

# **TAMARAC**

Homeowners' Association

P. O. Box 690514  
Tulsa, Ok 74169-0514

*(established: September, 1980)*

## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

*(as updated, August, 1997)*

**THESE ARE THE RULES WE LIVE BY  
IN THE TAMARAC ADDITION**

DECLARATION OF



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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**  
*(as updated, August, 1997)*

THIS DECLARATION, made on the date hereinafter set forth by ERC PROPERTIES, INC., hereinafter referred to as "Declarant". WITNESSETH: WHEREAS, Declarant is the owner of certain property in City of Tulsa , County of Tulsa, State of Oklahoma , which is more particularly described as:

A subdivision of part of the South half (S/2), Northwest quarter (NW/4), Southwest quarter (SW/4) of Section 16, Township 19 North, Range 14 east of the Indian base and meridian in the City of Tulsa, County of Tulsa, State of Oklahoma. Part of C.D.P. Number 78

**NOW THEREFORE**, Declarant hereby declares that all the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title or interest in the described parties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I DEFINITIONS**

**Section 1.** "Association" shall mean and refer to Tamarac Home Owners Association, Inc. - its successors and assigns.

**Section 2.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 3.** "Properties" shall mean and refer to the certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4.** "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot as described as follows:

LEGAL. Reserves "A" through "M" - - West property border area adjacent to 129 St. South (*see amendment*)

**Section 5.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

**Section 6.** "Declarant" shall mean and refer to ERC Properties, Inc. its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## **ARTICLE II PROPERTY RIGHTS**

**Section 1. Owners' Easements of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against the Lot remains unpaid; and for a period not to exceed 60 days for an infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area 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 agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

**Section 2. Delegation of Use.** Any owner may delegate, in accordance with the

By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## **ARTICLE III MEMBERSHIP AND VOTING RIGHTS**

**Section 1.** Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

**Section 2.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or (b) on August 1 . 1982.

## **ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such

assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, cost, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

***Amendment filed August 5, 1997 . . . REMEDIES***

**Section 1. Effect of Nonpayment of Liabilities to the Association: Remedies**

Any liability to the Association not paid within thirty (30) days after the notification of same by United States Certified Mail, Return Receipt Requested shall bear interest from the notification date at the rate of 6 percent per annum. The Association may bring an action at Law against the Owner personally obligated to pay the same or file a lien against the property for the amount unpaid and foreclose the lien. No owner may waive or otherwise escape liability to the Association by non-use of the Common Area or abandonment of his Lot.

**Section 2. Subordination of the Lien to Mortgages.** Any lien incurred as a result of any breach of the provisions of the Declaration shall run with the land but be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not relieve such Lot from liabilities due from the lien against the property.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

***Amendment dated February 5, 1988. . . .***

Reserves "A" through "M", inclusive, and west property border area adjacent to 129th Street South are restricted for uses for open spaces, driveways, parking and common areas. Those areas identified on the accompanying plat as "Reserves" shall be maintained by the Home Owners Association as a common expense of the owners of lots.

**Section 3. Maximum Annual Assessment.** Until January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Sixty dollars (\$60.00) per lot

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

**Section 4. 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, reconstruction, repair or replacement of a capital improvement upon the

Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

**Section 6. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

**Section 7. Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association of the date of its issuance.

## **ARTICLE V ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## **ARTICLE VI GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this 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 judgment or court order shall in no wise affect any 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, for a term of twenty (20) years

from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

**Section 4. Annexation.** Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

**Section 5. FHA/VA Approval.** As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

**Section 6. General Restrictions Applicable to all Units in Tamarac Garden Homes.**

(a) No structure of a temporary character, trailer, basement, tent, shack, garage, or other out-buildings shall be used on any Unit at any time as a resident, either temporary construction building in the construction of any and , structures; and further with the exception that the developer, ERC Properties, Inc., may construct and use a temporary sales office for the period of time any Unit remains unsold.

(b) No trucks, trailers, boats, habitable motor vehicles or commercial type vehicles shall be stored or parked on any part of the property except within an enclosed garage and while engaged in transporting to and from a residence in the subdivision:

(c) All signs are prohibited in areas owned upon any recorded subdivision plat as residential except:

(1) Signs erected by the City of Tulsa, OK or developer for identification of streets, traffic control and directional purposes;

(2) Signs of temporary nature advertising property for sale and construction signs, which signs shall not exceed 6 square feet in area;

(3) Signs erected by the developer advertising the name and entry of said properties. The developer is to maintain this sign until said properties are all sold, and the Property Owner's Association will continue the maintenance of it thereafter;

(4) Signs erected by the developer advertising the showing of a model home or show house. At the time this house is sold all signs shall be removed.

(d) Out-buildings or accessory buildings upon Units or parcels of land upon which there is constructed a residential structure shall not generally be permitted, except that the Architectural Coordination Committee shall have the authority to permit such buildings provided they are of the same general architecture as the residence.

(e) No Units shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall be kept in a clean and sanitary condition, and disposition of same shall be prompt. All incinerators or other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition. Garbage or trash is to be placed in acceptable enclosed containers for pickups. If pickup is to be curb side, garbage or trash is to be placed there on the morning of pickups only.

(f) No noxious or offensive activities shall be carried on upon any Unit nor the common properties, nor shall anything be done thereon which may become an annoyance or a nuisance to the owners of land covered by these covenants and restrictions.

(g) CB radio or other type of antenna shall not be erected on any residence anywhere in the addition, without the approval of the Board of Directors or designated Architectural Committee.

*In compliance with the provisions of the Telecommunications Act of 1996, the following language is hereby incorporated into this document: DBS satellite receiver dishes and/or MMDS antennas less than one meter in diameter or diagonal measure are permitted, provided they are placed in such a manner so as not to be visible from the street, wherever such location permits reception of an acceptable quality signal. When such placement is not feasible, the dish may be mounted on the home, as unobtrusively as possible, and shall be painted to match the background upon which it is placed.*

(h) All automobiles located on said property shall be kept in running order, inspected, and state licensed at all times.

(i) No animals, livestock or birds shall be kept or maintained on any part of the property, except dogs, cats, or other household pets which may be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants but not for any commercial use or purpose. No pet shall be permitted to run loose and the owners shall be responsible for cleaning up after their pets on at least a daily basis.

(j) No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the premises, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.

(k) In the event that any owner of any lot in the subdivision shall fail or refuse to keep such premises free from weeds, underbrush, or refuse piles or other unsightly growths or objects, then a delegate of the Declarant may enter upon such lands and remove the same at the expense of the owner and such entry shall not be deemed a trespass and in the event of such a removal a lien shall arise and be created in favor of the Declarant and against such lot for the full amount chargeable to such lot and such amount shall be due and payable within 10 days after the owner is billed therefor.

(l) The premises and every part of each residence shall be kept in a good, clean and sanitary condition and appearance.

(m) The lawn, garden and fences belonging to each residence shall be maintained and preserved at the owners expense in good condition, and the owners of each Lot will do, or cause to be done, in proper and reasonable times of the year, and in a proper manner all necessary work in order to achieve the same.

(n) The exterior walls of all structures shall be painted once every four years with one coat of paint in a reasonable and workmanlike manner. Similarly, all roofs shall be maintained and preserved in a reasonable and workmanlike manner.

***Amendment dated February 5, 1988. . . .***

The exterior walls of all structures shall be painted once every four years with one thoroughly covering coat of Kelly-Moore Latex Flat Exterior paint, Oyster #26, in a reasonable and workmanlike manner. Similarly, all roofs shall be maintained and preserved in a reasonable and workmanlike manner.

**ARTICLE VII EXTERIOR MAINTENANCE**

In the event an owner of any Unit in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, after approval by two-thirds (2/3) vote of the Board of Directors, the Board shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Unit and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to



and become part of the assessment of which such Unit is subject. To provide necessary space for repairs and maintenance of properties all homeowners will allow temporary easements of their properties to their adjoining neighbors.

## **ARTICLE VIII PARKING**

No unit owner or occupant shall at any time unreasonably obstruct the passageways, entrances or exits to and from any property. Each unit shall have four parking spaces, two in the garage and two on the driveway of said unit, and in no event is any unit to occupy more than two exterior parking spaces.

*(see Amendments on following page)*

### **Amendment of February 5, 1986 . . .**

No unit owner or occupants shall at any time and reasonable obstruct the passage ways, entrances or exits to and from any property. Each unit shall have four (4) parking spaces, two (2) in the garage and two (2) on the apron located immediately in front of the garage of said unit, and in no event is any unit to occupy more than two (2) exterior parking spaces. Parking is expressly limited to those areas referenced in this Article, and excludes parking on the homeowner's lawn.

### **Amendment of March 17, 1997 . . . . PARKING, PENALTY**

Vehicle owners violating the PARKING amendment of February 5, 1988, shall be subject to the penalty of having their vehicle towed from the place of violation by a contract towing service at the instruction of the Tamarac Homeowners Association. Said towing shall be performed by a commercial towing service, who shall impound said vehicle in their storage facility until claimed and redeemed by the lawful owner, at said owner's expense. The owner of the vehicle shall be fully responsible for the vehicle; the Tamarac Homeowners Association assumes no liability. In the event the Association incurs charges due to a violation of Article VIII, the Association shall assert any remedy available by law including those stated in Article IV of this Declaration. The preparatory steps before towing shall include, but are not restricted to:

1. A standard notice shall be placed on the vehicle.
2. If improper parking persists after such initial notification, the resident shall be instructed in writing, by Certified, Return Receipt requested U. S. Mail to immediately discontinue said parking. Failure to discontinue said improper parking following the above written notification ("Notice To Tow") shall render vehicle owner subject to the penalty described above. The written notice of violation shall be Certified for signature of receipt by the resident and/or vehicle owner. The Tulsa Police Department shall also be notified.
3. Towing shall occur at any time after five (5) days from the date of the certified mailing of the Notice to Tow. The resident's refusal to receive the notice letter from the USPS shall not stop the towing of the vehicle per this schedule.

## **ARTICLE IX LIABILITY INSURANCE**

The Association will maintain in full force and effect a policy of Liability Insurance to protect The Association and each member against any and all causes of action for which they may become liable.

