

## I1132294

DECLARATION  
 OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
 OF  
 SOMERSET ESTATES

This DECLARATION, made on the date hereinafter set forth by HUBBARD DEVELOPMENT L.P., hereinafter referred to as "Declarant".

WITNESSETH;

08-0729

WHEREAS, Declarant is the owner of certain property in the City of Blue Springs, County of Jackson, State of Missouri, which is known as Somerset Estates, 3rd plat - Lots 72-93, and is more particularly described as:

TRACT I;

All that part of the Southeast Quarter of Section 12, Township 48, Range 31, Blue Springs, Jackson County, Missouri, described as follows: Beginning at a point on the North line of said Quarter Section, said point being 310.45 feet East of the Northwest corner thereof, said point also being the Northwest corner of the East 49.78 acres of the West 60 acres of the North half of said Southeast Quarter; thence North 89 degrees 57 minutes 35 seconds East along the North line of said Quarter Section 998.00 feet; thence South 00 degrees 03 minutes 51 seconds East 1950.85 feet to a point on the North right of way line of Liggett Road as now established; thence South 89 degrees 57 minutes 38 seconds West along said right of way line 12.95 feet to a point of curve; thence in a Northwesterly direction along said right of way line and along a curve to the right (having a radius of 533.69 feet) an arc distance of 222.00 feet to a point of tangent; thence North 56 degrees 12 minutes 22 seconds West along said right of way line 477.01 feet to a point on the West line of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of said Section 12; thence North 00 degrees 42 minutes 06 seconds East, 383.00 feet to the Northwest corner of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of said Section 12; thence South 89 degrees 58 minutes 53 seconds West 336.31 feet to the Southwest corner of the East 49.78 acres of the West 60 acres of the North half of the Southeast Quarter of said Section 12; thence North 00 degrees 08 minutes 58 seconds West 1329.48 feet to the point of beginning, Except that part in roads, and Except that part Platted Somerset Estates, Lots 1 thru 31 (AND TRACT A), and Lots 32 thru 71.

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## TRACT II:

All that part of the Southeast Quarter of Section 12, Township 48, Range 31, Blue Springs, Jackson County, Missouri described as follows:

Commencing at the Northeast corner of the North half of the Southeast Quarter of the Southeast Quarter of said Section 12; thence South 89 degrees 58 minutes 51 seconds West along the North line of said Southeast Quarter of the Southeast Quarter 664.21 feet to the true point of beginning; thence South 00 degrees 01 minutes 21 seconds East 664.93 feet to a point on the South line of the North half of the Southeast Quarter of the Southeast Quarter of said Section 12; thence North 90 degrees 00 minutes 00 seconds West along said South line 659.52 feet; thence North 00 degrees 03 minutes 51 seconds West 664.71 feet to a point on the North line of the North half of the Southeast Quarter of the Southeast Quarter of said Section 12; thence North 89 degrees 58 minutes 51 seconds East 660.00 feet to the true point of beginning, Except that part in road, and Except that part platted Somerset 2nd Plat.

AND WHEREAS, Declarant desires to place certain protective covenants, conditions, restrictions, reservations, liens and charges on said property, as hereafter set forth, and such other property as may subsequently be subjected hereto, for the use and benefit of Declarant, its grantees and assigns:

WHEREAS, the Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in a residential subdivision to be developed in the aforesaid area and for the maintenance of the property and improvements thereon, and such other property as may be subsequently subjected hereto, and to this end desires to subject the real property heretofore described, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the environment, values, and amenities in said property, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents; and

WHEREAS, the Declarant has incorporated or caused to be incorporated or will cause to be incorporated, under the laws of the State of Missouri the Somerset Estates Home Owners Association, Inc., as a not-for-profit corporation for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the Declarant hereby declares that all of the property described above and any property subsequently annexed by separate Declaration hereto, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of said property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to the Somerset Estates Home Owners Association, Inc., its successors and assigns.

Section 2. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the members of the Association.

Section 3. "Declarant" shall mean and refer to Hubbard Development L.P., their successor and assigns.

Section 4. "Lot" shall mean and refer to any separately numbered plot of land shown upon any recorded subdivision map of the Property excepting the Common Area.

Section 5. "Maintenance" shall mean the exercise of reasonable care to keep buildings, landscaping, lighting, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weedfree environment for optimum plant growth.

Section 6. "Member" shall mean and refer to every person or entity who hold membership in the association.

Section 7. "Mortgage" shall mean a conventional mortgage or a deed of trust.

Section 8. "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or other land which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Property" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and these restrictions, as hereinafter provided.

Section 11. "Supplementary Declaration" shall mean and refer to any declaration of covenants, conditions or restrictions which may be recorded by the Declarant or either of them which contains some complementary provisions in relation to the Property or any portion thereof as authorized herein and is reasonably related to the general welfare of the Owners and occupants within the Property or the portion thereof affected by same.

Section 12. "Developer" shall mean and refer to HUBBARD DEVELOPMENT L.P., their successor and assigns, if such successors or assigns should acquire more than one undeveloped Lot or any Developer Owned Acreage from the Declarant or either of them for purposes of development.

## ARTICLE II

### ASSOCIATION MEMBERSHIP

Every person or entity that is a record owner of a fee or undivided fee interest in any Lot which is subject to covenants of record and to assessments by the Association, including contract sellers, or of Developer Owned Acreage which is subject to covenants of record, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Developer Owned Acreage which is subject to covenants of record. Ownership of such Lot or Developer Owned Acreage shall be the sole qualification for membership. Owners shall become members of Somerset Estates Homes Association, Inc., which is already active representing Somerset Estate Lots 1-31 and 32-71.

## ARTICLE III

## VOTING RIGHTS

The Association shall have two classes of voting membership.

**Class A.** Class A members shall be all Owners with the exception of the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** Class B member shall be the Developer. Class B member shall be entitled to one vote for each lot in which it holds the interest required for membership by Article II. Class B members shall be entitled to one vote for each acre or major fraction thereof of Developer Owned Acreage in which it holds the interest required for membership by Article II.

## ARTICLE IV

## POWERS AND DUTIES

In addition to any and all powers, rights and privileges granted to a Missouri not-for-profit corporation, the Association shall have the following powers and duties whenever in the exercise of its discretion it may deem them necessary or advisable:

(1) To enforce, in its own name, any covenants, conditions, or restrictions which may now or may hereafter be imposed upon any of the property. The expenses and costs of any such proceeding may be paid out of the general fund of the Association.

(2) To provide for the plowing and removal of snow from the sidewalks and streets.

(3) To maintain, plant, care for, spray, trim, protect and replant trees, grass, shrubs and other landscaping on all streets in public places or in the common areas.

(4) To provide and maintain such lights as the Association may deem advisable on streets, areas dedicated to the public or for the use of members of this Association, gateways, entrances or other features.

(5) To provide uniform rules and regulations for the collection of garbage and rubbish and for the disposal of such garbage and rubbish as is collected and to provide a uniform method for the collection and disposal of garbage and rubbish from the residences of the members.

(6) To provide for the establishment, operation and maintenance of parks, playgrounds, community center, recreational facilities, gateways and entrances, fountains, streams, all ornamental features and the equipment thereof on any land set aside for the general use of the public and the owners, or to which all such owners have access and use thereof; and to provide for the maintenance of natural water courses within the property.

(7) To erect and maintain signs for the marking of the streets.

(8) To provide for all general items of use, maintenance and repair on or over the common areas.

(9) To provide for additional police service by special arrangement with State, City or County authorities.

(10) To obtain fire insurance covering the full insurable replacement value of the common area with extended coverage.

(11) To obtain liability insurance insuring the Association against any and all liability to the public, to any Owner, or to the invitees or tenants of any Owner arising out of their occupation and/or use of the common area. The policy limits shall be set by the Association, and shall be reviewed at least annually and increased or decreased at the discretion of the Association.

(12) To obtain worker's compensation insurance to the extent necessary to comply with applicable law, and any other insurance deemed necessary by the board of directors of the Association.

(13) To obtain a standard fidelity bond covering all members of the board of directors of the Association and all other employees of the Association in an amount to be determined by the board of directors.

(14) To mow, care for, and maintain, and to cut and remove weeds and grass from vacant property; to pick up and remove therefrom loose material, trash and rubbish of all kinds, and to do any other thing necessary or desirable in the judgment of the officers of said Association to keep such vacant and unimproved property neat in appearance and in good order.

(15) To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be so used by it, and such taxes as may be assessed against the common areas. To borrow money, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for debts incurred or money borrowed.

(16) To enter into such agreements with other Homes Associations, municipalities, political subdivisions, individuals and corporations in order to implement the purposes of the Association and to provide such improvements for the benefit of the Owners and Members of this Association within the purview of this Declaration.

#### ARTICLE V

#### PROPERTY RIGHTS

Section 1. Members' Easement of Enjoyment. Every Member shall have a right of ingress and egress and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property;

(c) The right of the Association to suspend the voting rights and right to use of the recreational facilities by any Member for any period during which any assessment against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer.

(e) The right of the Association to make reasonable rules, regulations and conditions and impose reasonable restrictions upon the use and enjoyment of Common Areas for the benefit of all members, their guests and assigns.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that they will convey fee simple title to the Common Area to the Association free and clear of all encumbrances and liens, but subject to easements and rights created by this or similar instruments, at such time as the Declarant may wish to make such a conveyance, from time to time.

Section 4. Damage or Destruction of Common Area By Owner. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or member of his family, such Owner does hereby authorize the Association to repair said damage area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall become a Special Assessment upon the Lot or other land of said Owner.

#### ARTICLE VI

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, and for all other land within the property when platted as a Lot, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and such costs of collection thereof, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person or persons who were the Owner or Owners of such



property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvements and maintenance of the Property, including, but not limited to, the payment of taxes and insurance on the Common Area, repairs to, replacement of and additions to the Common Area, for the cost of labor, equipment, materials, management and supervision of the Common Area, and for the maintenance, repair and services listed in Article IV hereof, and for any other purpose which is necessary or desirable for the maintenance and improvement of the Property and Common Area, or which is of general benefit to the Owners and occupants.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Two Hundred and No/100's Dollars (\$200.00) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) between the months of July during the two immediately preceding calendar years.;

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the members for the next succeeding two (2) years and at the end of each such period of two (2) years, for each succeeding period of two (2) years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments: Due Dates The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the original conveyance of each such Lot by a Developer. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of Ten per cent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the

property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, that in the event of default in the payment of any obligation secured by such mortgage or deed of trust such subordination shall apply only to the assessments or installments thereof which shall become due and payable prior to the sale of such property pursuant to a foreclosure of such mortgage or pursuant to power of sale under such deed of trust, or prior to a conveyance to the mortgagee or holder of the deed of trust in lieu of foreclosure. Such sale or conveyance in lieu of foreclosure shall not relieve such property from liability for any assessments or installments thereof thereafter becoming due nor from the lien of any such subsequent assessments or installments.

Section 9. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; and (b) the Common area. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE VII

### ARCHITECTURAL CONTROL

Section 1. Conditions. No improvements, alterations, repairs, 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 Hubbard Development L.P., so long as the Class B membership continues to exist, 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 consent of Hubbard Development L.P., so long as the Class B membership continues to exist.

Section 2. The Architectural Review Board. An Architectural Review Board consisting of three or more persons shall fulfill the functions of Hubbard Development L.P. as set forth in this Article VII at such time as the Class B membership shall cease to exist, or when requested by the Declarant to do so. Such a Board already exists, having been appointed by the Board of Directors to serve Somerset Estates Lots 1-31 and 32-71.

Section 3. Purpose. Hubbard Development L.P. or the Architectural Review Board, as applicable, 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.

Section 4. Procedures. In the event Hubbard Development L.P. or the Architectural Review Board as applicable, fails to approve, modify or disapprove in writing an application within thirty (30) 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 Architectural Review Board decision to the Board of Directors, which may reverse or modify such decision by a two-thirds (2/3) vote of the directors. No appeal may be taken from a decision of Hubbard Development L.P.

Section 5. Exceptions to Use Restrictions. Hubbard Development L.P. or the Architectural Review Board as applicable, shall have the power to make variations, alterations and changes in the restrictions set forth in Article VIII of this Declaration and similar Articles in Supplementary Declarations, where the Board is specifically given such power in such Supplementary Declarations, as to any one or more of the Lots, provided the same is accomplished for the mutual benefit of the applicant Owner and the Owners of surrounding Lots. Any decision of the Architectural Review Board in relation to any exception authorized by this Section may be appealed to the Board of Directors of the Association, which may reverse or modify such decisions by a two-thirds (2/3) vote of the directors.

## ARTICLE VIII

### RESTRICTIVE COVENANTS

Section 1. Use of Land. Each Lot within the Property is hereby restricted to residential use and uses related to the convenience and enjoyment of such residential use. No Lot or parcel of land may be improved, used, or occupied for purposes other than as provided by applicable zoning laws, recorded plat including same, and

restrictions filed of record in relation thereto. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of any Lot at any time as a residence, either temporary or permanently.

Notwithstanding any other provision of this Article, it shall be expressly permissible for the Developer and their contractors and subcontractors to maintain, during the period of construction of any improvements upon any Lot, such facilities as in the sole opinion of the Developer may be reasonably required, convenient or incidental to the construction of such improvements.

Section 2. Uncompleted Structures. No building shall be permitted to stand with its exterior in an unfinished condition for longer than five (5) months after commencement of construction. In the event of fire, windstorm, or other damage, no building shall be permitted to remain in a damaged condition longer than three (3) months. No building shall be occupied until the exterior shall have been completed, nor until the landscaping as approved by Hubbard Development L.P. or the Architectural Review Board shall have been completed or other arrangements for completion shall have been approved by the above named Declarant or Board.

Section 3. Easements. Easements for installation and maintenance of utilities and drainage facilities are and will be reserved by the Developer as shown on the recorded plats of said land. Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 4. Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a Lot, unless authorized by the Developer, Architectural Review Board or other governmental or community authority.

Section 5. Utilities. Water, gas, lights, telephone and other utilities shall be located underground on each residential Lot, except perimeter Lots and other tracts of land.

Section 6. New Construction. All residences and other buildings permitted hereby on residential Lots shall be initially new construction. No building shall be moved onto any of such Lots.

Section 7. Animals Prohibited. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lots except that dogs, cats or other household pets not to exceed two (2) in number may be kept, provided they are not kept, bred or maintained for any commercial purpose. In no event shall such animals be kept on any Lot if they unreasonably disturb the Owner or residence of any other Lot. All animals shall be confined on the Owner's Lot and for the mutual benefit of all the Owners, no animal shall be allowed or permitted on the Common Area, except when on a leash or when in direct and constant control of the Owner thereof or a member of his family. Pet owners shall be responsible for the removal and disposal of their pet's excrement from the Common Areas.

Section 8. Advertising Prohibited. No advertising signs (except one of not more than four (4) square feet "For Rent" or "For Sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any Lot, nor shall any Lot be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. No business activities of any kind whatsoever shall be conducted on any Lot or on any portion of any Lot, provided, further however, that the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of structures by the Developer or other builders of residential structures during the construction and sale period, and of the Association, in furtherance of its powers and purposes as set forth in these Articles.

Section 9. Screening Required. All clothes lines, equipment, trash cans, garbage cans, service yards, wood piles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Owners of Lots, subject to the review and approval of the Architectural Review Board. All rubbish, trash, or garbage shall be regularly removed from each Lot, and shall be kept in sanitary containers. No Lot or other portion of the Property shall be used to dump garbage, trash, rubbish or grass clippings. All clothes lines shall be confined to patio areas and no trash burning shall be permitted on any Lot.

Section 10. Antennas Prohibited. No exterior television or radio antennas of any sort, including satellite dishes, shall be placed, allowed or maintained on any portion of any Lot.

Section 11. Storage Tanks. No tank for the storage of fuel may be maintained on any Lot above the surface of the ground without the consent in writing of the Association.

Section 12. Automotive Repair Prohibited. No automotive repair or rebuilding or any other form of automotive manufacture, whether for hire or otherwise, shall occur on any Lot or Common Area hereby restricted.

Section 13. Parking and Storage of Vehicles Prohibited. No automobile, truck, airplane, boat, house trailer, boat trailer or trailer or similar vehicle may be stored upon any Lot hereby restricted.

No school buses, tractors, trucks over 3/4 ton, recreational vehicles, boats, unmounted campers, trailers, unlicensed or inoperable or partially disassembled automobiles or other motor vehicles or trailers shall be regularly parked in the open on any Lot or at the curb and in any event not more than 12 hours at any one time.

Section 14. Above Ground Pools Prohibited. No above ground swimming or wading pools shall be erected, installed, constructed or maintained by any Owner within the property, other than an entirely portable and movable wading pool.

Section 15. Trash. No trash, refuse, grass clippings or ashes shall be thrown, dumped or placed upon any undeveloped portions of the Property.

Section 16. Lots 72-93 Use. None of Lots 72-93 may be improved, used, or occupied for other than private single family residential purposes (except for model homes used by the Developer or other Builders) and no flat or apartment house, although intended for residential purposes, may be erected thereon. Any residence erected or maintained on any of said Lots shall be designed and used for occupancy by a single family.

Section 17. Height Limitation Lots 72-93. Any residence erected on any of Lots 72-93 shall not be more than two (2) levels in height, above ground, provided that a residence more than two (2) stories in height may be erected on any of said lots with the written consent of Hubbard Development L.P. or the Architectural Review Board, as applicable.

Section 18. Minimum Size Requirements Lots 72-93. The following shall apply to Lots 72 through 93. Any residence consisting of a single level above ground level shall contain a minimum of 1,900 square feet of enclosed floor area. No raised ranch or bi-level houses shall be erected. No residence with one and a fraction stories above ground level shall be erected having less than 1,400 square feet of enclosed floor area on the first level above ground level, but in no event shall contain less than 2,000 square feet of total enclosed floor area on both levels. No residence of two (2) full stories above ground level shall be erected having less than 1,200 square feet on the first level above ground level and an over-all minimum of 2,400 square feet of enclosed floor area combined on the two (2) levels above ground level.

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, carports, porches, breezeways or attics.

Section 19. Building Lines Lots 72-93. No dwelling or residence shall be located nearer to the front Lot lines or side Lot lines on Lots 72 through 93 than as indicated on the recorded plat map. However, a residence or part of any residence may be located on any Lot nearer than the said building line shown upon said plat with the written consent of Hubbard Development L.P. or the Architectural Review Board, as applicable.

Section 20. Garages and Driveways. Each residence on Lots 72 through 93 shall have an attached private garage for not less than two (2) nor more than three (3) cars. A garage shall be considered to be an attached garage so long as the elevation of the garage floor is the same as or no more than two feet below the elevation of the floor of the first level above ground level of the residence. The driveway on each Lot shall contain sufficient paved area for the off street parking of at least two (2) cars. All garages facing any street must be equipped with doors which shall be kept closed as much as practicable to preserve the appearance of the elevation of the house fronting on the street. No driveway access is permitted along Liggett Road or future 12th Street.

Section 21. Roofing Material Lots 72-93. All roofing on Lots 72 through 93 shall be wood shingle, fiberglass, or asphalt roofing limited to roofing with the appearance of weathered gray wood texture, the exact color and texture of which shall be approved in writing by Hubbard Development L.P. or the Architectural Review



Board. Any other material due to pitch of roof must be submitted to Hubbard Development L.P. or the Architectural Review Board for approval.

Section 22. Fences Lots 72-93. On Lots 72 through 93 no chain link fencing shall be permitted on any Lot or approved by Hubbard Development L.P. or the Architectural Review Board unless the same is accompanied by decorative wood framing and wooden corner and line posts.

Fence Encroachments: No such fencing shall extend nearer to the front street than the rear house line of a particular residence, except that decorative railing along walkways, with the approval of Hubbard Development L.P. or the Architectural Review Board, may be allowed. No fences shall encroach (a) on the 25 foot building set back line along Liggett Road, (b) on the 10 foot drainage and utility easement along the future 12th Street, and (c) on the 10 foot sidewalk easement between Lots 78 and 79.

Section 23. Commercial Activity Prohibited. No commercial activity of any kind shall be conducted on any Lot, but nothing herein shall prohibit the carrying on of promotional activities by the Developer for the sale of new construction by the Developer or other builders.

Section 24. Add-On Heat Pumps. Each residence shall have an "Add-On" Heat Pump with gas or electric back up.

#### ARTICLE IX

##### GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages or both, and against the land to enforce any lien created by these Covenants. Any such action may be initiated by the Declarant, any Owner, or the Homes Association referred to herein. Failure by the Declarant or 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.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

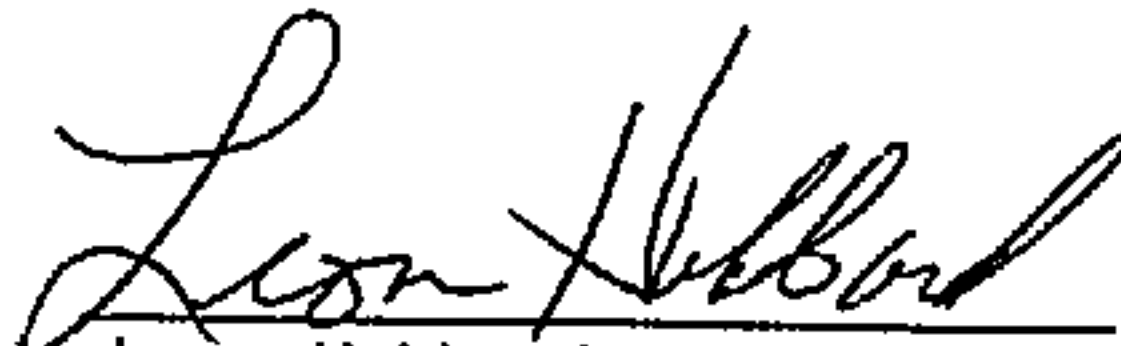
Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by those entitled to cast not less than seventy-five (75) percent of the Class A and B votes combined, and thereafter, by an instrument signed by Members entitled to cast not less than two-thirds (2/3) of all votes.

Any amendment provided for hereunder shall become effective when the instrument of amendment is properly executed, acknowledged and filed for record in Jackson County, Missouri, in the Recorder's Office in Independence.

Section 4. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Language variation. The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.

HUBBARD DEVELOPMENT L.P.



Leon Hubbard  
General Partner

STATE OF MISSOURI

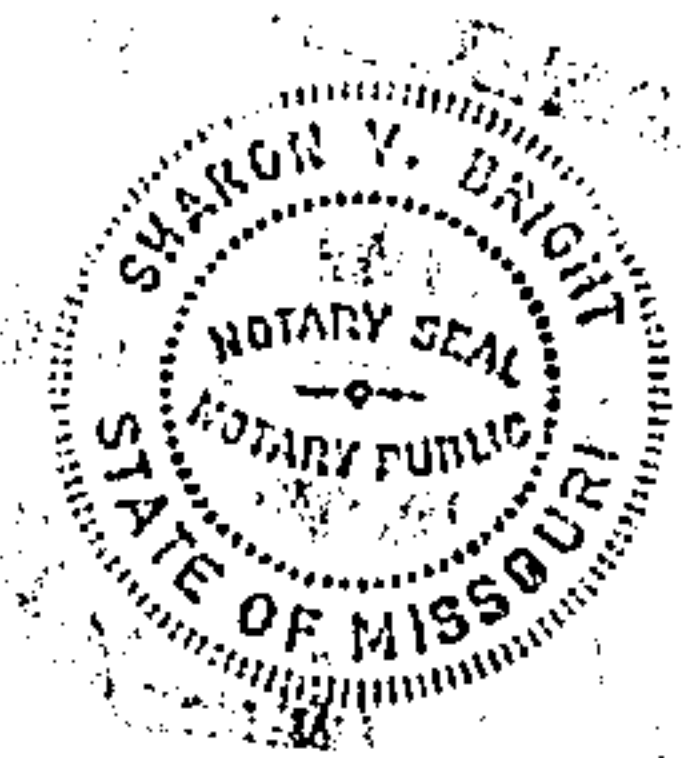
COUNTY OF JACKSON

On this August 27, 1992, before me, personally appeared Leon Hubbard, to me personally known, who being by me duly sworn did say that he is the General Partner of HUBBARD DEVELOPMENT, L.P. a Limited Partnership certified by the State of Missouri, and that said instrument was signed on behalf of said Limited Partnership and the said Leon Hubbard acknowledged said instrument to be the free act and deed of said Limited Partnership.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Blue Springs, Mo., the day and year first above written.

*Sharon V. Bright*  
Notary Public

My Commission Expires:  
SHARON V BRIGHT  
NOTARY PUBLIC STATE OF MISSOURI  
JACKSON COUNTY  
MY COMMISSION EXP. AUG. 13, 1996



(STATE OF MISSOURI) SS  
(COUNTY OF JACKSON) SS  
I CERTIFY INSTRUMENT RECEIVED

1992 SEP 11 P 2:15.0

I2289P 874  
RECORDED DUST. PAGE  
WALTER R. PETERSON JR.  
DIRECTOR OF RECORDS

300  
400  
3900  
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6600

*L. Stevenson*