contaminating the entire system, and causing a break requiring extended system shutdown. Consequently, owners have the following responsibilities:

- Prior to connection to the water system, the owner must (a) notify and discuss their connection with the water committee, (b) complete the Application for Connection to the HLOA Community Water System (available on highlostine.com website), and (c) receive written approval from the water committee. Do NOT assume all contractors know and understand the HLOA requirements.
- The shut-off valve in the meter box is owned by the Association and should **not** be used by owners or plumbers hired by owners. Service lines extending from the main to meter boxes were installed in 1981 using substandard pipe. Therefore, use of this valve produces stress on the substandard pipe and can cause a break. If you intend to regularly or seasonally turn the water to your house on and off, you must install at your cost a second shut-off valve (including drain) near your house.
- Breaks sometimes occur on the owners' side of the meter (between the house or standpipe and the connection to the meter). An owner is responsible for the cost of repairs that occur on their side of the meter. In the event of a leak or break, it is highly recommended that the owner instruct the plumber to use HDPE pipe with a compression fitting, with all pipe and fittings rated at 250 pounds square inch or greater. During repair/replacement, to the extent possible, avoid introducing elbows/bends in the pipe. Elbows/bends distort flow and contribute to water hammer, a transient increase in water pressure resulting from closing of shut-off valves. Please notify the Water Committee before scheduling a repair.
- Comply with directives from the HLOA officers, Water Managers and Water Committee in the event of an emergency and during system maintenance. It is important that owners NOT use water while the Water Committee is in the process of repairing and decontaminating the system.
- Fire fighting equipment (barrels containing water hoses and nozzles, and hydrants) are available to owners. Operation instructions are on a laminated sheet of card underneath the lid. Barrels are locked; to open the lock dial the combination to numerals 2-0-1-1. The shackle (upside down U) must be strongly depressed and released to disengage the latch so the lock will open. See the operation instructions sheet underneath the barrel lid for instructions about when and how to use the equipment. Participate in training when offered.
- Owners are encourage to use water conservation practices to reduce their water bill and protect our limited aquifer; this is particularly true in the late summer and fall when the aquifer is less charged.
- **Contact a water committee member (listed on [www.highlostine.com](http://www.highlostine.com)) that is a full-time resident** if you notice a red flashing light on the pump house or experience loss of water pressure.
- Please pay water bills promptly or notify the Treasurer if you desire a payment plan.



## Section 11. Right of Entry; Fines

The Board has rarely needed to deal with enforcements issues. Though the CC&Rs provide thorough authority for enforcement, the Board has taken a more restrained approach, and has used a lawyer when filing a lien. Cleaning up the CC&Rs would be desirable. Short of that, implementation could probably be handled as a bylaws adoption.

The CC&R committee recommended replacing the first paragraph in the CC&Rs with the following:

**11.1 Water System Maintenance.** After not less than fifteen (15) days written notice to the affected Owner, the Board of Directors or its authorized representative or contractor shall have the right to enter upon any Lot to maintain the community water system. In the event of an emergency that threatens the integrity of the community water system, the Owner hereby grants the right of entry on his or her Lot to any person authorized by the Board, whether the Owner is present at the time or not.

**11.2 Design Review Committee ("DRC") NonCompliance.** If the DRC determines that an Owner has not constructed, remodeled or modified an Improvement consistent with the specifications of a DRC approval or has constructed, remodeled, or modified an Improvement without obtaining DRC approval, and DRC sends a notice of noncompliance to such Owner, and such Owner fails to commence diligently remedying such noncompliance in accordance with such notice, then, effective at 5:00 p.m. on the tenth (10th) day after issuance of such notice, the DRC shall provide notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not more than thirty (30) days from the date on which the notice of noncompliance was issued. At the hearing, if the DRC finds that there is no valid reason for the continuing noncompliance, the DRC shall determine the estimated costs of achieving compliance and may issue a fine against the noncomplying Owner for such amount. The DRC also shall require the Owner to remedy such noncompliance within ten (10) days after the date of the DRC's determination. If the Owner does not comply with the DRC's ruling within such period or any extension thereof granted by the DRC, at its sole discretion, the DRC may remove the noncomplying Improvement, remedy the noncompliance, and/or record a notice of noncompliance in the county deed records. The costs of any such action shall be assessed against the Owner as an assessment either before or after any remedial action is taken.

The Committee recommended modifying the second paragraph as follows:

**11.3 Fines.** As an alternative remedy and without waiving its right to subsequently exercise any other remedy, the Association shall have the right to levy fines against any Owner or Occupant who violates a provision of this Declaration and fails to correct such violation within fifteen (15) days after the effective date of a written notice from the Board providing an opportunity for a hearing and setting forth the violation and required corrective action in reasonable detail. If the Owner would like a hearing before the Board, the Owner must submit such request in writing to the Board within fifteen (15) days of the date of the notice. The Board shall have the right to impose such fines by resolution in an amount deemed appropriate by the Board in the exercise of its reasonable discretion; provided, however, that the first fine for the violation of any provision of the Declaration shall not exceed \$25.00, the second fine for the violation of the same provision shall not exceed \$50.00, and the third and subsequent fines shall not exceed \$100.00. A fine shall be paid promptly upon written notification of the same. If a Member or Occupant fails to pay a fine within ten (10) days after the effective date of such written notification, the Board may record a lien against the Lot as provided in Section 8.5. The Board may also charge late fees, administrative expenses, collection costs and attorney's fees whether or not suit or action is filed.

## Common Areas: Tamarack Lane, Lots 1100 and 3500

The HLOA has three properties held in common.

- Lot 3500 is located on Lostine River Road. A rough trail provides river access for recreational use by all members of the HLOA. The area is intentionally left undeveloped; there are risks associated with recreation near and in the Lostine River. Owners assume all responsibility for damage or harm associated with using this property.
- Lot 1100 is located on the western perimeter of the development and includes the water system tank.
- The Association is responsible for maintenance and winter snow removal on Tamarack Lane. From time to time, and as funds allow, the Board authorizes expenditures for improving the road. Each fall the Board approves a snow removal plan using local owner volunteers and contractors. The Association will make reasonable effort to provide safe and reliable road conditions, but cannot guarantee that the road will always be passable. Owners are expected to have vehicles that are appropriate for a minimally maintained mountain road that will include difficult travel during winter weather where accumulated snow and ice are present. The Board created a committee (February, 2017) to provide owner input regarding winter maintenance.

## Conflict/Dispute Resolution Guidelines (Approved 04/23/2004)

The following principles, adopted from the Community Association Institute, are used by the Board to guide resolution when two or more owners have a conflict regarding interpretation or application of the HLOA governance documents.

- Any owner who feels aggrieved by any other owner is expected to communicate with that owner in a respectful manner to try to arrive at a resolution of the problem.
- If the problem persists in spite of efforts to resolve it, the aggrieved owner will write a letter to the Board of Directors describing the problem and the steps taken to date to resolve it.
- Upon receipt of such a letter a member of the Board will discuss the situation with the owner against whom the complaint has been registered.
- If the problem continues to exist the aggrieved owner needs to notify the Board again.
- At this point a formal letter should be sent to the offending owner describing the complaint, the sections of the CC&Rs and Bylaws that have been violated, the steps taken to resolve the problem, and potential consequences if the owner does not correct the problem.
- If the problem is still not corrected, the Board needs to notify both owners that a fair hearing to examine all sides of the issue will be scheduled at the convenience of all parties.
- After hearing all the concerns, the Board will advise those involved when to expect a decision.
- After a decision is made all parties need to be notified in writing as to the determination of the Board.