

**LICENSE OF OCCUPATION**

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THIS LICENSE OF OCCUPATION made this 1<sup>st</sup> day of SEPTEMBER, A.D., 2015

## **ARTICLE 1 GRANT OF LICENSE OF OCCUPATION**

### **Section 1.01**

Parkland County, a municipal corporation incorporated under the laws of the Province of Alberta and in the Province of Alberta, (hereinafter called the "Owner") being registered as owner, subject however to such encumbrances, liens and interests as are notified by memorandum underwritten (or endorsed hereon) of the lands described in **Schedule "A"** hereto, does hereby grant a license of occupation to:

### **HYCREST PLACE COMMUNITY ASSOCIATION**

A society incorporated under the Societies Act of Alberta, the said lands (hereinafter referred to as "the Premises") to be held by the Occupant for the space of twenty-five (25) years from the 1<sup>st</sup> day of January, A.D. 2013 (hereinafter called "the Commencement Date"), and from thenceforth next ensuing and fully to be completed and ended on the 31<sup>st</sup> day of December, A.D. 2037 (but subject to prior termination in the events hereinafter set forth, and which the Owner and the Occupant agree to observe and perform, as the same may be applicable to each of them respectively.

## **ARTICLE 2 PAYMENT OF OCCUPANCY FEE**

### **Section 2.01**

The Occupant shall yield and pay for the said term on the Commencement Date the lump sum of **ONE (\$1.00) DOLLAR**, the sum of which is hereby acknowledged. There is to be no other occupancy fee payable by the Occupant to the Owner during the term of this License, except as specified in this License.

## **ARTICLE 3 TITLE TO AND CONDITION OF PREMISES**

### **Section 3.01**

The Occupant acknowledges and agrees that the Occupant has thoroughly inspected the Premises and that the Occupant accepts the Premises "as is", knowing their condition and that the Owner has made no representation or warranty with respect to the condition of the Premises, or the suitability of the Premises for the use proposed by the Occupant.

## **ARTICLE 4 TAXES AND IMPOSITION**

### **Section 4.01**

The Occupant shall in each and every year during the Term hereof pay and discharge when due:

- (a) all taxes, charges, rates and assessments, which may be levied or assessed against, or in respect of the Occupant's use or occupancy of the Premises, and

- (b) all charges for water, sewer, gas, light, heat, telephone, electricity, power and other utility and communication services rendered or used on or about and serving the Premises.

## **ARTICLE 5 COMPLIANCE WITH LAW**

### **Section 5.01**

During the Term hereof the Occupant shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations of the federal, provincial and municipal governments and of all other authorities having or claiming jurisdiction over the Premises or the condition, equipment, maintenance, use, occupation or alteration thereof or addition thereto.

## **ARTICLE 6 INSPECTION**

### **Section 6.01**

Upon reasonable notice the Owner, the Owner's agents and employees may enter the Premises at all reasonable times during the construction of all buildings, replacements, major structural alterations, additions, changes, substitutions or improvements that may be authorized by this License and the Owner for the purpose of inspecting and ascertaining whether the work conforms with the approved plans, drawings and specifications and the stipulations contained in them, but in so doing will not disturb or interfere with the Occupant's operations more than is reasonably necessary in the circumstances.

### **Section 6.02**

Upon reasonable notice, it shall be lawful for the Owner, its employees or agents during normal business hours during the Term hereof, to enter upon the Premises and enter into any buildings located on the Premises for the purpose of inspection (and for such other purposes as the Owner may reasonably consider necessary for the protection of its interests under this License) and all want of maintenance or reparation that upon such view shall be found, and for which notice in writing shall be delivered to the Occupant, the Occupant shall forthwith, after such notice, proceed to repair and make good accordingly. In exercising its rights hereunder, the Owner shall not disturb or interfere with the Occupant's operations more than is reasonably necessary in the circumstances.

## **ARTICLE 7 BUILDERS' LIENS**

### **Section 7.01**

The Occupant shall forthwith pay off and cause to be discharged any builders' or similar liens that may be filed against the Premises during the Term of this License for work or materials supplied at the request of the Occupant.

Provided further, that the Owner may upon reasonable prior written notice to the Occupant, but shall not be obliged to, discharge any such lien if in the Owner's reasonable judgment, the Premises, or the interest of the Owner therein has become liable to any forfeiture, foreclosure or sale or is otherwise in jeopardy, and any amount paid by the Owner in so doing, together with all reasonable costs and expenses of the Owner, shall be deemed to be additional rent payable hereunder and shall be repaid to the Owner on demand together with interest at

eighteen (18%) percent per annum from the date of payment by the Owner until paid.

## **ARTICLE 8 REPAIRS AND MAINTENANCE**

### **Section 8.01**

The Owner shall not be obliged to furnish any service or facilities, or to make any repairs or alterations in or to the Premises or to any buildings, improvement or structure placed upon the Premises, the Occupant hereby assuming the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Premises and any building, improvement or structure placed upon the Premises.

### **Section 8.02**

The Occupant shall, during the term of this License, and at its own cost and expense throughout the Term keep or cause to be kept in good order, condition and repair the Premises, and all buildings, improvements and structures placed upon the Premises with the consent of the Owner pursuant to the terms of this License.

### **Section 8.03**

The Occupant covenants not to commit or allow waste or injury to the Premises and not to use or occupy or permit to be used or occupied the Premises for any purpose whatsoever, other than for the purpose of constructing and operating public recreation and social facilities for the use of the general public, the Owner, and members of the Occupant and for no other purpose whatsoever, unless otherwise authorized in writing by the Owner.

### **Section 8.04**

The Occupant shall cause all work done in connection with any construction, repair, alteration or replacement to be done promptly and in a good and workmanlike manner in accordance with the provisions of Article 5 hereof.

### **Section 8.05**

The Occupant shall at all times ensure that the general public are permitted to use the recreational facilities constructed by the Occupant on the Premises upon the payment of a reasonable fee or a fee for membership in the Occupant.

## **ARTICLE 9 OCCUPANT'S IMPROVMENTS TO THE PREMISES**

### **Section 9.01**

The Occupant shall be at liberty to construct only those improvements, buildings and structures on the Premises which are described on **Schedule "B"** hereto and the Occupant shall, from time to time, and subject to the other provisions contained elsewhere in this License, be at liberty to make alterations and additions to any such improvement, building and structure.

### **Section 9.02**

Prior to the commencement of any work by the Occupant on the Premises or the placement by the Occupant of any improvements, buildings, or structures on the Premises, or the alteration or addition to any improvement, building or structure on the Demised Premise, the Occupant shall prepare and submit to the Owner such plans and specifications as the Owner shall require showing in detail the work to be carried out by the Occupant and the improvements, buildings and structures to be placed by the Occupant on the Premises.

### **Section 9.03**

Only such work and improvements shall be carried out or placed on the Premises by the Occupant as shall have been approved in writing by the Owner.

### **Section 9.04**

The Occupant, at the sole cost and expense of the Occupant, shall at all times ensure that all work carried out and improvements placed on the Premises comply with the plans and specifications approved by the Owner, and that all work and improvements shall be completed by the Occupant on or before such date as may be specified by the Manager of Community and Protective Services of the Owner or such other person as may be designated by the Owner.

### **Section 9.05**

The Occupant shall at all times ensure that any work carried out by the Occupant on the Premises and that the use and occupation of the Premises is carried out or conducted subject to the conditions and restrictions described on **Schedule "C"** hereto.

### **Section 9.06**

The Occupant shall not cut, damage, or remove any trees, shrubs or plants on the Premises or excavate or alter the surface of the Premises in any manner whatsoever without first obtaining the approval in writing of the Owner and Section 9.02 shall apply mutatis mutandis to any cutting, damage or removal of any trees, shrubs or plants and the alteration of the Premises.

## **ARTICLE 10 DAMAGE OR DESTRUCTION**

### **Section 10.01**

The partial destruction and damage by fire or other casualty of a building or buildings, improvement or structure constructed on the Premises shall not terminate the Lease and the Occupant shall forthwith repair or replace the damage or partial destruction.

### **Section 10.02**

The Occupant covenants that in the event of complete or substantially complete destruction of a building or buildings, improvement or structure constructed on the Premises, either the Owner or the Occupant within thirty (30) days of the date of the destruction of the said building or buildings, improvement or structure shall be at liberty to terminate this License by notice in writing to the other, such notice to be given in the manner hereinafter set forth.

### **Section 10.03**

In the event that neither the Owner nor the Occupant shall elect to terminate this License pursuant to Section 10.02 then the Occupant, subject to the compliance with the provision of Article 9 hereof shall either:

- (i) remove, reconstruct or replace the said building or buildings, improvement or structure with a new building, structure or improvement in accordance with any agreement which may be made by it with the Owner, or
- (ii) replace the said building or buildings, improvement or structure in the absence of an agreement, with a replacement building or buildings, improvement or structure.

## **ARTICLE 11 SURRENDER OF PREMISES**

**Section 11.01**

The Occupant will at the expiration or other termination of this License for any cause whatsoever peaceably surrender and yield up to the Owner the Premises together with all fixtures constituting a part thereof and the Occupant shall not be entitled to any compensation or payment from the Owner for any structure, improvement, alteration, building or buildings constructed by the Occupant on the Premises and the said structure, improvement, alteration, building or buildings shall belong to the Owner.

**Section 11.02**

Notwithstanding clause 11.01 of this Article, on the expiration or other termination of this License for any cause whatsoever, the Occupant, if requested to do so by the Owner, shall remove structures, improvements and buildings placed upon the Premises by the Occupant and the Occupant shall restore the Premises to a condition which is acceptable to the Owner.

**Section 11.03**

Notwithstanding any provision contained in this License to the contrary, upon the termination or earlier termination of this License, the Occupant, with the consent in writing of the Owner, shall be entitled to remove all improvements, structures, alterations, building or buildings constructed by the Occupant or placed by the Occupant on the Premises, subject to the restoration by the Occupant of the Premises, at the Occupant's expense, to a condition acceptable to the Owner.

**ARTICLE 12 RENEWAL OF LICENSE OF OCCUPATION****Section 12.01**

If the Occupant duly and regularly performs all and every of the covenants and agreements herein on the part of the Occupant to be paid and performed, the Owner will, at the expiration of the original term hereof and upon the written request of the Occupant given as herein provided to the Owner not later than ninety (90) days prior to the expiration of the original term hereof, grant to the Occupant a renewal of this License of Occupation for ten (10) years on such terms as may be agreed upon by the Owner and the Occupant.

**ARTICLE 13 INSURANCE****Section 13.01**

The Occupant shall throughout the term hereof in respect of the Premises, provide and keep in force (or cause to be provided and kept in force in respect of the Premises) at its expense insurance as follows:

- (a) if requested by the Owner, fire and extended coverage for all improvements, buildings, and structures on the Premises;
- (b) comprehensive general liability insurance for bodily injury and/or death and damage to property of others for a minimum amount of TWO MILLION (\$2,000,000.00) DOLLARS, per occurrence or such other amount as the Owner may require, written on an inclusive basis. Proof of insurance to be provided to Parkland County, Recreation, Parks and Culture Services by January 1<sup>st</sup> annually.

**Section 13.02**

All such insurance required above shall be with companies approved by the Owner, shall be in amounts which the Owner acting reasonably shall from time to time reasonably determine as being reasonable and sufficient, and shall require at least thirty (30) days prior, written notice by registered mail to the Owner of any cancellation or change in coverage or expiry thereof. The Occupant shall procure renewals of all such insurance policies required to be carried hereunder from time to time at least thirty (30) days before the expiration thereof and shall from time to time provide evidence satisfactory to the Owner, by receipts or otherwise, that such insurance is in full force and effect. Each policy required to be carried hereunder by the Occupant shall be signed by the insurer issuing the same and a certified copy of such policy shall be deposited with the Owner.

## **ARTICLE 14 INDEMNITY**

### **Section 14.01**

The Occupant acknowledges and agrees that the Occupant shall be solely responsible for the security and use of the Premises and that the Owner shall not be liable for the death of any person or for any injury to any person or for any damage done to any property, at any time on, or in the vicinity of the Premises including any adjoining sidewalks, whether arising from the fault or negligence of the Occupant, its agents, contractors, employers, invitees or licensees or from any other cause whatsoever and the Occupant covenants to indemnify and save harmless the Owner from and against all actions, suits, damages, loss, costs, claims and demands of every kind arising out of such injury, loss and damage.

### **Section 14.02**

Without limiting the generality of the provisions contained in Section 14.01 above (but subject to the qualifications contained in Section 14.01 above), the Occupant covenants to indemnify and save harmless the Owner in its capacity as Owner under this License, from all claims, actions, costs and loss of every nature arising during the Term out of:

- (a) a breach of, or non-compliance with a covenant, agreement or condition on the part of the Occupant contained in this License, and
- (b) injury to a person, occurring on or about the Premises or on an adjacent sidewalk including death resulting from the injury; and
- (c) damage to or loss of property arising out of the use and occupation of the Land or the Premises or the use of the adjacent sidewalks.

## **ARTICLE 15 ASSIGNMENT**

### **Section 15.01**

The Occupant shall not at any time sell, or assign this License or part with possession of the Premises or any part thereof directly or indirectly.

### **Section 15.02**

The Occupant shall not alter its constitution or bylaws in any manner, which may result in the Premises not being used for public recreation or social purposes for use by individuals whom reside within the boundaries of Parkland County, the Owner, as well as the members of the Occupant.

## **ARTICLE 16 DEFAULTS AND REMEDIES**

**Section 16.01**

If and whenever:

- (a) the Occupant shall default in the payment of any sum required to be paid by the Occupant by a provision of this License, and such default shall continue for seven (7) days after notice thereof by the Owner to the Occupant, or
- (b) the Occupant shall violate any of the provisions of Article 15 thereof or Section 8.03 hereof; or
- (c) the Occupant shall default in the performance or observance of any of the other agreements, terms, covenants or conditions on the Occupant's part to be performed or observed hereunder and such default shall continue for a period of fifteen (15) days after notice thereof by the Owner to the Occupant, or if such default cannot reasonably be cured within such fifteen (15) day period, the Occupant shall not in good faith have commenced to cure the same within fifteen (15) day period, or shall have failed thereafter diligently to proceed therewith to completion; or
- (d) the Occupant file in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of the Occupant's property, or the Occupant takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or if any action is taken with a view to the winding up, dissolution or liquidation of the Occupant or if there is filed against the Occupant in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of the Occupant's property, and the Occupant, as the case may be, does not contest promptly and in good faith and with due diligence and thereby secures within thirty (30) days after the commencement of any such proceedings the dismissal of such petition; or
- (e) the Occupant ceases to exist or ceases to actively function as a community league, then and in any such event the Owner may without notice or any form of process whatever forthwith re-enter upon the Premises or any part thereof in the name of the whole, whereupon at the option of the Owner,
- (f) this License and the Term hereof as well as all right, title and interest of the Occupant hereunder shall forthwith terminate, notwithstanding anything contained herein or in any statute or law to the contrary.

**Section 16.02**

In the event that the Occupant shall not have commenced the use of the Premises for the said purpose described in Section 8.03 by the date specified by the Owner's Manager of Community and Protective Services, or such other person as may be designated by the Owner, the Owner shall be at liberty to terminate this License on thirty (30) days' notice in writing to the Occupant.

**ARTICLE 17 WAIVER****Section 17.01**

The failure of the Owner to insist in any one or more cases upon the strict performance of any of the terms, covenants or conditions of this License or to exercise any option herein contained shall not be construed as a waiver or a relinquishment of such term, covenant, condition or option.

**ARTICLE 18 QUIET ENJOYMENT & TERMINATION**



**Section 18.01**

The Owner covenants that upon the Occupant paying the Occupancy Fee hereby reserved, and performing and observing the covenants, obligations and agreements herein on its part contained, the Occupant shall and may peaceably occupy and enjoy the Premises for the term hereby granted without any interruption or disturbance from the Owner or from any other person or persons lawfully claiming by, from or under it.

**Section 18.02**

Either party to this License Agreement may terminate the agreement without cause, upon providing the other party 365 days' notice in writing of the termination.

**ARTICLE 19 NOTICE, DEMANDS AND OTHER INSTRUMENTS****Section 19.01**

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms of this License shall be in writing and shall be deemed to have been properly given if personally served, sent by registered mail or certified mail, postage prepaid, return receipt requested, or sent by email with report of delivery to:

A. The Owner, at:  
Attn: Manager, Community and Protective Services  
Parkland County  
53109A SH 779  
Parkland County, AB T7Z 1R1  
FAX: 780-968-8403

B. The Occupant, at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provided however that such addresses may be changed upon five (5) days written notice thereof, similarly given, to the other party.

**Section 19.02**

The date of receipt of any such notice, demand, request, consent, approval or other instrument shall be deemed to be as follows:

- (a) in the case of personal service, the date of service;
- (b) in the case of registered or certified mail, the fifth day following the date of delivery to the  
Post Office provided however that in the event that at the time notice is so served there is any interruption whether anticipated or existing of mail service affecting the delivery of such mail, then notice shall not be deemed to have been served until one (1) week after the date that normal mail service is restored;
- (c) in the case of email, the date of sending, excluding weekends and holidays

## ARTICLE 20 NO PARTNERSHIP OR JOINT VENTURE

### Section 20.01

This License is not intended, nor shall it be construed to create the relationship of either a partnership or a joint venture between the Owner and the Occupant.

## ARTICLE 21 SUCCESSORS AND ASSIGNS

### Section 21.01

It is agreed that this License extends to, is binding upon and ensures to the benefit of the parties and their respective successors and assigns as limited in the Lease.

## ARTICLE 22 ENTIRE AGREEMENT

### Section 22.01

This License contains the entire agreement between the Owner and the Occupant and may not be amended except by an instrument of equal formality signed by the parties to the Lease or by their successors or permitted assignees.

## ARTICLE 23 ACCEPTANCE

### Section 23.01

The Occupant does hereby accept this License of the Premises, to be held by it as Occupant, and subject to the conditions, restrictions and covenants above set forth.

IN WITNESS WHEREOF the Owner and the Occupant have executed this License under their respective corporate seals, as witnessed by the hands of their respective proper officers duly authorized in that behalf, the day and year first above written.

PARKLAND COUNTY

PER: 

PER:   
Acting CAO

HYCREST PLACE COMMUNITY ASSOCIATION

PER: 

PER: 

<b>SCHEDULE "A"</b>
---------------------

Lot 30 MSR, Block 4, Plan 782-2504 – SW 28-53-1-W5th (Hycrest Place II)  
and  
Lot 31 MSR, Block 2, Plan 782-2504 - SW 28-53-1-W5th (Hycrest Place II)  
and  
Lot 32 MSR, Block 2, Plan 782-2503 - NW 28-53-1-W5th (Hycrest Place I)  
will remain under maintenance jurisdiction of Parkland County.

<b>SCHEDULE "B"</b>
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Facilities and amenities approved to be developed by the Hycrest Place Community Association on the aforementioned reserve property are:

- Parking area
- Ball diamonds
- Washroom
- Skating rink
- Horseshoe pits
- Fire pit area
- Playground
- Rink shack
- Trails

Beautification Program

- Plants and trees
- Landscaping

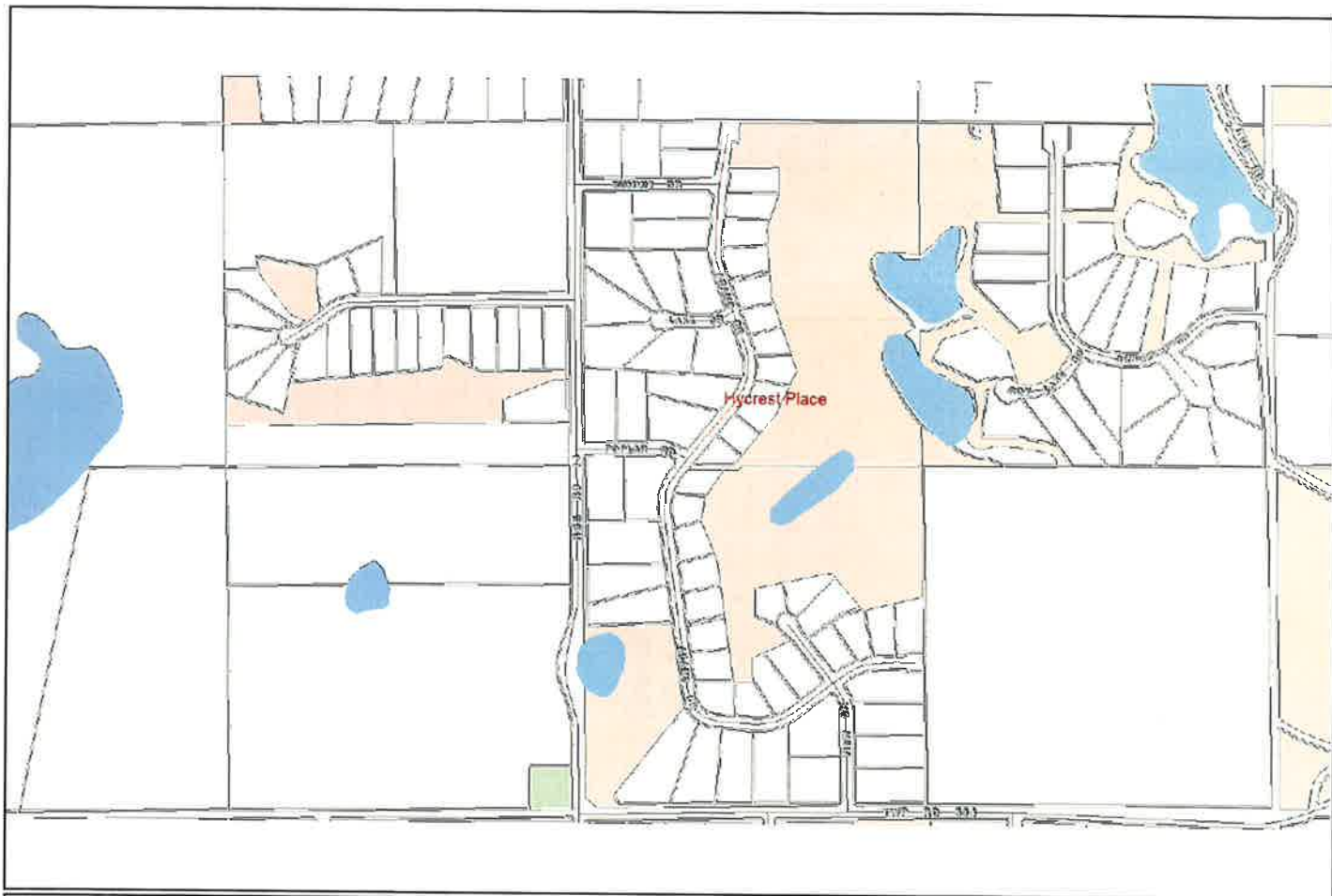
Any future development of recreational amenities on this municipal reserve parcel must be submitted in writing to Parkland County Council and approved by Council prior to development.




In addition, the Tenant is responsible for the construction and construction costs associated with the development of any project approved by the Landlord.

In the event that Parkland County considers selling this Demised Premises in the future, the lessee will be given a reasonable opportunity to purchase the said property at a price to be determined by the Landlord.

## SCHEDULE "C"

1. The Occupant shall be responsible for maintenance requirements as outlined, but not limited, to the following:
  - A. Glass or debris cleaned and disposed of;
  - B. Grass is to be regularly maintained and the land cleared of piled debris;
  - C. Trees to be maintained and wind fallen trees are to be safely removed and disposed of; and
  - D. Grass clippings and other refuse must be removed from the site.
  - E. All facilities must be inspected and repaired on a regular basis (and as a minimum once a month) to ensure safe use; inspections and actions taken are to be entered into a permanent record book and are available for inspection by the Owner or his designate.
  - F. The site shall be maintained in a weed free manner satisfactory to the Manager of Agricultural Services for the Owner or his designate.
2. The Occupant is responsible to provide, at the Occupant's own expense, a method of garbage disposal which meets with the approval of the local Health Authority.
3. All signs and the construction standards shall be approved by Parkland County prior to commencement.
4. A sanitary toilet will be allowed providing the location of these facilities are a minimum of .6 metres from the property line. The toilet must comply with requirements of the local Health Authority. Every effort must be made to blend the facilities with the natural surrounds of the area.
5. Fires will not be permitted on the Premises, unless approved in advance by the Owner, and all necessary permits are in place prior to the fire.
6. Parkland County roadside parking restrictions will apply. The Occupant is responsible to provide on-site parking.
7. Further renovation or new construction of playground equipment shall comply with the Canadian Standards Association (CSA) standards for children's play spaces and equipment.
8. This land is governed in accordance with the by-laws of Parkland County. It is the sole responsibility of the Occupant to be familiar with these by-laws.



 		Hycrest Place Community Association		
<b>Disclaimer:</b> Parkland County offers this information in good faith, but makes no warranty with regard to the correctness, and accuracy of the data.		Created by		
		Date	Tue Sep 1, 2015 1:17PM	
		Department	CPS	
		Scale	1:7338 Metres	