

Dry Creek Airpark  
Amended and Restated Covenants and Restrictions

Originally recorded on August 3, 1999, Microfilm # 150268 at Crook County Deed Records  
Amended March 3, 2000 at Microfilm # 154171 Crook County Deed Records  
Restated January 9, 2002 at Microfilm # 167750 Crook County Deed Records

Know all men by these presents, that Dry Creek Airpark, LLC, hereinafter referred to as "Declarant" is the sole owner of **Dry Creek Airpark**, a subdivision in the County of Crook, State of Oregon, according to the office of the County Clerk for Crook County, Oregon, and more particularly described on the Plat, hereinafter referred to as "the Property". The Property shall be held, transferred, sold, conveyed, and occupied subject to the Oregon Planned Community Act as may be amended from time to time (ORS 94.550–94.783) and subject to the following covenants, conditions, restrictions, easements, charges, and liens, which shall run with the land, which shall be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, and which shall inure to the benefit of the Association and of each Owner.

**Property subject to this declaration:** The development of Dry Creek Airpark shall consist of the Property, which shall be held, transferred, sold, conveyed, and occupied subject to this Declaration. Declarant has no right to annex additional property to or to withdraw property from Dry Creek Airpark.

**Association Membership and Voting Rights:** The owner of each lot of the Property shall be a mandatory member of **Dry Creek Airpark Homeowners Association, Inc.** Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any lot in **Dry Creek Airpark**. Transfer of ownership of a lot in said subdivision automatically transfers membership in the Association. Occupants and owners of lots in the subdivision shall be governed and controlled by these covenants and restrictions, Articles of Incorporations, Bylaws, and rules and regulations of the Association and any amendments thereof.

Except for lots owned by Declarant, the owner of each lot shall be entitled to one vote for each lot owned with respect to all matters upon which lot owners are entitled to vote. Declarant shall have no right to vote. When more than one person or entity owns a lot, the vote for such lot may be cast as they shall determine, but in no event will fractional voting be allowed.

**I. Definitions:** The following definitions shall apply to these Covenants and Restrictions:

"**Association**" shall mean and refer to **Dry Creek Airpark Homeowners Association, Inc.**, an Oregon non-profit corporation, its successors and assigns.

"**Common Property**" shall mean and refer to that area of land shown on the recorded plat of the Property, including any improvements thereon, which are intended to be devoted to the common use and enjoyment of the members and which land has been conveyed to the Association.

"**Declarant**" shall mean and refer to **Dry Creek Airpark, LLC**, its successors or assigns, or any successor or assignee to all remainder of **Dry Creek Airpark, LLC's** interest in the development of the Property.

"**Lot**" shall mean and refer to each and any of lots 1 through 42 of **Dry Creek Airpark**.

**“Occupant”** shall mean and refer to the occupant of a lot who shall be either the owner, lessee, or any other person authorized by the owner to occupy the lot.

**"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or a purchaser in possession under a land sale contract. The foregoing does not include persons or entities who hold an interest in any lot merely as security for the performance of an obligation.

**“Plat”** shall mean and refer to the Plat of Dry Creek Airpark recorded in the Plat Records of Crook County, Oregon, at Book 166,179, Pages 2-6 of 6 on July 28, 1999 or as amended.

**"Property"** shall mean and refer to all real property, including lots 1 through 42, the common property, and all improvements located on the real property subject to this Declaration, as more particularly set forth on the Plat.

## **II. Land Use and Building Type**

All lots are restricted to residential use. No commercial activity shall take place on the Property other than home business where no external business activity is visible to the Property.

## **III. Dwelling Size and Materials**

All dwellings and other buildings shall be constructed in accordance with the Building Requirements of the State of Oregon and County of Crook. The floor area of each dwelling, exclusive open porches, patios, breezeways, garages (which shall be a minimum of two cars), shall not be less than 1700 square feet in size. A 10% credit in size will be allowed for homes with extraordinary architectural features. Garages and/or hangers may be detached and must match the architectural style of the residence on the Property. Exterior treatments may include lap siding, rock, brick, stucco, timber, however no T -1-11 type siding will be allowed. Roofs shall be tile, architect 80 comp or equivalent, shake, slate, or other as approved by the architectural review committee. Paint colors shall be of earth tones or pastels and shall also meet with architectural review committee approval. Any exterior fuel tanks, such as propane tanks, shall be fenced with an abscising type fencing material. All building plans and specifications shall be submitted to the architectural review committee prior to building permit application. The architectural review committee shall return these drawings within one week of submittal with the appropriate corrections, recommendations, or approval notice.

**IV. Architectural Review Committee:** The Declarant shall appoint an architectural review committee. When the common area is deeded to the Association, the Board of Directors of the Association shall appoint the architectural review committee. The decision of the architectural review committee (including any failure to approve or disapprove within the time allowed) shall be subject to appeal by any lot owner to the Board of Directors.

## **V. Temporary Structures**

No mobile home, modular home, manufactured home, trailer, basement, tent, shack, garage or other outbuilding or any other structure of a temporary nature, shall be used as a residence. A job trailer may be used during course of construction for a period of no more than 18 months from with the date of first excavation. This trailer will not be allowed to hook up to the septic system and shall be of good quality construction as to not deter from with the aesthetics of the development. No temporary structures as mentioned above shall be allowed

after completion of a residence, except for travel trailers by visiting friends or family members.

#### **VI. Nuisances**

No obnoxious, noxious, or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may reasonably become an annoyance or nuisance, to other persons in the subdivision. All equipment including motor homes, boats, trailers, recreational vehicles, or other heavy-duty vehicles shall not be permitted to be parked outside for longer than a week, they must be garaged. No tarps may be used to cover up the aforementioned items or any items at any time. Work on vehicles such as automobiles may be conducted as long as the vehicle is not left derelict and visible from the street or other properties. Outside parking of not more than two cars as long as they are in operable condition and parked on pavement or concrete is permitted. The object is to avoid the used car parking lot effect.

#### **VII. Garbage and Refuse Disposal**

No lot shall be used for or maintained as a dumping ground for rubbish. Trash, garbage, or waste shall not be kept except in sanitary containers. All other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition in accordance with Crook County ordinances. If the association finds that a lot is in violation of this rule, the association may elect to clean up the problem and bill the lot owner for the time and dump fees to get rid of such a nuisance. If the lot owner does not pay said bill with 30 days of receipt, the association shall file a lien against such property until such time the lien is satisfied. A lawsuit by the association may be brought to foreclose such a lien in a timely fashion. Let's keep it clean for everyone's sake.

#### **VIII. Construction Time**

A time limit is hereby imposed on the length of time allowed for the construction of the residence structure, a period of time not to exceed eighteen months from the day of first excavation to final inspection. Any exceptions to this time frame will have to be approved by the architectural review committee prior to an extension being needed.

#### **IX. Building Location**

All buildings will comply with the setbacks established by Crook County and easements as set forth in the approved engineering plan for **Dry Creek Airpark**.

#### **X. Livestock**

Absolutely no farm animals such as horses, cows, pigs, llamas, EMUs, etc., will be allowed. No breeding of domestic pets, rabbits, dogs, or cats will be allowed. A maximum of 3 household pets will be allowed, such as dogs and cats. No pets are allowed to roam to adjacent lots or become a nuisance. Any fenced areas for pets will have to comply with architectural controls, with no unsightly fencing visible from any other lots. Chain link fencing is not an approved fencing material unless dressed up to be less obtrusive. Approval will be needed from the architectural review committee for such a fence. Barking dogs will be considered a nuisance and will have to be controlled by removal or other means. Normal barking at arriving guests is not considered to be a problem. The idea here is not to have a dog howling at the moon all night or, for that matter, all day and disturbing other residents.

#### **XI. Sewage Disposal**

Sewage disposal shall be effected by means of owner installed septic tanks and drain fields. Said drain fields are shown on the recorded plat except those for the lots where the drain

field is located on the lot itself. The developer has established perk approvals for all lots in **Dry Creek Airpark** with said approvals being available through the county or the developer. No cesspools or outside toilets shall be permitted, except for portable chemical toilets during course of construction. A portable toilet will be required to be onsite during the entire course of construction and shall be at owner's expense.

## **XII. Use of Improvements During Course of Construction**

Except as allowed in the second paragraph of this Section XII, no improvement on any lot shall be occupied until the same is completed and made in compliance with the restrictions, covenants, and conditions contained in this declaration, and final inspection has been performed by the Crook County Building Dept. Any improvement which is partially or totally destroyed or damaged by fire, earthquake, or otherwise, shall be removed, repaired, or replaced within a reasonable time after such destruction or damage occurs.

If Owner has begun construction on his residence, Owner shall be allowed to occupy a hangar located on Owner's lot that is substantially complete with a permanent door upon making a refundable deposit of \$5,000.00 to the Association. The deposit shall be forfeited if the residence is not substantially completed within 18 months from the date construction begins on the residence. There shall be no indication as viewed from the street that the hangar is occupied as a residence.

## **XIII. Maintenance by Owner**

Each owner shall be responsible to maintain their lot in a clean, sanitary, and attractive condition, and keep the same free from rubbish and litter, to maintain said lot in good condition so as not to create a fire hazard. Each owner shall also be responsible for the reasonable upkeep of any and all improvements made to their respective lots.

## **XIV. Oil and Mining Operations**

No part of the property shall be used for the purpose of exploring for, taking therefrom, or producing therefrom gas, oil, or other hydrocarbon substances, sand, gravel or minerals.

## **XV. Signage**

Except as set forth herein, no sign of any size shall be displayed, to the public view on any lot, except one professional sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the course of construction and sales period. One permanent sign to be erected at the main entrance to Dry Creek Airpark shall be allowed. Standard road signs, house numbers, and warning signs shall be allowed and will be there to benefit all.

## **XVI. Easements**

Declarants hereby expressly reserve an easement over and upon a strip of land 20 feet in width along the front of each lot, for the purpose of installation, construction, and maintenance of underground utilities such as water, power, or telephone and for any lawful purpose whatsoever, no structure or improvement or any sort except fencing shall be built upon the property affected by said easement strip. Said property shall at all times be open to Declarants, their heirs, successors, and assigns and any public service corporation which may require the use of said easement strip.

## **XVII. Landscaping and Water Use**

As water is being supplied by the **Dry Creek Airpark** community well, a conservative approach to water usage is encouraged. Owners are encouraged to utilize natural vegetation as much as possible. Because of county limitations on water usage, the area of lawn planted by an individual owner will be limited to an area of 5000 sq. ft. This is exclusive of flower gardens or other wise. All fencing shall be approved by the "**Dry Creek Airpark**" architectural review committee.

Wire fencing is discouraged unless first approved through the committee. Wood and rock fencing will be encouraged and gates are allowed to individual driveways.

The Board of Directors of the Association may require water meters to be installed on each lot. If installed, water usage shall be billed according to the water usage shown on the meters.

## **XVIII. Government Restrictions**

All uses, occupancy, construction, and other activities conducted on any lot shall conform with and be subject to applicable zoning, use restrictions, set back requirements, construction, and building codes of all local, state, and federal public authorities.

## **XIX. Adjoining Property Owners**

No part of the property shall be used or occupied injuriously as to affect the use, occupation, or value of the adjoining or adjacent properties for residential purposes.

## **XX. Vehicles and Driveways**

No junked motor vehicle or sizable part thereof shall be permitted to remain visible from the street. No junked airplane or sizable part thereof shall be permitted to remain visible from the street. There will be absolutely no parking on the streets whatsoever either temporarily or otherwise. This goes for cars, airplanes, motorcycles, and bicycles. The streets must at all times remain clear for taxiing aircraft. A guest parking area for aircraft shall be set up by the association. However, guests should be encouraged to park at their respective host residence if adequate parking is available at said residence.

## **XXI. Liabilities**

Neither the Declarants, nor the duly appointed architectural review committee nor any member thereof shall be liable to any lot owner or the Declarants, or their successors in interest, for any damages, loss, or prejudice suffered or claimed on account of any action or failure to act of the committee or member thereof, provided only that the member, in accordance with actual knowledge possessed by said member, has acted in good faith.

## **XXII. Maintenance of Common Property**

When 21 lots have been sold, the "**Dry Creek Airpark Homeowners Association**" shall be formed and the common property shall be deeded to the association for the purpose of voting on pertinent issues facing the community and performing a monetary base for the regular maintenance of all common areas throughout the development, such as the gate, airstrip, tennis courts, etc. The monies would be used for such things as parts, labor, snow plowing, painting supplies, and labor to reform any of the aforementioned items. The Board of Directors of the Association shall estimate the amount of costs necessary for each year. Each lot owned by any person or entity other than Declarant shall pay a percentage of the assessment equal to the percentage each lot owned by other than Declarant bears to all lots not owned by Declarant. Such

dues shall be due and payable January 1 of each year. The dues for any lot sold during the year shall be prorated to the date of sale. Upon the sale of all lots by Declarant, each lot is responsible for 1/42 of all common expenses. The Association shall conduct a reserve study to identify items for which reserves are required to be established, the estimated remaining useful life of each item, the estimated costs of maintenance, repair, or replacement of each item at the end of its useful life, and a 30-year plan of contributions to meet the maintenance, repair, and replacement schedule. No dues or assessments shall be payable on any unimproved lot owned by Declarant.

Driveways shall be used for vehicle turnouts in the event of traffic conflicts. Aircraft have the right of way over all other vehicles (including but not limited to bikes and motor vehicles) and pedestrians.

### **XXIII. Assessments and Liens**

The Declarant hereby covenants, and each owner of any lot by acceptance of the deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agreed to pay the Association assessments as provided in Section XXII above. All such assessments together with interest thereon at the rate established from time to time by resolution of the Board of Directors of the Association and together with all other costs, fees, charges, and fines allowed by law, shall be a lien and charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Such lien shall exist and be executed, recorded, and foreclosed in the manner provided by law.

In addition to any remedies provided by law, the Association may bring an action at law against the owner personally obligated to pay the same or foreclose a lien upon the property. No such action or judgment entered therein shall be a waiver of the lien of the Association. No owner may waive or otherwise escape liability for the assessment provided for herein by non use of the common property or abandonment of his or her lot.

Collection costs, attorney's fees at trial and appellate levels and any court costs shall be awarded to the prevailing party in any suit or action to foreclose a lien, to collect on any assessment owed, or to enforce any provisions of these Covenants and Restrictions.

### **XXIV. Common Property:**

Neither the Declarant nor the Association may sell, convey, or subject to a security interest any portion of the common property. Declarant has provided all improvements to the common property for which Declarant is responsible. Declarant is not responsible for any further improvements to the common property. Any future improvements on the common property must be approved by a majority of the Association members.

### **XXV. Division and Merger Of Lot:**

No lots shall be partitioned or subdivided. Lots may be merged, but such merger shall not relieve the lot owner from paying dues and assessments on each original lot. Upon merger, the lot owner shall continue to have one vote per original lot.

### **XXVI. Amendments:**

Amendments to these covenants and restrictions may be made at any time by an instrument approved by not less than 75% of the owners of the lots: Any amendment must be executed and recorded in the Crook County Deed Records.

**XXVII. Severability.** Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.

