

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR SPRINGS SEVEN**

**THIS DECLARATION**, made on the date hereinafter set forth by HOMETOWN DEVELOPERS, INC., hereinafter referred to as "**DECLARANT**".

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of certain property in Kansas City, Platte County, State of Missouri, which is more particularly described as:

All that part of Lot 7, THE SPRINGS - FOURTH PLAT, a subdivision in Kansas City, Platte County, Missouri, described as follows: Beginning at the NE corner of said Lot 7; thence S 04° 23'13" W, along the East line of said Lot 7, 181.45 feet to the SE corner of said Lot 7; thence N 72° 46'21" W, along the Southerly line of said Lot 7, 65.49 feet; thence N 46° 57'17" W, continuing along said line, 85.39 feet; thence N 45° 07'15" E 159.87 feet to the Northerly line of said Lot 7; said line also being the Southerly right-of-way line of N.W. 85th Street; thence Southeasterly, along said line, on a curve to the left, having a radius of 625.00 feet and an initial tangent bearing of S 68° 12'58" E, an arc distance of 27.28 feet to the point of beginning.

Commonly known as: LOT SPLIT - TRACTS 3-A, 3-B AND 3-C OF LOT 7, THE SPRINGS - FOURTH PLAT.

**NOW, THEREFORE**, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with said real property and be binding on all parties having any right, title or interest in the described properties or any plat thereof, their heirs, executors, administrators, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**DEFINITIONS**

**SECTION 1. "ASSOCIATION"** shall mean and refer to the SPRINGS SEVEN HOMEOWNERS ASSOCIATION, a Missouri Not-For-Profit Corporation and its successors and assigns.

**SECTION 2. "OWNER"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, Tract or Living Unit which is a part of the Properties including contract sellers, but excluding those having such interest merely as security for the performance of an Obligation.

**SECTION 3. "PROPERTIES"** shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**SECTION 4. "COMMON AREA"** shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot or Tract is described as follows:

All real property within and described in the Plat of LOT SPLIT - TRACTS 3-A, 3-B, AND 3-C OF LOT 7, THE SPRINGS - FOURTH PLAT, recorded in the Office of the Recorder of Deeds for Platte County in Cabinet Book B, Sleeve Page 182, under Document No. 4600, on the 18<sup>th</sup> day of March, 1994, except Tracts 3-A, 3-B and 3-C.

Notwithstanding anything else contained herein, any Owner of a Lot or Tract may cross or use Common Area for access to and construction of a structure on such Lot or Tract to the extent that, but only to the extent that, there is no other means of access to such Lot or use of such Common Area for such construction purposes as is absolutely necessary in order to permit construction of such structure.

**SECTION 5. "LOT" and "TRACT"** shall mean and refer to any plots of land shown as such upon any recorded subdivision map, certificate of survey, plat or replat or other instrument relating to the Properties, with the exception of the Common Area.

**SECTION 6. "DECLARANT"** shall mean and refer to HOMETOWN DEVELOPERS, INC., or its assigns if such assigns should acquire more than one undeveloped Lot or Tract from the Declarant for the purpose of construction of a Living Unit.

**SECTION 7. "LIVING UNIT"** shall mean and refer to any portion of a building on the Properties designated and intended for use and occupancy as a residence by a single family.

**SECTION 8. "TOWNHOUSE"** among other things, shall mean a living unit designed for occupancy by a single family.

**SECTION 9. "IMPROVED LOTS" and "IMPROVED TRACTS"** shall mean and refer to Lots and Tracts on which a Living Unit has been erected, all or part of which has been either sold, leased or rented for occupancy purposes.

**SECTION 10.** "UNIMPROVED LOTS" and "UNIMPROVED TRACTS" shall mean and refer to all Lots and Tracts which are not Improved Lots or Improved Tracts, except for Common Area.

## ARTICLE II

### PROPERTY RIGHTS

**SECTION 1. OWNERS' EASEMENTS OF ENJOYMENT.** Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, Tract or Living Unit, subject to the following provisions:

A. The owners of all of the land hereinabove described, together with the owners of any other land that may from time to time be made subject to all of the terms and provisions of this Declaration in the manner herein provided for, shall be the members of an association, which is hereby created and established to be known as "**SPRINGS SEVEN HOMEOWNERS ASSOCIATION**". The Association shall be incorporated under the laws of the State of Missouri as a corporation not for profit. Membership in the Association shall be limited to the owners of land within the boundaries of the district as it exists from time to time. The Association shall be the sole judge of the qualifications of its members and of their rights to participate in its meetings.

B. The Association may provide access to and use of all or any part of the Common Area and recreational facilities located thereon, if any, to such non-members as the Board of Directors shall determine to be in the best interest of the Association.

C. The Association may suspend the voting rights and right to use of the recreational facilities by an Owner or other user for any period during which any assessment against his Lot, Tract, or Living Unit or user fee for non-members remains unpaid, and for a period not to exceed 60-days for any infraction of its published rules and regulations.

D. The Association may dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed

by the holders of 2/3rds of the votes of each class of members entitled to vote thereon has been recorded.

**SECTION 2. DEDICATION OF USE.** Any owner may delegate, in accordance with the Bylaws, the owner's right of enjoyment of the Common Area and facilities to the members of his family, his tenants, or contract purchasers, so long as said persons reside on the Owner's Lot, Tract or Living Unit.

**SECTION 3. POWERS OF ASSOCIATION.**

(1) The Association shall have the following powers and mandatory duties:

(a) To care for, spray, trim, protect and replant trees on all streets and in other public places where trees have once been planted, when such services are not available by any public sources; and to care for, protect and replant shrubbery, resow grass and replace sod in the parks which are in the streets and in any parks, private open space or common properties set aside for the general use of the owners of the district, or to which such owners have access and the use thereof.

(b) To provide for the operation and maintenance, when such services are not available from any public source, of any tennis courts, playgrounds, green areas, private open area, parking areas, walks, pedestrian ways, gateways, entrances, drinking fountains, and ornamental features now existing or which may hereafter be erected or created in said district.

(c) To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by it; and to pay such taxes as may be assessed against land in the public or semi-public places within the district.

(d) To maintain fire and extended coverage on insurable common properties and Living Units on a current replacement cost basis in an amount at least 100 percent of the insurable value (based on current replacement cost) and not to use hazard insurance proceeds for losses to any common properties or Living Units for other than the repair, replacement or reconstruction of the common properties or Living Units, all in accordance with Article VIII.

(e) To maintain bodily injury liability insurance, property damage liability or other insurance with such limits and deductible amounts as required in Article VIII adequately insuring against liability for bodily injury, death or property damage arising from the activities of the Association or with respect to the ownership of the common properties or the Living Units.

(f) To levy and collect the assessments including attorney fees which are provided for in this Declaration.

(g) To perform the services made mandatory in Section 3 hereof.

(2) The Association shall have the following additional powers and duties which it may exercise and perform whenever in its discretion it may deem it necessary or desirable, to-wit:

(a) To enforce, either in its own name or in the name of any owner within the District, any or all building restrictions which may have been heretofore or may hereafter be imposed upon any of the land in such district, either in the form as originally placed thereon or as modified subsequently thereto; to collect attorneys fees in said enforcement proceedings as provided for herein, PROVIDED, HOWEVER, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modification as are permissible in the deeds, declarations, contracts or plans in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for. Nothing herein contained shall be deemed or construed to prevent any owner having the contractual right to do so from enforcing in his own name any such restrictions.

(b) To manage and control as trustee for its members all public improvements upon and to the land in the district or improvements in public places, provided that such management and control of said improvements shall at all times be subject to that had and exercised by the City, Township, County and State, or any of them in which the land within the district is located.

(c) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the district neat in appearance and in good order.

(d) To provide for the repair and maintenance, repaving and reconstruction of, plowing and removal of snow from sidewalks and streets, except those streets and sidewalks which are dedicated to public use.

(e) To provide such lights as the Association may deem advisable on streets, parks, parkways, pedestrian way, gateways, entrances or other features, and in other public or semi-public places, when such facilities are not available from any public source.

(f) To provide for the cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.

(g) To erect and maintain signs for the marking of streets and safety signs for the protection of children and other persons, when such signs are not available from any public source.

(h) To employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

(i) To exercise control over such easements as it may acquire from time to time.

(j) To delegate any of the rights, powers and duties set forth herein to a committee or committee established by the Board of Directors of the Association.

(k) To employ Managers or Managing Agents to assist the Association in the performance of any powers and/or duties in this Declaration.

(l) To promulgate rules and regulations governing the use, maintenance or operation of the common properties, including streets, establish methods for

enforcement thereof and establish fines or other penalties to be levied for the violation of said rules and regulations.

(m) To maintain fidelity bonds, indemnities or other types of insurance not otherwise required herein as the Board of Directors of the Association may deem advisable.

(n) To borrow money, subject to the provisions of the Articles of Incorporation and Bylaws of the Association, to carry out the duties and functions of the Association and hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

(o) Retain and pay for the services of a person or persons or firm or firms, federal, state or local agencies (any one of which is hereinafter called the "MANAGER") to undertake any functions for which the Association is responsible hereunder and to engage such other personnel as the Association shall deem advisable, provided, that no contract with such manager or other personnel shall have a term greater than one (1) year and shall contain a clause permitting the Association to terminate the contract without cause and without payment of a termination fee on ninety (90) days or less written notice.

(p) Establish, charge and collect reasonable admission or other fees for any special or extraordinary uses of the common properties or services provided by the Association.

(q) To provide those discretionary services described in Section 3 hereof.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

**SECTION 1.** Every Owner of a Lot, Tract or Living Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, Tract or Living Unit which is subject to assessment.

**SECTION 2.** The Association shall have two classes of voting membership.

**CLASS A.** Class A members shall be all Owners, with the exception of the Declarant. Each member shall be entitled to one (1) vote for each Living Unit owned by that member, plus one (1) vote for each Lot or Tract (whether improved or unimproved) owned by that member on which no Living Unit is located. However, there shall be no vote for any Living Unit, Lot or Tract for which any then current or prior assessment has not been paid. When more than one person holds an interest in any Living Unit, Lot or Tract, all such persons shall be members. The vote for such Living Unit, Lot or Tract shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Living Unit, Lot or Tract.

**CLASS B.** The Class B member shall be the Declarant who shall be entitled to three (3) votes for each Living Unit owned by it. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding of the Class B membership, or

(b) on January 1, 1998.

(c) voluntary relinquishment of the rights of Class B Membership as expressed by a duly acknowledged and recorded Certificate to that effect.

#### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

**SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.** The Declarant, for each Lot, Tract or Living Unit owned within the Properties, hereby covenants, and each Owner for any Lot, Tract or Living Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association; (1) annual assessments or charges, and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made as soon as they are due and payable. Each such assessment, together with interest, costs,

and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**SECTION 2. PURPOSE OF ASSESSMENTS.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and for the improvement and maintenance of the Common Area and of the homes and other improvements situated upon the Properties.

**SECTION 3. BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.**

A. The amount of assessment for each Lot, Tract or Living Unit shall be determined by the Board of Directors of the Association. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be as follows:

(1) TOWNHOUSE UNITS

(a) The maximum annual assessment shall be \$55.00 per monthly, payable in advance.

B. The services to be provided to the Owners shall include the care of, spraying, trimming, and protecting and replanting of trees on all streets and in other public and private places, and the plowing and removal of snow from sidewalks and walkways. The services to be provided to the Owners shall also include the plowing and removal of snow from alleys, driveways, parking areas, access easements and private streets; the care of, protecting and replanting of shrubbery and resowing of grass on the Common Area; the mowing of lawns, the pick up and removal of loose material, trash and rubbish of all kinds, providing water to the common areas and any other thing necessary or desirable in the judgment of the officers of the Association to keep the lawns and the remainder of the Properties neat in appearance and in good order; the erection and maintenance of such lights as the Association may deem advisable on streets, parks, parking areas, gateways, entrances, walkways or other features on Common Areas; the repair and maintenance, repaving and reconstruction of driveways, lots and lanes; the maintenance, repair and replacement of the utility lines and pipes which are located thereon within the boundaries of any Tract other than the Tract which they serve; the erection and maintenance of signs for marking of streets, unless rubbish is collected by the City of Kansas City, Missouri or by some other governmental authority, the periodic collection of rubbish and the

disposal of such rubbish as is collected; and such other maintenance of the Common Areas as the Association shall deem appropriate. Additionally, the services to be provided shall include the exterior maintenance of each townhouse which is subject to assessment hereunder as follows: paint, stain, repair, replace and care for the roofs, gutters, downspouts and exterior building surfaces. Such exterior maintenance shall not include glass surfaces unless the Association elects to do so. In the event the need for maintenance or repair is caused through the willful or negligent act of the Owner, the Owner's family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such townhouse is subject. The Association shall not, however, be financially responsible for maintenance or repair resulting from a loss which could have been covered by fire or extended coverage insurance whether or not such insurance was in effect at the time of such loss, and the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such townhouse is subject. The Association shall not be responsible for any structural defects.

B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner by the Declarant, the maximum annual assessment for each Lot, Tract or Living Unit may be increased effective January 1 of each year, without a vote of the membership, by the Board of Directors of the Association by not more than ten percent (10%) above the maximum annual assessment for the preceding year.

C. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner by the Declarant, the maximum annual assessment for each Lot, Tract or Living Unit may be increased more than ten percent (10%) by a vote of the members, for the next succeeding one (1) year and at the end of each such period of one (1) year, provided that any such change shall have the assent of fifty-one percent (51%) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 10 days nor more than 40 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

D. The Board of Directors of the Association at any time may fix the annual assessments for each Lot, Tract or Living Unit at an amount not in excess of the maximum.

**SECTION 4. SPECIAL ASSESSMENTS.** In addition to the annual assessments herein provided, the Association may levy Special Assessments against members owning a Lot, Tract or Living Unit:

a. To construct or reconstruct, repair or replace capital improvements upon the common properties, including the necessary fixtures and personal property related thereon;

b. To add to the common properties;

c. To provide for the necessary facilities and equipment to offer the services authorized herein;

d. to repay any loan made to the Association to enable it to perform the duties and functions authorized herein;

e. To pay for any cost of furnishing water to the Common Area if such cost exceeds the amount set forth in the Association Budget for that year;

f. The Association shall not, in any one year levy Special Assessments which in the aggregate exceed twenty-five percent (25%) of the estimated gross expenses of the Association as set forth in the budget for such year without the vote or written assent of the members representing a majority of the eligible members of the Association.

Each member shall be liable to the Association for any damage to Common Properties not fully covered by insurance which may be sustained by reason of the negligence or willful misconduct of said member, or the persons deriving their right and easement of use and enjoyment of Common Properties from said member or his or their respective family and guests, both minor and adult. Notwithstanding the foregoing, the Association reserves the right, after notice and hearing as provided in the Bylaws, to levy a Special Assessment equal to the increase, if any, in insurance premium directly attributable to the damage caused by such member or the persons for whom such member may be liable as described above. After notice and hearing as provided in the Bylaws, the costs of correcting such damage to the extent not covered by insurance shall be a special assessment against the Lot, Tract or Living Unit and may be enforced as provided herein for the enforcement of other assessments.

**SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4.** Written notice of any meeting called for the

purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 10 days nor more than 40 days in advance of the meeting. At the first meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-third (1/3) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**SECTION 6. UNIFORM RATE OF ASSESSMENT.** Except as specifically provided herein, or except as may be provided by amendment of this Declaration, both annual and special assessments must be fixed at a uniform rate for all Lots, Tracts and Living Units and may be collected on a monthly basis.

**SECTION 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. DUE DATES.** The annual assessments provided for herein shall commence as to all Lots, Tracts and Living Units on the first day of the month following the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot, Tract, and Living Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot, Tract or Living Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot, Tract or Living Unit is binding upon the Association as of the date of its issuance.

**SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum from the assessment date until paid. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot, Tract or Living Unit.

**SECTION 9. SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot, Tract or

Living Unit shall not affect the assessment lien. However, the sale or transfer of any Lot, Tract or Living Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot, Tract or Living Unit from liability for any assessments thereafter becoming due or from the lien thereof.

**SECTION 10. EXEMPT PROPERTY AND FRACTIONAL ASSESSMENT.** Notwithstanding anything else contained herein, the following property shall be exempted from the assessment charge and lien created herein:

- A. All properties dedicated and accepted by the local public authority and devoted to public use;
- B. All properties exempted from taxation by the laws of the State of Missouri upon the terms and to the extent of such legal exemption;
- C. All Common Area.

**SECTION 11. NOTICES.** A written or printed notice deposited in the United States Mail with postage prepaid thereon, addressed to the Owner at the last address listed with the Association, shall be deemed to be sufficient notice for all purposes whenever notices are required under this document.

**ARTICLE V**

**ARCHITECTURAL CONTROL**

No building, fence, wall, patio, deck or other structure shall be commenced, placed, erected or maintained upon the Properties (specifically including but not limited to on or around any Lot, Tract or Living Unit), nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural committee composed of three (3) or more representatives appointed by the Board. If the Board of Directors so elects, it may appoint separate architectural committees for different areas or portions of the Properties. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within ninety (90) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to

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have been fully satisfied. Notwithstanding anything else contained herein, if an Owner erects any exterior addition on his Lot or Tract then such Owner shall have the obligation to maintain such addition. Change or alteration as used herein shall include but not be limited to the color of the exterior of any Living Unit.

## ARTICLE VI

### RESTRICTIONS

For itself, its successors and assigns and its future grantees, Declarant does hereby further declare that all of the Properties shall be and are hereby restricted as to their use in the manner hereinafter set forth.

**SECTION 1. RESIDENTIAL USE REQUIRED.** No Lots, Tracts or Living Units shall be used except for residential purposes, except, however, that nothing contained in this instrument shall be applicable to or shall in any way be construed to prohibit, limit or affect the erection and maintenance upon any Lots or Tracts or parts thereof, of any townhouses, subject, however, to the architectural approval required by Article V hereof. No trailer, basement, tent, shack, garage, or any outbuilding as set forth above shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

**SECTION 2. COMPLETION OF CONSTRUCTION.** No Living Unit shall be permitted to stand with its exterior in an incomplete or untreated condition for longer than five (5) months after commencement of construction, unless the Board of Directors or its architectural committee has approved the exterior as one which shall be permitted to remain in an untreated condition. In such cases, the exterior may remain in an untreated condition but the exterior must be completed prior to said deadline. In the event of fire, windstorm or other damage, no Living Unit shall be permitted to remain in such damaged condition longer than three (3) months.

**SECTION 3. FUEL STORAGE PROHIBITED.** No fuel storage tank shall be erected above the surface of the ground.

**SECTION 4. BUSINESSES PROHIBITED.** No business structure shall be erected or business or profession of any nature conducted on the land herein described, nor shall anything be done thereon which may in the opinion of the architectural committee of the Board of Directors of the Association described in Article V hereof be deemed a nuisance to the neighborhood.

**SECTION 5. SIGNS.** The construction or maintenance of signs (including but not limited to for rent or for sale signs), billboards, advertisements or advertising structures of any kind on any Lot or Tract or on or in any structure located on any Lot or Tract (including but not limited to on or in any window of any such structure) is prohibited without the written authorization of the Board of Directors, or its architectural committee, except that notwithstanding anything else contained in this Declaration the Declarant reserves the right to locate, in any Lot, Tract or Living Unit in the Properties a temporary real estate office to be used as such during the period of original showing for sale of portions of the Properties, and to erect a sign of any size for temporary sale purposes during such period. In the event the Board of Directors or its architectural committee does authorize placement of signs, the Board may condition its approval on compliance with any restrictions it believes appropriate, specifically including but not limited to restrictions to the size and location of such signs and the duration of their placement.

**SECTION 6. ANIMALS.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on the Properties, except that dogs, cats or other household pets may be kept with the prior written permission of the Board of Directors of the Association or its architectural committee, provided that they are not kept, bred, or maintained for any commercial purposes. In the event the Board of Directors or its architectural committee does authorize the keeping of household pets, the Board or committee may condition such authorization on compliance with any restrictions it believe appropriate.

**SECTION 7. DRAINAGE AND UTILITY EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat, or as reflected in the records of the Recorder of Deeds for Platte County, Missouri. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and Tract and all improvements in it shall be maintained continuously by the Owner of the Lot or Tract, except for those improvements for which a public authority or utility company is responsible.

**SECTION 8. FRONT YARDS.** Subject to Section 7 above, the land between any structure and the front street line shall be used solely for lawn and residence purposes, driveways and walks.

**SECTION 9. VEHICLES.** No truck larger than 1 1/2 ton, school bus, boat, boat trailer, trailer, camper, mobile home, recreational vehicle, machinery or other equipment shall be repaired or customarily or habitually parked, kept or stored on the streets, parking areas or alleys or in the yards around any of the buildings within the Properties, nor shall any external television or radio antennae or satellite dish be erected or kept on or about any of the buildings, yards, or property of the Properties.

**SECTION 10. EASEMENTS FOR REPAIRS.** The Declarant hereby creates and establishes an easement extending ten feet in any direction over that part of any property on or next to which a building wall which the Association has the duty or option to maintain is or may be situated for the purpose of maintaining and repairing any such wall for the common benefit of all adjacent Owners. Reasonable notice must be given to an Owner prior to entering that Owner's property under the terms of this Section.

**SECTION 11. EASEMENTS FOR INGRESS AND EGRESS.** The Declarant hereby creates and establishes an easement and right of way for the ingress and egress of all Owners, and their agents, guests, and invitees, within the Properties, over and upon any property identified as "Parking Area", "Private Street" or "Access Easement" on the recorded plat thereof or on such other instrument as shall be filed for record relating to the Properties. All owners are further granted an easement of ingress and egress from, over and across driveways, sidewalks and walkway to and from any of such owners living units.

**SECTION 12. EXTERIOR OF BUILDINGS.** No Owner shall decorate or redecorate, paint or stain the exterior of the Owner's building structure. The painting, staining, decorating or redecorating shall be done by the Association as part of its maintenance duties.

**SECTION 13. BREACH OF COVENANTS.** No restrictions herein contained shall be personally binding on any corporation, person or persons except in respect to breaches committed during its, his or their seisin of, or title to, said land. The Association in its own name or in the name of any or all Owners, and any Owner or Owners of any of the above land in their own names, shall have the right to sue for, and obtain an injunction, prohibitive or mandatory, to prevent the breach of, or to enforce the observance of the restrictions set forth herein, in addition to ordinary legal action for damages, and the failure of the Association or the Owner or Owners to enforce any of the restrictions set forth herein at the time of the violation shall in no event be deemed to be a waiver of the right to do so thereafter. The Association may pay the costs of any such enforcement out of the general fund, but no

Owner or Owners shall be entitled to receive reimbursement from the Association for the cost of any such enforcement.

**SECTION 14. ENCROACHMENTS.** The Declarant hereby creates and establishes an easement for the benefit of the Owner of each Lot, Tract or Living on and over Common Area adjacent to such Lot or Tract for encroachment on and over such adjacent Common Area of utility meters and utility lines established by a utility company, window overhangs (specifically including cantilevered windows commonly known as "greenhouse windows"), gutters, siding, downspouts, fireplace chimneys and shafts, foundations, footings, and any other fixture attached to and a part of the building located on such Lot, Tract or Living Unit owned by such Owner, provided, however, that no such encroachment (except for such utility meters and lines) may encroach on Common Area beyond the extent or location of the encroachment in effect at the time of the first sale of a Living Unit on such Lot or Tract for occupancy purposes with the exception of patios and decks approved by the Architectural Control Committee in accordance with the covenants but not constructed at the time of said conveyance. In the event that any portion of the Common Properties, encroaches upon any Unit or Units; or in the event that any portion of a Lot, Tract or Living Unit encroaches upon any other Living Unit or Units, or upon any portion of the Common Properties, or in the event any encroachment shall occur in the future as a result of: (1) setting of a building; or (2) alteration or repair to the Common Properties; or (3) repair or restoration of a building(s) and/or Living Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings; a valid easement shall exist for the encroachment and for the maintenance of the same as long as the building(s) stands or encroachment exists. In the event that any one or more of the Living Units or other improvements comprising part of the Property are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall then exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Properties or on the Living Units for the purposes of marketability of title or other purposes. In interpreting any and all provisions of the Declaration, subsequent deeds to and/or mortgages relating to a Lot, Tract or Living Unit, the actual location of a unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such unit indicated on the plat or any Certificate of Survey. The Declaration also hereby creates and establishes an easement and right of way for the ingress and egress of all Owners and their

agents and utility companies provided service within the Properties, over and upon adjacent Lots, Tracts or Living Units and Common Area for the installation, reading, servicing and repair of utility meters, utility lines and other fixtures validly encroaching on such adjacent Lots, Tracts or Living Units or Common Area, to the extent reasonably necessary to effect such installation, reading, servicing or repairing.

**SECTION 15. BASKETBALL GOALS.** No exterior basketball goal shall be erected or maintained on any Lot, Tract or Living Unit without the written consent of the Architectural Control Committee.

## ARTICLE VII

### PARTY WALLS

**SECTION 1. GENERAL RULES OF LAW TO APPLY.** Each wall which is built as a part of the original construction of the homes or other structures upon the Properties and placed on the dividing line between the Lots or Tracts shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**SECTION 2. SHARING OF REPAIR AND MAINTENANCE.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**SECTION 3. DESTRUCTION BY FIRE OR OTHER CASUALTY.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

**SECTION 4. WEATHERPROOFING.** Notwithstanding any other provision of this Article, an Owner who by his negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**SECTION 5. RIGHT TO CONTRIBUTION RUNS WITH LAND.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**SECTION 6. ARBITRATION.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## **ARTICLE VIII**

### **INSURANCE**

The Association shall obtain and maintain at all times, to the extent obtainable, policies involving standard premium rates, established by the Missouri Insurance Commissioner, and written with companies licensed to do business in Missouri and have a Bests' Insurance Report rating of Class A or better, covering the risk set forth below: The Association shall not obtain any policy where: (1) under the terms of the insurance company's charter, bylaws or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee; or (2) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the company's board of directors, policyholders or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds. The types of coverages to be obtained and risks to be covered are as follows, to-wit:

(1) Fire insurance with extended coverage and standard all risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Said casualty insurance shall insure the entire townhouse project and any property, the nature of which is Common Area (including all of the Living Units and fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by Living Unit owners) together with all service equipment contained therein in an amount equal to the maximum replacement value, without deduction for depreciation if such coverage is available.

(2) Public liability and property damage insurance in such limits as the Association may from time to time determine, but not in an amount less than \$100,000 combined single limit and umbrella liability limits of \$300,000 per occurrence, covering claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association and activities in connection with the ownership, operation, maintenance and other use of the subject. Said policy shall also contain a "broad form endorsement" and errors and omissions coverage.

(3) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the project, including plate or other glass insurance and any personal property of the Association located thereon.

All policies of insurance to the extent obtainable shall provide that:

(1) Each owner of a Tract or Living Unit is an insured person under the policy with respect to liability arising out of his interest in the Common Area or membership in the Association.

(2) The insurer waives its rights to subrogation under the policy against any Owner of a Living Unit or members of his household;

(3) No act or omission by any owner of a Tract or Living Unit, unless acting within the scope of his authority on behalf of the Association shall void the policy or be a condition to recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of an owner of a Tract or Living Unit covering the same risk covered by the policy, the Association's policy provides primary insurance.

(5) That such policies may not be cancelled or modified without at least ten (10) days' written notice to all of the insureds, including mortgagees. If requested in writing by one or more of the mortgagees, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the owners of a Tract or Living Unit, which policy or policies shall identify the interest of each owner of a Tract or Living Unit (owner's name and Tract number designation) and first mortgagee. Further, the Association shall require the insurance company or companies providing the insurance coverages described herein to provide each owner and mortgagee a certificate of insurance in regard to such owner's individual Living Unit.

Owners of a Tract or Living Unit may carry other insurance for their benefit and at their expense.

Insurance coverage on furnishings, including carpet, draperies, oven, range, refrigerator, wallpaper, disposal and other

items of personalty or other property belonging to an owner of a Tract or Living Unit and public liability coverage within each Tract or Living Unit shall be the sole and direct responsibility of the owner thereof, and the Association, and/or the managing agent shall have no responsibility therefor.

## ARTICLE IX

### GENERAL PROVISIONS

**SECTION 1. BOARD OF DIRECTORS.** The Board of Directors of the Association elected in accordance with its Articles of Incorporation and Bylaws shall be charged with the management of the Association. The Board of Directors shall have the right to make such reasonable rules and regulations as will enable it to adequately and properly carry out the provisions of this Declaration. All Common Area shall be under the management and control of the Association, except that such management and control shall at all times be subject to rights exercised by the City of Kansas City, the County of Platte, the State of Missouri and any other appropriate governmental body.

**SECTION 2. ENFORCEMENT.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

**SECTION 3. SEVERABILITY.** Invalidation of any one of these covenants or restrictions by judgment or court shall in no way affect any other provisions which shall remain in full force and effect.

**SECTION 4. AMENDMENT.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of this Declaration is recorded, after which time unless terminated a provided below they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the holders of not less than two-thirds (2/3) of the voting rights of each class of membership, and thereafter may be amended or terminated as of the end of the then current term by an instrument signed by the holders of not less than two-thirds (2/3) of the voting rights of the membership. Any amendment must be recorded.

**SECTION 7. POWER OF ASSOCIATION.** The Association shall be deemed to have all the powers and authority to perform the actions required or permitted of it hereunder.

**SECTION 8. COVENANTS RUN WITH THE LAND.** All provisions of this Declaration, specifically including but not limited to the protective covenants, shall be deemed to be covenants running with the land and shall be binding upon the Declarant and its successors and assigns. All parties claiming by, through or under the Declarant shall be taken to hold, agree and covenant with the Declarant and its successors and assigns, and with each of them, to conform to and observe all restrictions herein as to the use of the land and the construction and use of improvements thereon.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 18th day of March, 1994.

*No Corporate seal*


HOMETOWN DEVELOPERS, INC., A  
MISSOURI CORPORATION

BY: 

TOM PRYOR

TITLE: PRESIDENT

ATTEST:

  
SECRETARY

MISSOURI ACKNOWLEDGMENT - CORPORATE

STATE OF MISSOURI )  
 ) SS  
COUNTY OF CLAY )

On this 18th day of March, 1994, before me appeared, TOM PRYOR, to me personally known, who being by me duly sworn, did say that he is the President of HOMETOWN DEVELOPERS, 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 TOM PRYOR acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Kansas City, Missouri, the day and year last above written.

*Pauline Fleming*  
Notary Public

PAULINE FLEMING  
NOTARY PUBLIC STATE OF MISSOURI  
CLAY COUNTY  
MY COMMISSION EXP. NOV. 15, 1994

No Corporate Seal  
My commission expires: November 15, 1994

STATE OF MISSOURI )  
COUNTY OF PLATTE ) SS  
I CERTIFY INSTRUMENT RECEIVED

1994 MAR 18 P 4: 10.3

RECORDED BOOK 809 PAGE 380  
IDA COX, PLATTE CO. RECORDER

*Gloria Boyer*  
Deputy

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AND RESTRICTIONS FOR  
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