

After Recording Return to:
Passamari South Major Road
and Park Maintenance Association
c/o Karen Talley
PO Box 708
Sheridan, MT 59749

134251 RECORDS Pages: 9
STATE OF MONTANA MADISON COUNTY
RECORDED: 12/24/2009 12:45 KOI: COVENANTS
Peggy Kaatz CLERK AND RECORDER
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TO: CLEAR CREEK REALTY, PO BOX 708, SHERIDAN MT 59049

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**PASSAMARI SOUTH MAJOR SUBDIVISION
ROAD AND PARK ASSOCIATION BY-LAWS AND MAINTENANCE AGREEMENT**

ARTICLE I - DEFINITION OF ASSOCIATION

SECTION 1 NAME AND ADDRESS: The name of the ASSOCIATION is PASSAMARI SOUTH MAJOR ROAD AND PARK MAINTENANCE ASSOCIATION. The principal office and mailing address of the ASSOCIATION is *PO Box 708*, Sheridan, Montana 59749. Other offices for the transaction of business shall be at such place or places in Madison County, Montana as the Board of Directors may designate from time to time.

ARTICLE II - LEGAL DESCRIPTION, PURPOSE AND OPERATION

SECTION 1 - LEGAL DESCRIPTION: The real property for which this ASSOCIATION has been formed is comprised of Lots 1 through 5, inclusive, of PASSAMARI SOUTH MAJOR Subdivision located in the S1/2 of Section 26, Township 4 South, Range 5 West, P.M.M, the plat of which is recorded in Book 4 of Plats, page *588*, records of Madison County, Montana.

SECTION 2 PURPOSE: This ASSOCIATION has been formed for the purpose of performing the powers and duties of the ASSOCIATION as set forth in this Agreement.

The ASSOCIATION shall maintain subdivision roadways and may improve and maintain Passamari South Park as designated on the above-described Plat.

The objects and purposes for which the ASSOCIATION is established shall include improvement, control and maintenance of the park, including but not limited to (1) employment capabilities; and (2) ownership, management, control, administration, operation, rental, lease, and maintenance of said park and its rights of way for the installation, replacement, maintenance and operation of any facility or structure within the park.

The PASSAMARI SOUTH MAJOR Subdivision Park described herein is cooperatively owned by the owners of Lots 1 through 5 of the Passamari South Major Subdivision. This parkland shall be used for storm drainage for development of Lot 6. A walking trail shall be permitted in parkland along Washington Street.

ARTICLE III -MEMBERSHIP PRIVLEGES AND VOTING RIGHTS

SECTION 1 MEMBERSHIP QUALIFICATIONS: Each owner of lots 1 through 5 in the PASSAMARI SOUTH MAJOR Subdivision shall be a member of the ASSOCIATION with voting privileges and shall be entitled to one vote per lot as set forth herein. Membership shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the sale of a lot and then only to the purchaser of said lot. The term "owner" shall be defined as the record owner whether one or more persons or entities, of the fee simple title to any lot, except that where such a lot has been sold on an installment sale basis pursuant to a security instrument, the buyer (provided he or she is not in default under said security agreement) shall be deemed the owner. The term "owner" shall not mean or refer to a mortgagee or beneficiary under a Montana Trust Indenture unless and until such mortgagee or beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

SECTION 2 RIGHTS AND PRIVILEGES OF MEMBERS: Each member shall have the rights and privileges granted by this agreement and the Restrictive Covenants for Passamari South Major Subdivision to members of the ASSOCIATION expressly or by implication, including but not limited to, property rights and rights of access to or over, and use and enjoyment of the roads and park controlled by the ASSOCIATION, subject to such limitations as may be imposed by the ASSOCIATION.

SECTION 3 LIMITATION OF RIGHTS AND PRIVILEGES OF MEMBERS: No member shall have the right without the prior approval of the Board of Directors to exercise any of the powers or to perform any of the acts or duties delegated to the Board of Directors or ASSOCIATION by this Agreement or the Restrictive Covenants.

SECTION 4 MEMBERSHIP VOTING SHARES: Each lot owner shall be issued the following membership shares:

Lot 1 - 1 share
Lot 2 - 1 share
Lot 3 - 1 share
Lot 4 -1 share
Lot 5 -1 share

TOTAL: 5 shares

If any lot is further subdivided, the number of original membership shares issued shall be divided accordingly between the new owners. In no case shall the sum of the membership shares exceed a total of five (5) shares.

SECTION 5 VOTING RIGHTS: Members who have paid all assessments due are entitled to one vote (1) for each of their membership shares in the ASSOCIATION.

SECTION 6 -CUMULATIVE VOTING: In any election of the Board of Directors for the ASSOCIATION, each lot owner is entitled to one (1) vote for each membership share and shall be entitled to vote the same for each Director being elected. These votes may be cast in any manner so long as the total

votes do not exceed that allowed for the lot(s) owned, and more than one lot owner, represented in person or proxy, votes in the majority. Those receiving the higher number of votes, up to the number of directors to be chosen, shall be deemed elected.

SECTION 7 PROXIES: Every person entitled to vote shall have the right to do so either in person or by an agent authorized by a written proxy executed by such person and filed with the Secretary of the ASSOCIATION prior to the commencement of the meeting at which the proxy is to be exercised. Proxies are not transferable by the recipient. Every proxy shall be revocable by the person granting it by announcing its revocation to the Secretary of the meeting at which it otherwise would be exercised prior to the exercise thereof.

SECTION 8 EVIDENCE OF MEMBERSHIP: The Board shall have the power, but not the obligation, to issue evidence of membership in the ASSOCIATION to the members. All certificates of membership or membership shares, if issued, shall be signed by the President and the Secretary, or the Board of Directors. It is mandatory that all lot owners and subsequent lot buyers shall be members of the PASSAMARI SOUTH MAJOR ROAD AND PARK MAINTENANCE ASSOCIATION.

SECTION 9 TRANSFERS OF SHARES: Transfers of shares shall be made only on the books of the ASSOCIATION; and by recorded deed or notice of purchasers interest in any lot described herein.

ARTICLE IV - MEETINGS OF MEMBERS

SECTION 1 ANNUAL MEETING OF MEMBERS: A) The annual meeting of the ASSOCIATION members and owners shall be held at such time during the first two weeks in April of each year and at such location as the Board of Directors may designate. Notification to the members shall be mailed, by the Secretary, to each member at the member's address of record not less than 10 nor more than 30 days prior to the meeting. A written waiver of such notice signed by the person or persons entitled thereto shall be equivalent to the giving of such notice.

B) At each annual meeting the members of the ASSOCIATION shall elect a Board of Directors in accordance with the requirements of the Bylaws. The members may also transact such other business of the ASSOCIATION as may properly come before them at such annual meetings.

C) At each annual meeting, the Directors shall submit a statement of business done during the preceding year, together with a report of the general financial condition of the ASSOCIATION, and of the condition of its tangible personal property.

SECTION 2 SPECIAL MEETINGS: Special meetings of the members, for any purpose whatsoever, may be called at any time by the President or by a majority of the Board of Directors, or by members having one-fifth (1/5) or more of the votes entitled to be cast at such meeting. Notice of such special meetings shall be given in the same manner as for annual meetings of members and may be given by any person or persons entitled to call such a meeting. Notices of any special meeting shall specify in addition to the place, day and hour of such meeting, the purpose or purposes for which the meeting was called.

SECTION 3 ADJOURNED MEETINGS AND NOTICE THEREOF: A) If a meeting of members

cannot be organized because a quorum has not attended, those present may adjourn the meeting until a quorum is present. In the absence of a quorum, no other business may be transacted at such meetings unless these Bylaws or the Articles otherwise provide. Any such meeting where a quorum is present may also be adjourned from time to time by the affirmative vote of a majority of the votes present and represented at such meeting in person or by proxy.

B) When any membership meeting, annual or special, is adjourned for thirty (30) days or more, notice of the reconvening of the adjourned meeting shall be given as in the case of the original meeting.

SECTION 4 QUORUM: A) Members holding at least three (3) of the votes entitled to be cast on the matter to be voted upon, represented in person or by proxy, shall constitute a quorum at a meeting of members, unless a different requirement is imposed by this agreement. If a quorum is not present, those present may adjourn the meeting from time to time until members holding at least three (3) of votes entitled to be cast in person or by proxy are present.

B) A majority of the total votes present at a meeting at which a quorum is present shall be necessary for the adoption of any matter to be voted on, unless a different percentage is required by this Agreement.

ARTICLE V -ASSESSMENTS AND ENFORCEMENT RIGHTS

SECTION 1 DEFINITION OF ASSESSMENTS: A) **COMMON ASSESSMENTS** are those levied for the expenses and activities of the common good of the owners and the ASSOCIATION including, but not limited to repair and maintenance of roads and parks and all other associated materials and equipment; utilities; professional fees; employees' wages; taxes; workers compensation premiums; the management and administration of the ASSOCIATION; and such other activities that pertain to the common interests of the ASSOCIATION and its members.

B) **LIMITED ASSESSMENTS** are those levied for a specific reason or activity for the benefit of one or more owners and shall be prorated among those affected by and / or benefitting from the activity.

SECTION 2 LEVYING ASSESSMENTS: The ASSOCIATION, through the Board of Directors, shall fix, levy, collect and enforce such assessments in the manner specified in these Bylaws, the Articles, the Restrictive Covenants and the laws of the State of Montana. The Common Assessments must comply with the following requirements:

A) The amount assessed must be limited to the amount reasonably anticipated to be required by the ASSOCIATION to enable it to perform its duties and obligations.

B) The Board shall mail to each owner at the owner's address of record, the notice of assessment, the basis of the assessment schedule, the amount of the assessment, the date when the assessment is due and the annual budget for expenditures and operations of the ASSOCIATION.

C) The Common Assessments will prevail for the following fiscal year and may only be changed by a majority vote of the Board of Directors. The Board has the power, by majority vote of the Board members, to adjust assessments in individual cases where inequities arise.

SECTION 3 ENFORCEMENT OF ASSESSMENTS: A) Assessments are payable upon receipt and shall be considered delinquent if payment is not received by the ASSOCIATION within sixty (60) days of the due date. The amount of the Assessment levied for each lot shall be the personal and individual debt of the owner thereof. No owner may exempt himself or herself from liability for his or her contribution towards the Common Assessment by waiver of the use or enjoyment of any of the common elements or assets of the PASSAMARI SOUTH MAJOR Subdivision or the ASSOCIATION.

B) In the event of delinquency in the payment of assessments, the owner shall be obligated for the amount of the assessment together with all expenses related to collection, including legal fees incurred. The Board of Directors may (at their discretion) bring suit on behalf of the ASSOCIATION to recover a money judgment or may file a lien on said lot(s) for the unpaid assessments and expenses.

C) Payments received will be applied to the earliest unpaid assessments.

D) The Board of Directors may, at their discretion, assess interest charges of not more than nine percent (9%) per annum against past due accounts of more than sixty (60) days provided that such assessments are levied against all delinquent members and are not selective in nature.

ARTICLE VI - DIRECTORS

SECTION 1 NUMBER, QUALIFICATION AND TERM OF OFFICE: A) The affairs of the ASSOCIATION shall be managed by a Board of three (3) Directors who must be individuals and voting members of the ASSOCIATION.

B) Directors shall be elected for a period of one (1) year.

SECTION 2 REMOVAL AND VACANCIES: A) The entire Board or any individual director may be removed from office, with or without cause, at any duly called, noticed, and held annual or special meeting of the members at which a quorum is present by a majority of the members present at such a meeting and entitled to vote either in person or by proxy.

B) Vacancies in the Board of Directors may be filled by a majority vote of the remaining Directors, or by the members at a duly called special meeting and each director so elected shall hold office until his or her successor is elected at a subsequent meeting of the members.

C) A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any director. If the Board of Directors accepts the resignation of a director tendered to take effect at a future time, the Board shall have the power to elect a successor to take office when the resignation shall become effective.

SECTION 3 PLACE OF MEETING: All meetings of the Board of Directors shall be held at a place within the State of Montana as designated by the Board of Directors.

SECTION 4 ANNUAL MEETING OF THE BOARD: Immediately following the annual meeting of members of the ASSOCIATION, the Board of Directors shall hold a regular meeting for the purpose of

installing elected officers and conducting business. Notice of such meetings to members is not required.

SECTION 5 SPECIAL MEETINGS: A) Special meetings of the Board of Directors for any purpose may be called at any time by the President, or if he or she is absent, unable or refuses to act, by any Vice President, Secretary, or by any two (2) Directors.

B) Notice of the time and place of special meetings shall be given to each Director at least three (3) days prior to the date of such meetings and shall be delivered personally to the directors by telephone or sent to each by letter addressed to him or her at the address of record.

SECTION 6 DIRECTORS' QUORUM: Two (2) members of the Board of Directors shall constitute a quorum. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present, shall be regarded as the act of the Board of Directors.

SECTION 7 ACTION WITHOUT MEETING: Any action required to be taken by law at a meeting of Directors or any action which may usually be taken at a meeting of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof.

SECTION 8 ADJOURNMENT: In the absence of a quorum, a majority of the directors present at the Directors' meeting may adjourn from time to time until a quorum is present.

SECTION 9 COMPENSATION: A) No director of the ASSOCIATION shall receive any salary or other compensation for services rendered as a director or officer of the ASSOCIATION. However, directors and officers shall be reimbursed for expenses incurred in connection with the business of the ASSOCIATION and authorized by the Board.

B) Nothing herein shall preclude any director from serving the ASSOCIATION in any capacity other than as an officer or a director and receiving compensation therefore as authorized and approved by the Board. Any director receiving any special compensation for services in any such other capacity shall be excluded from voting by the Board relative to the authorization thereof and fixing compensation with regard thereto.

SECTION 10 POWERS AND DUTIES: Subject to the limitations of the ASSOCIATION, this agreement, and other applicable law, all ASSOCIATION powers and duties shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the ASSOCIATION shall be controlled by the Board. Without limiting the generality of the foregoing, the Board shall:

A) Exercise for the ASSOCIATION all powers, duties and authority vested in or delegated to the Board or the ASSOCIATION, whether by these Bylaws, the ASSOCIATION, this agreement and the Restrictive Covenants, or otherwise.

B) Administer all matters regarding surface water rights.

C) Oversee and maintain all common easements, including upkeep, grading and the

maintenance of major traverse roads, water pipeline and other water structures.

D) Exercise architectural approval for building and exterior lighting of each residence and outbuilding within the PASSAMARI SOUTH MAJOR Subdivision as set forth in the Restrictive Covenants.

E) Receive and expend monies.

F) Establish, levy, assess, collect and enforce the assessments referred to in these Bylaws in the manner set forth herein.

G) The Board may employ independent contractors and such other employees as it deems necessary and prescribe their duties, and enter into contracts and agreements for the purpose of providing for the performance of its powers and duties.

H) Cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the members at the annual meeting of the members or at any duly called special meeting of the members.

I) Supervise all officers, agents and employees of this ASSOCIATION and ensure that their duties are properly performed.

J) Appoint and remove, at its pleasure, all officers, agents and employees of the ASSOCIATION, prescribe their duties, fix their compensation, subject to the limitations on compensation to the Directors and obtain fidelity bonds as it may deem necessary or appropriate. The premium on such bonds shall be paid for by the ASSOCIATION.

K) Coordinate any activities pertaining to the common safety and betterment of the PASSAMARI SOUTH MAJOR SUBDIVISION including, but not limited to, fire prevention, grazing, and farming. Farm leasing shall be permitted on individual lots by the lot owner, and on common areas of the ASSOCIATION upon majority vote of the membership shares.

ARTICLE VII -OFFICERS

SECTION 1 ENUMERATION, ELECTION AND TERM OF OFFICERS: The Board of Directors shall elect from its own number a President (who may or may not be a director), a Vice President, a Secretary and Treasurer. Any two (2) or more offices, except the offices of the President and Secretary, may be held by the same person. All officers of the CORPORATION shall be elected annually at the meeting of the Board of Directors held immediately after the annual meeting of the members. All officers shall hold office until their successors have been duly elected and qualified.

SECTION 2 PRESIDENT AND VICE PRESIDENT: The President shall preside at all Directors' and shareholders' meetings; shall have general supervision over the affairs of the ASSOCIATION and over the other officers; shall sign all stock certificates, evidence of shares of stock without certificates, and written contracts of the ASSOCIATION including any leases, roadway maintenance agreements, and water or water pipeline agreements, and shall perform all such other duties as are incident to this office. In case of

the absence or disability of the President, his or her duties shall be performed by the Vice-President.

SECTION 3 SECRETARY: The Secretary shall issue notices of all Directors' and shareholders' meetings, and shall attend and keep the minutes of the same; shall have charge of all corporate books, records and papers; and shall perform all such other duties as are incident to his or her office.

SECTION 4 TREASURER: The Treasurer shall have the custody of all money and securities of the ASSOCIATION and shall give bond, in such sum and with such sureties as the Directors may require, conditioned upon the faithful performance of the duties of his or her office. He or she shall keep regular books of account and shall submit them, together with all his or her vouchers, receipts, records and other papers, to the Directors for their examination and approval as often as they may require; and shall perform all such other duties as are incident to this office.

ARTICLE VIII -AMENDMENTS

SECTION 1 PROCEDURE: Except where a greater number is provided by the Articles of Incorporation of the ASSOCIATION, or by law, amendments to these By-Laws may be made by a majority vote of the membership shares, at any annual meeting or special meeting, when the proposed amendment has been set out in the notice of such meeting, and so long as more than one lot owner votes in the majority. All such amendments shall be in writing and signed by the President of the ASSOCIATION. Amendments shall be kept by the Secretary with the other records and books of the CORPORATION. Amendments to the Articles of Incorporation of the ASSOCIATION shall be made by the affirmative vote of two-thirds of the membership shares, either in person or by proxy, so long as more than one lot owner votes in the two-thirds majority.

ARTICLE VIII -MISCELLANEOUS

SECTION 1 CHECKS, DRAFTS, ETC.: All checks, drafts, or other orders of payment of money, notes, or other evidences of indebtedness, issued in the name of or payable to the ASSOCIATION, shall be signed or endorsed by two officers of the ASSOCIATION, or in any such manner as determined by the Board of Directors.

SECTION 2 CONTRACTS, ETC; HOW EXECUTED: The Board of Directors, except as otherwise provided in the Bylaws, may authorize any office or officers, agent or agents, to enter into any contract or execute any instrument in the name and on the behalf of the ASSOCIATION, and such authority may be general or confined to specific instances, and unless so authorized by the Board, no officer, agent, or employee shall have any power or authority to bind the ASSOCIATION by a contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

SECTION 3 INSPECTION OF BYLAWS: The ASSOCIATION shall keep in its principal office the original or a copy of the Bylaws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the members at all reasonable business hours.

SECTION 4 FISCAL YEAR: The fiscal year of the ASSOCIATION shall be a calendar year.

SECTION 5 BOOKS AND RECORDS: The books, records, minutes, names and addresses of

members entitled to vote and papers of the ASSOCIATION shall be kept at the principal place of business of the ASSOCIATION in the State of Montana and shall at all times be subject to inspection by any member, his attorney, or agent, during reasonable business hours.

SECTION 6 PARTICIPATION BY OWNER OF TRACT 4: The owner of the lot described as Tract 4, recorded in Plat Book 7, at Page 1278ME, Records of Madison County, Montana benefits from the road maintenance provisions hereof and may agree to participate, on a pro-rata basis, in the maintenance benefits and obligations enjoyed by the other members of the Association. In the event of such participation, the Association shall develop an equitable plan to afford the owner of such lot a vote in all matters which shall properly come before the Association related to road maintenance.

EXECUTED THIS 22 DAY OF December, 2009.

Mary C. Tolson AKA Mary Tolson By Don Tolson, Attorney-In-Fact
Mary C. Tolson By Don Tolson, Attorney-In-Fact

STATE OF MONTANA)
 :SS
County of Madison)

This instrument was acknowledged before me on the 22 day of December 2009, by Don Tolson as Attorney-In-Fact for Mary C. Tolson.



KAREN TALLEY
NOTARY PUBLIC for the
State of Montana
Residing at Sheridan, Montana
My Commission Expires
July 8, 2012

Karen Talley
Notary Name Printed: KAREN TALLEY
Notary Public for the State of Montana
Residing at: Sheridan, Montana
My Commission expires: