

COVENANTS, CONDITIONS AND RESTRICTIONS

TOLMAN CREEK MEADOWS

IN THE CITY OF ASHLAND, JACKSON COUNTY, OREGON

To: The Public

THIS DECLARATION, made on the date hereinafter set forth by the undersigned, herein referred as the Association

WHEREAS, the member of the Association is the owner of certain real property in the City of Ashland, County of Jackson, State of Oregon, hereinafter referred to as "said property", more particularly described in Exhibit "A".

WHEREAS, Association desires to subject said property to certain covenants, conditions, restrictions, reservations, easements, liens and charge for the benefit of said property and its present and subsequent owners as hereinafter specified, and will convey said property subject thereto:

NOW, THEREFORE, Association hereby declares that all of the said property is and shall be held and conveyed upon and subject to the easements, covenants, restrictions, conditions, reservations, hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property. The easements, covenants, restrictions, conditions, and restrictions, easements and reservations shall inure to the benefit of and be limitations upon all future owners of said "property", more particularly described in Exhibit "A".

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to TOLMAN CREEK MEADOWS INC, a non-profit corporation organized under the laws of the State of Oregon, its successors and assigns.

Section 2. "Said property" shall mean and refer to that certain real property hereinbefore described, and set forth in EXHIBIT "A" attached hereto, and such additions thereto as may hereinafter be bought within the jurisdiction of the Association.

Section 3. "Common Areas" shall mean all real property, or any interest therein, and appurtenances thereto, now or hereinafter owned by the Association, for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any separately designated plot of land shown upon the registered survey map of the properties with the exception of any Common Areas.

Section 5. "Membership or member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of all or any part of said property, including contract sellers and purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded on the Office of Official Records of Jackson County, Oregon.

ARTICLE II

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers and purchasers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such Lot shall be sole qualification for membership and shall automatically terminate when such ownership shall terminate or be transferred.

ARTICLE III

VOTING RIGHTS

The Association shall have one class of voting membership.

Class A. Class A members shall be all those owners as defined in Article II; Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, or if unable to agree, they may cast fractional votes proportionate to their ownership interest but in no event shall more than one Class A vote be cast with respect to any one lot. The vote applicable to any of said property being sold under a record contract of purchase shall be exercised by the contract purchaser unless the contract expressly provided otherwise.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every Member of the Association shall have a right and easement of enjoyment on and to any present and future Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed lot; subject however, to the following provisions:

- a) The right of the Association to limit the number of guests of members permitted to use the Common Areas. For any member who wishes to hold an event using the greenspace they must first secure permission from the board and secure additional insurance coverage
- b) The right of the Association to charge reasonable admission fees for the use of any recreational facility situated on the Common Areas; The association may not sell, convey, or subject to a security interest any portion of the common property.
- c) The right of the Association to suspend any member's voting rights and/or right to use any of the recreational facilities owned by the Association, for any period during which any assessment against said member's property rights remains unpaid; and for the period not to exceed sixty (60) days for each infraction of its published rules and regulations;
- d) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership, has been recorded in the appropriate records of Jackson County, Oregon, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than ninety (90) days prior to such dedication or transfer;
- e) The right of the Directors of the Association to promulgate reasonable rules and regulations governing such rights of use, from time to time, in the interest of securing maximum safe usage of such Common Areas by members of the Association without unduly infringing upon the privacy or enjoyment of the owner or occupant of any part of said property from using certain portions of said property during certain times, and reasonable regulations and restrictions regarding parking.

Section 2. Delegation of Use. Any member may delegate, in accordance with the Rules and Regulations adopted from time to time by the Board of Directors, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers, providing they reside on the property.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Association hereby covenants for all of said property, and each owner of lot by acceptance of a deed or contract of purchase therefor, whether or not it shall be so expressed in any such deed or other conveyance or agreement for conveyance, is deemed to have covenanted and agreed to pay to the Association: (1) Regular annual or other regular periodic assessments or charges, and (2) Special assessments for capital improvements, such assessments to be fixed, and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the owner of such property at the time such assessment becomes due. The obligation shall remain a lien on the property until paid or foreclosed, but shall not be a personal obligation of successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, and welfare of the residents of said property and in particular for the improvement and maintenance of said property, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, and of the lots situated upon said property.

Section 3. Improvement of Tolman Creek Road and Jaqueline Street. The assessment levied by the City of Ashland or Jackson County for the improvement of Tolman Creek Road and Jaqueline Street shall be assessed equally between all lots of the subdivision.

Section 4. Annual Assessments. Until January 1 of the year immediately following the conveyance of the lot to an owner, the initial monthly assessment for each lot subject thereto, paid annually on or before February 15.

- (a) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix a monthly, quarterly, or annual assessment which shall met the expenses of the Association.
- (b) Members of the Association will be notified of any changes in the assessment by written notice.
- (c) It shall be the duty of the Board of Directors to fix the amount of the annual assessment against each Lot at lease thirty (30) days in advance of each annual assessment period;

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a describe capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto. Provided that any such special assessments for structural alterations, capital additions, or capital improvements shall require the assent of two-thirds (2/3) majority of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days and not more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. This section shall not prohibit the Directors from authorizing capital expenditures for replacement or repairs or improvements from funds generated by regular assessments.

Section 6. Uniform Rate of Assessment. Both regular periodic assessments and any special assessments must be fixed at a uniform rate for all lots and may be collected on an annual, quarterly or monthly basis in the discretion of the Directors.

Section 7. Quorum for Any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Section 3 and 4 hereto, the presence at the meeting of members entitled to cast, or proxies entitled to cast, one third (1/3) or sixty (60%) of the votes of membership shall constitute a quorum for any action except as otherwise provided in Articles of Incorporation, By-Laws or these Declarations. If, however, such a quorum shall not be present or prepresented 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. No such subsequent meeting shall be held more than sixty (60) days following the date of the meeting at which no quorum was forthcoming.

Section 8. Date of Commencement of Annual Assessments. The Board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The dates shall be established by the Board of Directors. The Association shall upon demand at any reasonable time furnish a lien certificate in writing signed by an officer of the Association setting forth whether the assessments on a specific lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these lien certificates. Such certificates shall be conclusive evidence of payment of an assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments. Remedies of the Association: 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 the delinquency at the rate of nine (9%) percent per annum. The secretary of said Association shall file in the office of the Director of Records, County Clerk, or appropriate recorder of conveyance

of Jackson County, State of Oregon, within 120 days after delinquency, a statement of the amount of any such charge or assessments together with the interest as aforesaid, which have become delinquent with respect to any lot on said property, and upon payment in full thereof, shall execute and file proper release of the lien securing the same. The aggregate amount of such assessment, together with interest costs and expenses and a reasonable attorneys' fee for filing and enforcement thereof, shall constitute a lien on the whole lot with respect to which it is fixed and on any improvement thereon, from the date the notice of delinquency thereof is filed in the office of said Director of Records or County Clerk of other appropriate recording office; until the same has been paid or released as herein provided by law with respect to liens upon real property. The owner of said property at the time said assessment becomes due shall be personally liable for the expenses, costs and disbursements, including the reasonable attorneys' fees of the Association, as the case may be, of processing and if necessary enforcing such liens, all of which expenses, costs, and disbursements and attorneys' fees shall be secured by said lien, including fees on appeal, and such owner at the time of such assessment is incurred shall also be liable for any deficiency remaining unpaid after any foreclosure sale. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Areas of abandonment of his lot of any improvement thereon.

Section 10. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be inferior, junior or subordinate to the lien of all mortgages and trust deeds now or hereinafter placed upon said property or any part thereof. Sale or transfer of any lot or any other part of said property shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceedings in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to amounts thereof which become due prior to such sale or transfer; and such lien shall attach to the net proceeds of sale, if any, remaining after such mortgages and other prior liens and charges have been satisfied. No sale or transfer shall relieve such lot and any improvements thereon from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempt from assessment created herein: (a) All properties expressly dedicated to and accepted by a local public authority; (b) Any Common Areas; (c) All other properties owned by the Association;

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall, structure, improvement, obstruction, shall be placed or permitted to remain upon or be removed from any part of said property unless a written request for approval thereof has been approved in writing by a majority of the Board of Directors

Section 3. No member of the Board of Director, however created or constituted, shall receive any compensation from the Association or make any charge for his services as such.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. Maintenance of Common Areas and Exterior Maintenance. The Association shall maintain or provide for the maintenance of the Common Areas. Each owner shall be responsible for maintaining and keeping in good order and repair the exterior of his own dwelling unit and lot.

Section 2. Exterior Maintenance and Restrictions. Lot owners are expressly prohibited from changing the exterior of any building, garage, fence, or wall without permission of the Association. In the event of the repair or reconstruction of an improvement by a lot owner, the improvement shall be repaired or reconstructed in such a manner to restore the improvement to its original condition. No substantial change shall be made in the process of repair or reconstruction of any improvement without the consent of the Association.

ARTICLE VIII

USE RESTRICTIONS

The following restrictions shall be applicable to the real property described in EXHIBIT "A" and shall be for the benefit of and limitations upon all present and future owners of said property.

Section 1. No part of said property shall be used or maintained as a dumping ground or storage area for trash of any sort including, but not limited to, old car bodies, discarded household appliances, waste lumber, or other rubbish. All trash and garbage of whatever nature shall be kept in closed sanitary containers and removed from the premises on at least a semi-monthly basis. All containers or other equipment for the storage of disposal of such material shall be kept in a clean sanitary condition and shall be stored so as not be visible from any roadway of Common Areas.

Section 2. No noxious or offensive conditions shall be permitted upon any part of said property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 3. No structure of a temporary character shall be constructed upon subject property; nor shall any trailer, tent, shack, garage, barn or shed or other out building be used as a temporary or permanent residence.

Section 4. No trailer or mobile home shall be allowed as a residence upon any lot or parcel. Parking on the streets will be under the rules and regulation of the City of Ashland.

Section 5. No animal, livestock, bee hives or poultry of any kind be raised, bred or kept on the lot, except dogs, cats or other household pet may be kept provided that they are not kept, bread or maintained for any commercial purpose.

Section 6. Construction begun upon any residence or accessory building shall be completed on the exterior within six (6) months of the start of construction. Temporary residence upon any lot during the exterior construction will not be allowed. Written approval of the Board of Directors on the following points shall be secured prior to commencement of construction:

- (a) Exterior design of all buildings, and plot plan.
- (b) Exterior building materials.
- (c) Exterior finish and color.

Section 7. All members of the Association must maintain a maximum six foot five inch (6'5") high fence along their rear and side lot lines. However, in any rear or side yard abutting a public street (except alleys), fencing may not be more than four feet (4') where located within ten feet (10') of said street, as per Ashland City guidelines. If deer fencing is desired, refer to Ashland City guidelines. If considering a building addition, all members of the Association must contact the city regarding the Solar Access Ordinance. If replacing a gate or building a new gate, it shall be metal in accordance with Ashland City Ordinance.

Section 8. All exterior night or guard lights installed upon any lot shall be shielded in such a manner as to make the direct light source not visible from any adjoining lot.

Section 9. Front yards of any lot may be fenced or have a hedge no taller than three foot six inches (3'6") in height. Deer fencing is not allowed in the front yard, nor is fencing made of chicken wire, chain link, mesh, or fabric.

Section 10. All owners are members of the Association and are entitled to an equal share in the rights and interest and privileges and obligations as such, including the right to use all recreational and other Common Areas owned by such Association subject to the rules and regulations and restrictions applicable thereto.

Section 11. All Common Areas are to be maintained by the Association and no change in landscaping, removal or trimming of trees, lawns or shrubs will be permitted without authorization by the Board of Directors.

Section 12. All walks and pathways in the Common Areas are for the use of Association members, on an equal basis, subject to reasonable rules and regulations promulgated from time to time in writing by the Board of Directors, except public paths which shall be available to the public at large.

Section 13. Association Directors will have jurisdiction over activities permitted in the common use areas. All disputes, complaints, or matters of change in existing or future use restrictions will be submitted to the Association Directors for arbitration.

ARTICLE IX

EASEMENTS

Section 1. All conveyances of land situated in the said property made by the Association, and by all persons claiming by, through, or under the Association, shall be subject to the foregoing restrictions, conditions and covenants, whether or not the same be expressed in the instruments of conveyance, and each and every such instrument of conveyance shall likewise be deemed to grant and reserve, whether or not the same be declared therein, mutual and reciprocal easements over and across all of the Common Areas of said property for the purpose of traveling by foot or conveyance or resting or otherwise being thereon, and over under and all across portions of said property (except those portions located under any building or improvement now or hereafter located thereon), for the purpose of building constructing and maintaining underground or concealed electric and telephone line, gas, water, sewer, storm drainage lines, radio and television antennae and cables, and other utilities and services now or thereafter commonly supplied by public utilities or municipal corporations, and easements are hereby granted and reserved over and upon any and all Common Areas for constructing and maintaining thereon streets, driveways, tennis courts, swimming pools, recreational facilities, community facilities, ornaments and statues, paths, lawns, landscaping and planted areas thereon; all of said easements shall be for the benefit of all present and future owners of the property subject to the jurisdiction of the Association by recorded covenants and restrictions, recorded in the manner hereinabove provided and their tenants, contract purchasers and guests; said easements and rights of use, however, shall not be unrestricted but shall be reasonable rules and regulations governing said rights of use, as promulgated from time to time by the Directors of the Association in the interest of securing maximum safe usage of said easements without unduly infringing upon the privacy of the owner or occupant of any part of the said property. An easement over, and across all parts of said property is granted and reserved to the Association, its successors and assigns, to the extent reasonably required to perform exterior maintenance and to the extent reasonably necessary to perform other maintenance reasonably necessary or advisable to protect or preserve the value of said property and the living thereon.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, or the owner of any recorded mortgage, deed of trust, or like instrument, on any part of said property, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereinafter imposed by the provisions of the Declaration. Failure by the Association, or by any owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect the other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforced by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of ten (10) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each. Easements herein granted and reserved shall not be amended except by instrument signed and acknowledged by one hundred (100%) percent of all owners of the property concerned, and by the Board of Directors.

Section 4. The City of Ashland, County of Jackson, State of Oregon, by and through its City Council, may perform and exercise all or any part of the authority of the Association under Article V and under Section 1 of Article X, for such period of time as the City Council determines to be necessary, if, on the complaint of any property owner or on the City Council's own motion, the City Council finds that the Association has been terminated or dissolved, or has failed to exercise adequately any of the functions delegated to it by the provisions of Section 1 in Article VII or Section 1 in Article X and further finds that the public interest would be served by assuming all or part of such functions for said period of time, provided, that the exemption of the Association's property under Section 10, Article V, shall not apply to any lien imposed under the covenants for the cost of any function exercised by the City. This covenant shall not be amendable under Article X, Section 3.

IN WITNESS WHEREOF, the undersigned, owner of all property within said property, has hereunto caused these presents to be executed this _____ day of _____, _____.

Tolman Creek Meadows Inc.

Kim McQuoid
President

Joan Adams
Secretary

