Recorded in Boone County, Missouri
Date and Time: 02/28/2020 at 02:39:43 PM
Instrument #: 2020003794 Book: 5146 Page: 28
Instrument Type: DECL
Recording Fee: $174.00 S
No. of Pages: 51
Nora Dietzel, Recorder of Deeds

DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS OF CLEAR CREEK ESTATES, A SUBDIVISION OF BOONE COUNTY, MISSOURI

Developer/ Grantor: **JQB Construction, Inc.,** a Missouri corporation [mailing address: JQB Construction, Inc., Attn: J. Quinn Bellmer, President, 6209 Upper Bridle Bend Drive, Columbia, MO 65201]

Grantee: **Clear Creek Estates Homes Association,** a not for profit corporation of the State of Missouri, and all Owners of Lots within Clear Creek Estates [mailing address: Clear Creek Estates Homes Association, Attn: J. Quinn Bellmer, President, 6209 Upper Bridle Bend Drive, Columbia, MO 65201]

Re: The following described real estate situated in Boone County, Missouri:

All of that land included in Clear Creek Estates, Plat No. 1, recorded in Plat Book 54 at Page 9 of the Real Estate Records of Boone County, Missouri, including Lots 101 through 138, both inclusive, shown by such Plat, and Common Lots C-1, C-2, C-3, C-4 and C-5 as shown by such Plat, and streets shown by such Plat

Date of Document: February 28, 2020

DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS OF CLEAR CREEK ESTATES, A SUBDIVISION OF BOONE COUNTY, MISSOURI

This Declaration of Covenants, Easements and Restrictions is made on this 28th day of February, 2020, by **JQB Construction, Inc.**, a Missouri corporation, (the "Developer").

BACKGROUND RECITALS
["Recitals"]

The Developer is the owner of a tract of land located in Boone County, Missouri, which is legally described as follows:

> All of that land platted as Clear Creek Estates, Plat No. 1, recorded in Book 54 at Page 9 of the Real Estate Records of Boone County, Missouri, including Lots 101 thru 138, both inclusive, Common Lots C-1, C-2, C-3, C-4 and C-5, all as shown by such Plat.

The foregoing real estate is referred to herein as the "Parcel."

The Developer is developing the Parcel as a single-family residential development known as "Clear Creek Estates" (the "Development"). In order to make the Parcel and the Development subject to certain easements, restrictions, reservations and covenants, the Developer executes and records this Declaration of Covenants.

DECLARATION OF COVENANTS

NOW, THEREFORE, the Developer hereby declares that all of the real estate contained within the Parcel, and any Lots contained therein and all Residences or improvements now or hereafter located thereon, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, liens and charges, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the Development. These easements, covenants, restrictions, conditions, liens and charges shall run with the land and the real property, and shall be binding on all parties having or acquiring any right, title or interest in the real property of the Parcel, and any Lot contained therein, and any improvements or Residences located thereon, and shall inure to the benefit of each owner thereof. The Developer further declares as follows:

ARTICLE I
DEFINITIONS AND MISCELLANEOUS TERMS AND CONDITIONS

This instrument shall constitute the "Declaration". For the purpose of brevity, certain words and phrases used in this Declaration are defined as follows with the following terms and conditions to apply:

Section 1. Architectural Control Power and Architectural Review Power shall mean and refer to the right of the Developer, the Association's Board of Directors or the Association's

Architectural Control Committee, as the case may be, to review and either approve or reject Plans and Specifications as described in Article VII of this Declaration.

Section 2. Association means **"Clear Creek Estates Homes Association,"** a not-for-profit corporation of the State of Missouri, to be established as hereinafter provided, which shall serve as the Association of Lot Owners.

Section 3. Builder shall mean an individual, company or corporation who or which acquires a Lot for purposes of building or constructing a Residence thereon for sale to others. Any Residence or improvement erected on any such Lot, must be erected in accordance with the Architectural Control provisions set forth in this Declaration. A sale by the Developer to a Builder shall not constitute an assignment of the Class B votes attaching to such Lot, or of any of the Development rights or Architectural Control attaching to such Lot, unless the Developer assigns to the Builder the Class B voting rights and membership attributable to such Lot by specific written assignment. All Lots sold or conveyed to a Builder shall remain subject to the Architectural Control provisions hereinafter set forth in this Declaration.

Section 4. County shall mean Boone County, Missouri, a public corporation of the State of Missouri, in which the Development is located.

Section 5. Class A Member shall mean a Class A Member of the Association and shall mean an Owner of a Lot other than the Developer, with the additional qualifications described below.

Section 6. Class B Member shall mean the Developer and any assignees of any of the Developer's Class B membership rights. A deed or other conveyance by the Developer shall not assign any of Developer's rights as the Developer, or any of the Developer's Class B memberships, unless all such rights or Class B memberships are specifically mentioned therein. Assignments of rights as the Developer, or assignments of the Developer's Class B membership rights, can be made only by written deeds, warranty deeds, or specific instruments of assignment, which specifically refer to the rights and memberships assigned.

Section 7. Common Area shall mean and include the following:

a. Lots C-1, C-2, C-3, C-4 and C-5 of Clear Creek Estates, Plat No. 1, as shown in the plat recorded in Plat Book 54 at Page 9 of the Real Estate Records of Boone County, Missouri;

b. Any land or easements providing for any entryway monuments, gates or signs for the Development;

c. Cul de sac islands and medians, if any, located within any streets within the Development, other than those islands which are publicly maintained;

d. Any Common Areas or Common Lots shown by any plat;

e. Any land which is subject to any landscaping easement;

f. Any Stormwater Facilities as defined in this Declaration;

g. Any land containing pedestrian trails, pedestrian access easements, trails or paths or similar improvements which are established by any plat or otherwise; and

h. Any Lot, easement, land or parcel which the Developer may hereafter declare to be Common Area.

Section 8. Common Elements shall mean all structures and improvements now or hereafter erected or constructed on any Common Area. The Common Elements include entryway monuments, entryway structures, entryway signs, lawns, trees, shrubs, plants, ground cover and other growing material, lighting, light fixtures and all other landscaping and improvements placed on any Common Area. Common Elements further include any improvement constructed or located on any Common Area, including, but not limited to, the following:

a. All ponds, lakes, stormwater detention basins or Stormwater Facilities, whether or not located within any Common Area, as all such ponds, lakes, stormwater detention basins or Stormwater Facilities shall be considered to be Common Elements;

b. Entryway monuments, structures and signs for the Development, and all landscaping, lighting and all improvements associated with such items;

c. Landscaping and all structures and improvements located within any Common Areas or any landscaping easements;

d. Trees, shrubs, lawns, ground cover and other landscaping located within any Common Area and all improvements located within any cul de sac island, street island, median or similar area which are not publicly maintained;

e. Any pedestrian trails and trail easements, and any pedestrian or biking trails and other associated improvements located thereon and all improvements related thereto;

f. Any Stormwater Facilities as defined herein;

g. Any amenities within the Development, which are intended for use by the Lot Owners; and

h. All Drainage Easements shown by the Plat, and any drainageways, stormwater flowages, wet or dry creeks or streams, or wet or dry or intermittent streams or creeks, located within the Development, whether located within a Common Area or elsewhere, as all conduits, streams (wet, dry or intermittent), ditches, swales and similar geographic features which provide for stormwater flow or stormwater drainage from more than one Lot shall be considered to be a Common Element and Common Area, whether located within the boundaries of a Lot or any defined Common Area.

Section 9. Developer shall mean and refer to JQB Construction, Inc, a Missouri corporation, and any successors as the Developer to which it shall assign all or any portion of its

Developer's Rights under this Declaration. A conveyance by the Developer by Warranty Deed or otherwise shall not be deemed to be an assignment of any of the Developer's rights as the Developer unless such rights are specifically mentioned in such conveyance. Such rights can only be assigned by a written assignment, deed, deed of trust or other similar instrument by the Developer, which specifically refers to the rights of the Developer under this Declaration.

Section 10. Development shall mean all real estate contained within the Parcel and all Residences and improvements now or hereafter located thereon, all of which shall be known as "Clear Creek Estates."

Section 11. Lot means each of Lots 101 through 138, both inclusive, as shown by the Plat of Clear Creek Estates, Plat No. 1, recorded in Book 54 at Page 9 of the Real Estate Records of Boone County, Missouri, but excluding Common Lots C-1, C-2, C-3, C-4 and C-5 as shown by such Plat, and any platted Lots shown on any plat which are designated as "C" Lots or are designated as "Common Area," or which are dedicated by the Developer as "Common Area." The term "Lot" is intended to mean and include only a platted Lot which is intended to be occupied by a Residence and shall not include any Lot designated as a Common Area

Section 12. Lot Owner means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Lot.

Section 13. Parcel means that parcel of land platted as Clear Creek Estates, Plat No. 1, by the Plat of Clear Creek Estates, Plat No. 1, recorded in Plat Book 54 at Page 9 of the Real Estate Records of Boone County, Missouri.

Section 14. Person means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 15. Plat means the plat of Clear Creek Estates, Plat No. 1 hereinabove described in this Declaration. The Plat shall further include any amendments of any plat which are made by the Developer or which are made with the consent of the Developer or in accordance with the Architectural Control provisions of this Declaration.

Section 16. Record means to record in the Office of the Recorder of Deeds of Boone County, Missouri, wherein the Property is located.

Section 17. Residence means and refers to a separate, detached house located within the Development that is intended to be used as a residence or dwelling. It is intended that each Lot will contain only one Residence which shall be used solely for single-family residential purposes.

Section 18. Stormwater Covenant means and refers to any covenants, contracts or agreements, with the County or any other governmental authority having jurisdiction over the Development which deal with or relate to any Stormwater Facility located within the Development or which deal with or relate to any Stormwater Plan for the Development.

Section 19. Stormwater Facilities shall mean the following if located within the Parcel:

a. Any ponds, lakes, wet or dry stormwater detention, retention, holding, cleaning or treatment impoundments or basins now or hereafter located within the Development;

b. Any stormwater receiving or treatment wetlands now or hereafter located within the Development;

c. All water impoundments now or hereafter located within the Development;

d. Swales, ditches, drainageways, creeks, streams (wet or intermittent) or other water conveyances or cleansing devices or components located within any Common Area, or, if not located within any Common Area, is located within one or more Lots but which serves more than one Lot, or which is located within the boundaries of a Lot and which serves another Lot other than the Lot the boundaries within which it is located;

e. Any, swale, ditch, drainageway, creek, pond, lake, impoundment or similar feature which is the subject matter of any Stormwater Covenant, now or in the future;

f. Any Drainage Easements established by any plat which, to the extent not publicly owned or not publicly maintained, shall be a Common Area and Common Element;

g. Any facility or component described in any Stormwater Covenant, or which implements the provisions of the Stormwater Ordinance or the Stormwater Plan, wherever located,

all of which shall be Common Elements of the Development.

Section 20. Stormwater Ordinance shall mean the stormwater ordinance of Boone County, Missouri as it may be amended from time to time.

Section 21. Stormwater Plan shall mean any Stormwater Plan, or Stormwater Runoff Plan or similar plan submitted to any governmental entity pursuant to any ordinance, law, regulation or requirement which requires submission of a plan for management of stormwater.

Section 22. Tree Preservation Easement. The Tree Preservation Easement shall mean and refer to that certain Tree Preservation Easement recorded at Book 4948, Page 165 of the Real Estate Records of Boone County, Missouri.

ARTICLE II
MEMBERSHIP IN THE ASSOCIATION

Every Lot Owner, other than the Developer, shall automatically be a Class A Member of the Association, shall be subject to the jurisdiction of the Association, shall be subject to assessments levied by the Association under the following provisions of the Declaration and shall be entitled to all rights and privileges of Class A membership in the Association. The foregoing is not intended to include persons who hold an interest in a Lot merely as security for the performance of an obligation as members of the Association. There shall be one (1) Class A membership in the Association appurtenant to the ownership of any Lot which is subject to

assessment by the Association. Class A membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of a Lot shall be the sole qualification for Class A membership in the Association. No Lot Owner shall execute any deed, lease, mortgage or other instrument affecting title to his Lot Ownership without including therein both his interest in the Lot and his corresponding ownership. Any such deed, lease, mortgage or instrument purporting to affect the one without including also the other shall be deemed to include the interest so omitted even though the latter is not expressly mentioned or described therein.

The Developer shall be the sole Class B Member of the Association. The Developer shall become a Class A Member upon and following the termination of Class B memberships as hereinafter provided in the Declaration for each Lot in which they hold the interest required for Class A membership by this Article II. The Developer may assign all or any part of such Developer's rights as the Developer hereunder, and all or part of the Developer's Class B voting rights. However, such assignment shall be made only by warranty deeds, deeds, deeds of trust or specific instruments of assignment, properly recorded, which specifically refer to the rights to be assigned.

ARTICLE III
VOTING RIGHTS

Section 1. Membership. The Association shall have two classes of memberships as follows:

a. Class A. Class A Members shall have one (1) vote at all meetings of the Association for each Lot in which they hold the interest required for Class A membership by Article II of the Declaration. When more than one (1) person holds such an interest in any Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. There shall be one (1) Class A Membership which attaches to each Lot that is owned by a person other than the Developer and any assignee of the Developer's Rights as the Developer under this Declaration.

b. Class B. The Developer shall, at the outset, hold 43 Class B Memberships and Class B votes which represents one Class B membership and one Class B vote allocated to each of Lots 101 through 138, both inclusive, as shown by the Plat, and there being five (5) additional Class B memberships and Class B votes, to be held by the Developer, which are not assigned to or allocated to any Lot. Each of Lots 101 through 138, both inclusive, shall have allocated thereto one Class B membership and one Class B vote and, in addition, the Developer shall hold five (5) Class B votes, which are not assigned to or attributable to any Lot.

Section 2. Decrease in Number of Class B Votes. When a Lot is conveyed by the Developer to any Person other than the Developer (or an assignee of the Developer's Rights), then the Class B membership attributable to such Lot shall cease and terminate even if the Lot is conveyed to a Builder.

Section 3. Termination of Class B Votes Attributable to a Lot If Residence on Lot Is Occupied as a Residence. If a Residence on a Lot owned by the Developer is occupied as a

residence, then the Class B membership attributable to such Lot shall cease and terminate and a Class A Membership shall immediately attach thereto.

Section 4. Ultimate Termination of Class B Votes. In any event, all Class B voting rights and Class B memberships in the Association shall cease and terminate upon the happening of the earliest of the following events to occur:

a. When all Class B memberships as to all then-existing Lots contained within the Parcel and the Development have terminated;

b. On January 1, 2055;

c. The Developer elects to terminate all remaining Class B Memberships at an earlier date by recording in the real estate records of Boone County, a written instrument which terminates all remaining Class B Memberships.

Section 5. Temporary Non-Exercise of Class B Voting Rights and Class B Memberships. A failure of the Developer to cast the Developer's Class B votes or to exercise any of the Developer's rights as the Developer shall not constitute a waiver of such votes or rights. The Developer may, from time to time, elect not to exercise the Developer's Class B voting rights and Class B memberships in order to allow the Class A Members of the Association to assume the management and control of the Association for one or more probationary periods. The Developer may thereafter reassert control over the Development and the Association by again electing to exercise the Developer's Class B votes and Class Memberships and Class B voting rights. In the absence of a written, recorded expression of intention to permanently relinquish the Developer's Class B memberships and Class B voting rights, no failure by the Developer to cast the Developer's Class B votes or to exercise the Developer's Class B membership shall be deemed to be a relinquishment of the right on the part of the Developer to exercise the Developer's Class B membership rights and Class B voting rights. Further, even if the Developer elects not to cast the Developer's Class B votes or exercise the rights of the Developer's Class B memberships, then the Developer shall, nevertheless, retain all Architectural Control Powers provided for by Article VII of this Declaration, unless such Architectural Control Powers are specifically relinquished, in a writing recorded in the Real Estate Records of Boone County, Missouri.

Section 6. Class B Memberships Terminate/Class A Voting Rights Attach. From and after the happening of the earliest of those events specified in Section 4 above, all Class B memberships and Class B voting rights in the Association shall be terminated and the Developer shall be deemed to be a Class A Member, entitled to one (1) vote for each Lot in which it holds an interest required for Class A membership under the terms of Article II of the Declaration.

Section 7. Attachment of Class A Membership. If a Lot is conveyed by the Developer to any Person other than the Developer, then the Class B membership attributable to such Lot shall cease and terminate and a Class A membership shall automatically attach to such Lot.

ARTICLE IV
LOTS

All Lots shall be legally described by the identifying number pertaining to such Lot, as shown on the Plat. Every deed, lease, mortgage or other instrument may legally describe a Lot by its identifying number as shown on the Plat, and every such description shall be deemed good and sufficient for the purposes. Any description of a Lot shall be deemed to include and convey, transfer and otherwise affect the Owner's corresponding membership in the Association. Ownership of a Lot and of the Owner's corresponding membership in the Association shall not be separated. No Lot owned by any person other than the Developer shall, by deed, plat, court decree or otherwise, be subdivided, or in any other manner, separated into tracts, parcels, portions or units smaller than the whole Lot, without prior approval of the party holding the Architectural Control Powers under Article VII of this Declaration. Nothing contained herein, however, shall prevent partition of a Lot as between co-owners thereof, if such right of partition shall otherwise be available, but such partition shall not be in kind. The provisions of this Article IV to the contrary notwithstanding, the Developer reserves the right to amend the Plat as to Lots owned by the Developer by changing Lot lines of such Lots, subdividing such Lots, moving Lot lines for such Lots, increasing the number of such Lots, reducing the number of such Lots, combining such Lots, or otherwise providing for amendments of the Plat as to such Lots. There shall be no restrictions upon the Developer making any such revisions or amendments in the Plat or any plat as to any Lot or land owned by the Developer. Each of the Lots shall be subject to the provisions of this Declaration, and the Lot Owners of each of the Lots shall be subject to all of the terms, covenants, conditions and provisions of this Declaration.

ARTICLE V
THE ASSOCIATION

Section 1. Formation. The Association shall be formed for the purposes of owning and providing maintenance for Common Areas and Common Elements, acting as an association of the Lot Owners and residents of the Development and enforcing any of the provisions of this Declaration which are to be enforced by the Association. The Developer shall cause the Association to be formed by incorporating the Association in accordance with the general not-for-profit corporation law of the State of Missouri, upon the conveyance of the first Lot within the Development to a person or persons other than the Developer. Upon the formation of such Association, every Lot Owner then holding or thereafter acquiring an interest in a Lot required for Class A membership under the terms of Article II of this Declaration, shall automatically become a Class A Member in the Association.

Section 2. Bylaws. Following incorporation, the Association shall adopt bylaws which are substantially in the form of the Bylaws attached hereto as **Exhibit A**.

Section 3. Administration. The Development shall be administered by the Association, which, in turn, shall be managed by a Board of Directors. The Board of Directors shall have general responsibility to administer the Development, approve the annual budget of the Association, provide for the collection of monthly or other assessments from Lot Owners, arrange and direct (or contract for) the management of the Development, and otherwise administer with

respect to any matter generally pertaining to enhancing, maintaining, benefitting and promoting the Development.

Section 4. Board of Directors. During such time as both Class A and Class B voting rights are in existence, the Board of Directors shall consist of three (3) directors, a majority of whom (who need not be Lot Owners) shall be elected by the Class B Members of the Association, and the remainder of whom shall be natural person(s) who own a Lot elected by the Class A Members of the Association. The members of the Board of Directors elected by the Class B Members need not be Lot Owners and need not own an ownership interest in any Lots. Directors elected by Class A Members must be natural persons and must hold ownership interests in a Lot or Lots. After Class B voting rights have ceased to exist, the Board of Directors shall consist of three (3), five (5), seven (7), nine (9) or some other odd numbered number of natural persons (as determined by the Class A Members at the annual meeting of the Association), who must be Lot Owners. After Class B voting rights have ceased to exist, all members of the Board of Directors shall be elected by the members of the Association. The Directors shall be elected in that manner, and for those terms, specified by the Bylaws, except as hereinabove provided to the contrary.

Section 5. General Powers and Duties of the Association. The Association, for the benefit of all Lot Owners, shall have the following powers and duties and may pay for the exercise of such powers out of the Maintenance Fund, which is defined below:

a. All maintenance, repairs, replacements, servicing and upkeep for the Common Areas and Common Elements;

b. The establishment of reasonable rules and regulations governing the Common Areas and the Common Elements;

c. A policy or policies insuring the Association, and its members, and its Board of Directors against any liability to any persons, including Lot Owners or their invitees or tenants in such limits as the Association's Board of Directors shall, in its sole and absolute discretion, from time to time, determine appropriate. Such insurance shall be payable to the Association in trust for the benefit of the Association and the Lot Owners. The Association may also obtain Worker's Compensation Insurance to the extent necessary to comply with any applicable laws and statutes of the State of Missouri;

d. When the Association's Board of Directors, in its sole and absolute discretion, deems it advisable to do so, the retaining of the services of such accountants, attorneys, employees and other persons as the Association's Board of Directors shall, in its sole and absolute discretion, deem necessary in order to discharge the Association's duties;

e. The cutting of grass and weeds within the Common Areas and Common Elements and all Landscaping Easement areas and other easement areas established for the benefit of the Association, and providing for the maintaining of all lawns, landscaping and improvements within the Common Areas and Common Elements, and all lawns, trees, shrubs, signs, monuments, berms, lighting, electrical fixtures, irrigation systems, entryway structures and other improvements located within any such easements;

f. Providing for the payment of taxes and assessments, general and special, levied against or by reason of the Common Areas and Common Elements;

g. Obtaining, providing and paying for any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance or other items which the Association is required to secure or pay for pursuant to the terms of this Declaration, the Bylaws or by law, or required for the enforcement of any restrictions set forth in the Declaration;

h. In the discretion of its Board of Directors, providing for the maintenance and repair of any portion of any Lot, any Residence, improvement located on any Lot or of any utility line located inside a Lot, if such maintenance or repair is reasonably necessary to protect the Association, the Development, or any part, portion or aspect of the value of the Development and the Owners of said Lot have failed or refused to perform the requested maintenance or repairs within a reasonable time after written notice from the Board;

i. Enforcing those standards for maintenance, repair, replacement and upkeep hereinafter set forth in this Declaration;

j. Enforcing any of the provisions of this Declaration, including the Use Restrictions;

k. Enforcing any provisions dealing with Architectural Control which it is required to enforce in accordance with the following provisions of this Declaration;

l. Establishing, and providing for the improvement of, the modification of, the maintenance, repairs, replacement, servicing and upkeep of every kind, nature and description whatsoever of, enhancements of, the Common Elements of the Association, including, but not limited to, any and all walkways, walks, sidewalks, pedestrian walks, drainageways, drainways, drains, Stormwater Facilities and other Common Elements;

m. To take all actions which are required to properly maintain, repair, operate, keep, use and upgrade or modify to the extent necessary, any Stormwater Facility, in order to keep such Stormwater Facility in compliance with any requirements of the County or any other governmental authority having jurisdiction over the Development;

n. To provide all maintenance, repairs, replacements, servicing and upkeep of all Stormwater Facilities, including, but not limited to those shown on or required by the Stormwater Ordinance, or the Stormwater Plan, or any Stormwater Covenant, and any other Stormwater Facilities now or hereafter placed within the Development, whether same are located on Common Areas or within the boundaries of any Lot, and whether or not same are located within any Drainage Easements or Stormwater Easements; and

o. Enforcement of the Tree Preservation Easement, including, but not limited to, protection and preservation of the trees identified on Exhibit C to the Tree Preservation Easement.

Section 6. Entry Into Lots. The Association may, upon reasonable notice except in the case of emergency, enter any Lot when necessary in connection with any maintenance, repair, construction or reconstruction for which the Association is responsible, or which it is authorized or empowered to perform. Such entry shall be made with as little inconvenience to the Lot Owners as practicable, and any damage caused thereby shall be repaired by the Association and paid for from the Maintenance Fund as hereinafter established.

Section 7. Limitation Upon Power of Association and Board of Directors. The powers of the Association and its Board of Directors as hereinabove set forth shall be limited in that they shall have no authority to acquire and pay for out of the Maintenance Fund any capital additions and improvements having a total cost in excess of Twenty Thousand Dollars ($20,000.00) without the approval of a majority of the Class A Members and a majority of the Class B Members. The provisions of this Section 7 notwithstanding, however, the Association and its Board of Directors shall be authorized and required to expend from the Maintenance Fund any funds required to maintain, repair, replace, improve or upgrade any Stormwater Facility in order to keep same in compliance with any Stormwater Plan.

Section 8. Rules and Regulations. The Association's Board of Directors may adopt and amend administrative rules and regulations for the use, operation, maintenance, conservation and beautification of the Common Elements and Common Areas, and for the health, comfort, safety and general welfare of the Lot Owners and occupants of Residences located on the Lots, and for the general appearance of the Development.

Section 9. Active Business. Nothing contained herein shall be construed to give the Association or its Board of Directors authority to conduct an active business for profit on behalf of the Lot Owners.

ARTICLE VI
MAINTENANCE FUND - ASSESSMENTS

The Developer hereby covenants, and each Owner of each Lot is deemed to covenant and agree to contribute and/or pay to the Association assessments determined in accordance with the following provisions of this Article VI.

Section 1. Creation of a Lien and Personal Obligation for Assessments. The Developer hereby agrees, and each Owner of each Lot within the Development by acceptance of a deed therefor, whether or not it shall be so expressed in any deed, or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) the Annual Assessments and charges hereinafter described; (2) special assessments for capital improvements hereinafter described; (3) any special assessments hereinafter described; (4) those special assessments for contingencies and shortages hereinafter described; (5) those special assessments for replacement or non-periodic maintenance hereinafter described; (6) those special Lot assessments hereinafter described; (7) all other assessments and charges and levies provided for by this Declaration; and (8) those special assessments levied by way of a fine or other imposition in accordance with Article XI of this Declaration and any and all other special assessments and charges of any kind or nature whatsoever provided for by this Declaration. All such sums and assessments shall be fixed, established and collected from time to time as provided in this Declaration. All such Annual Assessments, special

assessments and other sums and assessments, together with interest thereon and costs of collection thereof, shall be a charge on the Lots, and each of the Lots, and shall be a continuing lien upon the Lot and each of the Lots against which each such assessment or charge is made. Each such assessment or charge shall also be the joint and several personal obligation of the person or persons who were the Owners of the Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively by the Association to discharge its duties and obligations as provided for by the Declaration.

Section 3. Section 3. Maintenance Fund. The Annual Assessments and all other special assessments and charges established and collected under the terms of this Article shall constitute a fund to be known as the "Maintenance Fund".

Section 4. Annual Assessment. Lots within the Development shall each pay and be subject to Annual Assessments as follows: Each Lot to which a Class A Membership attaches shall be subject to Annual Assessments. At the outset, the Annual Assessment shall be One Thousand and 00/100 Dollars ($1,000.00) per Lot. The first Annual Assessment as to each Lot shall be payable in one lump sum and shall be due at the closing of the first sale of such Lot to any Person other than the Developer. Thereafter, the Annual Assessment as to such Lot shall be due and payable in one lump sum as of January 1st of each calendar year.

Section 5. Contingencies and Shortages. The Board of Directors shall build up and maintain such reasonable reserves for contingencies and replacements as the Board of Directors, in its sole and absolute discretion, shall from time to time deem appropriate. Extraordinary expenditures and replacements which may become necessary during the year shall be charged first against such reserve. If the balance of the Maintenance Fund is insufficient to pay for the expenditures, repairs and replacements which the Association is obligated to perform, then the sum of the deficiency shall be shared equally by the Owners of all Lots within the Development which are then subject to Annual Assessments.

Section 6. Changing Annual Assessment. After the termination of all Class B Memberships, the Board of Directors shall meet annually on or before November 1st of each calendar year to establish the Annual Assessments for the following calendar year. The Annual Assessments must be assessed on an equal, "per lot" basis. In the event the Board of Directors fails to set an Annual Assessment for any calendar year, then the Annual Assessment for all Lots subject to assessment for such year shall be the amount of the Annual Assessments in effect for the prior calendar year.

Section 7. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy a special assessment against all Lots, in an amount determined by the Board for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, or unexpected repair or replacement of a capital improvement upon the Common Area or Common Element, or otherwise determined to be for the mutual or common benefit of all Lot Owners or the Development, and any necessary fixtures and personal property related thereto.

Section 8. Special Lot Assessment. If after thirty (30) days written notice, a Lot Owner fails to satisfy any maintenance obligations imposed upon such Lot Owner by this Declaration and if the Board of Directors, in its reasonable discretion, deems the performance of such maintenance, repair or replacement to be necessary to protect the Association or the Development, then the Board of Directors shall be permitted to cause the maintenance, repair or replacement to be performed (including, but not limited to, grass cutting or irrigation or trimming or edging or weed control, irrigation, landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair or replacement); provided, however, that the costs of same shall be charged to the Lot Owner obligated for the performance of such maintenance, repair or replacement, and that such cost shall become a Special Assessment against such Lot which shall be due and owing by the Lot Owner in time to permit timely payment of the costs of the work. Special Assessments ("Special Lot Assessments") provided for by this Section 8 shall be added to, and become a part of the assessments to which the Lot is subject, and shall constitute a lien upon the Lot, and shall be enforceable in that manner provided for in this Article VI. Each Lot Owner hereby agrees that such Lot Owner totally and completely and unconditionally releases, discharges and exonerates the Association, its Board of Directors and its officers, employees, contractors and designees, from all actions taken by them pursuant to this Section 8, and from all Special Lot Assessments which arise out of or are imposed pursuant to this Section 8, provided only that the Association, its officers, Board of Directors, employees or designees or contractors exercise good faith and their best judgment. It is agreed that maintenance of the Development and of each Lot and of the Residences thereon, and observance of all of the easements and requirements and conditions and covenants of this Declaration are of the essence in preserving the value of the Lots, the Residences thereon, and the proper use and enjoyment by all Lot Owners of their respective Lots and Residences.

Section 9. Special Assessment for Replacement or Non-Periodic Maintenance. In the event it becomes necessary to repair or replace any Common Element and if the Maintenance Fund balance is insufficient to cover the costs of such repair or replacement, then the costs of such repair or replacement shall be apportioned equally among all of the Lots then subject to Annual Assessments as a Special Assessment as to each such Lot. Each such Lot Owner shall pay the Association the Special Assessment upon receipt of written notice from the Board of Directors. The Board of Directors shall use the Special Assessment to pay the costs of such repair or replacement.

Section 10. Uniform Rate of Assessment. The Assessments must be fixed at a uniform rate for all Lots which are subject to the specific Assessments, with the exception of those "Special Lot Assessments" described in paragraph 8 above.

Section 11. Alteration of Number of Lots. The Developer reserves the right to amend the Plat by changing the number of Lots, by subdividing Lots, and by changing the boundary lines of Lots. Any Lots owned by the Association shall be considered a Common Area or a Common Element and shall not be subject to any assessment.

Section 12. Enforcement of Assessments. All Assessments shall be delinquent if not paid when due. Each delinquent payment shall immediately be subject to a daily "Late Payment

Charge" of Five Dollars ($5.00), for the first (1st) day and each subsequent day the sum remains unpaid until the earliest to occur of the sixtieth (60th) day after the sum of the Assessment became payable or the date when the sum is paid, as the case may be. Such Late Payment Charge shall become a part of the Assessment which is unpaid and shall be considered to be an Assessment for all purposes under this Article. The Assessment and Late Payment Charge must be paid by the Lot Owner of the applicable Lot. If any sum of any Assessment, together with applicable Late Charges, if any, shall remain unpaid for sixty (60) days of the date when due, then the sum of the Assessment plus the sum of the Late Charges shall bear interest at the rate of nine percent (9%) per annum beginning with the sixty-first (61st) day following the original due date and ending when paid in full.

a. All Assessments and accrued interest thereon and all costs of collection incurred by the Association in seeking to enforce payment of an Assessment and/or in seeking to foreclose upon or to enforce the lien for such Assessment (including, but not limited to, attorney's fees) shall be due and payable by the Lot Owner to the Association, and the Association may collect such Assessments (and all subsequent Assessments). All costs of collection of Assessments, including reasonable attorneys' fees, shall be added to and shall constitute a part of such Assessments and shall be chargeable and collectable as a part of the Assessments.

b. The Board of Directors may enforce Assessments as follows:

i. All Assessments provided for by this Declaration shall constitute the personal obligations of the Lot Owners who own those Lots which are charged with said Assessment. If more than one person owns a Lot, then such obligation shall be the joint and several obligation of all such persons who own said Lot. In addition, such Assessment shall constitute a lien against a Lot Owners' Lot and all improvements located thereon, including any Residence, if not paid in a timely manner.

ii. The Association may collect said Assessment by a lawsuit against the Lot Owner(s). Alternatively, or in addition, the Association may foreclose its lien against the Lot which is charged with the Assessment lien, and recover as a part of such action all interest, costs, and attorneys' fees of such foreclosure action or such lawsuit, or both.

c. The lien to secure the payment of an Assessment shall be in favor of the Association and the Board of Directors shall have the discretion as to whether or not to enforce such lien and the manner of enforcement.

d. Any lien against a Lot may be foreclosed in the same manner as a mortgage or deed of trust of real property (with full power of sale) as provided in Sections 443.190 through 443.235 of the Revised Statutes of Missouri and any amendatory or successor statutes thereto. If any such foreclosure does not result in full payment of the Assessment, then the Lot Owner shall remain obligated for the deficiency, together with interest thereon as described above and costs of collection thereof, including attorneys' fees. Each Lot Owner, by acceptance of a deed for such Lot Owner's Lot, agrees that the lien against a Lot shall constitute a lien that may be foreclosed in the manner hereinabove described and agrees that any such lien shall be treated as a special lien on the Lot Owner's Lot identical to the lien of a deed of trust upon real property (with full power

of sale). Any member of the Board of Directors of the Association or any Managing Agent of the Association may act as if he or she is the "trustee" under a deed of trust, foreclosing the lien in the manner hereinabove described in this subsection. The lien, therefore, may be foreclosed in the same manner as is provided for by the above referenced sections of the Missouri Statutes for foreclosure upon a deed of trust upon real property, with full power of sale, with each Lot Owner granting to the Association, each member of its Board of Directors, its officers and its Managing Agents, as trustee, a lien comparable to (identical to) a deed of trust lien upon real property, with the lien to be foreclosed in such manner.

e. The Association may elect to bring suit against the Lot Owner(s) for the collection of such unpaid Assessment without waiving or affecting the Association's right to assert said lien against the Lot and without affecting the priority, status, or enforceability of said lien.

f. The Association shall not be deemed to have waived any right to collect an Assessment by proceeding in a particular manner, i.e., the election by the Association to collect an unpaid Assessment by foreclosing on the Assessment lien which attaches to a Lot shall not preclude the Association from thereafter filing suit to enforce said lien, or vice versa.

Section 13. Notice and Priority of Lien in Favor of Association. The lien which secures payment of an unpaid Assessment or Assessments described in this Declaration shall have such priority as is accorded to the lien based on the date when the Association records notice of its lien in the office of the Recorder of Deeds of Boone County, Missouri. The lien in favor of the Association shall be inferior to any mortgage or deed of trust placed of record against a Lot prior to the date of recordation of such lien notice in the office of the Recorder of Deeds of Boone County. The lien in favor of the Association shall arise and constitute a lien against a Lot from and after the date of such recordation. The Association may record such lien notice in the office of the Recorder of Deeds of Boone County, Missouri any time after the date when an Assessment becomes delinquent. No prior written notice to an Owner shall be required to be given by the Association before the recordation of such notice in the office of the Recorder of Deeds of Boone County, Missouri.

Section 14. Release of Assessment Liens. The Association shall release each lien for unpaid Assessments when the unpaid Assessment is paid by recording a release of such lien in the real estate records for Boone County, Missouri.

Section 15. Relation of Assessment Lien to Other Liens and Encumbrances. An Assessment lien in favor of the Association shall be subordinate to the lien of any mortgage or deed of trust which is placed against any Lot and filed of record in the office of the Recorder of Deeds of Boone County, Missouri prior to the effective date of the Assessment lien. An Assessment lien shall be superior to the lien of any mortgage or deed of trust filed of record against any Lot subsequent to the date of the recordation of notice of such Assessment lien by the Association.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 1. Development Subject to Architectural Control. No Residence, accessory building, structure, fence, wall, enclosure, post, pole, driveway, parking area, sidewalk, walkway, or other structure or improvement of any kind whatsoever shall be constructed, erected maintained, modified, remodeled or replaced on or within any Lot unless and until Plans and Specifications for such improvement have been submitted, reviewed and approved in accordance with the provisions of this Article.

Section 2. Plans and Specifications Required. If a Builder or Lot Owner other than the Developer desires to construct, modify, remodel or replace any Residence, ancillary building or structure or any other improvement, then such Lot Owner or Builder shall submit two (2) copies of "Plans and Specifications" for the Residence or improvements which show and describe the following: the nature of the Residence or improvement, the kind, color, shape, height, exterior building materials, roof color and the roof materials of the proposed Residence or improvement, the location of such Residence or improvements on the Lot, the front, side and rear elevations of any Residence, the floor plan of any Residence, the location and paving materials for all driveways and such other information as may be reasonably required by the party then-holding the Architectural Review Power.

Section 3. Architectural Control Powers Vested in Developer. So long as Class B Memberships are in existence and the Developer owns a Lot in the Development, then all Architectural Control Powers shall be vested in the Developer. During such time as Developer holds the Architectural Control Powers, Builders and Owners shall submit Plans and Specifications to the Developer and the Developer may approve, reject or request modifications to Plans and Specifications as Developer, in its sole and absolute discretion deems appropriate. The Developer's rights to approve plans and specifications shall be absolute. No requirement that the Developer be reasonable in approving, or in refusing to approve, plans or specifications shall be deemed to be expressed or implied.

The Developer shall have the right to refuse to approve Plans and Specifications, which the Developer, in its sole and absolute discretion, finds to be unattractive, not of high quality, not in keeping with surrounding structures, incompatible with existing or planned Residences, or incompatible or inconsistent with the theme or general character of the Development.

The Developer's determinations shall be binding and absolute. The Developer shall be and is hereby excused from any liability or responsibility to anyone for any determinations made by the Developer with respect to approval or rejection of any plans, drawings or specifications submitted for approval. All rights exercised by the Developer pursuant to this Article, are exercised for the Developer's benefit alone. If the Developer approves Plans and Specifications, then the Developer shall have no liability or responsibility of any kind or nature whatsoever to the Owners of any other Lots with respect to the approved Plans and Specifications.

Section 4. Architectural Control Powers Vested in the Architectural Review Committee. Upon the termination of all Class B Memberships, the Developer's Architectural

Control Powers shall be deemed to terminate and thereafter the Architectural Control Powers shall vest in the Association's Architectural Review Committee. The Board of Directors shall appoint two members of the Board to serve as the Architectural Review Committee. After the termination of Developer's Architectural Control Powers, any Owner desiring to construct, alter, replace any Residence, ancillary building, fence, wall, enclosure, post, pole or other structure or driveway, sidewalk, walkway, or any improvement shall submit two copies of Plans and Specifications to the Architectural Review Committee. In the event the Architectural Review Committee fails to approve or disapprove such design and location within thirty (30) days after submission of the Plans and Specifications, the Plans and Specifications shall be deemed approved. All Architectural Control decisions made by the Architectural Review Committee must be sound and reasonable and must not be arbitrary or capricious. If the Committee rejects Plans or Specifications, the Committee must have reasonable grounds for such rejection.

Section 5. Developer/Architectural Review Committee to Keep Copies. The Developer or the Architectural Review Committee shall be entitled to retain one (1) complete copy of the Plans and Specifications following approval so as to enable the Developer or the Architectural Review Committee to monitor compliance with Plans and Specifications.

Section 6. Manner of Submitting Plans and Specifications. The Builder, Lot Owner or other person who seeks approval of Plans and Specifications pursuant to these Architectural Control Provisions shall have the burden of proof to prove that two copies of the Plans and Specifications were submitted to the Developer or the Architectural Review Committee, as the case may be. Such proof shall consist of a written receipt or written confirmation of receipt from the Developer or a member of the Architectural Review Committee.

Section 7. Architectural Standards: So long as this Declaration is in full force and effect, the following minimum Residence standards and architectural control standards and landscaping requirements and standards must be complied with and shall be in full force and effect:

a. Setbacks/Side Yards/Variation of Setbacks. No Residence shall encroach upon any building setback line established by the Plat.

b. Exterior Finish Materials/Roofing. All new and replacement exterior finish materials for a Residence, including those placed on the fronts, sides and rears of each Residence, including the shingles and roofing materials, exterior windows and doors, shutters, and gutters and downspout materials, and other materials or items on the exterior for each Residence, must be approved in advance by the Developer, so long as the Developer holds the Architectural Control power, and thereafter by the Architectural Review Committee. The provisions of this subsection shall apply to original materials and replacement materials, including replacement roofs, roofing materials, exterior siding, exterior windows and doors, gutters, downspouts and all other exterior finish materials.

c. Minimum Size Requirements. The following minimum size requirements shall apply to each Residence on each Lot:

A. One Story Dwellings. Each one-story dwelling shall have a minimum enclosed, finished floor area of at least two thousand seven hundred-fifty (2,750) square feet at grade or above grade.

B. Multi-Story Residences. Each multi-story dwelling shall have a minimum enclosed, finished floor area of at least three thousand (3,000) square feet at grade or above grade.

All required minimum square footage areas shall be deemed to mean and to refer to enclosed finished floor space within a Residence, as determined from the outside measurements of the Residence. However, such outside measurements shall not include any garages, carports, porches (whether or not enclosed), screened in porches, sun porches, patios, attics, decks (whether or not enclosed) or finished or unfinished space or any space within any basement, cellar or walkout basement space.

d. Three Car Garages. Each Lot must contain at least a three (3) car garage which will accommodate at least three automobiles. Such garage must be attached to the Residence, unless the Developer, in its sole and absolute discretion, approves a detached garage. If a detached garage is desired for a Lot, such Lot Owner must submit Plans and Specifications showing the location of the detached garage and all architectural features of the detached garage. If a detached garage is approved, the detached garage must be located in close proximity to the Residence and must be located such that the garage and the Residence share a common driveway.

e. Roof Pitch. All Residences must have a pitched roof at such pitch as Developer, in its sole and absolute discretion, deems to be appropriate and consistent with the architectural style and theme of the proposed Residence.

f. Roof Materials. The shingle colors for roof shingles must be submitted as part of the Plans and Specifications and shingle color will be reviewed on a case-by-case basis. No red, green, white or other colored roof may be installed without prior approval. The shingles must be architectural grade shingles.

g. Plumbing Penetrations. Plumbing stacks shall only be permitted to exit the roof at or near the rear of the Residence for purposes of making the plumbing less visible from the street.

h. Exterior Finish Materials and Exterior Finish Items. Each Residence on each of the Lots must be constructed with exterior finish materials, items and components (including exterior finishes, exterior walls and roofs, gutters, downspouts, windows, doors, shutters and all other exterior components) which are approved, in advance, by the Developer or the Architectural Review Committee, as the case may be. In each instance, the proposed exterior materials and finish items shall be consistent with the architectural theme and style of the proposed Residence.

i. Hard Surfaced Driveways. The Plans and Specifications submitted to the Developer must show the locations of all drives, driveways, walkways and parking areas, and must show the material with which the driveways and walkways will be surfaced. The surface materials of driveways and walkways shall be subject to Architectural Control as set forth in this Article VII. All driveways and parking areas located within each Lot must be concrete and must consist

of the type of material approved by the party then holding Architectural Review Power for the Development.

Section 8. Pools, Trampolines and Accessory Improvements. All pools, hot tubs, retaining walls and other accessory improvements, such as decks, walkways and patios must be submitted for approval by the Developer as to location, size, compatibility with adjoining properties and harmony with the Development before construction. Pool houses may be permitted with the prior approval of the party then-holding Architectural Review Power, provided, however, that the Lot Owner submit Plans and Specifications for the pool house for review. **ABOVE-GROUND SWIMMING POOLS OF ANY KIND AND TRAMPOLINES OF ANY KIND ARE HEREBY EXPRESSLY PROHIBITED.** Above-ground swimming pools and trampolines are hereby expressly prohibited. No above-ground swimming pool or trampoline shall be placed on any Lot, whether permanent or temporary in nature.

Section 9. Lot Perimeter Fences/Fences/Dog Pens. Fences are prohibited unless approved in advance by the Developer or the Architectural Review Committee, as the case may be. If a fence is to be approved, the standards set forth in this section shall apply. No fence shall be permitted in the front yard of any Lot. Further, wooden fences, vinyl fences, woven wire fence, chain link fences and wire fences are prohibited. If a fence is approved, fences must be five feet (5') in height and must consist of high quality black aluminum fence materials.

No other fence, wall (other than walls on Residences), pen, pet enclosure, dog pen, dog run or similar improvement may be placed within the Development without the prior approval of the Developer or the Architectural Review Committee, after the Developer no longer holds the Architectural Control Powers pursuant to this Article.

Section 10. Accessory Residences, Out Buildings and Other Improvements. Accessory structures and improvements shall only be permitted upon the prior approval of the Developer after submission of Plans and Specifications with respect to the structure or improvement Otherwise, all additional and/or accessory structures or improvements of any kind or nature whatsoever including, but not limited to, dog houses, dog shelters, pet houses or pet shelters of any kind; exterior storage sheds; additional driveways, walkways, parking areas; garages; sheds or storage areas whether temporary or permanent in character; ponds; swimming pools; outdoor hot tubs; wading pools; walls, fences or similar structures; buildings; monuments; exterior decorative structures; sheds; posts, poles; storage boxes; barns; stables; tennis courts or similar items; of any kind or nature whatsoever, temporary or permanent in nature, are prohibited.

Section 11. Political Signs. Political signs are permitted, subject to the following terms and restrictions: a) Signs shall be permitted only for a period beginning four (4) weeks prior to the election, and ending at the conclusion of forty-eight (48) hours following the conclusion of the election; b) No more than two (2) such signs shall be permitted on each Lot; c) No sign greater than six (6) square feet shall be permitted on any Lot; d) No such sign shall be illuminated; and e) No pennants endorsing or opposing a political or ballot issue shall be permitted.

Section 12. Flag Poles, Pennants and Flags. Reasonable flag poles shall be permitted, with the prior consent of the party then holding the Architectural Control Powers under this

Article VII. Generally, flags other than United States flags or state flags shall not be permitted. Illumination of flags must receive prior approval of the party then holding Architectural Control Powers under this Declaration.

Section 13. Additions and Modifications. No exterior addition, change or alteration shall be made on any structure or Residence or any driveway, walkway, fence, wall or other structure until the Plans and Specifications showing the nature, kind, shape, height, color, materials, type and location of same shall have been submitted to and approved in writing. Any exterior addition or change (including, but not limited to changes in building materials, roofing materials, surface materials, finish materials, other exterior materials or exterior colors) shall be subject to all of the Architectural Control Provisions appearing in this Article VII.

Section 14. Exterior Wiring, Antennas or Installation of Satellite Receiver Dishes or Similar Improvements. No antennas, satellite dishes or similar improvements or equipment of any kind or nature whatsoever shall be located in any yard on any Lot. Satellite dishes and antennas may only be located on the roofs of Residences in a location which is not visible from any adjacent Residence, public street or driveway, except as may be erected by the Developer or as shall be approved in advance in accordance with the above architectural control provisions of this Article VII. No air conditioning, heat pumps or other types of installation shall be installed or permitted which appear on the exterior of any Residence or which protrude through the walls, roof or window area of any Residence on any Lot, or which are located on any Lot, except as may be installed by the Developer or the Builder in the original construction or as may be subsequently approved in accordance with the architectural control provisions set forth in Article VII of this Declaration.

Preemption by Federal Regulations and Federal Law. It is understood that federal regulations of the Federal Communications Commission, and other federal law, to some extent, have preempted and may hereafter preempt the rights of Associations to approve or disapprove of certain satellite receiving dishes, or broadcast receiver dishes, or television receiving dishes. The intention is that the Developer, the Association's Board of Directors, or its Architectural Control Committee, shall have and retain all authority under this Article VII (to the maximum extent lawfully permitted) which is permitted by applicable federal law and regulation, but that such authority shall automatically be modified to conform with federal law or regulation, or any other applicable law or regulation. To the extent that the party holding the Architectural Control powers and authority may control the type, location, or placement of satellite receiver dishes, television receiver dishes or antennas, or antennas designed to receive a direct broadcast satellite signal or service ("DBS"), the party holding the Architectural Control powers shall have the right and authority, reasonably (and acting in good faith) to specify the locations for, and the types of, and the color of and screening for, such satellite receiver dishes or antennas. All satellite dishes and antennas, whether broadcast or receiving, other than those which are governed by rules of the Federal Communications Commission or any similar Governmental Authority, shall be subject to all of the Architectural Control provisions of this Article VII. All DBS dishes and antennas, and other satellite dishes, which are governed by rules and regulations of the FCC or any other Governmental Authority, shall be subject to such reasonable restrictions as the party holding the Architectural Control powers under this Article VII may lawfully impose, in accordance with applicable FCC regulations or other applicable law.

Unless applicable law prevents such restriction, the location of any satellite dishes or receivers, including DBS dishes or receivers, must be approved, in advance of installation, by the Developer, the Board of Directors of the Association or its Architectural Control Committee, whoever or whichever then holds the Architectural Control Powers hereunder.

Section 15. Sodding and Landscaping Requirements. In addition, as a part of the Plans and Specifications, the Builder or Lot Owner must provide to the party holding Architectural Control powers, a landscaping plan for each Lot on which a Residence is proposed. All Lots must be landscaped in accordance with the following provisions of this Section 16; provided, however, that the Developer may impose additional or differing landscaping requirements and landscaping plan requirements, including those which are more extensive or restrictive than the ones set forth as follows:

a. Sodding. The front yard of each Lot, and the side yards for corner Lots to a point even with the rear elevation of the Residence on such corner Lot, must be sodded. The remainder of the yard on each Lot may be planted with seed and straw or hydromulch. The side yards on corner Lots must be sodded to the back corner of the Residence, on the side yard that faces the side street. All seeding or sodding must be successful and must produce an attractive and substantial stand of grass. If sodding or seeding is unsuccessful then the sodding or seeding must be redone within a reasonable period of time as soon as reasonable weather conditions exist, and must be redone until a substantial stand of grass is obtained. All seeded areas must be covered with both seed and straw or must be hydromulched. Steps shall be taken, as reasonably required, in order to prevent erosion.

b. Irrigation. An irrigation system must be installed and used regularly for the front yard of each Lot and for the side yard of corner Lots which are required to be sodded, as described in paragraph (a) above. Notwithstanding the foregoing, the Developer may elect, in its sole and absolute discretion, to waive the irrigation requirement with respect to portions of any Lot which are forested or which consist of a significant number of trees such that an irrigation system would be impracticable.

c. Trees and Shrubs. Each Lot Owner shall also be responsible for installing two shade or ornamental trees in the front yard of his Lot which shall have a minimum caliper size of at least three inches (3") and two (2) evergreen trees which have a minimum caliper size of at least three inches (3") in the rear yard. In addition, each Lot shall include a planting bed immediately adjacent to the front elevation of each Residence which includes at least six (6) three gallon shrubs.

The sodding, seeding and landscaping requirements must be completed within no more than thirty (30) days after the completion of the Residence on a Lot; provided that if a Residence is first occupied between November 15 of a year and March 1 of the following year, then the sodding or seeding shall be completed no later than May 1 of such following year.

In the event the landscaping, sodding or seeding is not installed in accordance with the provisions of this section 15, the landscaping, sodding or seeding may be installed by the Developer or the Architectural Review Committee, whoever holds the Architectural Control powers under this Article VII. If the sodding, seeding and landscaping is installed, repaired or

remedied by the Developer or the Association's Architectural Review Committee, then the Lot Owner responsible for same shall be obligated to reimburse the party who installed such items for all installation expenses, plus an additional twenty percent (20%) of such costs and expenses as a fee for such installation, and all such sums shall bear interest, from the date when demanded, and until paid, at the rate of eighteen percent (18%) per annum.

d. Lawns and Landscaping Must be Maintained. All lawns and landscaping which are required pursuant to this Section must be maintained in a good, living, attractive condition. Lawns and landscaping must be kept properly mowed and weed free.

Section 16. Sewers. Each Residence located on a Lot must be connected to the public sewer line/sewer main which serves the Lot, in order that wastewater disposal services will be provided by the public entity which then provides public sewer service and wastewater treatment services for the Development. Septic tanks and individual wastewater treatment systems shall be prohibited. Use of the public sewer system shall be required.

Section 17. Mailboxes. The location of all mailboxes shall be determined by the U.S. Postal Service. All Lots within the Parcel are required to have a mailbox and post, which is approved, in advance, by the Developer or the Architectural Review Committee, whoever then holds the Architectural Control Powers.

Section 18. Basketball Goals. Permanently installed basketball goals must be approved prior to installation, in accordance with the Architectural Control Powers of this Article VII. Basketball goals shall not be installed or kept within a street right-of-way.

Section 19. Garages May Not Be Converted to Living Space or Storage Space. Garages may not be converted to or used as habitable space for pets or humans.

Section 20. Construction of Sidewalks. Each Lot Owner who purchases or acquires a Lot from the Developer shall be required to construct any sidewalks that are required, if any, by either the City of Columbia or Boone County, to be placed on such Lot for each street frontage (front yard, side yard or rear yard) of such Lot. Such sidewalks must be constructed in accordance with all performance contracts and laws, rules, regulations and ordinances which apply to the Lot. Each Lot Owner, therefore, upon acceptance of conveyance of a Lot to the Lot Owner by the Developer shall be deemed to have agreed to assume, pay and perform, all of the Developer's duties and obligations under all performance contracts and laws, ordinances, rules and regulations which apply to such Lot and such Lot Owner shall indemnify, defend, save and hold harmless the Developer of and from, any and all, and each and every, suit, action, cause of action, demand, loss, expense or liability arising out of the Lot Owner's failure to construct any sidewalk required to be placed within the Lot Owner's Lot, even if the Lot Owner does not build a Residence on such Lot, as the requirements for such sidewalk are described in any plat, any performance contract or law, ordinance, rule or regulation which applies to such Lot.

Section 21. Tree Preservation Easement. Certain Lots in the Development are subject to the Tree Preservation Easement, which requires that certain significant trees be preserved and protected. No Builder or Lot Owner shall cut or remove any trees which are designated for

preservation on Exhibit C to the Tree Preservation Easement. Each Builder and Owner of a Lot which is subject to the Tree Preservation Easement shall comply with all terms and conditions of the Tree Preservation Easement. Further, each Builder and Owner of a Lot which is subject to the Tree Preservation Easement shall refrain and be prohibited from engaging in any activity which damages, destroys, kills or otherwise impedes the protection and preservation of the trees identified on Exhibit C to the Tree Preservation Easement.

ARTICLE VIII
MAINTENANCE

Section 1. General Maintenance by Association. The Association shall provide for all maintenance, repairs, replacements, servicing, upkeep and insurance for any Common Areas and Common Elements, and for the land and improvements within any Easement running in favor of the Association. The Association shall pay all taxes upon the Common Areas and Common Elements, and shall provide adequate liability insurance, and fire and casualty insurance, for the Common Areas and Common Elements.

Section 2. Maintenance, Repairs and Replacements by Lot Owners. Each Lot Owner shall maintain his Lot and the Residence and improvements located on his Lot so as to keep the Lot, Residence, all improvements and his lawn and landscaping in good, clean, neat, safe, attractive, well maintained and aesthetically pleasing condition and appearance, free from weeds, weed infestations, pest infestations and all junk, trash and debris, and free and clear of all dead or dying lawns, trees or vegetation, and any conditions which would reasonably be deemed to be unsightly or to evidence poor maintenance or lack of maintenance, repair or upkeep, and other conditions reasonably requiring repair, replacement or other remedies.

Section 3. Standards of Maintenance, Repair and Replacement. The Association shall maintain Common Areas and Common Elements, and each Lot Owner shall maintain, repair and replace his Lot, and all portions thereof, and all Residences and improvements located thereon, so as to maintain such items in a clean, safe, neat and attractive condition. It is the intention that the Development be maintained as a Development of the highest order and that high standards of cleanliness, safety, neatness, beauty, attractiveness and aesthetics be maintained. The Developer further intends that the Development be free of any conditions of unsightliness, including, but not limited to: chipped, flaking or discolored paint; weeds; dead or dying lawns, trees, shrubs, vegetation or the like; lawns which are not properly mowed, weeded, treated for weeds, trimmed, edged, irrigated or fertilized; discolored roofs or roofs requiring patching, replacement, repair or maintenance; loose, rusted or discolored gutters or downspouts; walkways, driveways, sidewalks or parking areas requiring patching or resurfacing; brick surfaces in need of cleaning or tuckpointing; or other conditions of any kind or nature whatsoever which would reasonably be construed as not in keeping with reasonable reasonable standards of cleanliness, safety, neatness, beauty, attractiveness or aesthetics. The Association's Board of Directors may establish reasonable, minimum standards for the maintenance, repair and replacement of Residences, lawns, landscaping and other improvements located within Lots, in order that reasonable standards for the maintenance, repair, replacement, servicing and upkeep be kept and maintained throughout the Development.

Section 4. Special Assessment. In the event any Lot Owner fails to perform any repair, replacement or maintenance specifically imposed upon such Owner by this Declaration and the Association's Board of Directors, in its reasonable discretion determines that the conditions require maintenance, repair, replacement or servicing then the Board of Directors shall have the right, but not the obligation to enter the Lot to perform such maintenance, repair, replacement or service. Such entry shall be made only after reasonable notice, although no notice shall be required in the event of an emergency. The costs of maintenance, repair, replacement or servicing shall constitute a Special Lot assessment, as defined above.

Section 5. Repeated Violations. If a Lot Owner violates any of the standards of maintenance, repair or replacement established for such Lot Owner's Lot by this Declaration on two (2) or more occasions, then, in addition to other remedies under this Declaration, the Association's Board of Directors may, in the name of and on behalf of the Lot Owner, enter into a contract with a maintenance company, mowing company, lawn care company or similar company or contractor to perform the necessary maintenance, repairs or servicing within the Lot Owner's Lot, and may cause the cost of such work to be charged to the Lot Owner and to become a Special Lot Assessment, as defined above.

Section 6. Maintenance of Stormwater Facilities. The Association shall keep, maintain, repair, replace, improve, operate, and, if necessary, alter and enhance each Stormwater Facility, whether located within any Common Area or within any Lot, as required to cause such Stormwater Facility to at all times perform its intended functions and so as to be in compliance with the Stormwater Ordinance and/or any Stormwater Covenant and/or the Stormwater Plan.

ARTICLE IX
GRANTS AND RESERVATIONS OF EASEMENTS

Section 1. Easements for Repair, Maintenance and Restoration. The Association, its directors, employees and agents, shall have a right of access and an easement to, over and through all of the Development, including each Lot, for ingress and egress and all other purposes which enable the Association to perform its obligations, rights and duties with respect to maintenance, repair, restoration and/or servicing under this Declaration. Each Lot Owner agrees that the Association shall have a perpetual, unconditional easement for the purpose of repair, maintenance and restoration as described in Section 4 of Article VIII and shall have the right to impose Special Lot Assessments as described in Article VI.

Section 2. Other Easements. All other easements shown on the Plat shall exist as shown by the Plat.

Section 3. Easements Over Lots to Stormwater Facilities. The Association shall have an access easement, to the extent reasonably required, over each Lot which contains or abuts upon any portion of a Stormwater Facility, or over any Lot with respect to which access is reasonably required in order to access any Stormwater Facility so that the Association may perform its maintenance and repair duties and obligations as to each Stormwater Facility.

ARTICLE X
COMMON AREAS

Section 1. Title to Common Areas. The title to certain of the Common Areas may be retained by the Developer until completion of the Development. Thereafter, title to such Common Areas and Common Elements shall be conveyed to the Association and the Association shall maintain such items from the Maintenance Fund. The Association shall have no discretion to refuse to accept a conveyance of the Common Areas or Common Elements to the Association. The Association shall not make acceptance conditional or contingent upon satisfaction of any conditions.

Section 2. Designation of Common Areas. The Developer reserves the right to designate any part of the real estate located within the Development as Common Area.

ARTICLE XI
USE RESTRICTIONS

The Lots, all Residences and all other improvements on a Lot shall be subject to the following "Use Restrictions":

Section 1. One Family Dwelling Purposes. Only one single-family dwelling shall be placed on each Lot. Each Residence shall be used solely as a residence for a single Family.

Section 2. No Subdivision. Once a Lot has been sold by the Developer, the Lot shall not be further subdivided without the prior approval of the party then holding the Architectural Control Powers under Article VII. Notwithstanding the foregoing, nothing contained herein shall prevent the Developer from subdividing, combining or eliminating its Lots, or amending Lot lines for such Lots and nothing herein shall prevent the partition of a Lot as between co-owners, if such right of partition shall otherwise be available. Such partition shall not be in kind.

Section 3. Residential Use Only. No Residence shall be used for any purpose other than as a residence for a single family. All non-residential uses are expressly prohibited.

Section 4. Home Occupation. Notwithstanding the restrictions in paragraphs 1 and 3 above, a Residence may include a "Home Occupation" as a use incidental to the primary use of the Residence as a single-family residence. Home occupation means any occupation or profession carried on by members of the immediate family residing on the Lot, which is subject to the following restrictions of this paragraph 4. No exterior sign or display shall be used in connection with a Home Occupation. Further, no Home Occupation shall involve or employ any person other than a member of the immediate family residing on the premises, no mechanical or electrical equipment shall be used except such as is customarily found in purely domestic or household premises for the family residing therein and no traffic shall be generated beyond that which is customarily associated with a single-family residence. Home Occupations shall emit and generate no noise, odor, fumes, dust, vapors or air borne particles. A professional person may use his residence for infrequent consultation, emergency treatment and performance of his profession. Home Occupations shall not include barber shops, beauty shops, shoe or hat repair

shops, tailoring shops or any type of pick up station or similar personal service uses. Nothing herein is intended to permit home occupations not otherwise permitted by applicable zoning.

Section 5. Non-Residential Use Prohibited. No churches, religious establishments or institutions, places of worship, schools, places of instruction, daycare homes, daycare centers, preschool centers, nursery schools, babysitting or child care operations, child education centers, group houses, recovery homes or houses, religious institutions, halfway houses, child development institutions, or similar facilities of any kind, shall be permitted. All non-residential uses are expressly prohibited, except for those uses meeting the definition of a Home Occupation.

Section 6. Garage Sales. Unless approved in advance by the Association's Board, garage and yard sales shall be prohibited. The Board of Directors of the Association shall have the discretion to approve, from time to time, garage sales, yard sales and estate sales. The purpose of the foregoing restriction is to reasonably restrict such sales in order to prohibit a Lot Owner from conducting frequent, periodic sales.

Section 7. Parking. No parking space, yard or driveway within the Development shall be used for the parking of any trailer, truck, boat, camper, mobile home, motor home or commercial vehicle or any vehicle other than operative automobiles, pickup trucks, vans or similar utility vehicles in good, operable condition which are not "commercial vehicles" and which are used as regularly as passenger vehicles. All inoperative vehicles, boats, campers, trailers, commercial vehicles and recreational vehicles must be parked inside a garage or screened from view by a structure, which must be submitted for review and approval pursuant to the Architectural Control provisions of this Declaration. Inoperative automobiles shall not be placed or parked within any uncovered parking space or along any street in the Development.

Section 8. Noxious or Offensive Activities. No illegal, noxious or offensive activity shall be carried on upon any Lot.

Section 9. Debris Free/Clean Construction Site. All Lots shall be kept neat and free of debris and shall be maintained in a sanitary condition. During the process of the construction of any Residence or improvement on any Lot, the Lot shall nevertheless be neat and free of debris. Weeds shall be mowed and each Lot shall, to the extent practicable, be kept in a reasonably sightly and safe condition during construction. Trash, dirt, soil, trees, underbrush and similar items shall not be dumped in or placed on any Lot. No Lot Owner may use his or her Lot for the dumping or storage of rock, dirt, debris, soil, building materials or trash, other than in connection with the construction of the Residence that is to be placed on such Lot.

Section 10. Trash, Storage and Disposal/Dumping. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All trash, rubbish, garbage and other waste must be placed in one or more trash cans or containers which are fly tight, rodent proof, nonflammable and reasonably waterproof. Such cans or containers are to be stored in enclosed locations on Lots.

Section 11. House Trailers, Mobile Homes, Modular Homes and Manufactured Homes/ Temporary Structures. No trailer, house trailer, mobile home, motor home, R.V. or recreational vehicle, modular home or manufactured home shall be placed, kept or maintained on any Lot or any street within the Development, for any purposes and no motor home, R.V., camper, mobile home, trailer or similar item or any vehicle shall be used for human habitation. No temporary structures shall be permitted.

Section 12. Livestock, Poultry and Pets. No animals, swine, reptiles, livestock, poultry or pets of any kind shall be raised, bred or kept upon or in any portion of the Development or the Lots, except that dogs, cats and other normal, reasonable household pets may be kept, pursuant to the restrictions of this Section 12. Household pets may not be kept, bred or maintained for any commercial purpose. Household pets must be kept at all times under control and within the boundaries of the Lot on which they are kept. No pets shall be allowed to run loose on any portion of the Development. The Owner of a Lot which has pets shall bear all risks which result from the presence of pets. Accordingly, such Owners shall be absolutely responsible for adherence by the pets to these conditions and absolutely liable for any and all damage done by such pets and due care or absence of negligence shall not constitute a defense. No pets shall be permitted to disturb others by excessive barking, noise or other activities, or unpleasant odors. No pets shall be permitted to, in any manner whatsoever, create a nuisance, or to otherwise interfere with the peaceful enjoyment by others of their Lots and the improvements located thereon, or to damage or destroy the property of others, or to injure any persons, animals, or wildlife. Any dogs, cats or other normal household pets shall also be subject to the following provisions:

a. Only animals which are normal, domesticated pets, such as dogs and cats, are allowed to be kept as pets. No exotic animals or wild animals shall be kept as pets.

b. No animals known to be vicious or animals which, by virtue of their "breed" might normally or generally be considered by members of the public to be vicious or dangerous shall be kept as pets.

c. No pets shall be allowed to run loose in the Development other than on the Lot on which the pets are kept.

d. No pets shall be allowed to disturb others by barking, growling, snarling, baring of teeth, noise or other activities, or by any disagreeable odors or other behavior.

e. No pets shall be allowed to disturb others in any manner whatsoever, or to damage or harm persons or property in any manner whatsoever.

f. It is understood that the enjoyment of the Development by all Owners and residents thereof, and the success of this Development, might be jeopardized by violations of these conditions; accordingly, the Directors may by majority vote and after two (2) complaints require that any certain pets be removed from the Development and the Owner of the Lot within which such pet is kept shall have a period of thirty (30) days to comply with such decision of the Directors.

g. No dog kennels, pet enclosures, pet kennels, pet shelters, above-ground pet fencing or similar improvements shall be permitted within the Development, except as may be approved by the Developer or the Assocation's Board of Directors.

Section 13. Toxic Substances. On-site storage of gas, oil, pesticides or related hazardous materials shall be prohibited, unless in quantities which do not exceed ten (10) gallons. All such materials must be stored in properly sealed containers. On-site burial of waste materials or storage of waste on-site for any period exceeding one (1) week is prohibited. No Lot Owner shall dispose of any toxic materials, petroleum or petroleum products by dumping such materials down storm drains or disposing of such materials in any manner which would cause the materials to get into the groundwater or stormwater runoff from any Lot.

Section 14. Open Fires. No open fires shall be permitted on the individual Lots with the exception of outdoor grill-type fires used for the preparation of food to be consumed on the premises. Other than as permitted by this Section 14, no open fires or fireworks shall be allowed anywhere within the Development. Notwithstanding the foregoing, the Developer, as well as any Builder, may burn underbrush, trees or similar items as part of normal construction of a Residence, provided that such burning is done in compliance with all applicable rules, regulations and requirements.

Section 15. Automotive Repair. No Lot may be used for automotive or equipment repair, rebuilding or service for hire.

Section 16. Two, Three and Four Wheel Recreational Vehicles. Motorcycles, mopeds, powered scooters, powered tricycles, motor bikes, or two, three or four wheel, motorized recreational vehicles may only be used in the Development for normal transportation. No such vehicles shall be used within the Development or on any Common Area for purposes of recreation. All such vehicles must have a reasonable muffler which provides for quiet operation.

Section 17. Outside Improvements/Decorations. No outside improvement, garden or lawn decoration shall be placed or located within the front or side yard of a Lot except sidewalks, driveways and normal, reasonable landscaping, shrubs, flowers and trees. Vegetable gardens may be planted in the rear yard only and shall not be planted in any front or side yard. No statues, monuments, or lawn ornaments shall be permitted other than temporary, seasonal displays. Wind chimes and all similar decorations which create noise shall be prohibited in all areas of the Development.

Section 18. Exterior Storage. Exterior storage of fire wood, boats, canoes, tricycles and bicycles, lawn mowers, garden tractors, tractors, lawn maintenance equipment, or any equipment of any kind or nature whatsoever is specifically prohibited. The outdoor storage of boats, canoes, trailers, materials, campers, RVs, equipment or any other items on the outside portion of any Residence shall be prohibited. Notwithstanding the foregoing, the placement of items such as patio and outdoor living equipment intended for regular use shall be permitted.

Section 19. Vacant Lots. The owner of each Lot which does not contain any Residence or structure shall be required to keep such Lot in a well mowed, clean, neat and debris free condition.

Section 20. Construction Activities. Each Builder who is building a Residence or improvement on any Lot, and the Lot Owner of such Lot, jointly and severally, shall be liable, obligated and responsible to the Association, the Developer, and the Lot Owners of each of the other Lots, and each of them, to comply with the following requirements during construction activities:

a. The weeds on the Lot shall be kept mowed, and shall not be allowed to attain any appreciable height;

b. The Lot shall be kept in a neat, attractive condition to the extent practicable;

c. Once construction of a Residence or a structure is commenced, it shall be pursued to completion with reasonable diligence and shall not be abandoned;

d. Erosion control measures shall be properly implemented, utilized and maintained throughout construction. Each Builder who builds or causes to be built a Residence or any other structure or improvement within the Development, and each Lot Owner of a Lot upon which a Residence is built, shall indemnify, defend, save and hold harmless the Developer of and from any and all, and each and every, suit, action, claim, demand, fine, cost or expense, of any kind or nature whatsoever, arising out of the failure of such Lot Owner or such Lot Owner's Builder, or such Builder, to fully comply with the erosion control measures described in this section or any erosion control measures described in any Stormwater Plan, or any other applicable Code, Ordinance or Requirement of the County.

e. Compliance with all of the restrictions of this Section shall be of the essence of the duties and obligations of each Lot Owner and Builder;

f. Builders may park construction trailers, construction trucks or other vehicles within the Development during the process of construction of a Residence on a Lot. However, Builders shall not park trailers, trucks or other vehicles in front of any Lot which contains a completed Residence thereon;

g. Enforcement. In addition to any rights and remedies provided to the Association, the Developer, or any Lot Owner by this Declaration or by law for the enforcement of any of the Use Restrictions in this Declaration, the Board of Directors of the Association shall, in the event of a violation of any of the Use Restrictions established by this Declaration, have each and all of the following additional rights, powers and authorities:

i. To deny to any Lots or any Owners which are in violation of the Use Restrictions maintenance or other services which the Association might otherwise be required to provide;

ii. To impose upon the Lot (and the Owners thereof), being used in violation of any of the Use Restrictions, a Special Assessment in such amount as the Association's Board of Directors, in its sole, absolute and unmitigated discretion shall deem appropriate, not to exceed Three Hundred Fifty Dollars ($350.00) per month during the continuance of the violation;

iii. To deny to the applicable Lot, and the Owners, occupants, guests and invitees thereof, access to any Common Areas or Common Elements;

iv. To enter upon the Lot, abate the violation or remove it, and charge the cost of such abatement to the Lot and the Lot Owner as a Special Lot Assessment under Article VI; and

v. To seek injunctive and equitable relief enjoining the violation of the Use Restrictions.

vi. No Waiver Other Than by Express, Written Waiver. Any provisions or purported provisions of law to the contrary notwithstanding, the Developer, the Association, its Board of Directors and/or its Architectural Control Committee, whoever or whichever then holds the Architectural Control Powers and any Lot Owner or Owners, shall not be held to have waived the right to enforce any of the provisions of this Declaration, including, but not limited to, the provisions of Article VII above or this Article XI, by reason of the fact that he, she, they or it have, from time to time, not enforced or chosen not to enforce such provisions. No provision of this Declaration shall be subject to implied waiver, or to any contention of waiver, unless a written document providing for such waiver is executed by the party against whom the waiver is sought to be charged. The Developer, the Board of Directors of the Association, and its Architectural Control Committee and each Lot Owner seeking to enforce any of the provisions of this Declaration shall be and they are hereby vested with reasonable discretion to determine when, and under what circumstances, and for whatever reasons, the provisions of this Declaration shall be sought to be enforced. The fact that they seek to enforce provisions on certain occasions and not on others shall not constitute a defense to any actions brought to enforce any of the provisions of this Declaration. The Board of Directors of the Association, the Developer, the Architectural Control Committee of the Board of Directors of the Association, or any Lot Owner or Lot Owners may, therefore, for good and valid reasons engage in selective enforcement of the Declaration and these Use Restrictions.

ARTICLE XII
GENERAL PROVISIONS

Section 1. Enforcement. The Developer, the Association, and any Lot Owner shall have the right to enforce, by any proceedings, at law or in equity, any covenants, restrictions or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Developer, the Association or any Lot Owner to enforce any covenants or restrictions herein contained shall in no event be deemed to be a waiver of the right to do so thereafter.

Section 2. Attorney's Fees. If any party shall seek to enforce against any other party any provisions of this Declaration, by legal or equitable proceedings, then the prevailing party in such proceedings shall receive from the other party to such proceedings, in addition to such other

rights and remedies to which such prevailing party shall otherwise be entitled, such prevailing party's reasonable costs, expenses and attorney's fees incurred in connection with such proceedings, and in the preparation for such proceedings, and shall be entitled to judgment for such attorney's fees, costs and expenses.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 4. Amendment. The covenants, conditions, restrictions, easements, charges and liens of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less than sixty percent (60%) of the Lot Owners has been recorded, which instrument provides for amending or terminating this Declaration, in whole or in part. During the first twenty (20) year period of this Declaration, it may be amended in whole or in part only by an instrument signed by the Developer, so long as it holds any Class B Membership and the Owners of not less than a majority (more than 50%) of the Lots (including the Developer as to Lots owned by the Developer, if the Developer owns any Lots). Any amendment so made may not reduce the Developer's Class B voting rights or any of his development rights or Architectural Control rights, and may not otherwise adversely affect the Developer's rights hereunder unless the Developer specifically consents to said amendment. Any amendment made in accordance with this Section 4 shall be binding upon all Lot Owners. All amendments to this Declaration shall be recorded in Boone County, Missouri.

Section 5. Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when mailed to the last known address of the recipient at the time of such mailing.

Section 6. Language Variation. The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual circumstances when the Declaration is applied.

Section 7. Titles and Captions. The headings in this Declaration are merely labels to assist in locating paragraphs and provisions herein.

Section 8. Venue. In the event of a dispute arising out of or which is any way related to this Declaration, the sole venue for litigating such dispute shall be in the Circuit Court of Boone County, Missouri. No shall institute any legal action before any other court or jurisdiction, nor seek to remove such legal action from said Court to any other court or jurisdiction, including but not limited to any Federal Court, once such legal action is initiated.

Section 9. Waiver of Jury Trial. **EACH LOT OWNER, THE DEVELOPER, THE ASSOCIATION, ITS BOARD AND ITS OFFICERS, AND ANY OTHER PARTIES TO ANY DISPUTE AS DESCRIBED IN THIS ARTICLE, DOES HEREBY, CONCLUSIVELY, WAIVE ALL RIGHT TO TRIAL BY JURY, AND UNDER NO CIRCUMSTANCES SHALL A JURY BE REQUIRED TO RESOLVE ANY DISPUTE.**

ARTICLE XIII
DRAINAGE EASEMENT

Section 1. Drainage Easements. There may be references to "Drainage Easements" on the Plat. Such Drainage Easements are hereby established in favor of the Association and in favor of the County. The land subject to such Drainage Easements shall be subject to the following requirements:

a. The land shall be used for reasonable surface water drainage and passage of stormwater;

b. If any creek, ditch or other normal drainageway now exists within the boundaries of any of such easements, then it shall not be blocked, or altered without the prior written approval of the party holding Architectural Review Powers;

c. Where it is reasonable and appropriate, an Owner of a Lot imposed with a Drainage Easement must make reasonable accommodations for the drainage of water;

d. No fence, wall, structure, berm or landscaping that will interfere with the free flow of water shall be placed within any Drainage Easement, or any natural water course, including any ditch, swale or other natural drainageway.

e. If there is a substantial drainageway, ditch or creek which runs within a Drainage Easement, then such feature shall be automatically considered to be a "Common Element" of the Development and may, in the discretion of the Association Board, be maintained, repaired or replaced by the Association as a Common Element of the Development.

Section 2. Other Drainage. Whether or not there are "Drainage Easements" established by a Plat, the following provisions shall be in effect:

a. The Developer may require that the Plans and Specifications submitted for a Residence describe the provisions which will be made in order to drain stormwater and surface water, over, across and within each and all of the Lots.

b. Drainageways, creeks, ditches, swales, ground depressions and drainage structures which serve as drainage for more than one Lot shall be considered to be improvements which can be made, maintained, repaired, replaced or improved by the Association, through the use of Special Assessments, as described in Article VI of this Declaration.

Section 3. Drainage/Surface Water Drainage and Groundwater. Each Lot Owner must be act reasonably and diligently in dealing with drainage and groundwater. No Lot Owner shall unreasonably block, interfere with or obstruct the flow of surface water from other Lots.

Section 4. Responsibility for Drainage. It shall be the responsibility of the Owner of each Lot to provide for adequate drainage from such Lot Owner's Residence and other

improvements. Neither the Developer, nor any Architectural Control Committee, nor the Association nor its Board, shall have any liability, obligation or responsibility, under the Architectural Control provisions of this Declaration, or otherwise, to assure a Lot Owner adequate or appropriate drainage of groundwater, surface water or stormwater. The responsibility to provide for adequate drainage shall be the responsibility of the Lot Owner and the Lot Owner's Builder. All Lot Owners must proceed reasonably, in good faith, and must design their Residences and structures in accordance with sound design, building and construction practices so as to provide for adequate drainage and so as to not unreasonably obstruct or interfere with drainage of surface water from other Lots.

Section 5. Gutters and Downspouts. The initial installation of gutters or downspouts shall be subject to approval as a part of the Architectural Control Provisions of Article VII of this Declaration. Once gutters or downspouts or similar improvements are installed, then they shall not be altered without prior approval granted in accordance with the Architectural Control Provisions of this Declaration. If gutters or downspouts are replaced, then they must be replaced with components substantially similar as those which are replaced. The Developer or the Association's Board of Directors, whoever holds the Architectural Review Powers, may impose reasonable requirements with respect to gutters, downspouts or other means of transporting stormwater as is reasonably required to minimize the impact of runoff on adjacent Lots.

ARTICLE XVI
RIGHTS OF JQB CONSTRUCTION, INC. TO AMEND THIS DECLARATION

Any of the provisions of this Declaration to the contrary notwithstanding, and any provisions of law to the contrary notwithstanding, JQB Construction, Inc., and its assignees of its rights as the Developer, shall have the right and power to unilaterally amend or modify this Declaration without the consent of any Lot Owner during such time as JQB Construction, Inc. holds any Class B Memberships in the Association to the extent JQB Construction, Inc. reasonably deems it necessary in order to: a) correct any error in this Declaration; b) correct any typographical error in this Declaration; c) amend this Declaration in order to reflect the Developer's intentions as such intentions exist on the date of the recording of this Declaration, if such intentions are not properly reflected in the provisions of this Declaration; d) modify this Declaration in order to appropriately reflect any change in law, any change or modification in federal law, state law, city ordinance or other applicable governmental regulations or laws; e) eliminate confusion in the enforcement, construction, understanding or application of any of the provisions of this Declaration; f) impose reasonable additional Use Restrictions on any Lot subject to any Use Restrictions imposed by this Declaration; g) modify any Architectural Control Provisions of this Declaration as they are applicable to any Lots which are subject to such Architectural Control Provisions.

Each Lot Owner consents to the provisions of this Article and waives any right to object to any changes made by the Developer pursuant to this Article. Any amendments in or modifications of this Declaration which are made by the Developer must be made in good faith, must be reasonable and shall not be arbitrary, unreasonable or capricious.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed in its name and on its behalf by its duly authorized member(s) effective on the day and year hereinabove first set forth.

THE DEVELOPER:
JQB Construction, Inc.

By: _____
J. Quinn Bellmer, President

Attachments:

Approval and Subordination Agreement

Exhibit A – Bylaws of Clear Creek Estates Homes Association, Inc.

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

On this 28th day of February, 2020, before me appeared J. Quinn Bellmer, to me personally known, who, being by me duly sworn did say that he is the president of JQB Construction, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said J. Quinn Bellmer acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.

ELISSA GAIL HENDREN
Notary Public - Notary Seal
STATE OF MISSOURI
Boone County
My Commission Expires: March 12, 2021
Commission # 17984375

Elissa Gail Hendren
Elissa Gail Hendren, Notary Public
Boone County, State of Missouri
My commission expires: March 12, 2021

APPROVAL AND SUBORDINATION BY HOLDER OF FIRST MORTGAGE DEED OF TRUST AND MODIFICATION OF FIRST MORTGAGE DEED OF TRUST

The above Declaration of Covenants, Easements and Restrictions of Clear Creek Estates, and the Plat recorded in Plat Book 54 at Page 9 of the Real Estate Records of Boone County, Missouri are hereby approved by **Simmons Bank, as successor-in-interest to Landmark Bank,** (the "Bank") a banking corporation with its principal place of business located in Columbia, Missouri, which is the beneficial holder of one or more deeds of trust recorded in the Records of Boone County, Missouri as follows:

Book 4816 Page 9 of the Real Property Records of Boone County, Missouri.

The Bank hereby approves the above Declaration and the Plat. Further, the above-described deed(s) of trust shall be subject to and is (are) subordinated to such Declaration, and each such Plat as though the Declaration and the Plat had been recorded prior to the recording of such deed(s) of trust.

In order to induce the undersigned beneficial holder under the said deed(s) of trust to enter into this Approval and Subordination Agreement, JQB Construction, Inc., a Missouri corporation, as the Developer hereby agrees with the Bank that the deed(s) of trust shall be and is hereby amended in order to include, immediately following the legal description of the real estate described therein, the following property and rights as an additional part of the "Mortgaged Property" or "Mortgaged Premises" subject to the deed(s) of trust, and that the following is hereby subjected to a security interest and collateral interest and lien under the terms of the said deed(s) of trust in favor of the said bank, which shall accompany and run with all real estate at any time subject to the said deed(s) of trust:

> "Together with all Class B memberships now in existence or hereafter coming into existence, and all rights to Class B memberships, and all Class B voting rights now in existence or hereafter coming into existence, attributable to the real estate hereinabove described, or any parts thereof, now or hereafter held by party or parties of the First Part (Grantor or Grantors) with respect to Clear Creek Estates Homes Association, the Association named in the foregoing Declaration, a not-for-profit corporation of the State of Missouri, which is now in existence or will hereafter be formed, and all rights as the Developer of any kind, nature or description whatsoever with respect to the real estate described in this deed of trust, all as provided for in and as described in that "Declaration of Covenants, Easements and Restrictions of Clear Creek Estates" hereinabove set forth; and all rights of the Developer with respect to presently existing or hereafter created Class B memberships and Class B voting rights in the Association attributable to any and all Lots and other parcels and tracts of real estate hereinabove described (and all portions thereof and subdivisions thereof), and including all presently existing or hereafter created rights as the Developer under that Declaration hereinabove described of any kind, nature or description whatsoever, without limitation, attributable to the real estate hereinabove described (or any part thereof), including, but not limited to, all rights to elect directors of the

thereof), including, but not limited to, all rights to elect directors of the Association and all Architectural Control Rights provided for by the Declaration, and all Class B memberships provided for by the Declaration; all memberships, rights, Class B votes, Class B voting rights, Class B memberships and rights as the Developer and all such Architectural Control Rights being hereby assigned to party of the Second Part, the Trustee, in trust, for the purposes herein expressed, all of same to be deemed to constitute a part of the real estate hereinabove described, which in the event of default, may be sold by the Trustee (party of the Second Part) together with the real estate, in the manner hereinafter described in this document.".

It is the intention of the Developer and of the Bank that the deed(s) of trust shall be and is (are) hereby modified in order to include the Class B memberships, Class B voting rights, Architectural Control powers and other rights as the Developer hereinabove described, in addition to the real estate described in such deed of trust. This Agreement is made and entered into in order to induce the undersigned beneficial holder to execute the foregoing Approval and Subordination.

IN WITNESS WHEREOF, JQB Construction, Inc. and Central Bank of Boone County have executed this document effective this 28th day of February, 2020.

DEVELOPER:
JQB Construction, Inc.

By: _____
J. Quinn Bellmer, President

BANK: Landmark Bank

By: Ryan Lichdoh
its SVP

STATE OF MISSOURI)
) SS
COUNTY OF BOONE)

On this 28th day of February, 2020, before me appeared J. Quinn Bellmer, to me personally known, who, being by me duly sworn did say that he is the president of JQB Construction, Inc., a Missouri corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said J. Quinn Bellmer acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal at my office in the State and County aforesaid, on the day and year hereinabove first written.

ELISSA GAIL HENDREN
Notary Public - Notary Seal
STATE OF MISSOURI
Boone County
My Commission Expires: March 12, 2021
Commission # 17984375

Elissa Gail Hendren
Elissa Gail Hendren, Notary Public
Boone County, State of Missouri

My commission expires: March 12, 2021

STATE OF MISSOURI)
) SS.
COUNTY OF BOONE)

On this 28 day of February, 2020, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Ryan Lidolph, to me personally known, who being by me first duly sworn, did state and acknowledge that her or he was Senior VP of Landmark Bank, a banking corporation, that as such he or she had executed the foregoing document in his or her said capacity, and that he or she had executed the foregoing document in the name of and on behalf of such Bank by authority granted to him or her by such Bank's shareholders and Board of Directors; and that the foregoing document was executed as the free act and deed of said Bank.

IN TESTIMONY WHEREOF, I have hereunto affixed my hand and notarial seal on the day and year hereinabove first written.

ELISSA GAIL HENDREN
Notary Public - Notary Seal
STATE OF MISSOURI
Boone County
My Commission Expires: March 12, 2021
Commission # 17984375

Elissa Gail Hendren
Elissa Gail Hendren, Notary Public
Boone County, State of Missouri

My commission expires: March 12, 2021