

Restated  
DECLARATION  
of  
CONDITIONS AND RESTRICTIONS  
for  
SUMMERFIELD CIVIC ASSOCIATION

Revised August 20, 1991

Pertaining to and affecting Summerfield, a sub-division, the plat of which is recorded in Washington County, Oregon, by Tualatin-Franklin, a joint venture comprised of Tualatin Development Co., Inc., and Franklin Service Corporation, as the declarant, and all other contiguous plats which have been recorded by Declarant, or its successor in interest, or which have been or in the future may be annexed by Summerfield Civic Association and to which this Declaration of Conditions and Restrictions shall be made applicable by declaration of the owner or owners or dedicator of any such plat, and/or the annexation instrument.

**INTRODUCTION**

The Summerfield Civic Association is a nonprofit corporation established by Articles of Incorporation filed with the State of Oregon, June 13, 1973, to hold, administer, operate, improve and beautify, without profit to itself, such parks, walkways, recreational facilities and other property as have been or may be established for the common use of any owners or occupants of residential units in the development in Washington County, Oregon, known as 'Summerfield', and to make rules and regulations limiting, defining, and regulating the uses of said common property and all other property in Summerfield.

This Restated Declaration of Conditions and Restrictions (hereafter "Declaration") restates and corrects the original Declaration, recorded on June 12, 1973, in Book 929, pages 766-778, Records of Washington County, and all previous amendments and restatements thereof, and modified and amends the conditions and restrictions as are in this Declaration provided.

This Declaration has and hereby does establish the following general plan, including, but not limited to, the conditions and restrictions herein defined, for the improvement, protection and benefit of property in Summerfield.

The following conditions, restrictions and covenants will apply to each and all residential lots, single family dwellings, apartments, townhouses, condominium units and residential units of every kind and to any other buildings of any nature or purpose in Summerfield, all of which are herein referred to as "Units." Each and all of the Units shall be held, used, occupied, leased, sold or conveyed subject to these conditions, restrictions and covenants, each and all of which shall run with the land and shall inure to the benefit of, be imposed upon and pass to the successor in interest of each and all said Units as a servitude in favor of an enforceable by the owner or owners of any other of such Units.

**1.0 CONDITIONS, RESTRICTIONS, COVENANTS**

1.1 Land Use The general plan for location of units, recreational and other buildings for public or common use, commercial areas, golf course and recreation areas, offices and easements shall be as specified in the several Summerfield recorded plats. Only single family dwellings with attached garages, townhouse type residential units, condominiums and related units, multi-

family apartment buildings and amenities related to any thereof, shall be constructed or maintained in areas designated for residential purposes only; provided, exceptions or variances may be allowed if first approved in writing as provided in Section 1.11.

1.2 Alterations and Additions, Temporary Structures, Etc. No exterior alteration or addition shall be made to any premises without the prior written approval as provided in Section 1.11. No structures of temporary character shall be erected or maintained on any lot other than during the period required for building construction or emergency, nor shall any such structure or basement, garage or trailer be used at any time for living quarters.

No truck or pick-up truck larger than 3/4 ton camper, trailer, motor home, or boat shall be parked on any lot or street other than temporarily and solely for the purpose of loading or unloading or a service call except within the garage structure at residence premises. If any truck, pick-up truck, camper, trailer, motor home or boat is stored or parked in any area designated for that purpose - either on the Summerfield premises or elsewhere - such storage or parking shall be solely at the risk of the owner, and neither the Civic Association, nor any other person, firm or corporation shall have any responsibility therefor whether or not any fee or charge is made, or paid for the privilege of such storage or parking.

1.3 Fences, Hedges, and Walls No residential lot may have fences, hedges, or walls exceeding 72" in height, nor may they extend beyond the front corners of the dwelling. On lots abutting the golf course, no fence, wall or hedge exceeding 24" in height may be placed, maintained, or exist between the house and the golf course parallel to the golf course line. Nor may any additional structure exist between the house and the golf course. Golf ball screens may be built only if individually approved in writing by the Board or the Architectural Committee. No planting which obstructs the view of other residents shall be permitted, except plantings used reasonably for the screening of private areas.

The City of Tigard requires a setback of 5' from property lines, unless a special setback variance was issued to the builder at time of construction, for all storage or accessory buildings, such as dog houses, tool sheds, firewood shelters, garbage enclosures, etc.

No planting or structure obstructing vision at street intersections or driveways are permitted to exist.

Variances or exceptions with respect to any restrictions in this section may be allowed only after approval in writing, as specified in Section 1.11.

1.4 Animals Other than a maximum of two (2) household pets, no animals or fowl shall be kept or allowed to be kept on any lot or residential premises. Household pets may not be kept, bred, or maintained for a commercial purpose. Dogs shall be controlled as provided by ordinance of the City of Tigard. Cats and other pets shall be confined to the dwelling or rear portion of the lot and not be permitted to run free or otherwise to be or become a nuisance or source of annoyance to other residents.

1.5 Signs No sign shall be erected or displayed upon any unit or building without prior written permission as provided in Section 1.11. Signs may be displayed advertising a garage, yard, patio, estate, or like sale, not to exceed 24" x 36", after receiving written approval from the SCA Administrative office. Permission shall not be required for one sign no larger than 6" x 24" displaying the name and/or address of the occupant; or for one temporary sign no larger

than 18" x 24" advertising the property for sale or rent; or for temporary community decorations, but such signs must be removed upon the sale, rental of the unit or conclusion of the community project. Political signs are prohibited.

1.6 Use of Property No dwelling is to be used for the conduct of business or for any commercial purpose unless prior written approval is obtained as provided in Sec. 1.11. No oil or gas well, mine or quarry, or equipment therefor and no appliance or structure for business purposes shall be located or operated on any of said property designated as residential premises. Installation of flag poles, radio poles, exterior-mounted television antennae, exterior machinery for cooling and/or heating and structures detached from the dwelling unit are prohibited unless prior written approval is obtained as provided in Section 1.11. Restrictions on installations within the setback areas are governed by the setback rules of the City of Tigard. Drying lines, woodpiles and other apparatus shall be screened from view. Garbage and other waste shall be kept in sanitary containers away from public view and regularly disposed of, and nothing shall be done which may constitute a nuisance or aesthetic burden to the occupants of the neighborhood and others.

1.7 Landscaping and Maintenance Landscaping of yards shall be completed within a reasonable time after building completion and shall be maintained to conform to the general pattern of others in the community. All yards and growth thereon shall be maintained, cultivated and kept free from insects and diseases.

1.8 Slope and Drainage Easements The owner and occupant of a residential building site will permit access by the owner or occupant of an adjoining or adjacent site to slopes or drainage ways on the property of the former to maintain slopes or drainage facilities for the protection and use of such adjoining or adjacent site. Each owner will not block, hinder or interfere with the established drainage pattern over his land from adjoining or adjacent land.

1.9 Occupancy of Residential Units No residential unit in Summerfield shall be occupied by any person who is not a qualified occupant of a residential unit in Summerfield. To be a qualified occupant, the person must be at least fifty-five (55) years of age or the spouse of an occupant at least fifty-five (55) years of age and must have been approved for membership (pursuant to an application submitted to the Board of Directors or its authorized representative) as a Proprietary Member or Associate Member of Summerfield Civic Association in accordance with its By-Laws and rules and regulations; provided that this restriction shall not prohibit temporary and social visitation of the occupants of a residential unit by persons not so qualified to be occupants; provided further that this provision shall not prohibit such occupancy by a child, more than eighteen (18) years of age, of a qualified occupant who is residing with the qualified occupant; provided, further, that variances from the restrictions on occupancy defined herein may be granted on such terms and conditions as the granting authority may deem appropriate, as provided in Section 1.11.

1.10 Grant or Waivers or Consents Jurisdiction and authority to grant or extend exceptions, variances, waivers or consents contemplated by the foregoing Sections 1.1 through 1.10 inclusive shall be exclusively in the Summerfield Civic Association, acting through its Board of Directors.

The Board will provide and maintain a written set of procedures to be used in evaluating the requests for exceptions, variances, or waivers.

1.11 Rules and Regulations The Board of Directors may adopt rules and regulations necessary to implement the matters addressed in Sections 1.1 through 1.11, provided that the rules and regulations shall not contradict provisions of this Declaration. Such rules and regulations shall be effective when published and shall be binding on all owners and occupants of residential units. The Board of Directors may publish the rules and regulations by mailing notice thereof to owners and occupants or by any other method that is fair and reasonable.

## **2.0 SUMMERFIELD CIVIC ASSOCIATION**

Summerfield Civic Association has been duly formed and incorporated as an Oregon non-profit corporation.

2.1 Membership Until changed by amendment of this Declaration of Conditions and Restrictions, memberships in the Civic Association are:

2.1.1 Proprietary Members Each owner of a residential unit in Summerfield shall be a Proprietary Member, subject to the Declaration of Conditions and Restrictions and the By-laws; provided, that the purchaser(s) of a residential unit under a duly recorded contract for the purchase of a residential unit shall be deemed the “owner” of such residential unit for these purposes.

The rights and privileges of a Proprietary Membership shall terminate when the holder of any such Proprietary Membership shall cease to qualify as an owner, and his certificate of membership shall thereupon be void.

2.1.2 Associate Members Each lessee, renter or other occupant of a residential unit in Summerfield not eligible for Proprietary Membership, but who satisfied the conditions of these Conditions and Restrictions and of the By-laws applicable to Summerfield respecting residency in Summerfield, shall be an Associate Member, which status shall continue in effect during such period as the Associate Member shall be an authorized non-proprietary Tenant of a residential unit in Summerfield. At any time an Associate Member shall cease to be a resident of the Summerfield area, or shall become a Proprietary Member, his rights and privileges as an Associate Member shall thereupon terminate.

## **2.2 Assessments, Purpose of Assessments, Liens and Collections**

2.2.1 Assessments. The Civic Association is vested with power and authority to, and shall, assess and collect from time to time from its Proprietary Members annual and special assessments or charges, such assessments to be fixed, assessed and collected as hereinafter provided. Such annual and special assessments shall be chargeable for each occupant residing in the respective residential units in Summerfield. Each such assessment together with a late fee and interest on unpaid balances of the assessment and costs and expenses, and also including a reasonable attorney’s fee (whether or not suit is filed, and in event also of appeal), incurred in the collection thereof, shall become a charge against the respective residential unit and a continuing lien on the residential unit against which the assessment is made, which lien may be enforced or foreclosed as provided in this Restated Declaration. Each owner of a residential unit, by acceptance of a deed or other conveyance therefore, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Civic Association each such annual or special assessment and each such assessment shall be the personal obligation

of the owner of such residential unit as of the date the assessment is declared due as well as a lien against the residential unit. No owner may avoid liability for the assessments provided for herein by non-use of the community facilities by himself or any occupant of the residential unit against which the assessment is levied.

2.2.2 Due Date and Late Payment Date. Annual assessments for residents, other than those living in apartments or care units (“Estates”), are due on January 2nd each year, with a late fee of six dollars (\$6.00) and interest at the rate of twelve per cent (12%) per annum, to be assessed for payment not received on or before February 15th each year.

Apartments and Estates shall pay one-twelfth (1/12th) the annual assessment each month on the number of residents as of the first of that month. Payment is due on the 15th of each month. A late fee of fifty cents (\$0.50) per resident, and one per cent (1%) interest per month will be assessed for payment received after the twenty-fifth (25th) of the month.

All special assessments will have a due date, and the last date a payment can be made without late payment and interest being assessed. Special assessments will include a dollar amount for late penalty fee, which will be assessed along with interest at the rate of twelve per cent (12%) per annum for any payment received after the late payment date.

2.2.3 Purpose of Assessments The assessments levied by the Civic Association shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare and protection of the residents in Summerfield and in particular for the improvement and maintenance of Summerfield and to the buildings, service facilities, planted parkways devoted to this purpose and related to the use and enjoyment of the common areas and facilities in the Summerfield area.

2.2.4 Basis of Annual Assessments. The amount of the annual assessment shall be determined annually by the directors when the annual budget is established. The amount of the following year’s assessment will be posted in the clubhouse not later than the day following the Board of Directors’ December meeting. The assessment will be for each resident residing in a residential unit, with proration on a calendar year basis respecting any resident whose residence commences or terminates other than as of January. The annual assessment may be increased or decreased effective January 1 of each calendar year by action of the Board, without vote of the membership.

2.2.5 Special Assessments In addition to the annual assessments authorized above, the Board may levy a special assessment for the purpose of defraying in whole or in part the cost of any unforeseen major expenditure. Before any special assessment may be levied, a special meeting of the general membership must be called, at which meeting the purpose of the assessment, the estimated cost, and the amount of the assessment per member must be discussed. A membership vote is not necessary for a special levy, but a vote may be called for as advisory to the Board.

2.2.6 Uniform Rate of Assessment Unless otherwise provided by action of the Board, both annual and special assessments shall be fixed at a uniform rate per occupant of all residential units and may be collected on an annual basis, or such other basis as the Board shall determine.

2.2.7 Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage encumbering the residential unit upon which it is levied. Sale or transfer of any lot or residential unit shall not affect the assessment lien. However, the sale or transfer of any lot or residential unit which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such lot or residential unit from liability for any assessments thereafter becoming due or from the lien thereof.

2.2.8 Summerfield Civic Association Option to Remedy Violations. The Civic Association, at its option, shall have the power and right at all times, after reasonable notice to the owner and any occupant, and for the account of the owner, to abate and correct any violation of the provisions of this Declaration or rules and regulations adopted by the Board of Directors, to plant or replant, trim, cut back, remove, replace, cultivate or maintain hedges, trees, shrubs, plants or lawns; and to clean, paint, repair, replace and generally maintain the exterior of a residential unit and improvements thereon and to keep said lot or parcel and any residential building and improvement thereon in neat and good order to conform with the general attractive character of the area.

A bona fide purchaser for value or mortgagee, without actual or constructive notice of an existing violation or breach of the conditions, restrictions, rules or regulations shall not be bound thereby; provided the Civic Association, through its Board of Directors, may execute, acknowledge and record a Notice of Claim of Breach, setting forth the facts thereof, the alleged violation or breach, description of the unit against which the breach is claimed, the name or names of the reputed owners thereof. Such notice, recorded in Washington County, shall be public notice of such breach, and constructive notice to any subsequent purchaser or mortgagee. When the violation or breach has been remedied, the Civic Association shall record an instrument to correct any recorded Notice of Claim of Breach accordingly; provided, that if the Civic Association incurred costs or expenses in remedying the violation, the Civic Association may still claim a lien against the residential unit as well as a personal obligation against the owner thereof as provided in Section 4.2.

### **3.0 COMMON FACILITIES**

Within Summerfield, certain community facilities have been or may be constructed and maintained for the use, service or benefit, in common, of the residents of Summerfield. The Civic Association, through its Board of Directors, shall govern the use and control the policies of these common facilities.

### **4.0 GENERAL PROVISIONS**

4.1 Terms All of the restrictions, covenants, and agreements herein contained in this Declaration of Conditions and Restrictions shall apply to all units in Summerfield and shall be binding on all members and residents, whenever relevant, until or unless they are changed, supplanted, or rescinded in any or all particulars by approval of a majority of all Summerfield Proprietary Members (i.e. a vote of approval must be obtained from at least 50% of all Proprietary members); provided that if two (2) or more Proprietary Members shall own any residential unit by any form of co-tenancy, such ownership is entitled to one vote; whereupon

such change shall be binding upon such owners of residential units in Summerfield and their successors in interest and the occupants of such residential units.

4.2 Enforcement Each owner and each occupant of any unit in Summerfield shall comply with the provisions of this Declaration and rules and regulations adopted by the Board of Directors of the Civic Association. Should any covenant, restriction, rule or regulation then in effect be violated, or should an attempt be made to violate any such covenant, restriction, rule or regulation, any person owning a unit in Summerfield or the Summerfield Civic Association may prosecute any proceedings in law or in equity to obtain damages or restrain or abate such violation against the responsible person.

All costs and expenses (including attorney fees whether or not suit or action is filed, and if filed, at trial and on any appeal) incurred by Summerfield Civic Association in enforcing any provision of the Declaration or rules or regulations adopted by the Board of Directors shall be a charge against the residential unit involved or which the responsible person owns or occupies and shall constitute a lien on the residential unit as well as a personal obligation of the owner thereof. The Civic Association may bring action to obtain and collect a money judgment against the person (s) personally obligated to pay without waiving or foreclosing the lien.

4.3 Notice of Claim of Lien; Foreclosure of Lien. If the Civic Association claims a lien against any residential unit pursuant to any section to this Restated Declaration, the Board of Directors may, at any time before the lien is satisfied, record a Notice of Claim of Lien in Washington County. The Notice of Claim of Lien shall be executed and acknowledged by an officer of the Civic Association and shall set forth the monetary amount claimed, the description of the residential unit against which the lien is claimed, and the owner or reputed owner thereof.

If a Notice of Claim of Lien is recorded for unpaid assessments pursuant to Section 2.2.1, then so long as the original or any subsequent unpaid assessment (including interest and late charges thereon) remains unpaid such Notice of Claim of Lien shall automatically accumulate the subsequent unpaid assessments and interest and late charges thereon without the necessity of filing further notices.

The Civic Association may foreclose its liens in the manner provided in ORS Chapter 88. The suit to foreclose must be commenced within ten (10) years after the obligation arose for which the Notice of Claim of Lien was recorded. For the purpose of determining the date the obligation arose in those cases where subsequent unpaid assessments have accumulated after the recording of the Notice of Claim of Lien, the obligation for each unpaid assessment shall be deemed to have arisen at such time as it became due. The Civic Association shall be entitled to its reasonable attorney fees as set by the court at trial and on any appeal of the foreclosure suit.

4.4 Severability Invalidation by judgment or decree of any court of any one or more of these restrictive covenants herein defined or as hereafter duly amended, shall in no way affect any of the remaining provisions which shall remain in full force and effect.

4.5 Binding Effect The provisions contained in this Restated Declaration, as herein defined or as hereafter duly amended, shall bind and inure to the benefit of and be enforceable by Summerfield Civic Association, the owner or owners of any unit in Summerfield, and their respective representatives, successors or assigns.

4.6 Non-Waiver Failure or delay to enforce any covenant, restriction, rule or regulation shall not be deemed a waiver of the right to do so.

5.0 PROVISIONS FOR CHANGE IN THIS DECLARATION.

The covenants, conditions, restrictions, and other provisions contained in this declaration may be amended, modified, or rescinded in any or all particulars with the approval of the Proprietary Members who collectively own not less than sixty percent (60%) of all residential units in Summerfield. Such approval may be obtained either by a written instrument signed by the Proprietary Members, or by written ballot of the Proprietary Members. If two or more Proprietary Members own a residential unit by any form of co-tenancy, any one Proprietary Member may execute the written instrument of cast the ballot for that residential unit on behalf of all the Proprietary Members who own such unit, in the absence of written protest of the other Proprietary Members owning such unit.

If any amendment, modification, or rescission is approved as provided above, the President and Secretary of Summerfield Civic Association shall execute and record in Washington County an instrument setting forth the matter so approved and certifying that it was approved by not less than sixty percent (60%) of the Proprietary Members and that the execution and recordation of the instrument was authorized by the Board of Directors of Summerfield Civic Association. The amendment, modification, or rescission shall be effective upon recording and shall be binding on owners, occupants, and all other persons claiming any interest in any Unit or other property in Summerfield.

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The undersigned President and Secretary of Summerfield Civic Association certify that this Restated Declaration has been approved by the affirmative vote of seventy-five per cent (75%) of the Proprietary Members; that the approval of Tualatin-Franklin, as Declarant, is no longer required; and that the undersigned officers have been authorized by the Board of Directors to execute and record this Restated Declaration on behalf of Summerfield Civic Association.

SUMMERFIELD CIVIC ASSOCIATION

by: \_\_\_\_\_

Title: President

by: \_\_\_\_\_

Title: Secretary

STATE OF OREGON )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ 1991, personally  
appeared before me \_\_\_\_\_ and

\_\_\_\_\_ who being

duly sworn did say that they are the President and Secretary, respectively, of SUMMERFIELD CIVIC ASSOCIATION, an Oregon non-profit corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of its Board of Directors, and acknowledged that said instrument is the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public for Oregon

My commission expires: \_\_\_\_\_