

**WARD PARK PLACE OF RAYMORE, MISSOURI**  
**DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES,**  
**ASSESSMENTS AND LIENS.**

**THIS DECLARATION** is made this 27<sup>th</sup> day of November 1999, by Ripley Properties L.L.C, a Missouri limited liability company (hereinafter "Developer").

**WHEREAS**, the developer is the owner of certain hereinafter described land located in Cass County, Missouri; and

**WHEREAS**, the developer has hereto after established lots designated by numbers, streets, utility easements, building set backs, items and easements for sanitary and storm sewers as shown on the plat and in order to establish and maintain an exclusive, high-class, quality subdivision for desirable residences, now undertakes to place certain restrictions on the maintenance and use of the lots shown on the plat for the benefit of and binding upon this Developer, its successors and assigns and its grantees, and there successors, assigns, and grantees infinitum.

**NOW, THEREFORE**, in consideration of the premises the Developer herein does by these presents subject all of the lots in Ward Park Place, First Plat, being lots 1 to 52 both inclusive, to the following restrictions as to their maintenance and use: to-wit.

**ARTICLE 1**

**PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO**

**1.01 EXISTING PROPERTY:** The existing property is located in Cass County, State of Missouri, and is more particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes. The existing property plus all land added thereto less all land released therefore shall hereafter sometimes be referred to as the "property". Common properties shall mean and refer to any and all area of land within the property which are described or designated as common areas on any recorded subdivision plat of the property together with any and all improvements installed thereon, including amenities such as parks, playground equipment or open spaces and entry tracts and entry treatments and monuments. The common properties are more particularly described on Exhibit "A".

**1.02 ADDITIONS TO EXISTING PROPERTY:** Additional land (a) may become subject to this Declaration in any of the following manners;

- A.** Developer may add or annex additional real property to the scheme of this declaration by filling of record a Supplementary Declaration of Covenants and Restrictions which shall extend the scheme of the covenant and restrictions of this Declaration to such property, provided, however, that such supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in the Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the consent of the this Declaration.
- B.** In the event any person or entity other then developer desires to add or annex additional residential and/or common areas to the scheme of this Declaration, such proposed annexation must have the prior written consent and approval of the majority or the outstanding votes within each voting class of the association, hereafter referenced.

**1.03 REMOVAL OF PROPERTY.** At any time prior to January 1, 2020, Developer may remove portions of the existing property from the scheme of this declaration by filling of record a release of Restrictions describing the portion of the existing property which has been released.

**ARTICLE II  
MEMBERSHIP AND VOTING**

**2.01 MEMBERSHIP.** Every owner of fee simple title to a lot which is subject to the covenants and restrictions of this Declaration ("Owner") shall automatically be and must remain a member of the association in good standing. The board of directors of the association ("Board of Directors") may declare that an owner is not a member in good standing because of past unpaid dues, fines, late charges, interest, legal fees, and/or any other assessments of any nature. The Board of Directors may temporarily suspend the voting rights of any member who is not in good standing until past unpaid amounts are paid in full.

**2.02 VOTING RIGHTS.** The association shall have three classes of voting membership:

**Class A:** Class A members shall be all members other than Class B and Class C members. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote cast with respect to any such lot.

**Class B:** Class B members shall be any bona fide owner who is engaged in the process of constructing a residential dwelling on any lot for sale to consumers. Class B members shall be nonvoting members of the association. The Class B membership shall cease, and each Class B member shall become a Class A member.

1. When the total number of votes outstanding in the Class A membership equals the total number of votes outstanding in the Class C membership;
- OR**
2. On the tenth anniversary of the date hereof, whichever occurs first in time.

**Class C:** The Class C member shall be the developer. The Class C member shall be entitled to ten votes for each lot which it owns and for each lot owned by Class B members.

Notwithstanding the aforementioned voting rights within the Association and consistent with the provisions hereinafter, until:

**A. Developer no longer owns:**

1. Record title to any lot; and
2. A lien interest in any lot; and
3. Title to any adjoining acreage intended to be developed as an additional section or phase of Ward Park Place; or
4. January 1, 2020

Whichever occurs first in time, neither the Association nor the members shall take any actions or inaction with respect to any matter whatsoever without the consent and approval of the developer, which shall not be unreasonably withheld or delayed.

**2.03 QUORUM NOTICE AND VOTING RIGHTS.** The quorum and voting requirements pertaining to the association are set forth within the articles of incorporation ("Articles") and bylaws of the association, as same may be amended from time to time. Subject to the provisions of section 2.02 above, any actions by or on behalf of the association may be taken with the assent given in writing and signed by members who collectively hold or control more than sixty percent (60%) of the outstanding votes of the association.

## ARTICLE III

### GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**3.01 POWER AND DUTIES.** The affairs of the association shall be conducted by its Board of Directors (hereinafter referred to as the Board.) The Board shall be selected in accordance with the articles and bylaws of the association. The Board, for the benefit of the common properties and the owners, shall provide, and shall pay for out of the maintenance fund(s) provided for in Article IV below, the following:

- A. Care and preservation of the common properties and the furnishing and upkeep of any desired personal property for use in the common properties; such care and preservation shall include maintenance and repair of any storm sewer and/or sanitary sewer not in the right-of-way and maintenance and repair (exclusive of snow and ice removal) of any public sidewalk;
- B. Taxes, insurance and utilities (including, without limitation, electricity, gas, water and sewer charges) which pertain to the common properties only;
- C. The services of a person or firm (including developer and any affiliates of developer) to manage the association or any separate portion thereof, to the extent deemed advisable by the board, and the services of such other personnel as the board shall determine to be necessary or proper for the operation of the association, whether such personnel are employed directly by the board or by a manager designated by the board;
- D. Legal and accounting services; and
- E. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alteration, taxes or assessments, which the board is required to obtain or pay for pursuant to the terms of this declaration or which in its opinion shall be necessary or proper for the operation or protection of the association or for the enforcement of this declaration.

The Board shall have the following additional rights, powers and duties:

- F. To execute all declarations or ownership for tax assessment purposes with regard to any of the common properties owned by the association;
- G. To enter into agreements or contracts with insurance companies, taxing authorities and the holders of first mortgage liens on the individual Lots with respect to: 1. Taxes on the common properties; 2. Insurance coverage (if any) on common properties, as they relate to the assessment, collection and disbursement process envisioned by article V hereinabove; and 3. Utility installation, consumption and service matters;
- H. To borrow funds to pay costs of operation, secured by assignment or pledge or rights against delinquent owners, if the board sees fit or secured by such assets of the Association and deemed appropriate by the lender and the Association;
- I. To enter into contracts, maintain one or more bank accounts, and generally to have all the powers necessary or incidental to the operation and management of the Association;
- J. To protect or defend the common properties from loss or damage by suite or otherwise, to sue or defend in any sort of law on behalf of the Association and to provide adequate reserves for repairs and replacements;
- K. To make reasonable rules and regulations for the operation of the common properties and to amend them from time to time;

L. To make available to each owner within ninety (90) days after the end of each year an annual report;

M. To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property, to assess the members in proportionate amounts to cover the deficiency; and

N. To enforce the provisions of this developer and any rules made hereunder and to fine, enjoin and/or seek damages from any owner for violation of such provisions or rules.

**3.02 BOARD POWERS, EXCLUSIVE.** The board shall have the exclusive right to contract for all goods, services, and insurance, and the exclusive right and obligation to perform the functions of the board, except as otherwise provided herein. In the event or if for any reason the board is not deemed authorized to act for and on behalf of the association and the members, then developer may exercise its power and authority hereof to act for and on behalf of the Association and the members, and the Association shall reimburse Developer for any and all reasonable expenses incurred in so acting.

**3.03 CONTRACTS WITH OWNERS.** The Board, on behalf of the Association, shall have full power and authority to contract with any owner (including, without any limitations, Developer) for the performance, on behalf of the Association, of services which the board is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such considerations the board may deem proper, advisable and in the best interest of the Association.

**3.04 LIABILITY LIMITATIONS.** Neither any member, the board, any director, nor any Officer of the Association shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of another member, whether such other member was acting on behalf of the Association or otherwise. Neither Developer, the Association, its directors, officers, agents, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same. Developer, the Association or any other person, firm or corporation liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portion thereof.

**3.05 RESERVE FUNDS.** The board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and not net income to the Association.

**3.06 RESTRICTIONS ON CONTRACTS.** Neither Developer nor the Association may directly or indirectly enter into any management agreement or any other contract on behalf of the Association which extends beyond the date class B memberships cease as provided in section 2.02 of the declaration. The association may, however, following such date, enter into new management agreements or other contracts in accordance with this declaration.

#### **ARTICLE IV COVENANTS FOR ASSESSMENTS**

**4.01 PERSONAL OBLIGATION FOR ASSESSMENT.** Each owner of a lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed, as a part of the purchase money consideration for such deed and conveyance, to covenant and agree to pay to the developer and/or the Association (or to an independent entity or agency which may be designated by the developer and/or the Association to receive such monies):

- A. **Regular assessments** ("Regular Assessments") or charge for maintenance, taxes and insurance on portions of the properties and the common properties;
- B. **Special group assessments** ("Special Group Assessments") for capital improvements or unusual or emergency matters, such assessments to be fixed, established and collected from time to time as hereinafter provided;
- C. **Special Individual Assessments** ("Special Individual Assessments") levied against individual owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or neglect acts of the individual owner and not caused by ordinary wear and tear; and
- D. **Individual Assessments** ("Individual Assessments") and fines levied against individual owners for violations of rules and regulations pertaining to the Association and/or the common properties;

**4.02 ASSESSMENT LIENS.** If any assessments remain unpaid at the expiration of thirty (30) calendar days from and after the due date established by the developer and/or the board, a late charge shall be assessed against the non-paying owner for each month that any portion of an assessment remains unpaid. The late charge shall be in the amount of Twenty-Five and No/100ths dollars (\$25) for all Class A members. A reasonable service charge in amount established by the board shall be charged for each check that is returned because of insufficient funds. The amount of late charges and service charges may be adjusted, from time to time, by the board consistent with any charges in the amounts of regular or any type of individual assessments as defined in (b), (c), and (d) of 4.01. All of such assessments, together with interest thereon from the due date to the date of payment at the highest lawful rate per annum and any cost of collection, including attorney's fees, shall be a continuing lien upon the lot against which assessments are made. Such lien is subordinate and interior to the lien of any first deed of trust affection such lot.

**4.03 PURPOSE OF ASSESSMENTS.** The assessments levied by the Association shall be used exclusively for the purpose of (I) promoting the health, recreation, safety and welfare of the residents of the property; (II) improving and maintaining any private walkway, jogging and bicycle trails, lakes, recreational areas or other properties, services and facilities directly related to the use and enjoyment of the common properties, (III) the payment of taxes on the common properties and insurance (if any) in connection with the common properties and the repair, replacement and additions thereto; (IV) the payment for electricity for street lights and exterior lights and the repair, replacement and additions of various items within the common properties; (V) trash and garbage collection and security arrangements, as may be determined necessary and appropriate by the association from time to time; (VI) paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required from, and the management and supervision of, the common properties and the Association; (VII) for any matter or thing designated by Cass County in connection with any zoning, subdivision, platting building or developing requirements; (VIII) maintenance and repair of any storm sewers and/or sanitary sewers; and (IX) maintenance and repair of any public sidewalk.

#### **4.04 BASIS AND AMOUNT OF REGULAR MAINTENANCE ASSESSMENTS**

- A. Until and unless otherwise determined by the developer and/or the board the maximum regular assessment shall be three hundred fifty and no/100ths dollars (\$350.00) per lot per year due on or before January 1<sup>st</sup> of each year.
- B. The developer and/or board may establish the maximum annual regular assessment for each lot, provided that the maximum annual regular assessment may not be increased more than fifty percent (50%) above the regular assessment for the previous year unless otherwise approved by the members of the association as provided in sections 2.02 and 2.03 of article II.

**4.05 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.** In addition to the regular Assessments authorized herein, the Association may levy in any fiscal year a special group assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common properties, private storm sewer systems, or public sidewalks, including any necessary fixtures and personal property related thereto; provided that any such assessment shall have the affirmative approval of the members of the association as provided in sections 2.02 and 2.03 of Article 11.

**4.06 UNIFORM RATE OF REGULAR AND SPECIAL GROUP ASSESSMENTS.** Both Regular Assessments and Special Group Assessments must be fixed at a uniform rate for all lots owned by class A members. Each lot owned by a class A member shall be charged with one hundred percent (100%) of the established per lot assessment. Lots owned by developer or by a class B member shall not be charged with any portion of any assessment.

**4.07 DUTIES OF THE BOARD WITH RESPECT TO ASSESSMENTS**

**A.** The board shall prepare an annual budget to meet all projected expenses at least sixty (60) days in advance of such date or period, and the board shall at that time, prepared a roster of the lots and assessments applicable thereto which shall be kept in the office of the developer and/or the association.

**B.** In the event of a revision to the amount or rate of the regular assessment, the developer and/or the board shall fix the amount of the regular assessment against each lot, and the applicable due dated for each assessment, at least sixty (60) days in advance of such date or period, and the board shall, at that time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the developer and/or the association.

**C.** Written notice of the assessment shall thereupon be delivered or mailed to every owner subject thereto.

**4.08 EXEMPT PROPERTY** The following property otherwise subject to this declaration shall be exempted from the assessments, charges and liens created herein:

**A.** All properties dedicated and accepted by the local public authority and devoted to public use;

**B.** All common properties as defined in Article 1 herein; and

**C.** Any and all area which may be reversed by the developer on the recorded plat(s) of the property or by other recorded instrument.

**ARTICLE V**

**USE OF COMMON PROPERTIES**

**5.01 RESTRICTIVE ACTIONS BY MEMBERS.** No member shall permit anything to be done on or in the common properties which would violate any applicable public law or zoning ordinance or which will result in the cancellation of or increase of any insurance carried by the developer and/or the association, or which would be in violation of any law or any rule or regulation promulgated by the board.

**5.02 DAMAGE TO THE COMMON PROPERTIES.** Each member shall be liable to the developer and/or the association, or which would be in violation of any law or any rule or regulation promulgated by the board.

**5.03 RULES OF THE BOARD.** All members shall abide by any rules and regulations adopted by the developer and/or board. The developer and/or board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and a member determined to have violated said rules and regulations shall be liable to the association and/or developer for all damages and costs. Including reasonable attorney fees.

**5.04 USE OF COMMON PROPERTIES.** Use of the common properties shall be limited to Members, their families and guest. With the exception of the regular business activities of Class B Members, the developer or the association, no person or entity shall use any portion of the common properties to:

A. Solicit, promote or conduct business, religious, political or propaganda matters;

B. Distribute handbills, newsletters, flyers, circular or other printed materials;

Without the prior written consent of the developer and/or the association (which consent may be withheld in its sole and absolute discretion).

## ARTICLE VI

### CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

The property (and each lot situated therein) shall be occupied and used as follows:

**6.01 RESIDENTIAL USE.** All lots shall be used for residential purposes only. No commercial business, enterprise or trade shall be carried on in the property. No building shall be erected, altered, place on permitted to remain on any lot other than one detached single family dwelling no to exceed two stories in height in the front and having an attached garage for minimum of two (2) or more conventional automobiles.

**6.02 MINIMUM FLOOR SPACE.** Minimum standard for square footage of enclosed living space, exclusive of garages, porches, patios, basements, open breezeways of attics, are hereby established for any residence erected on any of the lots as following; Any ranch style residence shall contain a minimum of 1200 square feet of first floor living space; any two story residence shall contain a minimum of 950 square feet of living space on the first floor and a minimum of 1500 square feet total on all floors; any split-level residence shall contain a minimum of 1500 square feet on living space. Provided, however, that interior areas of any residence, which are in excess of the aforementioned minimum requirements and not located on the first floor, need not be immediately completed for occupancy if the residence is so designed and built that such areas can be finished at a later date without any structural changes being made in the exterior of the residence, and if written permission of the architectural control committee is obtained.

**6.03 ROOFING.** All roofing shall be limited to composition type roofing as designated by and approved by the Architectural control committee. No wood roofing shall be permitted. For any roofing other than composition as designated by the architectural control committee, written permission must be obtained from the architectural control committee.

**6.04 EXTERIOR/PAINTS.** Exterior coverings of asphalt paper, tin or any material not recognized as substantial or permanent shall not be permitted. All exteriors except roofs shall be covered with not less than the equivalent of two coats of good paint or one coat of good stain.

**6.05 BUILDING LINES.** No part of any residence, except as hereinafter provided, may be erected or maintained on any of the lots nearer to the front street or the side street than is the front building line or the side building line shown in the plat of Ward Park Place, first plat or subsequent plat for additional lands added to the property.

**6.06 FENCING.** No chain-link fence is allowed in the community. No fence shall exceed seventy-two (72) inches in height above the ground, may not extend closer to the street than the front of the house and must be approved in writing by the architectural control committee; provided however, where a swimming pool is maintained, applicable government codes or insurance codes be respected.

**6.07 SIGNS.** No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the lots; provided, however, that one advertising board may be maintained on each lot or tract when under original construction and during resale of the property.

**6.08 UTILITIES.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the record plat. The developer, its successors or assigns shall have and do hereby reserve with consent of the architectural control committee, the right to relocate, erect, construct, maintain and use, or authorize the location, reaction, construction, maintenance and use of drains and storm sewers, and to give or grant rights of way or easements therefore over and upon any part of said land described herein. Provided no drain or storm sewer may be placed so as to interfere with existing building or the proper location of a building on a plated lot. No water from roof downspouts or surface drainage shall be placed in any sanitary sewer line.

**6.09 ASSITIONAL DWELLINGS.** No trailer, basement, tent, shack, garage, born or other detached outbuilding shall be erected or maintained on any property in said subdivision or at anytime to be used as a residence temporarily or permanently, nor shall any residence or a temporary character be permitted. No dwelling or residence shall be occupied until fully completed except as provided for in restrictions. No residence shall be moved from another location to any lot herein.

**6.10 ADDITIONAL STRUCTURES.** No detached out-building, detached garages or other structures shall be permitted. Towers, clotheslines, clothes poles, aerials, satellite dishes, pergolas, ovens, detached structures for ornamental purposes, attached out-building, swimming pools, play houses and other outside facilities may be erected only with written approval of the architectural control committee.

**6.11 FUEL TANKS.** No tank for the storage of fuel may be maintained above the surface of the ground.

**6.12 HOUSEHOLD PETS/ANIMALS.** No animals, livestock or poultry may be raised, bred, kept or maintained upon any of the lots; household pets not to exceed three in number may be kept but must be restrained on a leash or in a fenced backyard, provided that they are not kept, bred, or maintained for any commercial purpose. No dog run, kennel, or other animal, domestic animal, or household pet, pen, enclosure, housing or shelter facility shall be constructed or maintained upon any lot.

**6.13 PARKING.** No boat, truck, trailer, camper, bus, or commercial vehicle shall be parked upon any of the lots or upon any other streets in said subdivision except as incidental to construction or repair work being done there and no building material of any type, machinery, equipment, graders, diggers, tractors shall be permitted to remain in said subdivision except as incidental to construction work being there carried on. Recreational vehicles of a recreational nature may be permitted off street, parked no closer



to the street than the front of the house with written permission of the architectural control committee only.

**6.14 OFFENSIVE ACTIVITIES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

**6.15 CONSTRUCTION COMPLETION TIMING.** A house must be commenced in four months after initial purchase of the lot and must be substantially completed in six months thereafter. No building shall be permitted to stand with its exterior in an unfinished condition for longer than six months after the commencement of construction. In even of fire, windstorm or other damage, no building shall be permitted to remain in a damaged condition longer than necessary to repair or demolish it. These times may be extended with written permission of the architectural control committee.

**6.16 ANTENNAS AND AERIALS.** All television antennas and other antennas and aerials shall be located inside the attic or under the roof so as to be completely hidden from view.

**6.17 BASKETBALL GOALS.** Basketball goals, backboards and nets shall only be permitted if written permission is obtained by the architectural control committee.

## ARTICLE VII

### ARCHITECTURAL CONTROL

**7.01 ARCHITECTURAL CONTROL COMMITTEE.** Architectural control shall be supervised by an architectural control committee. The committee shall be composed of three individuals selected and approved by developer, which committee and its successors are hereby vested with the full, right and authority to act as such under the provisions of this declaration. In case of a vacancy by death or resignation, the developer shall have full authority to designate a successor. Any two members shall have full power to act for the committee.

**7.02 PLAN APPROVAL.** Before any structure or improvement shall be built, altered or placed on any lot the construction plans and specifications and a plan showing the location and front, sides and back elevations of the structure shall be submitted to and have the written approval of the committee, as to quality and type of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. In addition to other matters described in the declaration, exterior colors, roof colors and landscaping plans must be approved by the committee.

## ARTICLE VIII

### GENERAL PROVISIONS

**8.01 REGISTRATION WITH THE ASSOCIATION.** Each and every owner shall have an affirmative duty and obligation to originally provide within fifteen (15) days after such owner acquired one or more lots and thereafter revise and update, within fifteen (15) days after material change has occurred, various items of information to the association such as: (A) The full name and address of the owner; (B) The full name of each individual family member who resides within the residential dwelling of the owner; (C) The business address, occupation and the telephone numbers of each owner; (D) The description and license plate number of each automobile owned or used by owner and brought within the property; (E) The name, address, and telephone numbers of other local individuals who can be

contacted (in the event the owners can not be located) in case of an emergency; and (F) Such other information as may be reasonably requested from time to time by the association.

**8.02 COMMON AREAS.** "Common area" shall mean and refer to the improved or unimproved real property, structures and personal property in which the association or the developer owns an interest as designate for the common use and enjoyment of the owners and residence, as such areas are shown on any recorded subdivision plat of the property or portion thereof, not withstanding any legal presumption to the contrary, the fee title to any land shown upon any filed or recorded map or plat of any part of the property which shall be designated as "common areas" shall be reserved to the developer until such time as the same shall be conveyed to the association.

**8.03 DURATION.** These covenants and restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date herein at which time said covenants and restrictions shall be automatically extended for successive periods (often ten (10) years each) unless at any time by instrument in writing signed and acknowledged by the fee title (not including mortgage, contingent or remainder interest) owners of not less then 75% of the lots in Ward Park Place, it is agreed to change, modify or revoked these covenants and restrictions in whole or in part.

**8.04 AMENDMENT.** Except as provided in section 8.03 of Article VIII the covenants and restrictions of this declaration may be amended and/or changed in whole or in part, only with the consent of developer and 50% of the other owners, evidenced by an document in writing bearing each of their signatures, and duty recorded in the land records of Cass County, Missouri.

**8.05 ENFORCEMENT.** Enforcement of these covenants and restrictions shall be a proceeding initiated by developer, and owner, or the board, against any person or persons violating or attempting to violate any covenant or restriction contained herein, either to restrain or enjoin violation or to recover damages for the violation, or both, or to enforce any lien created by this instrument. Notwithstanding any provisions to the contrary in this declaration, developer shall not have any duty, obligation, or responsibility to enforce any of these covenants and restrictions. Failure by any party to enforce any of these covenants and restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing part shall be entitled to recover reasonable attorney's fee from the no prevailing party. Further, and with respect to any litigation brought against the developer, the board or any of their members or representatives arising out of any actions, failure to act, or performance or non-performance of duties imposed hereby, by the developer, the board or their members or representatives, the developer, the board or their members or representatives so sued shall be entitled to recover their reasonable attorney fee from the person or entity bringing such action against it or them, unless the developer, the board or their members or representatives hall specifically be adjudicated liable to such claimant.

**8.06 IMPOSITION OF VIOLATION FINES.** In the event that any person fails to cure (or fails to commence and proceed with diligence to completion) the work necessary to cure any violation of the covenants and restrictions contained herein within ten (10) days after receipt of written notice form the board designating the particular violation, the developer and/or the board shall have the power and authority to impose upon the person a fine for such violation (the "violation fine") not to exceed five hundred and no/100ths dollars (\$500.00). There shall be no limit to the number or the aggregate amount of violation fines which may be levied against a person for the same violation. The violation fines, together with interest at the highest lawful rate per annum and any costs of collection, including attorneys fees, shall be a continuing lien upon the lot against which such violation fine is made.

**8.07 SEVERABILITY.** If any one of these covenants or restrictions is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining covenants and restrictions shall not be affected thereby.

**8.08 NOTICES TO OWNERS.** Any notice required to be given to any owner under the provisions of the declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, certified mail, return receipt requested, addressed to the last know address of the person who appears as an owner on the records of the developer and/or association at the time of such mailing.

**8.09 PROPOSALS OF DEVELOPER.** The proposals of developer, as set forth in various provisions hereinabove, to develop additional parcels of property for residential purposes and/or expand the common properties (not only geographically but also in terms of the types of amenities available for use) and items of a related nature are mere proposals and expressions of the existing good faith intentions and plans of developer and shall not be deemed or construed as promises, solicitations, inducements, contractual commitments or material representations by developer upon which any person or entity can or should reply.

**8.10 DISPUTES.** Matters of dispute or disagreements between owners with respect to interpretation or application of the provisions (excluding Article VI) and issues concerning "substantial completion" of this declaration or the association bylaws shall be determined by the developer and/or the board. Matters pertaining to Article VI and issues conceding and issues concerning "substantial completion" shall be determined by the committee. There respective determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all owners.

**The rights of developer hereunder shall be fully assignable by written instrument duly recorded in the real estate records of Cass County, Missouri.**

**In witness whereof, the developer herein has placed its signature as of the day and year above written by.**