

**DECLARATION OF COVENANTS
AND RESTRICTIONS
FOR
THE VILLAGE AT ALEXANDER CREEK**

WHEREAS, Alexander Creek, L.L.C., a Missouri limited liability company (hereinafter referred to as "Declarant"), and SAB Construction, L.L.C., a Missouri limited liability company (hereinafter referred to as "Builder"), are the owners of all the property platted as THE VILLAGE AT ALEXANDER CREEK, a Private Urban Development (P.U.D.) subdivision in Cass County, Missouri, according to the recorded plat thereof, and legally described as:

**The north 73.22 acres of the Northeast Quarter of Section 13,
Township 46, Range 32, Cass County, Missouri,**

a subdivision in Cass County, Missouri, (hereinafter referred to as "Subdivision" or "Property"), now desires to place certain restrictions and reservations on all of the said subdivision property, for the use and benefit of the present owners, and for their future grantees, heirs, successors and assigns;

NOW THEREFORE, in consideration of the premises, Declarant, for itself, its successors and assigns, and its future grantees, does hereby declare that all of the lands described above included within the Subdivision shall be and are hereby restricted as to the use in the manner hereinafter set forth:

**ARTICLE I
DEFINITIONS**

- 1.1 "Age-Qualified Occupant"; Any Person fifty-five (55) years of age or older who owns and occupies a Dwelling Unit.

- 1.2 "Area of Common Responsibility": The Common Area, together with those areas, if any, which the Association does not own but which by the terms of Sections 5.1, 6.1, or other provisions of this Declaration, any Supplemental Declaration, or other applicable covenants, or by contract become the responsibility of the Association.
- 1.3 "Architectural Review Committee" or "ARC": The committee established by the Board to review all plans and applications for the construction and modification of improvements on the Property (subject to the rights reserved to Declarant in Sections 2.1, 2.2, Article VIII, Article X and Section 11.2) and to administer and enforce the architectural controls described in Article IV and by the Community-Wide Standard. Before said Committee is established, the Declarant shall have any and all authority herein given to the ARC.
- 1.4 "Assessment": A fee or charge levied on all Lots subject to assessments to fund Common Expenses for the general benefit of all Lots and to fund expenses incurred or to be incurred by the Declarant or the Association.
- 1.5 "Association": The Village at Alexander Creek, Inc., a not-for-profit Missouri corporation, its successors or assigns. Before said Association is established, the Declarant shall have any and all authority herein given to the Association.
- 1.6 "Board": The Board of Directors for the Association. Before said Board is established, the Declarant shall have any and all authority herein given to the Board.
- 1.7 "Common Area": All real and personal property which the Association now or hereafter owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including easements held by the Association for those purposes. The term shall include, without limitation, recreational facilities, entry features, signage, landscaped medians, rights of way, lakes, ponds, and streams.
- 1.8 "Common Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association, including, without limitation (a) expenses incurred for the general benefit of all Owners and occupants of Lots, and (b) expenses for Board approved capital expenditures and any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles.
- 1.9 "Community-Wide Standard": The standard of conduct, maintenance, or other activity required within the Property. Such standard may contain both objective and subjective elements. Declarant shall have the authority to establish the subjective elements of the Community-Wide Standard. The objective elements of the Community-Wide Standard shall be determined by the Board. The Community-Wide

Standard may evolve as the development progresses and as the needs and demands of the Subdivision community change.

After Declarant transfers all of its right, title and interest in the property described on page 1 of this Declaration, the Community-Wide Standard shall be the standard of conduct, maintenance, or other activity generally prevailing throughout the Property at the subject point in time, as determined exclusively by the Board, or by the ARC (defined herein) with the approval of the Board.

- 1.10 "Covenant to Share Costs": Any declaration of easements and/or covenant to share costs executed by Declarant or the Association and recorded in the Office of the County Recorder which creates easements for the benefit of the Association and the present and future owners of real property subject to such Covenant to Share Costs and/or which obligates the Association and such owners to share the costs of maintaining certain property described therein.
- 1.11 "Declarant": Alexander Creek, L.L.C., a Missouri limited liability company, or any successor, successor-in-title, or assignee of Alexander Creek, L.L.C., who has or takes title to any portion of the property described on page 1 of this Declaration for the purpose of development and/or resale in the ordinary course of business and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.
- 1.12 "Dwelling Unit": Any building or structure or portion of any building or structure situated upon a Lot which is intended for use and occupancy as an attached or detached residence for a single family, including by way of illustration but not limitation, condominium units, townhome units, cluster homes, patio or zero lot line homes, and single family detached houses, but excluding any rental apartments within any apartment or rental structure or complex.
- 1.13 "Governing Documents": This Declaration, the Association By-Laws, or any other rules and restrictions adopted by the Declarant or the Association.
- 1.14 "Lot": A portion of the Property, whether improved or unimproved (other than Common Area or any property dedicated to the public), which may be independently owned and conveyed and which is intended to be developed, used, and occupied with an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements, including any Dwelling Unit(s), thereon. The term shall include, by way of illustration but not limitation, condominium units, townhome units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such. In the case of any structure

containing multiple Dwelling Units, each Dwelling Unit shall be deemed to be a separate Lot.

- 1.15 "Maintenance Fund": The Maintenance Fund shall be funds that may be used:
- a. For lighting and improving the streets and dedicated right-of-way areas maintained for the general use of the owners and occupants of land included in the Subdivision;
 - b. For collecting, recycling and disposing of garbage and rubbish; and
 - c. For doing any other thing necessary or desirable, in the opinion of the Declarant, to keep the property neat and in good order, and to eliminate fire hazards, or which, in the opinion of the Declarant, may be of general benefit to the owners or occupants of the land included in the Subdivision.
- 1.16 "Member": A Person entitled to membership in the Association. Before the Association is established, Member shall be defined as the Declarant, or its successors or assigns.
- 1.17 "Owner": Cumulatively, all Persons who hold the record title to any Lot. The term "Owner" shall not include Persons holding an interest merely as security for the performance of an obligation, in which case the equitable owner will be considered the Owner.
- 1.18 "Person": A natural person, a corporation, a company, a partnership, a trustee, an estate, or any other legal entity.
- 1.19 "Property": The real property described on page 1 of this Declaration.
- 1.20 "Qualified Occupant": Any of the following Persons occupying a Dwelling Unit:
- a. any Age-Qualified Occupant;
 - b. any Person nineteen (19) years of age or older occupying a Dwelling Unit with an Age-Qualified Occupant;
 - c. a surviving spouse of a deceased Age-Qualified Occupant who continues to occupy the same Dwelling Unit after the Age-Qualified Occupant's death; and
 - d. any Person nineteen (19) years of age or older who occupied a Dwelling Unit with an Age-Qualified Occupant and who continues, for a maximum of ninety (90) days, to occupy the same Dwelling Unit after termination of the Age-Qualified Occupant's occupancy thereof.

- 1.21 "Special Assessments": Assessments levied against Owners to cover unanticipated expenses or expenses in excess of those budgeted.

ARTICLE II MAINTENANCE

- 2.1 Association's Common Area Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:
- a. all Common Area;
 - b. all landscaping and other flora, parks, signage, structures, parking areas, and improvements, including any bike and pedestrian pathways and trails, situated upon the Common Area;
 - c. all water service facilities and drainage facilities within the Area of Common Responsibility, including lakes, ponds, and other water features;
 - d. all streets, arterial streets, arterial sidewalks and any sidewalks that are not the responsibility of any Owner, or any local government entity;
 - e. walls and fences constructed by the Declarant which serve as perimeter walls for the Property or which separate any Lot from Common Area, whether or not located on a Lot;
 - f. landscaping, irrigation systems, and signage within public streets and rights-of-way within or abutting the Property to the extent maintenance by any local government is not consistent with the Community-Wide Standard, and any streetlights that are not included in a streetlight improvement district;
 - g. landscaping and other flora within any public utility easements and scenic easements within the Common Area (subject to the terms of any easement agreement relating thereto);
 - h. any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, any plat of any portion of the Property, or any contract or agreement for maintenance thereof entered into by the Association; and
 - i. any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the

Association and its Members. Such property shall be identified by written notice from the Declarant to the Association. The Association's responsibility shall terminate at such time as Declarant revokes the privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law.

Except as otherwise specifically provided herein, all costs for maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense allocated among all Lots as part of the Assessment, without prejudice to the right of the Association to seek reimbursement from the Persons responsible for such damage pursuant to this Declaration, other recorded covenants, or agreements with such Persons.

2.2 Association's Lot Responsibility. The Association shall also have the power, duty and obligation to do and perform certain acts on the Lots, which shall include, but need not be limited to:

- a. provide lawn care, consisting of mowing, edging, fertilizing and weed control of the grass areas, and trimming of all shrubs and trees, whether in a Common Area or on a Lot (except for in any patio area of any Lot or in any other area made inaccessible to the Association, the care of which shall be the responsibility of the Owner);
- b. upon accumulation of at least two (2) inches of snow, provide snow removal for Lot's driveways and front sidewalks;
- c. arrange for or provide to each Lot owner trash, garbage and recycling removal service on a regular basis with at least one pick-up each week; and
- d. provide services and material to paint the front door of each Dwelling Unit at least every five (5) years, or sooner if determined necessary by the Association.

The Association, in its discretion, may provide the maintenance and other services described in Sections 2.1 and 2.2 either through its own employees or through independent contractors or both. The cost of the provision of such services shall be a Maintenance Charge.

- 2.3 Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, painting, plant replacement, weeding, and trimming, as the Declarant may determine to be necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board.

Portions of the Property are environmentally sensitive and/or may provide greater aesthetic value than other portions of the Property. The Declarant may establish a higher Community-Wide Standard for such areas and require additional maintenance for such areas to reflect the nature of such property.

Notwithstanding anything to the contrary contained herein, neither the Association nor any Owner shall be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

- 2.4 Maintenance Charges. The Association shall have the right and power to subject the property situated in the Subdivision, to monthly maintenance charges. The Declarant has set the initial Maintenance Charge at Ninety-Four and no/100 Dollars (\$94.00) per month.

Commencing the first day of every month, each Owner of property in the Subdivision, other than the Declarant, shall pay to Association, in advance, the maintenance charges against his or her property. The maintenance charge payments shall be used by the Association to create and continue a Maintenance Fund. The charge will be delinquent when not paid within thirty (30) days after it becomes due. In the event that an Owner acquires title to property in the Subdivision after the first day of any month, then such Owner shall be given a pro rata credit for the monthly maintenance charge from the first day of the month to the date on which such Owner acquires title to his or her property.

The monthly charge may be adjusted or reduced from time to time by the Declarant or Board as the needs of the property in its judgment may require; however, said adjustment shall never increase more than eight percent (8%) in a calendar year.

- 2.5 Collection. The Association shall have a lien on all of the Lots in the Subdivision to secure the payment of maintenance charges due and to become due, and the record Owners of the Lots shall be personally liable for all maintenance charges.

Upon demand, the Association shall furnish to any Owner or mortgagee or person interested a certificate showing the unpaid maintenance charges against any Lot or Lots.

The Association may, in its discretion, subordinate in writing, for limited periods of time, the liens of the Declarant or Association against any Lot or Lots for the benefit or better security of a mortgage.

ARTICLE III PROPERTY RIGHTS

- 3.1 Age Restriction. The Subdivision is intended to provide housing primarily for persons fifty-five (55) years of age or older. The Property shall be operated as an age restricted community in compliance with all applicable State and Federal laws. No person under nineteen (19) years of age shall stay overnight in any Dwelling Unit for more than one hundred four (104) cumulative days in any calendar year.

The Board may establish policies and procedures from time to time, as necessary, to maintain its status as an age restricted community under State and Federal law. The Association shall provide, or contract for the provision of, those facilities and services designed to meet the physical and social needs of older Persons as may be required under such laws. The Board shall have the power and authority to enforce this Section 3.1 by any legal or equitable means available, as the Board deems appropriate.

- 3.2 Land Use. Any residence erected or maintained on any of said Lots shall be designed and used for single family, duplex and townhouse residential purposes only and occupied by no more than two (2) families. None of the said Lots may be improved, used or occupied for other than private residence purposes. No flats or apartments may be erected thereon, even with the intention of residential purposes. Building plans, specifications, materials and square footage of any house must be approved in writing by Declarant or the ARC before construction of any home may begin.
- 3.3 Approval. Whenever in these restrictions Owner or Declarant approval is solely required, such approval shall mean Association approval once the Declarant has transferred all of its rights, title and interest in the Subdivision to the Association.
- 3.4 Additions to Existing Property. The Declarant may from time to time add to the Property such land as is now owned or hereafter owned or approved for addition by the Declarant, provided that the land so added shall at that time be bound by all of the terms of this Declaration and any future modifications thereof, and provided that the Declarant shall be under no obligation to add additional land to the Property.

- 3.5 Scope. The Subdivision may be extended to include any and all attached single family residential purpose lands which may hereafter be added by Declarant. All future attached single family residential lands platted under the Subdivision shall be subject to this Declaration. The extension of said estates shall be accomplished by and take effect on the filing of said declaration in the office of the Recorder of Deeds of Jackson County, Missouri, at Independence.
- 3.6 New Construction. All residences and other buildings permitted on any of the Lots shall be initially new construction. **All construction shall be contracted by Declarant, or any other builder approved by Declarant or the ARC.** No building shall be moved onto any Lot. All buildings shall be located on Lots in accordance with County and City Ordinances. Eaves, steps, overhangs, garages, decks, breezeways, and porches shall not be considered as part of the building; provided, however, that these covenants shall not be construed to permit any portion of a building to encroach on another Lot. A garage shall be considered attached only if it is attached by a roof. All plans, specifications, materials and other items must be approved by the ARC prior to commencing construction. The ARC shall set forth its guidelines as authorized by the Association Bylaws. Construction of the residence shall commence within one (1) year from the time the Owners purchase their respective Lot. Construction shall be completed within nine (9) months from the commencement of such construction, notwithstanding construction delays for weather or other unforeseeable matters, etc.

ARTICLE IV
ARCHITECTURAL CONTROL

- 4.1 The Architectural Review Committee. An Architectural Review Committee ("ARC") consisting of three (3) or more persons shall be appointed by the Board.
- 4.2 Purpose. The ARC shall regulate the external design, appearance, use, location and maintenance of the Property and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.
- 4.3 Conditions. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any property or the improvements located thereon from its natural or improved state existing on the date such property was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval of the ARC, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the ARC.
- 4.4 Procedures. In the event the Board fails to approve, modify or disapprove in writing an application within forty-five (45) days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse ARC decision to the Board of Directors, which may reverse or modify such decision by a two-thirds (2/3) vote of the directors.
- 4.5 Exceptions to Use Restrictions. The ARC shall have the power to make variations, alterations and changes in the restrictions set forth in this Articles of this Declaration and similar Articles in Supplementary Declarations, where the Board is specifically given such power in such Supplementary Declarations as to any Lots, units or land, provided the same is accomplished for the mutual benefit of the applicant Owner and the Owners of surrounding Lots, units and land. Any decision of the ARC in relation to any exception authorized by this Section 4.5 may be appealed to the Board of Directors of the Association, which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors.
- 4.6 Minimum Size Requirements. No residence shall be erected, altered, placed or permitted to remain on any Lot or Lots, other than dwelling, not to exceed two (2) stories in height, each with a private two-car garage minimum and three-car maximum. All such residences shall conform to the following standards:

- a. Any single-family residence consisting of a single level above ground level shall contain a minimum of eleven hundred (1,100) square feet of enclosed floor area. Any multi-family Dwelling Unit shall contain a minimum of eleven hundred (1,100) square feet of enclosed floor area.
- b. Any single-family residence consisting of two (2) levels above ground level shall contain a minimum of eleven hundred (1,100) square feet of enclosed area on the first level above-ground level.
- c. Any split-level home shall contain a minimum of eleven hundred (1,100) square feet enclosed floor area above ground level.
- d. Any residence consisting of a level or part of a level that is below ground level shall contain the foregoing minimum enclosed floor areas above ground level.
- e. Single-family split-level homes shall not have less than two (2) car garages built-in or attached, and a maximum of three (3) car garage total. All multifamily Dwelling Unit shall not have a garage minimum.
- f. The driveway on each tract shall be entirely paved and shall contain sufficient paved area for the off-street parking of at least two (2) cars. No gravel or dirt driveways shall be allowed.
- g. No earth or modified earth homes may be constructed. Concrete structured homes may be constructed with Declarant's or the ARC's prior written approval.
- h. The words "enclosed floor area" as used herein, shall mean and include areas of the residence enclosed and finished for all year occupancy computed on outside measurements of the residence, and shall not mean or include any patio areas, basements, garages, porches or attics.
- i. There will be no manufactured housing allowed on the Property without the prior written approval of the Declarant or ARC.

4.7 Uncompleted Structures. In the event of fire, windstorm, or other damage to any residence building in the Subdivision, it is required that (i) if the damage is substantial so that the residence is not habitable, that repairs and rebuilding shall be completed within six (6) months of the occurrence of the damages, or the building shall be razed and the Lot shall be cleared of all debris within two (2) months of the occurrence of the damages; and (ii) if the damage is less than

substantial, the repairs shall be completed within four (4) months of the occurrence of the damage.

- 4.8 Landscaping. Declarant, or its successors or assigns, specifically requires that the location, building plans and specifications, and landscaping between the front line of any Lot and the front of the residence for any residential structure in the Subdivision be approved in writing by the same, prior to any start of residence construction and delivered to the person responsible therefor. The Owner of any Lot proposing construction or installation of any improvements shall be held responsible to furnish such plans and specifications at the Owner's own cost, and shall conform to any written objections made thereto, all prior to starting any work. If any work is started without such prior approval, it shall immediately be stopped upon notification to the Owner of the Lot until such time as there be compliance with this paragraph. If written objections to such location, building plans and specifications, and landscaping are not made to the Lot Owner submitting the same within thirty (30) days after receipt by Declarant, or the Association, all of same shall be deemed to have been approved. Notwithstanding anything contained herein to the contrary, Declarant, and/or the Association, shall not be liable for any claim for damages or claims as to any delays of any nature or description arising from or relating to the foregoing provisions. All gardens shall be located behind the front line of the house.
- 4.9 Facade. All residences shall have a facade constructed of stone, brick, or stucco.
- 4.10 Building Set-back Lines. No part of any residence shall be located on any Lot closer to the front line than twenty-five feet (25') from the back of the curb, and not closer to any side line than five feet (5').
- 4.11 Residence Alignment. No residence shall be rotated more than thirty degrees (30°) from the front line of the Lot.
- 4.12 Lot Area. No more than one (1) residence shall be constructed on any Lot, except Lots platted for multi-family Dwelling Units.
- 4.12 Temporary Structures. No structure of a temporary character, nor any trailer, recreational vehicle, basement, tent, shack, garage, barn or other out building shall be used on either lot at any time as a residence, either temporarily or permanently. All trailers, recreational vehicles, water craft, truck shells, or any such similar item, as determined by the Association Board, shall be stored in a garage.

**ARTICLE V
COMMON PROPERTY**

5.1 Conveyance of Common Property. The Declarant shall not be required but shall have the option to convey the Common Area to the Association, and from time to time, may convey to the Association such certain other property as the Declarant may determine in accordance with any development plan for the common use and enjoyment of the Owners. The deed of conveyance may contain appropriate restrictions and assurances that such property shall be reserved for the common use and enjoyment of the Owners and prohibit the construction thereon of buildings for commercial or retail use.

The Declarant may convey an interest in fee simple in any improved land intended to be used as Common Area either by gift or for a consideration which equals the cost of the capital improvements on such property at the time of conveyance. For the purposes of this Section 5.1, "cost" shall mean the actual amounts expended to construct or complete the community facilities or improvements situated on Common Area (excluding the cost of the land devoted to such facilities or improvements), plus a reasonable charge for overhead. Such consideration may be in whatever form agreed to at the time of sale.

5.2 Use of Common Property. Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Common Area, and such easement shall be appurtenant to and shall pass with every Lot Owner upon transfer. Any guest of an Owner shall be entitled to a right or privilege of enjoyment of Common Area subject to such regulations as may be declared by the Association Board. Each such guest shall be accompanied by the Owner sponsoring such guest at all times such guest is using the Common Area.

All such rights, easements and privileges conferred under this Section shall, however, be subject to the right of the Association Board to:

- (i) establish, adopt, promulgate, amend and rescind reasonable rules and regulations pertaining to the use, operation and maintenance of Common Area which shall enhance the preservation of such facilities, promote the safety and convenience of the users thereof, and which shall serve to promote the best interests of the Members and the Subdivision;
- (ii) determine the use or uses to which Common Area may be put; provided, however, that any designation of use which is inconsistent with the use designated by the Declarant upon conveyance, shall be subject to the provisions of this Declaration;

- (iii) determine which, if any, Common Area may be used and enjoyed by, or conveyed or dedicated to, the general public or a federal, state or local government body; provided, however, that Property shall not be conveyed to a public body unless the Association Board has obtained the prior approval of two-thirds (2/3) of the Members who are present in person or by proxy and voting at an Association meeting at which a quorum is present or voting in a referendum called for such purpose after proper notice is given; and
- (iv) levy user fees and charges and to charge reasonable admissions or other charges or fees for the use of any recreational facility.

5.3 Damage or Destruction of Common Property by Owner. In the event any Common Area is damaged or destroyed by an Owner, or any of his or her guests, tenants, licensees, agents or members of their families, such Owner does hereby authorize the Association to repair such damaged areas. The amount expended for such repairs shall be a Special Assessment and lien upon the lot of said Owner and shall be enforceable as other Assessments.

ARTICLE VI RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

- 6.1 Enforcement. The Board may impose sanctions for violation of this Declaration, the By-Laws, or any rule or regulation, after notice and a hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:
- a. imposing reasonable monetary fines (in the event that any occupant, guest, or invitee of a Lot violates any provision of any of the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
 - b. suspending an Owner's right to vote;
 - c. suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from the Owner's Lot;
 - d. suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association; and

- e. levying Assessments to cover costs incurred or to be incurred in bringing a Lot into compliance in accordance with Section 103(c).

In addition, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations in accordance with any applicable ordinance(s) of the City of Raymore, Missouri) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedures set forth herein or in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of any of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall be obligated to investigate allegations of violations of any covenant, restriction, or rule set forth in any of the Governing Documents. Following such investigation, the decision to take or not take enforcement action shall, in each case, be in the discretion of the Board, in the exercise of its business judgment. Without limiting the generality of the Board's discretion, if the Board reasonably determines that a covenant, restriction, or rule is, or is likely to be, construed as, inconsistent with the applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action, the Board shall not be obligated to take such action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision at a later time or under other circumstances, or estop the Association from enforcing any other covenant, restriction, or rule.

Notwithstanding the above, if, in the discretion of the Declarant, the Association fails to take appropriate action to enforce any provision of the Governing Documents in accordance with its rights and responsibilities, the Declarant may take such enforcement action on behalf of the Association. Declarant shall not take such action without first providing the Association written notice and a reasonable opportunity to take such action on its own.

- 6.2 Assumption of Risk. The Association may, but shall not be obligated to, sponsor certain activities or provide facilities designed to promote the health, safety, and welfare of Owners and occupants. Notwithstanding anything contained herein or in any of the Governing Documents, neither the Association, the members of the Board, the officers of the Association, the management company of the Association, nor the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or occupant of any Lot or any

tenant, guest or invitee or any Owner or occupant or for any property of any such Persons. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Property, including all Common Area and all recreational facilities, if any.

Neither the Association, the members of the Board, the officers of the Association, the Association's management company, nor the Declarant shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Property. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence or malfunction of utility lines or utility substations and further acknowledges that neither the Association, the members of the Board, the officers of the Association, the Association's management company, nor the Declarant have made any representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

No provision of the Governing Documents shall be interpreted as creating a duty of the Association, the members of the Board, the officers of the Association, the management company of the Association, or the Declarant to protect or further the health, safety, or welfare of any Person, even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Property (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, the Board, the Association's management company, and the Declarant, their directors, officers, committee and board members, employees, agents, contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

- 63 Security. The Association may maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be; provided, however, unless otherwise specifically indicated in this Declaration, the Association shall not be obligated to maintain or support such activities.

Neither the Association, its officers, the Board, the Association's management company, nor the Declarant shall in any way be considered insurers or guarantors of security within the Property. Neither the Association, its officers, the Board, the

Association's management company, nor the Declarant, shall be held liable for any loss or damage for failure to provide adequate security or for the ineffectiveness of any security measures undertaken.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge that neither the Association, its officers, the Board, the Association's management company, the Declarant, nor the ARC represent or warrant that any patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security system designated by or installed according to guidelines established by the Declarant or the ARC may not be compromised or circumvented; nor that any patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems will prevent loss by burglary, theft, hold-up, or otherwise; nor that patrolling of the Property, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security system will in all cases provide the detection or protection for which the system is designed or intended.

- 6.4 Recycling Programs. The Board may establish a recycling program and recycling center within the Property, and in such event all occupants of Dwelling Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.
- 6.5 Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any, will be provided by the Association.
- 6.6 Change of Use of Common Area. The Board may change the use of any portion of the Common Area and construct, reconstruct, or change the buildings and other improvements thereon in any manner necessary to accommodate the new use of

the Common Area. Any change in use of the Common Area shall be subject to approval by the Declarant, but shall not be subject to approval by any other Owner.

ARTICLE VII POWERS AND DUTIES OF ASSOCIATION

Association shall have the following powers and rights, together with such powers, rights and authority as may be expressed in the Articles of Incorporation, Bylaws or those provided to corporations or not-for-profit corporations by the laws of Missouri.

- 7.1 Management. To operate and manage Subdivision area in a manner designed to meet the physical, recreational, social and religious needs of older adults.
- 7.2 Maintenance of Property. To maintain all property owned by the Declarant and/or the Association, together with any Lots which may be vacant including snow removal, mowing, trimming, seeding, sodding, spraying, planting trees and shrubs, and lighting.
- 7.3 Construction of Improvements. Declarant and/or the Association shall have the power and authority to construct on any Subdivision Property, such as clubhouses, swimming pools, tennis courts, libraries, community centers, together with any other improvements or facilities for the benefit of older adults as the Board shall determine.
- 7.4 Maintenance of Living Units. Declarant and/or the Association shall be authorized to perform exterior maintenance work on the Dwelling Units including painting, repair and replacement of roofs.
- 7.5 Rules and Regulations. The use of the Association's Property and any improvements, structures or facilities erected thereon shall always be subject to the general rules and regulations established and prescribed by Declarant and/or the Association and subject to the establishment of charges for their use.
- 7.6 Exercise Easements. To exercise all rights and control over any easements which the Association Creek may from time to time acquire.
- 7.7 Grant Easements. To create, grant and convey easements upon, across, over and under all Subdivision Property including, but not limited to, easements for the installation, replacement, repair and maintenance of utility lines serving Lots in the Subdivision.

ARTICLE VIII INSURANCE

- 8.1 Owner's Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full insurable replacement cost on all improvements on any Lot owned, less a reasonable deductible, unless the Association carries such insurance (which they are not obligated to do hereunder).

Each Owner further covenants and agrees that in the event of damage to or destruction of the Dwelling Unit or any other structures on or comprising his or her Lot, he or she shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat, attractive, and landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

ARTICLE IX MISCELLANEOUS RESTRICTIONS

- 9.1 Storage Tanks. No fuel storage tank(s) shall be installed on any Lot.
- 9.2 Roofs. No residence shall be constructed with a flat roof. All roofs shall be as Declarant, may, in its sole discretion, approve. However, the appearance shall be as wood shake shingles or similar composition such as the equivalent to Timberline 30-year shingles. Tile, slate or concrete roofs may only be constructed with the prior written approval of Declarant or the ARC.
- 9.3 Clothes Lines. Permanent clothes lines shall not be erected. If collapsible clothes lines are installed, they shall not be left up when not in use, and shall be so installed only to the rear of the residence served so as not to be visible from the front street.
- 9.4 Mail Boxes. All mail boxes shall be as approved by the U.S. Postal Services and by Declarant.
- 9.5 Antennas, etc. No television antenna or radio aerial or similar wire device shall be attached to the roof of the house or exposed in any manner. Satellite dishes may be installed only with Declarant's or the ARC's prior written approval.
- 9.6 Fences. Fences and walls may only be erected or maintained on any Lot with the Declarant's or the ARC's prior written approval.

- 9.7 Subterranean Drilling. Oil drilling, development, operation, refining or mining operations of any kind or quarrying shall not be permitted upon or in any of the Lots in the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any of the building sites covered by these covenants.
- 9.8 Pools and Hot Tubs. Outdoor swimming pools, Jacuzzis, and hot tubs may only be installed, constructed or maintained upon any Lot in the Subdivision with Declarant's or ARC's prior written approval.
- 9.9 Businesses. No business shall be operated out of any residence without obtaining Declarant's or the Board's prior written approval.
- 9.10 Maintenance. All Lots shall be maintained according to the requirements of the City of Raymore ordinances and to the standards set forth by Declarant.
- 9.11 Subdividing. In the event that future zoning laws should allow such sub-dividing, no Lot shall be further subdivided without the prior written consent of Declarant, or the Association if Declarant no longer owns any lots in the Subdivision.
- 9.12 Duration. Each of the restrictions, covenants and requirements set forth above shall continue and be binding upon, and inure to the benefit of, the undersigned and upon its grantees, successors and assigns for a period of ten (10) years from the date of recordation of this Declaration and shall automatically be continued thereafter for a successive period of ten (10) years each; provided, however, that the Owner(s) of the fee simple title to two-thirds (2/3) of the lots and tracts herein described may release all of the lands hereby restricted from any one or more of said restrictions by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing the same for record least one (1) year prior to the end of the first ten (10) year period, or any successive ten (10) year period thereafter following. Any change or amendment to this Declaration within five (5) years from the recordation of this Declaration must also include the written consent of the Declarant.
- 9.13 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other covenant or restriction which shall remain in full force and effect.
- 9.14 Enforcement. Each of the covenants, restrictions, and reservations herein above set forth shall run with the land and bind the present owners, their successors and assigns and all parties claiming by, through or under them and shall be taken to hold, agree and covenant with the Owner of said tract or lot, to conform to and observe said restrictions and covenants. The Owner (or Owners) of any portion of the above lands shall have the right to enforce these covenants, reservations and

restrictions by a proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction imposed by the provisions of the Declaration hereof. Said action to restrain violation or to recover damages, or both, may be brought by any Owner against the offending party to seek relief by injunction, prohibitive or mandatory, or to recover damages in the Circuit Court of Cass County, Missouri, to enforce these covenants and restrictions. Failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter by any other Owner or Declarant. The right of Declarant to enforce these protective covenants and restrictions shall extend for such time as they own: (i) any lot in the subdivision; and (ii) any of the lands lying adjacent to the subdivision. In addition to any other remedy provided herein, a party seeking the enforcement of this Declaration and/or the covenants and restrictions contained herein shall be entitled to such party's reasonable attorneys' fees, court costs and any other costs of litigation from the party found to be violating the terms, conditions, covenants, reservations and restrictions hereof. The Declarant may contract with any third party to enforce its rights hereunder.

- 9.15 Assignment of Declarant's Rights. Declarant, may at its option, assign any or all of its rights under the terms of this Declaration.

ARTICLE X ASSESSMENTS

- 10.1 Creation of the Lien and Personal Obligations of Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Declarant or Declarant's assigns: (1) annual or monthly Assessments or charges; (2) Special Assessments for exterior maintenance of the Owner's Lot, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The monthly, annual and Special Assessments, together with such interest thereon, and costs of collection thereof as hereinafter provided, shall be a charge do the land and shall be a continuing lien upon the Lot against which each such Assessment is made. • Each such Assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment became due.
- 10.2 Purpose of Assessments. The monthly or annual Assessments levied by the Declarant shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Subdivision, and in particular for the improvement and maintenance of Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Subdivision and the

homes located in the Subdivision, including but not limited to, the payment of taxes and insurance on facilities provided by the Declarant for the common use of the owners and for repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, toward the installation and maintenance of paths, parks, pathways, esplanades and lighting, for the employment of security and other personnel, for the care of vacant and unimproved property, and for any other purposes which the Declarant, in its sole discretion, deems necessary or desirable for the maintenance and improvement of the Subdivision or which it shall consider to be of general benefit to the Owners.

10.3 Special Assessments.

- a. In addition to the monthly or annual Assessments authorized herein, the Association may levy, in any year, a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair, or replacement of Common Property, or the cost of any utility deemed necessary by the Association Board to serve the Property, including the necessary fixtures and personal property related thereto, or any unexpected cost or expense of the Association, as the Association Board may determine.
- b. A Special Assessment shall become effective upon written notice by the Association Board. Billing of Special Assessments shall be handled according to the procedures set by the Board of Directors.
- c. The Special Assessments may be imposed upon any Lot for the purpose of maintaining the exterior appearance thereof, if, in the sole opinion of the Declarant and/or the Association, the Owner shall have failed or refused to do so, including, but not limited to, mowing and cleaning of unsightly brush and debris, painting, repairing, replacing and caring for roofs, gutters, downspouts and exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements necessary to keep the Owner's Lot from deteriorating or becoming unsightly. For sole the purpose of performing the exterior maintenance authorized by this Section 10.3, the Declarant and/or the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

10.4 Covenants for Assessments and Creation of Liens. The Declarant and/or the Association and each Owner, for himself, his heirs, distributees, legal representatives, successors, and assigns, by acceptance of a Deed or other conveyance for any Lot, whether or not the covenants contained in the Declaration

shall be expressed in any such Deed or other conveyance, hereby covenants and agrees that:

- a. he will pay to the Association all Assessments which may or shall be levied by the Association against any Lot owned by him in each year or any part thereof, and that he will pay to the Association the user fees and charges and all other duly authorized charges to be established as herein provided, if applicable, levied by the Association in each year and including Special Assessments levied pursuant hereto;
- b. he shall be personally liable for all such Assessments and user fees and charges which become due while he is the owner of each Lot being assessed;
- c. all Assessments, together with the continuing obligation to pay each Assessment assessed in all future months, and all user fees and charges, together with all costs, expenses, interest, and reasonable attorneys' fees incurred in the collection of delinquencies, shall become and thereafter remain a charge against and be secured by a continuing lien upon the Lot of such Owner; and
- d. said charge and lien shall be superior to any and all other charges, liens, or encumbrances which may hereafter in any manner arise or be imposed upon the Lot to the extent imposed by judgment or decree or by any agreement, contract, mortgage, or other instruments, excepting only purchase money mortgages or deeds of trust given to finance the purchase of the Lot and liens for taxes or other public charges as are made superior by applicable law.

10.5 Annual or Monthly Assessments. The annual or monthly Assessments shall be uniform for each Lot in the Subdivision and shall be limited to such sum as reasonably may be necessary to defray the expenses of the Declarant or its successor in carrying out the purpose and intent of this Declaration and any applicable Association agreement, together with a reasonable reserve for foreseeable contingencies.

10.6 Uniform Rate of Assessment. For the purpose of providing funds for the uses specified, the Association Board shall assess against the Lot in each month or year a charge ("Assessment" or "Monthly Assessment" or "Annual Assessment"), which shall be uniform with respect to all Lots, and shall be in such amounts as determined by the Association Board. Lots owned by the Declarant need not be assessed until such Lots are sold to a builder or an Owner.

- 10.7 Assessment Due Dates. The Annual Assessments for any year, shall become due and payable on the first day of January of said year. In the event that an Owner acquires title to property in the Subdivision after the first day of the year, then such Owner shall be given a pro rata credit for the Annual Assessment from the first day of the year to the date on which such Owner acquires title to his or her property. The Monthly Assessments for any month shall become due and payable on the first day of each and every month. In the event that an Owner acquires title to property in the Subdivision after the first day of any month, then such Owner shall be given a pro rata credit for the Monthly Assessment from the first day of the month to the date on which such Owner acquires title to his or her property.

The amount of the annual or monthly Assessment which may be levied for the balance remaining in the first year of Assessment shall be an amount which bears the same relationship to the annual Assessment provided for in Section 10.4 above as the remaining number of months in that year. The same reduction in the amount of the assessment shall be applied to the first assessment levied against any Lot which is hereinafter added to the Subdivision now subject to assessment at a time other than the beginning of any assessment period.

The Declarant shall upon reasonable notice furnish to any Owner liable for said Assessment a certificate in writing signed by a duly authorized representative of the Declarant setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

- 10.8 Effect of Non-Payment of Assessments; Personal Obligation of Owner; The Lien• Remedies of the Association. If an Assessment is not paid on the date when due, then such Assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, his or her heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such Assessment, however, shall remain his or her personal obligation for the statutory period and shall not pass to his or her successors in title unless expressly assumed by them.

If the Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of delinquency at a rate of ten percent (10%), and the Declarant and/or the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the Lot, or both, and there shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided

and attorneys' fees, together with the costs of the action. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of reserved or Common Areas, nor abandonment of his or her Lot.

- 10.9 Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure of the mortgage and deed of trust, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment.
- 10.10 Exempt Property. The following property shall be exempt from the assessments, charges and liens created herein: (i) all Property to the extent of any easement or other interest thereon or therein dedicated and accepted by the local public authority and devoted to public use; and (ii) at the discretion of the Declarant, those lots owned by Declarant prior to first conveyance by it. Notwithstanding the foregoing, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE XI USE RESTRICTIONS

- 11.1 Prohibited Conditions. Walls, dog runs, animal pens, or fences of any kind on any Lot, except as approved in accordance with Article IV, are strictly prohibited.
- 11.2 Rules Regarding Pets. Raising, breeding, or keeping of animals, insects, or poultry of any kind is prohibited on the Property except in accordance with the following:
- a. Occupants of Dwelling Units may keep cats and dogs, not to exceed a total of two (2) animals, and a reasonable number of other usual and common indoor household pets on a Lot, subject to approval from the ARC;
 - b. Pets shall be confined to the Lot or kept on a leash at all times;
 - c. Owners of pets shall be responsible for the immediate removal and disposal of all solid animal waste of such Owners' pets;
 - d. No pet shall be allowed to make objectionable noises or an unreasonable amount of noise (as determined in the reasonable discretion of the Board);

- e. Pets which are permitted to roam free, make objectionable or excessive noise, leave waste on the Property, endanger the health or safety of occupants of other Dwelling Units, or constitute a nuisance or inconvenience to occupants of other Dwelling Units shall be removed upon request of the Board. If the pet owner fails to honor the request, the Board may remove the pet and assess all costs associated with the removal to the Owner, including, but not limited to, attorneys' fees; and
- f. Occupants of Dwelling Units may keep a reasonable number of bird feeders on their Lots so long as such feeders do not create a nuisance to neighboring Lots (as determined in the reasonable discretion of the Board) and subject to any other limitations established by the Board.

No animals, livestock, poultry, dogs, cats, other household pets, shall be raised, bred, or kept on any lot, except that Owners may keep pets as otherwise provided herein.

This section shall not apply to prohibit the Declarant or the Association from permitting, tolerating, or encouraging use of the Property, including bodies of water within the Property, by animals, birds, or other wildlife.

- 11.3 Signs and Commercial Activities. No commercial activity of any kind that would generate excess traffic shall be conducted on any Lot. No signs, billboards or advertising structures of any kind may be placed or stored upon any Lot, except that signs or billboards advertising the rental or sale of the property shown on the recorded plat are permitted, or advertising the identity of the builder erecting a residence on said Lot, provided such signs do not exceed five (5) square feet in size.
- 11.4 Parking of Motor Vehicles, Boats and Trailers. No commercial trucks or vehicles, recreational vehicles, house trailers, manufactured home, mobile home or trailer, either with or without wheels, or unlicensed vehicles of any kind may be kept or stored on any Lot, unless housed or stored in an enclosed garage or similar structure. Motor boats, houseboats and other similar waterborne vehicles may only be maintained, stored or kept if housed completely within the residential structure. No non-operating motor vehicles shall be kept on any lot, unless such vehicle is housed in a garage.
- 11.5 Garbage and Refuse. No Lot shall be used or maintained as a dumping ground for rubbish. No Lot Owner or tenant shall dump, or permit the dumping of, rubbish, waste, refuse, debris, garbage, or similar waste materials within the Subdivision. Trash, garbage, trash barrels or other wastes shall not be kept outside, except in sanitary condition, covered at all times, and located only to the rear of the residence. There shall be no burning of trash outside the residence.

- 11.6 Nuisances. No noxious or offensive activity shall be carried on upon any portion of any Lot, nor shall anything be done thereon that may be or may become a nuisance or annoyance to the other Owners or the neighborhood. No site or Lot shall be used for any purpose or business which is considered dangerous or unsafe, or which is noxious or offensive by reason of emission of dust, odor, gas, smoke, fumes or noise.

ARTICLE XII EASEMENTS

- 12.1 Easements of Encroachment. Declarant reserves unto itself, so long as it owns any property described on page 1 of this Declaration, easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with this Declaration) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of the Declarant.
- 12.2 Easements for Utilities, Etc. Declarant reserves unto itself and grants to the Association an easement for the purpose of access and maintenance upon, across, over, and under all of the Property to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephone, gas, and electricity. The Declarant and/or the Association may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to Subdivision subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement.

Declarant specifically grants to the local utility suppliers easements across the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any

utilities be installed or relocated on the Property, except as approved by the Board or Declarant.

The exercise of this easement by any party other than the Association shall be subject to prior notice to the Association, which shall be permitted to coordinate and supervise access to the Property by the grantee of the easement. The exercise of the easement also shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

- 12.3 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.
- 12.4 Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Property; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Property without the consent of the Owner of the affected property, the Board, and the Declarant.
- 12.5 Right of Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Property, including each Lot and Dwelling Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Board, officers, or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner thereof. This easement includes the right to enter any Lot or Dwelling Unit to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not

authorize entry into any Dwelling Unit without permission of the Owner, except by emergency personnel acting in their official capacities.

- 12.6 Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Property, including each Lot or Dwelling Unit to (a) perform its maintenance responsibilities under Article II, and (b) make inspections to ensure compliance with this Declaration, any Supplemental Declaration, 13y-Laws, and rules. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

The Association also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration, any Supplemental Declaration, the By-Laws, the Community-Wide Standards, or the rules. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Special Assessment.

- 12.7 Rights to Surface Water, Groundwater, Stormwater Runoff, Effluent, and Water Stored Underground. Declarant hereby reserves for itself and its designees all rights to surface water which are appurtenant to the Property, all of which surface water rights are to be consolidated by Declarant for use on golf courses to be constructed within the Property and for storage in underground storage facilities to be located within the Property. Declarant further reserves for itself and its designees all rights to groundwater, stormwater runoff, effluent, and water stored in all underground storage facilities located or produced within the Property. Each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include an easement over the Property for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section 12.7 may not be amended without the consent of the Declarant and the reservations made and rights created pursuant to this Section 12.7 shall survive the termination of this Declaration. Neither the Declarant nor any Owner shall be deemed by this reservation, or the consolidation of water rights to be made pursuant to this reservation, to abandon any right to water which is appurtenant to or which may be exercised in connection with the Property.

- 12.8 Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves for itself, the Association, and their designees, the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) construct, maintain, and repair pumps in order to provide water for the irrigation of any of the Area of


Common Responsibility; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. Declarant, the Association, and their designees shall have an access easement over and across any of the Property abutting or containing any portion of any of the lakes, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section 12.8.

There is further reserved herein for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over the Common Area and Lots (but not the Dwelling Units thereon) adjacent to or within one hundred feet of lake beds, ponds, streams and wetlands within the Property, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within the Area of Common Responsibility subject to the approval of all appropriate regulatory bodies; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; and (d) enter upon and across such portions of the Property for the purpose of exercising their rights under this Section 12.8. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of the rights granted under such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

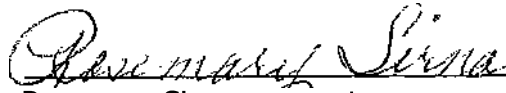
IN WITNESS WHEREOF, the undersigned have hereunto caused this Declaration of Restrictions to be signed on its behalf by Declarant, there _____ duly authorized so to do, and to be attested by its Secretary on this ____ day of _____ 2005, and approved by the Builder, thereunto duly authorized.

Alexander Creek, L.L.C.,
a Missouri Limited Liability Company

ATTEST:


Larry Allen Hulbert, Managing Member

LAD. (<, i3


Rosemary Sirna, Secretary

STATE OF MISSOURI

COUNTY OF J(-U.9)0 ss.

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Larry Allen Hulbert, Managing Member of Alexander Creek, L.L.C., stating that said company is the owner named above; that the facts stated therein are true according to his best

knowledge and belief; and known to me to be the person who executed the within Declaration of Restrictions in behalf of said Declarant and acknowledged to me that he executed the same for the purpose therein stated.

Subscribed and sworn to before me, this hit day of 7 MO 2005

My commission expires: Molly Blackwell
Molly ghcZWell, Notary Public

Molly Blackwell
Notary Public Notary Seal
State of Missouri
County of Jackson
Ex res Se m 28 2007

APPROVED:

SAB CONSTRUCTION, L.L.C.,
a Missouri limited liability company

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Scott Bamesberger

STATE OF MISSOURI) ss.
COUNTY OF D

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Scott Bamesberger, Executive Member of SAB Construction, L.L.C., a Missouri limited liability company, stating that said company is the partial owner and Builder named above; that the facts stated therein are true according to his best knowledge and belief; and known to me to be the person who accepted the terms of the within Declaration of Restrictions and acknowledged to me that he executed the same for the purpose therein stated.

Subscribed and sworn to before me, this 7th day of _____, 2005.

My commission expires: De vbr-c, vk cl, Notary Public

DEBRA C. LUND
Notary Public - Notary Seal
State of Missouri
County of Jackson
My Commission Exp. 03/04/2006