

**TUSCANY HOMEOWNERS' ASSOCIATION, INC.**

**Resolution of the Board of Directors Regarding**

**MAINTENANCE OF SWALES**

**Effective April 2024**

**I. RECITALS**

- A.** Throughout the Tuscany Subdivision there are drainage swales located between the public streets and the sidewalks. The drainage swales are generally landscaped with sod and interspersed trees.
- B.** The drainage swales are located within an ACHD easement area, and while ACHD bears the responsibility for the heavy maintenance and repair of the areas, the light maintenance, such as irrigation, mowing, and trees is not ACHD's responsibility.
- C.** These drainage swale areas are subject to Temporary License Agreements and Roadside Swale Development Agreements with ACHD, under which agreements, the Tuscany Homeowners Association must ensure that the swales are kept in good condition and repair.
- D.** Historically, Tuscany Lot Owners have provided light maintenance of the Drainage Swales situated adjacent to such Owners' properties and have mowed, irrigated, and maintained the trees located on the drainage swales, and this appears to have been the intent of the developer of the Subdivision and ACHD.
- E.** The swales are irrigated by the system for each respective Owner's Lot and controlled by the Lot's sprinkler box.
- F.** Were the Association to take over the light maintenance of these areas, the regular assessments of the Association would have to increase for each Lot Owner by \$50-100 per year, and the Association would incur legal costs in executing easements from each homeowner to access their sprinkler control box for setting the timing of the sprinkler systems in these areas.
- G.** The Board desires to formalize and clearly establish who is responsible for maintenance of the Drainage Swales and what maintenance is required for these areas.
- H.** To accomplish such purpose, the Board hereby adopts this Resolution

**II. DEFINED TERMS**

- A.** **Association** is Tuscany Homeowners' Association, Inc., a nonprofit corporation organized under the laws of the State of Idaho.
- B.** **Board** refers to the Board of Directors of the Association, duly elected pursuant to the Governing Documents.

- C. **Declaration** is the *Declaration of Covenants, Conditions and Restrictions for Tuscany* recorded in the records of Ada County, State of Idaho, and any amendments thereto.
- D. **Drainage Swale** is the drainage swale located in the public right of way adjacent to Lots subject to the Declaration between the sidewalk and the road.
- E. **Governing Documents** include the Declaration, Bylaws, Rules and Regulations, any Board Resolution, or otherwise adopted statements of corporate governance or intent.
- F. **Owner** refers to the owner or owners, in law or equity, of any Property included in the Declaration, including particularly any owners recorded on title in the records of Ada County, State of Idaho.
- G. **Property** refers to the individually-owned units or lots subject to the Declaration.

### III. LEGAL AUTHORITY

- A. **Rule Enforcement.** The Association is authorized by Article V, Section 5.5.1.4 and 5.5.2.7 of the Declaration, to adopt such rules and regulations as the Board deems reasonable, including those governing the use of the Common Areas.
- B. **Declaration Authority.** Article VI of the Declaration, entitled “Light Maintenance of Storm Water Facilities,” allows the Board of Directors, in their discretion, to modify the standards for the operation and maintenance of the storm drainage system.

### IV. MAINTENANCE OF SWALES

- A. **Owner’s Responsibility.** Each Owner shall be responsible to mow, water, and maintain the sod and trees within the Drainage Swale adjacent to such Owner’s property. The swale areas must be kept in good, healthy condition, with the sod regularly mowed, fertilized, and properly irrigated. Trees must be appropriately watered and trimmed. In the event a tree must be removed and replaced, it shall be the Owner’s responsibility to do so, subject to ACC approval.
- B. **Association’s Responsibility.** The Association shall provide for annual aeration of the Drainage Swales. The Association shall retain the discretion to determine whether the maintenance and upkeep of the drainage swales associated with an Owner’s Lot is adequate, or whether remedial actions are necessary. The swales shall not be modified or altered in any way by an Owner without advance ACC approval, including the replacement or removal of trees.
- C. Neither the Association nor the Owner shall be responsible for the heavy maintenance of the Drainage Swales, including the removal and replacement of the sand window in the bottom of the Drainage Swale due to sediment accumulation, as such responsibility belongs to the ACHD.

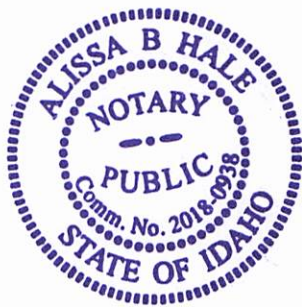
The Board of Directors of the Tuscany Homeowners’ Association, Inc., at a regular meeting of the

Board, has voted to adopt this resolution and hereby makes it a part of the policies, standards, and regulations of the Association, this 25 day of April, 2024.

[Signature]  
President, Board of Directors

Printed Name: Jason Porter

Date: 4/25/2024



County of Ada )  
                                  )ss  
State of Idaho )

The above-named President personally appeared before me and, upon presenting proof of identity, acknowledged that the Association has adopted the above Resolution.

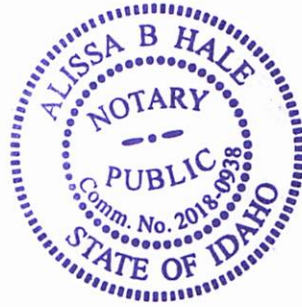
Subscribed and sworn to before me on April 25, 2024.

[Signature]  
Notary Public for Idaho  
My commission expires: 05/14/2024

[Signature]  
Secretary, Board of Directors

Printed Name: Jasm Brown

Date: 4/25/2024



County of Ada )  
                                  )ss  
State of Idaho )

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