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**CERTIFIED-FILED FOR RECORD**  
**MARY E. DEMPSEY**  
**RECORDER OF DEEDS**  
**ST. CHARLES COUNTY, MISSOURI**  
**BY: LMCCRAY**  
**\*ELECTRONICALLY RECORDED\***

**RECORDING MEMORANDUM**

Instrument: Restrictions for Timberwood Trails and Bylaws of Timberwood Trails Homeowners' Association

Grantor: Timberwood Trails Homeowners' Association  
c/o City and Village Tax Office  
3 Hollenberg Court  
Bridgeton, MO 63044

Grantee: Timberwood Trails Homeowners' Association  
c/o City and Village Tax Office  
3 Hollenberg Court  
Bridgeton, MO 63044

Date: January 5, 2023

Legal Description: See Exhibit "A," which is attached hereto and incorporated herein by reference

County: St. Charles County, Missouri

Reference: Book 802, Page 18

Return To: Sandberg, Phoenix  
600 Washington Ave., 15th Floor  
St. Louis, MO 63101  
(314) 231-3332

This cover page is attached solely for the purpose of complying with the requirements stated in Mo. Rev. Stat. §§ 59.310.2 and 59.313.2 (2000). The information provided on this cover page shall not be construed as either modifying or supplementing the substantive provisions of the attached instrument. In the event of a conflict between the provisions of the attached instrument and the provisions of this cover page, the attached instrument shall control.

**RESTRICTIONS FOR TIMBERWOOD TRAILS AND  
BYLAWS OF TIMBERWOOD TRAILS HOMEOWNERS' ASSOCIATION**

THESE RESTRICTIONS ("Restrictions") for Timberwood Trails ("Subdivision") and Bylaws of Timberwood Trails Homeowners' Association is made this 5th day of January, 2023.

WHEREAS, the Subdivision is a residential community created and existing under the "Indenture of Restrictions for Timberwood Trails" as recorded on July 12, 1978, as Book 802, Page 18, as may be amended, in the records of St. Charles County, Missouri and is referred to herein as the "Original Restrictions" or "Indenture"; and

WHEREAS, the Owners are authorized to amend the Original Restrictions by approval of by a majority of votes cast, where at least a majority of the Owners of Lots in the Association have cast ballots, as set forth in Article VI, Section 9 of the Original Restrictions; and

WHEREAS, the Owners desire to restate the Original Restrictions to foster effective and efficient governance of the Subdivision, as more particularly set forth below.

NOW THEREFORE, the Original Restrictions are hereby released in its entirety from the records of St. Charles County, Missouri, and these "Restrictions for Timberwood Trails and Bylaws of Timberwood Trails Homeowners' Association" is substituted in lieu thereof as follows:

**TABLE OF CONTENTS**

I. DEFINITIONS ..... 8

    1.1 “Association” ..... 8

    1.2 “Board of Directors” or “Board” ..... 8

    1.3 “Common Expenses” ..... 8

    1.4 “Common Ground” ..... 8

    1.5 “Documents” or “Governing Documents” ..... 8

    1.6 “Guest” ..... 8

    1.7 “Lot” ..... 8

    1.8 “Member in Good Standing” ..... 8

    1.9 “Nonprofit Corporation Act” or “NCA” ..... 8

    1.10 “Ordinance” ..... 8

    1.11 “Original Restrictions” or “Indenture” ..... 9

    1.12 “Owner” of “Member” ..... 9

    1.13 “Plat” ..... 9

    1.14 “Residence” or “Home” ..... 9

    1.15 “Resident” ..... 9

    1.16 “Rules” ..... 9

    1.17 “Subdivision,” “Community” or “Timberwood Trails” ..... 9

    1.18 Uniform Planned Community Act ..... 9

II. ASSOCIATION AND GOVERNANCE ..... 9

    2.1 Association ..... 9

    2.2 Membership ..... 10

    2.3 Board of Directors ..... 10

    2.4 Indemnification ..... 10

    2.5 Additional Sources of Authority ..... 10

    2.6 Powers and Duties ..... 10

        (a) Borrowing ..... 10

        (b) Easements & Dedication ..... 11

        (c) Housing Corporation & Neighborhood Organization ..... 11

        (d) Insurance ..... 11

        (e) Limitations on Board ..... 11

        (f) Neglected Lots and Residences ..... 11

        (g) Rulemaking ..... 11

    2.7 Title to Common Ground ..... 12

III. MAINTENANCE AND EASEMENTS ..... 12

    3.1 Common Ground ..... 12

    3.2 Amenities ..... 12

    3.3 Lots ..... 12

    3.4 Failure to Maintain ..... 12

3.5	Easements.....	13
(a)	Common Ground .....	13
(b)	Association.....	13
IV.	FINANCIAL MATTERS.....	13
4.1	Covenant to Pay & Personal Liability .....	13
4.2	Common Expense Liability.....	14
(a)	Requested Services.....	14
(b)	Damages.....	14
4.3	Budget .....	14
4.4	Payment Schedule.....	14
4.5	Lien.....	14
(a)	Priority.....	15
(b)	Perfection.....	15
(c)	Enforcement.....	15
4.6	Costs and Attorney’s Fees.....	15
4.7	Exemptions.....	15
4.8	Certificate of Payment.....	15
V.	RESTRICTIONS AND COMMUNITY STANDARDS .....	15
5.1	Residential Use.....	15
(a)	Permanent and Height.....	15
(b)	Square Footage .....	16
(c)	Setback.....	16
(d)	Reconstruction of Destroyed Residences.....	16
5.2	Ordinances.....	16
5.3	Prohibition on Subdivision of Lot.....	16
5.4	Leasing .....	16
(a)	Definitions.....	16
i.	“Direct Family Member” .....	16
ii.	“Governing Documents” .....	17
iii.	“Lease” .....	17
iv.	“Owner-Occupied” .....	17
(b)	Restriction on Leasing.....	17
(c)	Lease Regulations.....	17
i.	Copy of Lease.....	17
ii.	Persons Subject to Governing Documents.....	17
iii.	Term of Lease.....	18
iv.	Short Term Rentals.....	18
v.	Certification.....	18
vi.	Assignment of Rights.....	18
(d)	No Time-Share.....	18
(e)	Rulemaking.....	18

(f)	Reasonable Restraint on Alienation.....	18
(g)	Enforcement.....	18
5.5	Pets.....	19
(a)	Structures and Damage to Property.....	19
(b)	Limitation of Liability, Indemnification & Hold Harmless.....	19
(c)	Number and Type.....	19
(d)	Existing Pets.....	19
5.6	Signs.....	19
(a)	Open House.....	19
(b)	Public Notice.....	20
(c)	Association Signs.....	20
(d)	Political Signs.....	20
5.7	Vehicles.....	20
(a)	Impermissible Visible Vehicles.....	20
(b)	Maintenance and Repairs.....	20
(c)	Vehicle Sightlines.....	20
(d)	Other Motorized Vehicles.....	20
(e)	Dumpsters/Storage Containers/Personal Property Storage.....	20
(f)	Rulemaking.....	21
(g)	Enforcement.....	21
(h)	Limitation of Liability, Indemnification & Hold Harmless.....	21
5.8	Commercial Activities.....	21
5.9	Nuisances.....	21
5.10	Satellite Dishes, Antennas.....	22
5.11	Abusive Behavior.....	22
5.12	Additional Structures and Storage.....	22
5.13	Slope Control Areas.....	22
5.14	Land Near Parks and Water Courses.....	22
5.15	Restrictions by Rulemaking.....	23
5.16	Holiday Decorations.....	23
VI.	ARCHITECTURAL CONTROLS.....	23
6.1	Preamble.....	23
6.2	Definitions.....	23
(a)	“Alteration”.....	23
(b)	“Committee”.....	23
(c)	“New Construction”.....	23
6.3	Review Procedures.....	23
(a)	Application.....	24
(b)	Board Action.....	24
(c)	Failure to Respond.....	24
(d)	Appeal of Rejection or Approval with Conditions.....	24

(e)	Owner’s Failure to Obtain Approval .....	25
(f)	Inspection Rights .....	25
6.4	Standards of Review of Applications.....	25
(a)	General Criteria.....	25
(b)	Effect on Adjoining Lots .....	25
(c)	Aesthetics .....	25
6.5	Variations in Approvals. ....	26
6.6	Application for a Variance .....	26
6.7	Fees.....	26
6.8	Additional Costs.....	26
6.9	Damage. ....	26
6.10	Certificate of Compliance.....	27
6.11	Approval by Governmental Agency.....	27
6.12	Limitation of Liability.....	27
VII.	AMENDMENTS .....	27
7.1	Restrictions .....	27
7.2	Limitation of Challenges.....	28
7.3	Recording and Execution.....	28
7.4	Board Amendments. ....	28
VIII.	MEETING OF THE MEMBERS AND VOTING.....	28
8.1	Annual Meeting.....	28
8.2	Special Meeting .....	28
8.3	Notices.....	28
8.4	Quorum .....	29
8.5	Voting.....	29
(a)	Multiple Owners .....	29
(b)	Legal Entities .....	29
(c)	One Vote Per Lot .....	29
8.6	Online Platform.....	29
IX.	BOARD OF DIRECTORS, MEETINGS & OFFICERS.....	30
9.1	Number, Term & Qualifications.....	30
(a)	General Qualifications.....	30
(b)	Spouse, Partner and Trusts .....	30
(c)	Legal Entities .....	30
9.2	Election Rules.....	30
9.3	Removal & Vacancies.....	30
9.4	Board Meetings.....	30
9.5	Officers .....	31
9.6	Powers and Duties.....	31
9.7	Compensation.....	31
9.8	Open Meetings and Executive Session .....	31

9.9	Access to Books and Records .....	31
(a)	Written Request .....	31
(b)	Documents Not Subject to Inspection .....	32
(c)	Right of Director .....	32
9.10	Conflict of Interest .....	32
9.11	Training and Code of Ethics .....	32
9.12	Operations .....	32
(a)	Fiscal Year .....	32
(b)	Parliamentary Rules .....	32
(c)	Insurance .....	32
i.	Property Insurance .....	33
ii.	General Liability .....	33
iii.	Directors & Officers .....	33
iv.	Fidelity .....	33
v.	Workers Compensation .....	33
vi.	Other Insurance .....	34
9.13	Board Standards .....	34
(a)	Business .....	34
(b)	Governance .....	34
(c)	Operations .....	34
X.	ENFORCEMENT .....	34
10.1	Board Discretion in Enforcement .....	34
10.2	Relief and Remedies .....	35
10.4	Notice of Violation and Opportunity to be Heard .....	37
(a)	Notice .....	37
(b)	Hearing .....	37
(c)	Good Faith Compliance .....	37
(d)	Repeat Violations .....	37
XI.	GENERAL PROVISIONS .....	37
11.1	Integrity of Governing Documents .....	37
(a)	Severability .....	38
(b)	Rule Against Perpetuities .....	38
(c)	Recitals .....	38
11.2	Interpretation .....	38
11.3	Persons Bound by the Documents .....	38
11.4	Eligible Mortgagees .....	38
11.5	Condemnation .....	38
11.6	Termination of Subdivision .....	38
11.7	Restrictions Run With the Land .....	39
11.8	Effective Date .....	39
11.9	Applicability .....	39

EXHIBIT "A" PLATS OF THE SUBDIVISION .....	41
EXHIBIT "B" ARCHITECTRUAL STANDARDS .....	44
Section 1. Categories of Alterations.....	44
(a) Minor Alterations.....	44
(b) Major Exterior Alterations.....	44
Section 2. Existing Structures and Alterations.....	44
Section 3. Residence Size and Placement.....	45
Section 4. Additions.....	45
Section 5. Ordinances.....	45
Section 6. Worksite.....	45
Section 7. Storage Sheds or other outbuildings.....	45
Section 8. Fences.....	46
Type 1.....	46
Type 2.....	46
Section 9. Roofs.....	47
Section 10. Pools & Hot Tubs.....	47
Section 12. Electric Charging Stations.....	47
Section 13. Emerging Technologies.....	47



## I. DEFINITIONS

- 1.1 **“Association”** means Timberwood Trails Homeowners’ Association and its successors and assigns.
- 1.2 **“Board of Directors”** or **“Board”** means the body designated to act on behalf of the Association.
- 1.3 **“Common Expenses”** means expenses or financial liabilities of the Association, including: (a) expenses of administration of the Association, (b) maintenance, repair, improvements, or replacements on the Common Ground, including improvements thereon; (c) expenses relating to implementation and enforcement of the Governing Documents; (d) expenses declared to be Common Expenses herein; (e) expenses agreed upon as Common Expenses by the Association; and (f) such reasonable reserves as may be established by the Association.
- 1.4 **“Common Ground”** means all the common areas and easements as depicted on the Plat, all improvements on the Common Ground, and such other common areas as the Association may acquire in the future. The Common Ground shall be held and operated for the common use and enjoyment of the Owners and Residents of the Subdivision; Common Ground shall be synonymous with “common elements” as defined in UPCA.
- 1.5 **“Documents”** or **“Governing Documents”** or **“Restrictions”** means these Restrictions, Plat, Articles of Incorporation, By-Law provisions herein, Rules, and any amendments.
- 1.6 **“Guest”** means an invitee or licensee of a Resident or Owner of a Residence.
- 1.7 **“Lot”** means a separate parcel of land, including a Residence and other improvements thereon, the location and dimensions of which are depicted on the Plat. Lot shall be synonymous with “unit” as defined in UPCA.
- 1.8 **“Member in Good Standing”** means a Member that is current on any monies owed to the Association including any fines levied after notice and opportunity to be heard, is not engaged in a pending judicial or administrative proceeding adverse to the Association and has no unresolved violations.
- 1.9 **“Nonprofit Corporation Act”** or **“NCA”** means the Missouri Nonprofit Corporation Act, Mo. Rev. Stat., Chapter 355, as may be amended.
- 1.10 **“Ordinance”** means any applicable ordinance of /MUNI, Missouri, or its successor(s), St. Charles County, Missouri, or such local government as may have jurisdiction in the future.

- 1.11 **“Original Restrictions” or “Indenture”** means the instrument described in the Recitals.
- 1.12 **“Owner” of “Member”** means any Person who has a recorded fee simple title to a Lot in the Subdivision, not including any person having a security interest in the Lot, which shall be determinative upon review of the records of St. Charles County, Missouri.
- 1.13 **“Plat”** means the Plats of Timberwood Trails as more particularly described in Exhibit “A,” which is incorporated herein by reference.
- 1.14 **“Residence” or “Home”** means the building on a Lot designed and intended for independent residential occupancy.
- 1.15 **“Resident”** means a Person that occupies a Residence.
- 1.16 **“Rules”** means rules and regulations adopted by the Board pursuant to the Governing Documents.
- 1.17 **“Subdivision,” “Community” or “Timberwood Trails”** means the real property that are subject to these Restrictions.
- 1.18 **Uniform Planned Community Act.** While not adopted in Missouri, the definitions as contained in the Uniform Planned Community Act (“UPCA”) shall apply when interpreting the Governing Documents of the Association unless otherwise defined herein.

## **II. ASSOCIATION AND GOVERNANCE**

- 2.1 **Association.** The Association may be operated as an unincorporated entity or may be organized as a Missouri nonprofit corporation that may be organized solely upon the discretion of the Board. In such event, the Association shall be deemed to be an assignor (“Assignor”) and the to-be-formed corporation shall be deemed to be assignee (“Assignee”) whereby the Assignor assigns to Assignee all of Assignor’s right, title and interest to its assets including but not limited to receivables, real property, personal property, tangible and intangible property, as well as its authority regarding any powers, duties and obligations of the Assignor as set forth in the Governing Documents. Assignee would be deemed to have accepted the assignment and agrees to assume, perform, and comply with and to be bound by the Governing Documents, and all the terms, provisions, and conditions of this Agreement to be performed from and after the date hereof. Further, the Assignor adopts, ratifies and approves of all decisions and acts of the Assignee undertaken on behalf of the Assignor since the Assignee was organized as a Missouri nonprofit corporation. The Assignee adopts, ratifies and approves of all decisions and acts of the Assignor undertaken on behalf of the Assignee since formation of the Assignor. This Section shall be broadly interpreted to give

effect to all actions undertaken by the Assignor or Assignee as the owners' association for the Subdivision. Regardless of form, the Association shall be vested with all the powers, duties and obligations to act pursuant to the Governing Documents. Operation and administration of the Subdivision is vested in the Association.

**2.2 Membership.** Each Owner of a Lot is automatically a Member of the Association by virtue of such ownership. Membership at all times shall consist exclusively of all the Owners.

**2.3 Board of Directors.** The Board of the Association shall act on behalf of the Association in all matters except those expressly limited in the Governing Documents.

**2.4 Indemnification.** Except as may be otherwise provided in the NCA, or the Governing Documents, and except for their willful misconduct, the Members of the Association, the Board and Officers, acting within their authority, shall not be individually, or personally liable for the debts, liabilities, or obligations of the Association, except to the extent of their Common Expense liability as Members of the Association. To the extent permitted by the NCA and all applicable laws, the Association shall indemnify every Director, officer, employee, agent, volunteer, and any other person that serves at the request of the Association as a manager, director, officer, employee, volunteer, or fiduciary against any liability asserted against or incurred by such person in any such capacity or arising out of that person's capacity as such. The indemnification permitted under this Section shall be to the maximum extent permitted by law.

**2.5 Additional Sources of Authority.** For issues that may arise that are not otherwise addressed, the following additional sources of authority shall apply: (a) UPCA, (b) Uniform Common Interest Owners Act, Bill of Rights ("BOR"), and (c) Restatement (Third) of Property: Servitudes ("Restatement") (collectively, "Additional Sources"). In the event of a conflict between these Restrictions and the Additional Sources, the hierarchy shall be: (a) these Restrictions, (b) NCA, (c) UPCA, (d) BOR, and (e) Restatement.

**2.6 Powers and Duties.** The Association shall be vested, regardless of corporate status, the same powers and duties as all nonprofit corporations in Missouri and UPCA unless otherwise provided herein.

**(a) Borrowing.** The Association may not enter into a loan secured by Common Ground unless such loan is approved by 80% of the votes in the Association. The Association may assign its rights to future income (including the right to receive assessments), provided that the Owners approve as provided in Section 4.3 below.

- (b) **Easements & Dedication.** The power to establish and grant easements for public utilities and private service providers in addition to any shown on the Plat in, over and through the Common Ground, and to release same, and the power to dedicate any portion of the Common Ground to a political subdivision of the State of Missouri or utility provider. The Board is authorized to enter into such easements and dedication of Common Ground by a majority vote of the Board and without Owner approval.
- (c) **Housing Corporation & Neighborhood Organization.** The Association is a local housing corporation pursuant to Mo. Rev. Stat. §441.00-441.643 and a neighborhood organization as defined in Mo. Rev. Stat. §32.105 and §447.620-447.640.
- (d) **Insurance.** The power to purchase and maintain in force such insurance as deemed appropriate by the Board and to the extent reasonably available, including but not limited to property insurance covering improvements on the Common Ground, comprehensive general liability insurance, directors' and officers' liability insurance, and fidelity insurance all as set forth herein, and such other coverage as deemed appropriate by the Board, and the power to provide for the indemnification of the Directors and officers of the Board, and the Members of the Association.
- (e) **Limitations on Board.** The Board shall not have any power to amend these Restrictions (except as expressly provided herein), or to terminate the Association or the Subdivision, or to elect Directors (except to fill vacancies) or determine Board qualifications, powers and duties or terms of office of Directors (except to fill vacancies), or to take any other action expressly reserved to the Owners.
- (f) **Neglected Lots and Residences.** The power and right of access to a Lot, after notice and opportunity to be heard (except in an emergency as may be determined by the Board), to correct neglected conditions on any Lot; such access shall not constitute a trespass. The Owner shall be charged with the reasonable expenses so incurred, including reasonable attorney's fees, which shall be collectable in the same manner as assessments.
- (g) **Rulemaking.** The power to adopt and amend Rules to carry out the intent and purposes of the Governing Documents including use of the Common Ground. Any Rules with respect to restrictions and community standards (Article V), and design review (Article VI) shall be subject to notice and opportunity to comment for the Owners prior to adoption by the Board. All Owners, their families, tenants, occupants, guests and invitees, and mortgagees, shall be subject to the Rules.

- 2.7 Title to Common Ground.** Any interest in the Common Ground held under the Original Indenture shall be deemed conveyed in fee simple to the Association upon the Effective Date of these Restrictions to the same extent and effect as if this were a deed of conveyance.

### **III. MAINTENANCE AND EASEMENTS**

- 3.1 Common Ground.** The Association shall be responsible for the maintenance and upkeep of the Common Ground including any improvements as a Common Expense of the Association; provided, however, the Association is not responsible for utilities, pipes, wires, water lines, wastewater lines, sewer laterals, or any other improvement solely serving the Lot or Residence regardless of their location, nor shall the Association have any obligation to alter the Common Ground due to water runoff or drainage from the natural flow of water. No alterations shall be made to the Common Ground without prior written permission of the Board including any cul-de-sacs islands or medians.
- 3.2 Amenities.** At the time of adoption of these Restrictions, the Community contains a bathhouse, pool, and pavilion area with an open grassy to the north. The Board may not remove such Amenities, or install any new amenity without approval in writing by a majority of the votes in the Association. This Section does not limit or inhibit the Board's authority to maintain, and upkeep said amenities or making improvements (for example, better lighting of the grassy area, better pool pump, better signage, or adoption and implementation of green technology serving such amenities).
- 3.3 Lots.** Each Owner shall be responsible for the upkeep, maintenance, repair, and replacement of their respective Lot at the Owner's cost. Further, the Owner shall be responsible for all utilities, utility installations and other improvements solely serving the Lot regardless of their location within the Subdivision. Certain Lots may contain a private pond or portion of a private pond. Without amendment from the Original Indenture, the Association has no responsibility to maintain, repair, or replace; or have any obligation for upkeep or liability to contribute any monies; with regard to such private pond.
- 3.4 Failure to Maintain.** In the event an Owner fails to fulfill any responsibility set forth in this Article or causes damage to his Lot or Residence, or property of another Owner or the Common Ground, the Board may notify the Owner of the particular condition and prescribe an appropriate corrective measure and reasonable schedule for the corrective work to be completed. In the event the Owner fails to comply with said notice, the Board, after opportunity to be heard, may access the Owner's Lot and take the corrective measures and assess all costs against the Owner, which shall be collectable in the same manner as assessments.

Prior to any action to enforce this Section, the Association shall provide notice to local government and take no further action for thirty (30) days, thus, providing the

local government an opportunity to resolve without involvement from the Association.

**3.5 Easements.** In addition to the Easement otherwise of record in the records of St. Charles County, Missouri:

- (a) Common Ground.** Each Owner is vested with a perpetual easement for the use and enjoyment of the Common Ground, which shall be appurtenant to all Lots, which may be subject to Rules. Absent an applicable rule adopted by the Board pursuant to Section 2.6(g) of these Restrictions, each Owner's use of the Common Ground shall be of the same manner as an Owner might otherwise use or enjoy greenspace within their Lot; provided, however, such uses shall be: (a) incidental to similar uses within a residential community, (b) cannot alter the Common Ground, and (c) there can be no organized event or an event upon which compensation is exchanged without otherwise obtaining the permission of the Board.
- (b) Association.** The Association, and its agents, are granted a perpetual easement in gross for ingress and egress all portions of the Subdivision to perform its duties and obligations as required under the Governing Documents. Such ingress and egress shall be reasonably exercised.
- (c) Utility and Drainage.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear five (5) feet of each Lot. 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. 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.

#### **IV. FINANCIAL MATTERS**

**4.1 Covenant to Pay & Personal Liability.** Each Owner, regardless of the manner in which he acquired title to his Lot, including without limit, purchase at foreclosure or judicial sale, covenants to pay and shall be personally liable for all assessments and other charges coming due while he is Owner.

In addition to the covenant to pay, the Owner at the time an assessment is due shall be personally liable for same, together with such charges as may be imposed under these Restrictions. Personal liability for said assessment shall not pass to a successor in title unless he agrees to assume such personal obligation.

The obligation and covenant to pay may not be avoided by waiver of the use of the Common Ground or services, or by abandonment of the Lot, or by reliance upon any claim against the Association, Board, another Owner or any third party.

**4.2 Common Expense Liability.** Common Expenses shall be allocated on the basis of equality; thus, each Lot's Common Expense Liability shall be equal to all other Lots within the Community. Provided, however, the following Common Expense may be allocated to fewer than all of the Lots:

(a) **Requested Services.** Any Common Expense for services provided by the Association to an individual Lot at the request of the Owner, and beyond the Association's duties expressed herein or assumed, shall be assessed against the Lot which benefits from such service.

(b) **Damages.** Any Owner, after notice and opportunity to be heard, shall be liable for any damages to any other Lot or Residence, or to the Common Ground, caused intentionally, negligently or by his failure to properly maintain, repair or make replacements to his Lot or Residence, or in connection with construction activities on the Lot.

**4.3 Budget.** The Board shall prepare a proposed annual budget, including an estimate of the income and Common Expenses of the Association and each Owner's assessment to provide for the Common Expenses for the forthcoming year. The budget shall include a schedule of late fees and interest to be charged on delinquent accounts. The Board shall deliver the proposed budget to the Owners and set a date for a meeting of the Owners to consider ratification. Unless a majority of all Members in Good Standing reject the budget, the budget is ratified. A quorum is not required. In the event the proposed budget is rejected, the most recent budget shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board; this process shall be referred to as "Ratification Process."

**4.4 Payment Schedule.** All assessments shall be due and payable annually. The Board may require a periodic payment schedule, but not more frequently than monthly. In the event that a delinquency in excess of sixty (60) days occurs in the payment of any assessment that is payable in installments, the full amount of such assessment may be accelerated and collected as provided in this Article. No assessment shall be due unless notice of at least thirty (30) days' notice has been provided.

**4.5 Lien.** In addition to each Owner's personal liability under Section 4.1, the Association has a lien against a Lot for any assessment or fine from the time the assessment or fine becomes due, which shall include any other monies owed to the Association.

- (a) **Priority.** For any liens executed after recording of these Restrictions, a lien under this Section 4.5 is prior to all other liens and encumbrances on a Lot (including any mortgage or deed of trust) except for those liens, mortgages or deeds of trust of record at the time of the recording of these Restrictions, real estate taxes and other governmental assessments or charges against the Lot. The lien is not subject to the provisions of Mo. Rev. Stat. §513.475 (2000)(homestead exemption).
- (b) **Perfection.** The Association's lien for unpaid assessments and other charges shall be deemed perfected upon the Effective Date of these Restrictions. A notice of the Association's lien, in the Board's discretion, may be recorded in the records of St. Charles County, Missouri.
- (c) **Enforcement.** The Association may initiate suit to recover sums for which this Section creates a lien. In addition, and without waiver of any remedies, the Association's lien may be foreclosed by judicial proceeding or by publication in like manner as a mortgage on real estate or power of sale under Mo. Rev. Stat. §§ 443.290 to 443.440 (2010).

**4.6 Costs and Attorney's Fees.** A judgment or decree in any action brought under this Article shall include all costs, attorney's fees (including costs and fees incurred in executing the judgment), and other charges owed to the Association as the prevailing party.

**4.7 Exemptions.** The Common Ground and any Lot exempt from taxes under the laws of the State of Missouri shall be exempt from the assessments, charges and liens created herein.

**4.8 Certificate of Payment.** The Association, within ten (10) business days after receipt of written request by an Owner, shall furnish to him a statement setting forth the amount of monies owed by the Owner and levied against the Lot.

## **V. RESTRICTIONS AND COMMUNITY STANDARDS**

**5.1 Residential Use.** Each Lot and Residence shall be used solely for single family residential purposes including unrelated persons living together as a single family unit. No Residence, or any other structure, shall be used for a purpose other than the purpose for which it was originally designed. Further, no Residence, structure, or other building, or any portion of a Lot, shall be used in violation of any Ordinance, law, or result in an increase in the rate of insurance of the Association.

- (a) **Permanent and Height.** All Residences shall be of a permanent character and constructed on-site. No Residence or other structure shall exceed two-stories.



- (b) **Square Footage.** All Residences shall be a minimum of 1,700 square feet of interior living space excluding basement and screened in areas. If the Residence shall be more than one-story, the ground/first level shall be a minimum of 1,000 square feet of interior living space.
- (c) **Setback.** All Residences and structures shall comply with any and all setback requirements contained on the plat or via applicable ordinance or code.
- (d) **Reconstruction of Destroyed Residences.** Any Residence that is destroyed by fire, tornado, or any other casualty, must be reconstructed in such a manner that the fair market value of the reconstructed Residence is within no less than ten percent (10%) of the fair market value of the Residence that was destroyed, based on a valuation by a qualified real estate professional.

**5.2 Ordinances.** All actions of Owners, Residents, and Guests and activities upon the Lots shall comply with all applicable laws, statutes, ordinances, codes and regulations (collectively "Ordinances") including limitations on occupancy and pets; provided, however: (1) the Association may, but has no obligation, to enforce, and (2) the applicability of such Ordinances does not prevent or impair the enforceability or validity of any provision of these Restrictions, and (3) prior to any actions taken by the Association related to Ordinances, the Association shall provide notice to local government and take no further action for thirty (30) days, thus, providing the local government an opportunity to resolve without involvement from the Association.

**5.3 Prohibition on Subdivision of Lot.** No Lot within the Community may be subdivided, and no Lot shall have more than one Residence. Further, no Lot shall be partitioned, or a fractional part thereof sold. Notwithstanding the foregoing, this Section shall not prohibit or restrict minor boundary adjustments amongst the Lots so long as such boundary adjustment does not otherwise result in a violation of these Restrictions.

**5.4 Leasing.** The Association deems it to be in the best interests of the community as a whole to preserve the Subdivision as a community in which the Lots are occupied predominantly by the Owners. Accordingly, the purpose of this Article is to foster Owner-occupancy and thereby improve stability among residents, inhibit transiency and protect property values, by prohibiting future owners from being able to lease and adopting reasonable regulations if a Lot is authorized to lease.

(a) **Definitions.** For purposes of this Section:

- i. **"Direct Family Member"** means children, parent, grandchildren, grandparent, caregiver, in-laws, stepchildren, or siblings of the Owner.

- ii. **“Governing Documents”** means the Declaration, Articles of Incorporation of the Association, the Association’s By-Laws, rules and regulations of the Association as well as any applicable ordinance, statute, law or regulation.
  - iii. **“Lease”** means any agreement for the exclusive possession of the Lot that creates a relationship of landlord-tenant or lessor-lessee in which the record Owner does not occupy the Lot.
  - iv. **“Owner-Occupied”** means that the resident of the Lot is the record Owner, his or her siblings, parents, children, grandchildren, grandparents (and their families). In the event the Lot is owned by a trust, the Lot shall be deemed to be owner-occupied if the Lot is occupied by a beneficiary of the trust, as long as the beneficiary is also the grantor of the trust, or the Lot is occupied by the spouse or direct family member of the grantor of the trust.
- (b) **Restriction on Leasing.** An Owner that acquires an ownership interest in a Lot after ninety (90) days after recording of this Amendment shall be prohibited from leasing the Lot.

The Board may waive the limitation on leasing in this subsection (b) for a reasonable period of time in the event of personal hardship or unanticipated circumstances such as military service, sabbatical, job transfer, medical conditions, economic or market conditions, or other reasonable cause. Any such waiver shall be in writing and signed by the Owner and the Board. In the event a waiver is granted, the Owner may lease the Unit for the term granted in accordance with the regulations in Section 5.4(c) below.

- (c) **Lease Regulations.** Any lease permitted under this Article and executed or renewed on or after the Effective Date shall be evidenced by a written lease agreement (“Lease”) and, whether or not expressly set forth in the Lease, shall be deemed to include the regulations contained in this Section. A Lot shall not be deemed leased if the Lot is occupied by a Direct Family Member
- i. **Copy of Lease.** The Owner shall furnish to the Board, at least ten (10) days before the commencement date, a copy of the executed Lease and a lease addendum if required by the Association (“Addendum”), as well as the names and contact information of the tenant and all occupants. The Lease shall comply with the Governing Documents.
  - ii. **Persons Subject to Governing Documents.** The Lease, Owner and tenant(s)/occupant(s) are subject to the provisions of the Governing Documents.

- iii. Term of Lease.** The Lease shall have an initial term of at least six (6) but not more than twelve (12) months. Any renewal or extension of the Lease, and any sublease of the Lot or assignment of the Lease, shall be in writing and a copy submitted to the Board at least ten (10) days prior to its commencement date. Further, any lease renewal or extension may not exceed twelve (12) months at a time.
  - iv. Short Term Rentals.** No Lot may be leased on a nightly or monthly basis, or for transient or hotel purposes including home exchange, swap or via Airbnb®, VRBO® or their functional equivalent. Not less than the entire Lot may be leased. If a lease is voluntarily terminated within 90 days of commencement, the Lot may not be leased for 90 days after the date of termination.
  - v. Certification.** The Owner certifies that he/she obtained a background check and provided a copy of the Governing Documents to tenant, and tenant certifies that he/she received said Documents, prior to signing the Lease.
  - vi. Assignment of Rights.** The Owner assigns to tenant all rights and privileges related to occupancy of the Lot. The Owner retains the right to vote, the duty to pay assessments, fines and other charges by the Association, and the obligation to maintain the Lot and carry a personal insurance policy on the Lot.
- (d) No Time-Share.** No Lot may be conveyed under a time-sharing plan.
- (e) Rulemaking.** The Board may adopt such rules, regulations, and forms as it deems reasonable and necessary to implement the provisions of this Section.
- (f) Reasonable Restraint on Alienation.** The leasing limitations of this Section shall be deemed a reasonable restraint on alienation and not a change in the use of Lots, which shall continue to be used for single-family residential purposes.
- (g) Enforcement.** The Association is authorized to enforce any violation by tenant or occupant (regardless of relationship to Owner) of the Governing Documents, except for nonpayment of rent, and may deem such violation a default of the Lease and shall have the right, after notice to the Owner and opportunity to cure, to terminate the Lease by judicial proceeding, and shall have all other remedies under the Governing Documents. In the event the Owner fails to pay any assessment and related charges and fees for sixty (60) days or more, the Board, upon written notice, may direct the tenant to pay rent directly to the Board which shall be applied to the Owner's account until the delinquency is paid in full; otherwise, however, the foregoing shall

not impose any direct liability on a tenant to pay any general or special assessment on behalf of the Owner.

**5.5 Pets.** Residents with pets shall be responsible for their pets and shall be courteous to other residents to ensure pets do not disturb other residents' use and enjoyment within the Subdivision including keeping pets leashed in-hand and proper disposal of pet waste.

(a) **Structures and Damage to Property.** No structure or enclosure for a pet shall be kept outside of a Residence, including dog runs. The Owner shall be responsible for any damage to any persons or property caused by a pet kept on his or her Lot.

(b) **Limitation of Liability, Indemnification & Hold Harmless.** The Association shall not be liable for injury or damage to persons or personal property caused by a pet, service animal, or any other animal even if such pet was not permitted under these Restrictions. Further, to the fullest extent of the law, the owner of the pet shall hold the Association (including the Board, Officers, Members, and its agents) harmless for actions of their pet and shall indemnify the Association for all costs, attorney's fees, and any judgment amount, related to the actions of such pet.

(c) **Number and Type.** Only (i) dogs, (ii) cats, or (iii) other small animals not exceeding five (5) pounds that are normally kept in a cage, aquarium or similar container, which are not venomous, poisonous, or otherwise dangerous, may be kept in the Subdivision. Additionally, no more than four (4) domesticated animals may be kept on Lot, and chickens (regardless of size or purposes) are prohibited.

(d) **Existing Pets.** At the time of adoption of these Restrictions, should a Resident have a pet that is not permitted under these Restrictions but was permitted under the Original Indenture and any applicable Ordinances, then that pet shall not be constitute a violation under these Restrictions.

**5.6 Signs.** Signs that may be displayed under this Section shall be subject to such Rules as the Board may adopt regulating size, location, duration and related matters. Signs shall be temporary in nature, maintained in good condition, and are only permitted as follows:

(a) **Open House.** One (1) sign advertising an "open house" located adjacent to the front entrance of the Subdivision, which shall not be kept for more than four hours before the open house and must be removed not more than two hours after the open house. In addition, one (1) yard sign advertising "for sale," with the sign not to exceed 18 inches by 24 inches in dimensions.

- (b) **Public Notice.** Notices required by the Ordinances or any court or governmental body or agency may be posted on a Lot, Residence or Common Ground; and
- (c) **Association Signs.** The Board may place appropriate signs on the Common Ground.
- (d) **Political Signs.** Pursuant to Mo. Rev. Stat. §442.404, the Board is authorized to adopt reasonable rules regulating political signs without the necessity of notice and comment as otherwise required herein.

**5.7 Vehicles.** Vehicles within the Subdivision are subject to the following limitations:

- (a) **Impermissible Visible Vehicles.** No Person shall park or store any derelict, abandoned or unlicensed vehicle, or lawn equipment within the Subdivision unless it is parked or stored within an enclosed garage.

Campers, recreation vehicles, boat or boat trailer, utility or similar trailer must be on paved surface behind the house with the exception of corner lots where it is allowed on the side. There shall be no parking in the yard of any Lot. For purposes of this Section, "paved surface" shall include asphalt, concrete, paving stones, but does not include gravel or rock. Commercial vehicles are permitted consistent with Ordinances.

- (b) **Maintenance and Repairs.** Except for emergency repairs, repairs lasting twenty-four (24) hours or less in duration, and washing, no other maintenance or repairs shall be conducted within the Subdivision unless done so in an enclosed garage.
- (c) **Vehicle Sightlines.** No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic, including but not limited to cul-de-sac areas.
- (d) **Other Motorized Vehicles.** Use of go-kart, golf-cart, all-terrain vehicle (ATV), dirt bike or any other type of motorized vehicle are permitted but only to the extent they are permitted by Ordinance. Lawn mowers are not considered to be a motorized vehicle. Overnight parking of permitted vehicles must be located in enclosed garage, on side, or on pavement. Go-karts, golf carts, ATVs, dirt bikes, etc., must be parked on pavement on side or back of house
- (e) **Dumpsters/Storage Containers/Personal Property Storage.** No Person shall park or keep a Dumpster® or Portable Storage Unit (such as a PODS®) on his Lot for more than fourteen (14) days without prior consent of the Board. Application for approval shall be made under the provisions of Article VI. Construction materials and personal property shall not be

stored unless within an approved enclosure, such as a fence. Permission shall be required for any storage to be done on a street and trash receptacles, if stored outside, must be located in the rear or side of the Lot.

- (f) **Rulemaking.** The Board may adopt reasonable rules and regulations related to parking with the Subdivision including limiting parking in certain areas of the Common Ground or on one side of a street, and may prohibit (or limit) location of dumpsters and storage containers from being kept on a street within the Community.
- (g) **Enforcement.** Any violation of this Section may be enforced, after notice and opportunity to be heard (except for emergencies), by levying a reasonable fine and/or towing of the offending vehicle or other object, at the expense of the Owner and/or other violating person. Owner shall be responsible for any fine incurred by such violating person associated with such Lot. Said remedies shall be supplemental to any relief and remedies otherwise provided in the Governing Documents and the Ordinances.

If the violation also constitutes a violation of an Ordinance, the Association shall provide notice to local government and take no further action for thirty (30) days, thus, providing the local government an opportunity to resolve without involvement from the Association.

- (h) **Limitation of Liability, Indemnification & Hold Harmless.** The Association shall not be liable for injury or damage to persons or personal property caused by a pet, service animal, or any other animal even if such pet was not permitted under this Section. Further, to the fullest extent of the law, the owner of the pet shall hold the Association (including the Board, Officers, Members, and its agents) harmless for actions of their pet and shall indemnify the Association for all costs, attorney's fees, and any judgment amount, related to the actions of such pet.

**5.8 Commercial Activities.** A Resident may maintain a home occupation in his or her Residence, but only if it is incidental to residential use (such as home office and telecommuting) and does not involve interference with parking, physical alteration of the Residence, observable business activity such as signs or advertising displays, an unreasonable number of deliveries or of pedestrian or vehicular traffic, or create a nuisance or in any way impair the rights of any Resident or Owner. Such home office use shall be in strict compliance with the Ordinances. No Residence, or any portion of the Common Ground may be used for any commercial or business purpose except as provided in this Section. Absent approval from the Association, no organized and private event shall be held or conducted on the Common Ground; any such unapproved event shall constitute a commercial activity under this Section.

**5.9 Nuisances.** No noxious or offensive activity shall be conducted or permitted by

any Owner or resident nor shall anything be done which would become an annoyance or a nuisance to other Owners or residents, which shall include behavior that a reasonable person would consider unprofessional or unreasonable. No Owner shall permit or suffer anything to be done or kept in or on his Lot which obstructs or interferes with the rights of other Owners or residents, or disturbs them by unreasonable conduct or otherwise permit any nuisance or illegal act on his Lot, Residence or on the Common Ground.

**5.10 Satellite Dishes, Antennas.** Subject to prior written input of the Board with respect to safety considerations and aesthetics, an Owner may install a satellite dish or antenna that is one meter or less in diameter for receipt and transmission of data; such dish or antenna shall be located on the Residence, or other location as designated by the Board so long as such placement does not result in significant increase in cost of installation. The Owner shall be responsible for the quality and workmanship of any installation, and shall promptly remove any dish or antenna that is no longer in use. No other satellite dishes or antennas are permitted.

**5.11 Abusive Behavior.** No Owner, Resident or Guest shall engage in abusive behavior, which may include the use of profanity, or acting in an abusive, harassing, intimidating, or aggressive manner as to actually, or intend to, interfere with the duties and obligations of the Association including interfering with a service provider, vendor, or employee of the Association. The Association shall not be liable for abusive behavior of any Owner, Resident or Guest to the fullest extent permissible at law and equity.

**5.12 Additional Structures and Storage.** Regardless of duration, no structures, buildings, detached garages, pool houses, or other outbuildings for any purpose shall be permitted, regardless of whether allowed under Ordinance.

A playset, trampoline, or similar play equipment shall not be subject to the restrictions of this Section for so long as it is used as a playset or playhouse, is maintained in good condition and is otherwise consistent with Ordinances. All permitted structures and play equipment must be located in the rear of the Residence.

**5.13 Slope Control Areas.** Slope control areas are reserved as shown on the recorded Subdivision Plat. Within these slope control areas no structure, planting or other material shall be placed or permitted to remain, or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which public authority or utility company is responsible.

**5.14 Land Near Parks and Water Courses.** No improvement, material or refuse shall be placed or stored on any Lot within twenty (20) feet of the property line of any

part or edge of any open water course.

**5.15 Restrictions by Rulemaking.** The Board is expressly authorized to restrict, prohibit, and regulate the following types of activities within the Association: (a) drones, (b) garage/estate sales, (c) minimum standards of care related to landscaping, and (d) storage and use of trash, yard waste and recycling receptacles so long as the Board has adhered to the process set forth in Section 2.6(g) above and there is not an otherwise applicable Ordinance.

**5.16 Holiday Decorations.** Holiday decorations may only remain on display on a Lot or Residence for a period of forty-five (45) days before and forty-five (45) days after any holiday.

If there is an applicable Ordinance, the Association shall provide notice to local government and take no further action for thirty (30) days, thus, providing the local government an opportunity to resolve without involvement from the Association.

## **VI. ARCHITECTURAL CONTROLS**

**6.1 Preamble.** This Article contains the procedure for review and approval of new construction of Residences and exterior alterations of the Lots and Residences. The purpose of this review is to maintain the quality and aesthetics of exterior architectural design for the best interests of the community as a whole. This Article shall apply to all applications submitted for approval after recording of these Restrictions; however, violations existing under the Indenture may be enforced pursuant to the provisions of the Indenture.

**6.2 Definitions.** For the purpose of this Article:

(a) **“Alteration”** means any addition to, or removal, modification, or change affecting an existing Residence and its Lot; by way of example only, a list of alterations is provided within the standards and conditions contained in the “Architectural Standards and Conditions,” which is attached hereto marked Exhibit B and incorporated herein by reference (“ASC”).

(b) **“Committee”** means the committee that the Board may establish from time to time comprised of at least three disinterested Owners to assist the Board in carrying out the functions of this Article.

(c) **“New Construction”** means a type of Alteration whereby a new Residence is constructed on a Lot, or the replacement of such Residence is greater than 50% of the existing Residence.

**6.3 Review Procedures.** No Person shall commence any Alteration to the exterior of an existing Residence or Lot, or commence New Construction, without the prior written consent of the Board in accordance with this Article. Except for those



Alterations designated as being a Minor Alteration under the ASC, the procedures for application, review and determination by the Board are as follows:

- (a) Application.** An Owner shall submit a written application to the Board for approval of any Alteration or New Construction (“Application”), including a copy of plans and specifications for each director (or Committee Member), anticipated timing of work, and all details as may be necessary for the Board to adequately review the plans in accordance with the Governing Documents. A copy of all information submitted for local government approval shall be included with the application. Information required to be submitted on such Application may be altered from time to time at the discretion of the Board. Payment of such application fee as the Board may adopt under Sections 6.7 and 6.8 shall be included.
- (b) Board Action.** Within thirty (30) days of receipt of a completed Application, the Board may approve or reject an application, or approve with conditions such as (1) deposits and fees described in Sections 6.7 and 6.8 (2) proof of appropriate insurance coverage by the Owner and/or contractor protecting the Association and Subdivision, (3) proof that applicable local governmental permits have been obtained, (4) measures to protect adjacent Lots and Residences, Common Ground, and the streets, and (5) a reasonable schedule for commencement and completion. Any rejection of an application shall state the basis for such rejection. If the Board rejects an application, the Board shall advise the applicant of the reasons for such rejection.
- (c) Failure to Respond.** If the Board (or the Committee) fails to respond to the Application within the thirty (30) days as provided in Section 6.3(b) the Application shall be deemed rejected. If a completed Application was sent via certified mail, postage pre-paid or receipt of the Application was acknowledged in writing by the Board (or the Committee) and the Board (or the Committee) fails to respond within the thirty (30) days as provided in Section 6.3(b) the Application shall be deemed accepted.
- (d) Appeal of Rejection or Approval with Conditions.** An Owner may, upon written demand sent via regular and certified mail, postage prepaid, appeal a rejection or appeal an approval with conditions. The Association and Owner shall meet to discuss with the goal of attempting to reach a voluntary resolution. If voluntary resolution is unsuccessful, the Association shall engage a mediation firm with the mediator selected in accordance with such firm’s rules and practices; all costs of mediation shall be borne by the Owner. If mediation fails to reach a resolution, the Owner must obtain a judgment against the Association authorizing the Application prior to proceeding with the Alteration.

- (e) **Owner's Failure to Obtain Approval.** If an Alteration occurs without the written consent of the Association, such alteration shall constitute a per se violation of these Restrictions, and, if the Association files suit to enforce this Article, then the Owner agrees to enter into a judgment in favor of the Association and against the Owner whereby the Owner agrees: (1) to restore the Lot to its condition prior to the unauthorized Alteration, (2) make payment of all attorney's fees and costs actually incurred by the Association, (3) make payment of any outstanding fines (including late fees and interest), and (4) if the Court finds that the Owner knowingly commenced the Alteration without approval or in contravention of the process provided in this Section 6.3, the Court shall award punitive damages. Further, the Owner acknowledges, understands and agrees to waive all defenses including the validity of any provision of the Governing Documents, waiver, changed circumstances, authority of the Association to bring suit and enforce the Governing Documents, or that the Board (or Committee) applied such provisions in an arbitrary, capricious or discriminatory manner.
- (f) **Inspection Rights.** The Board (or Committee, or its authorized agent) shall have the right to periodically inspect the Exterior Alterations or New Construction for compliance with the Application and Documents. Access to the Lot shall be pre-arranged between the Board (or Committee) and Owner and not be reasonably denied. Failure of an Owner to comply with this Section shall constitute a revocation of Approval subject to enforcement under these Documents, including under Section 6.3.

**6.4 Standards of Review of Applications.** This Section is intended to provide guidance to Owners, contractors, engineers, architects and others providing services on behalf of the Owners on the standards the Board (or Committee) shall consider generally in review of an Application.

- (a) **General Criteria.** The Board shall consider the following general criteria: harmony of exterior design and appearance with existing Residences, including architectural design, scale, mass, color, location, topography, grade, drainage, color and quality of construction, and quality of exterior materials and detail.
- (b) **Effect on Adjoining Lots.** The Board shall consider potential impacts on surrounding Lots and may provide an opportunity for the Owners of such Lots to review and comment on the plans and specifications.
- (c) **Aesthetics.** Unless otherwise limited by these Governing Documents, decisions may be made based on purely aesthetic considerations. The Board shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall be upheld so long as made in good faith, in accordance with the

procedures contained herein, and the considerations are based upon the current conditions and aesthetics of existing structures within the Community.

- 6.5 Variations in Approvals.** Owners understand, acknowledge and agree that opinions on aesthetic matters, as well as interpretation and application of review standards and conditions contained in this Article, will vary. Accordingly, it is not always possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Board may refuse to approve similar proposals in the future. Approval of applications or any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, specifications, or other matters subsequently or additionally submitted for approval.
- 6.6 Application for a Variance.** The Board may grant variances from compliance with any of the standards and conditions in this Article when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall be effective unless in writing. The granting of a variance shall not preclude the Board from denying a variance in other similar circumstances. The inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.
- 6.7 Fees.** The Board, at the time of adopting of the budget and subject to ratification by the Owners, shall set forth an application fee for Alterations that require approval pursuant to these Restrictions; provided, however, such fee: (a) cannot exceed twenty-five percent (25%) of the annual assessment, and (b) shall only be charged should a permit be required by Ordinances.
- 6.8 Additional Costs.** As a condition of approval, the Committee (or the Board) may require the applicant to reimburse any and all professional fees incurred by the Association in review of an application, a security deposit and/or performance bond.
- 6.9 Damage.** Notwithstanding payment of a security deposit or performance bond under Section 6.8, any Owner who causes damage to another Lot or Residence, or to the Common Ground, shall be responsible to the full extent of such damage, and shall restore any such damaged area to its prior condition, and shall keep the streets clean and free of debris due to construction activities. In the event an Owner fails to comply with this provision, the Board may, after notice and opportunity to be heard, make such repairs and assess the Owner in which case the Association shall have the authority to recover such costs in the same manner as assessments, together with the Association's costs and attorney's fees. Nothing herein shall limit the right of any Owner whose property is damaged by another Owner or his agents or employees available under this Article.

- 6.10 Certificate of Compliance.** Any Owner may request that the Board issue a certificate of architectural compliance for his completed New Construction or Alteration certifying that there are no known violations of this Article. The Board shall either grant or deny such request within 45 days after receipt of a written request and may charge a reasonable fee for issuing such certificate. Issuance of such a certificate shall preclude the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.
- 6.11 Approval by Governmental Agency.** Approval by a political subdivision of the State of Missouri does not constitute approval of an Alteration under this Article.
- 6.12 Limitation of Liability.** The Association, Board and Committee shall have no responsibility or duty for ensuring the structural integrity or soundness of any Alterations or New Construction, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all Residences are of comparable quality, value or size, or of similar design, or aesthetically pleasing or otherwise acceptable to Owners of neighboring properties. The provisions of this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the community; they do not create any duty to any person. Further, the Association has no responsibility for soil conditions, drainage or other general site work, any defects in plans revised or approved hereunder, any loss or damage (including but not limited to consequential damages and attorney's fees) arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved New Construction or Alteration. In all matters, the Directors shall be defended and indemnified by the Association to the extent available under the Governing Documents.

## **VII. AMENDMENTS**

- 7.1 Restrictions.** Except as otherwise provided in this Restrictions, these Restrictions may be amended at any time with substantial compliance of the following procedures: (1) the Association shall send a copy of the proposed amendment to each Owner subject to these Restrictions with a ballot; (2) the Owner shall have a minimum of thirty days from the date the proposed amendment is sent to cast a ballot on the proposed amendment; and (3) unless one-third of the votes in the Association reject the proposed amendment, the proposed amendment shall be deemed approved by the Owners. An amendment may change or eliminate any restriction in these Restrictions or add new and/or more burdensome restrictions; however, no amendment can: (1) eliminate the requirement that there be an Association, (2) eliminate the power of the Association to levy assessments unless adequate substitution is made, and, unless unanimous consent is obtained,

change each Lot's allocated interests, or change a Lot's restricted use (single-family residential).

- 7.2 Limitation of Challenges.** No challenge to the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one year after the amendment is recorded; otherwise, such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of these Restrictions.
- 7.3 Recording and Execution.** Each amendment shall be executed by signed by an officer of the Board in the presence of a notary and certified by such officer as well as another officer that such amendment was adopted in accordance with this Article. Such amendment shall be recorded in St. Charles County and effective upon recording unless otherwise expressly stated therein.
- 7.4 Board Amendments.** Notwithstanding anything to the contrary, the Board is authorized to amend these Restrictions, without further approval, to correct technical or clerical errors or to bring the Association and Governing Documents into compliance with conditions imposed by agencies providing government-insured or guaranteed loans.

## **VIII. MEETING OF THE MEMBERS AND VOTING**

- 8.1 Annual Meeting.** The annual meeting of the Association shall be held during the month of September or such later date as practical. At the meeting, the Members shall elect Directors as provided herein, the Board shall provide a report on the financial condition of the Association, and may transact such other business as may properly come before them, provided that written notice of such business is given to all Members at least thirty (30) days in advance of the meeting. The annual meeting shall be held within five (5) miles of the Subdivision or at such other convenient location as may be designated by the Board and may also be held virtually via an online platform.
- 8.2 Special Meeting.** A special meeting of the Association may be called by a majority of the Board or as provided under the NCA.
- 8.3 Notices.** All notices of a meeting of the members shall be provided to the Owners by mail not less than thirty (30) before the date of the meeting. Further, such notice shall not be sent to the Owners more than ninety (90) days before the date of the meeting.

Unless otherwise indicated by an Owner, the Board shall assume that an Owner consents to receipt of notices via email. Should an Owner attend a meeting, he or she waives all objections to any alleged or asserted defects in notice.

- 8.4 Quorum.** At the beginning of any meeting of the Members, quorum shall be 30% of the Members in attendance in-person, via proxy, or having cast an absentee ballot or voting through an online platform as authorized herein. If any meeting of the Association cannot be held because a quorum is not present, the Board shall place the meeting into recess and shall reschedule the meeting and notify the Members of the rescheduled meeting with the quorum reduced by fifty-percent (50%) from the prior meeting (from 30% to 20%, 20% to 10%). Once quorum is present, any business which might have been transacted at the meeting originally called may be transacted. Any proxies, absentee ballots, ballots, or online ballots cast and submitted at the original meeting shall remain valid.
- 8.5 Voting.** Owners may vote by ballot in-person at a meeting of the Owners, via a directed proxy, general proxy so long as no owner has more than two (2) general proxies, absentee ballot, or via an online platform as described herein. Cumulative voting is not permitted. The Board, so long as no meeting is scheduled, may adopt Rules and associated form to administer any vote of the Members. If a form is provided by the Association, no other forms may be used.
- (a) Multiple Owners.** Multiple Owners of a Lot shall be deemed to be one (1) Member for purposes of voting and shall collectively be entitled to one (1) vote. If only one (1) of several Owners of a Lot casts a vote, by any means permitted in these Restrictions, that Owner is entitled to cast the vote allocated to that Lot. If more than one (1) of the Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is a majority agreement if any one (1) of the Owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. In the event of such protest, the vote allocated to that the Lot shall not be counted.
- (b) Legal Entities.** If an Owner is a corporation (or other legal entity recognized at law), any designated officer of such corporation may cast the vote allocated to such Lot. The person presiding over the meeting may require written authorization that the person voting on behalf of such entity is authorized to vote.
- (c) One Vote Per Lot.** Each Lot is allocated one (1) vote of equal weight.
- 8.6 Online Platform.** The Association may utilize an online platform to conduct a meeting of the Members and for Owners to cast a ballot on any question to be determined by the Owners; provided, however, the Association may not compel the use of such an online platform. Any vote cast via such an online platform shall be deemed present for the purposes of determination of quorum.

## **IX. BOARD OF DIRECTORS, MEETINGS & OFFICERS**

- 9.1 Number, Term & Qualifications.** The Board shall consist of seven (7) Directors. All Directors shall serve a term of three (3) years, which are staggered so that one (1) Director is elected annually. All Directors shall be qualified as follows:
- (a) General Qualifications.** A member must satisfy the following qualifications to be a candidate and serve on the Board: (1) be an Owner of a Lot according to the records of St. Charles County, Missouri, (2) a resident within the Community, (3) not be engaged in a pending judicial or administrative proceeding adverse to the Association's interests, (4) be at least twenty-one (21) years of age, (5) be a Member in Good Standing, and (6) have no violation of the Governing Documents that remains unresolved after notice and opportunity to be heard.
  - (b) Spouse, Partner and Trusts.** Notwithstanding Section 9.1(a)(1), a spouse or partner of an Owner is qualified to be a candidate and serve on the Board so long as the spouse or partner permanently resides in the Subdivision with the Owner and the Owner, spouse and partner satisfy the other qualifications. The beneficiary of a trust that owns a Lot shall satisfy Section 9.1(a)(1).
  - (c) Legal Entities.** A legal entity that owns a Lot shall satisfy Section 9.1(a)(1) by designating an authorized officer ("Authorized Officer"). Regardless of the number of Lots owned by the legal entity, or legal entities having common ownership or affiliation, a legal entity may not have multiple Authorized Officers serving at the same time.
  - (d) Composition.** Regardless of the number of Lots owned, no Lot may have multiple representation on the Board, i.e., spouses, partners or Authorized Officer, cannot serve on the Board at the same time.
- 9.2 Election Rules.** Prior to any scheduled election at an annual meeting, the Board may adopt Rules which may require a nomination process, prohibit nominations from the floor, and regulate campaigning activities; provided, however, such Rules shall apply equally to all potential candidates.
- 9.3 Removal & Vacancies.** A Director may be removed by the Members by compliance with the procedure provided in the NCA. Further, a vacancy may be filled by any method permitted under the NCA.
- 9.4 Board Meetings.** Regular Board meetings shall be held at such time and place as determined by the Board, but such meetings shall be held at least semi-annually. The schedule of regular Board meetings shall be published to the Owners at least ten (10) days prior to such meetings. Special meetings of the Board shall be held when called by notice by a majority of the Board specifying the

time and place of the meeting and the nature of any special business to be considered. A majority of the Directors, present at the beginning of any Board meeting, shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board.

- 9.5 Officers.** The officers shall be elected annually by the Board at the first meeting of the Board following each annual election. The officers of the Board shall be a President, Secretary and Treasurer, all of whom shall be elected by the Board from among the Directors.
- 9.6 Powers and Duties.** The officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may be specifically conferred or imposed by the Board. The President shall preside over meetings of the Association. Secretary shall keep all official records and minutes of the Board and Association and provide all required notices. The Treasurer shall maintain all financial records and facilitate preparation of the budget.
- 9.7 Compensation.** No Director shall receive any compensation for acting as such. A Director shall be entitled to reimbursement for actual and reasonable expenses incurred on behalf of the Association upon Board approval. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, subject to conflict-of-interest procedures.
- 9.8 Open Meetings and Executive Session.** All meetings of the Board shall be open to all Members. The Board shall designate portions of the meetings for the purpose of participation by the Members; otherwise, Members may attend but not participate in Board meetings. The President, or Chair of the meeting, may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than the Directors, to discuss such matters as communications with legal counsel, litigation, competitive bids, personnel matters, disciplinary matters, and such other matters in which the Board believes confidentiality or privacy should be preserved.
- 9.9 Access to Books and Records.** The membership register, financial books and records, minutes of meetings of the Members, the Board, and committees, and other records of the Association shall be made available for inspection and copying by any Member or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place as the Board shall prescribe. Copies may be provided electronically in a reasonably available electronic format.
- (a) Written Request.** A Member shall submit to the Board a written request to



access the Association's records, and the request shall describe the particular records to be accessed and state a valid purpose. The Board may establish reasonable rules with respect to notice to be given to the custodian of the records by the Member desiring to make the inspection, payment of the cost of reproducing copies of documents requested by a member, and such other matters related to carrying out the purposes of this Section.

- (b) **Documents Not Subject to Inspection.** Otherwise, the only documents not subject to inspection are those that are subject to any applicable privilege, relate to competitive bids (during the bidding process), or may be withheld under any applicable law or pursuant to Section 2.5 of these Restrictions.
- (c) **Right of Director.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at his or her expense.

**9.10 Conflict of Interest.** Any Director who has a financial interest or other conflict of interest in connection with any transaction or business of the Board shall fully disclose same before the Board votes on such matter, and said Director shall abstain from discussion and voting. The remaining Directors may appoint a disinterested Owner to the Board for the limited purpose of voting upon such matters.

**9.11 Training and Code of Ethics.** The Board may, as a Common Expense, provide funding for publications of and membership in the Community Associations Institute and other appropriate nonprofit organizations, and may adopt a code of ethical conduct for Directors.

**9.12 Operations.** The Association shall operate consistent with the following operational matters:

- (a) **Fiscal Year.** The fiscal year of the Association shall be a calendar year unless otherwise set by resolution of the Board.
- (b) **Parliamentary Rules.** The Board may establish procedures to govern the conduct of Association proceedings when not in conflict with Missouri law or the Governing Documents. The failure to follow such procedures shall not invalidate any actions of the Association or Board so long as the action is otherwise valid.
- (c) **Insurance.** The Association shall maintain, to the extent reasonably available, insurance as a Common Expense of the Association consistent with the following:

- i. Property Insurance.** Property insurance covering any improvements on the Common Ground for broad form covered causes of loss as determined in the sole discretion of the Board, which may be to forego such insurance. The insurance proceeds for such loss are payable to the Association, and not to any holder of a Security Interest. The Board, on behalf of the Association, shall hold any insurance proceeds in trust for the Association, Owners, and lien holders as their interest may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged property, and the Association. Members and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Subdivision is terminated.
- ii. General Liability.** General liability insurance against claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of the Common Ground in an amount sufficient in the judgment of the Board, insuring the Board, the Association, the Community Manager (if any), and their respective employees, agents and all persons acting as agents. The Members shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, maintenance or management of the Common Ground and their interests in the Association. The insurance shall cover claims of one or more insured parties against other insured parties.
- iii. Directors & Officers.** The Association shall maintain directors' and officers' liability insurance covering all of the Directors and Officers. Such policy shall: (a) provide full prior acts coverage, (b) include coverage for the individual board members and the Association as well as any managing agent as additional insureds, (c) defend against non-monetary claims, and (d) defend against claims asserting discrimination on account of a protected class.
- iv. Fidelity.** Fidelity insurance in an amount not less than one (1) year's current assessments plus reserves calculated from the current Association budget. Unless the Community Manager is an employee of the Association, the Community Manager shall maintain fidelity insurance in an amount not less than one year's current assessments plus reserves calculated from the current Association budget. The Association may carry fidelity insurance in amounts greater than required herein, and may require said Community Manager to carry fidelity insurance in amounts greater than required herein.
- v. Workers Compensation.** The Association shall maintain workers'

compensation insurance if employees are hired or if contractors are hired who do not maintain their own policy.

- vi. **Other Insurance.** The Association may carry other insurance which the Board considers appropriate to protect the Association or the Owners' interests in the Condominium and the Association including an Umbrella policy and/or Cyber-Liability and Data Breach Response Services.

**9.13 Board Standards.** The Board shall be guided by the following standards:

- (a) **Business.** While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a Director from personal liability so long as the party claiming liability does not prove that the Director failed to (1) act within his or her authority, (2) serve in a manner the Director believes to be in the best interests of the Association and its Members, (3) serve in good faith, or (4) act with such care as an ordinarily prudent person in a like position would use under similar circumstances.
- (b) **Governance.** In conducting its governance functions, the Board's decisions and actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.
- (c) **Operations.** Operational standards of the Board and any committee appointed by the Board shall be the requirements set forth in the Governing Documents or the minimum standards which the Board may establish. Operational standards may evolve as the needs and demands of the Subdivision and the Association change over time.

## X. ENFORCEMENT

**10.1 Board Discretion in Enforcement.** The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case: (1) the Association's position lacks sufficient strength to justify taking any or further action, (2) the covenant, restriction or Rule being enforced is, or is likely to be construed as, inconsistent with applicable law, (3) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources, or (4) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action. Such a decision under this Section shall not be construed as

a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or Rule.

**10.2 Relief and Remedies.** The person, or class of persons, has a claim for relief if he or she is adversely affected by a failure to comply with the Governing Documents of the Association. The prevailing party shall recover reasonable attorney's fees and costs.

Pursuant to Mo. Rev. Stat., Section 355.141, all claims against the Association and Board related to administration of the Association and the validity of any actions taken by the Association and the Board shall be derivative except for: (1) claims related to personal injuries, (2) claims related to damage to property, and (3) claims asserting that the Association improperly applied the Governing Documents of the Association as to that individual member.

**10.3 Claims Against the Association.** A goal of these Restrictions is to foster dispute resolution related to claims against the Association (except for alleged personal injuries or damages to property) internally through the processes contained herein such as removal of the Board, amendments, etc. At the same time, it is important to have processes to prevent a claim from threatening the financial stability of the Association when such claims are not likely to succeed.

(a) **Excluded Claims.** Claims related to personal injury or damage to property against the Association shall be excluded from this Section 10.3.

(b) **Notice of Claim.** Any person that has a claim for relief at law or equity against the Association (referred to herein as "Claimant"), shall notify the Board with a notice of claim ("Notice of Claim") which shall contain: (1) a description of the legal dispute, (2) any facts in support, and (3) the desired course of action sought by the Claimant. The Notice of Claim shall be sent by certified mail to the Board and its registered agent with the Missouri Secretary of State.

(c) **Resolution Meeting.** Within thirty (30) days, the Board shall contact the Claimant and schedule a meeting to occur within the following ninety (90) days ("Resolution Meeting"). Such meeting may be conducted in whole, or in part, via an online/virtual meeting platform. The goal of the Resolution Meeting is for the parties to engage in open and fair discussions. Thus, the content of the meeting, except for any amicable resolution, shall remain private, confidential, deemed to be settlement discussions, and shall be excluded as evidence.

- (d) **Preliminary Determination.** The Arbitrator shall review the Notice of Claim and any other materials that the Claimant and the Association deem relevant. The Arbitrator shall make one of the following determinations:
- i. **Likely to Succeed.** If the Arbitrator finds that the Claimant is likely to succeed based upon a clear and convincing standard, the Claimant may proceed with exercising any and all remedies at law or equity subject to any applicable limitations contained herein or by law/statute. In such event, the Association shall forfeit its deposit to the Arbitrator and the Arbitrator shall return the deposit submitted by the Claimant.
  - ii. **Unlikely to Succeed.** If the Arbitrator finds that the Claimant is not likely to succeed based upon a clear and convincing standard, the Claimant may proceed with exercising any and all remedies at law or equity; provided, however, the Claimant must also comply with Section 10.3(d). In such event, the Claimant shall forfeit its deposit to the Arbitrator and the Arbitrator shall return the deposit submitted by the Association.
- (e) **Lawsuit.** Should the Claimant file a lawsuit and the Arbitrator has found that the Claimant is not likely to succeed under Section 10.3(c)(2) herein, then the Claimant shall be required to:
- i. **Bond.** Submit a bond with the Court in the amount of \$50,000.00 (as calculated in January 2020 Dollars according to the Consumer Price Index-All Urban Consumers (CPI-U) as calculated by the court).
  - ii. **Attorney's Fees and Cost.** Timely pay all attorney's fees and costs of the Association as incurred and invoiced to the Association even if the Association is being represented under an applicable insurance policy; timely payment shall mean payment in full of attorney's fees and costs invoiced within sixty (60) days of such invoice.
- (f) **Increased Premium.** Pay any increase of any applicable insurance policy beyond any increase related to inflation for the next five (5) calendar years.
- (g) **Failure to Comply.** Should the Claimant fail to comply with Section 10.3(d) herein, the Owners agrees that a confession of judgment shall be entered against him or her whereby the Court shall dismiss the lawsuit with prejudice.
- (h) **Court Ruling Contrary to Preliminary Determination.** If the Court finds in favor of the Claimant after the Arbitrator held that the Claimant was unlikely to succeed, the Association shall be responsible for: (1) returning

any attorney's fees paid by the Claimant to the Association as determined by the Court to be unreasonable, and (2) returning funds paid pursuant to Section 10.3(d)(3) herein. Further, the bond shall be returned to the Claimant.

**10.4 Notice of Violation and Opportunity to be Heard.** The Association shall have the power to impose fines and penalties for any violation of the Governing Documents. The following procedures shall apply prior to imposition of fines or penalties (collectively, "penalty"):

- (a) Notice.** The Board shall notify the alleged violator ("Respondent") with written notice describing (1) the nature of the alleged violation, (2) the proposed penalty to be imposed, (3) a period of not less than fourteen (14) days within which the alleged violator may request a hearing before Board (which may be reduced if the Board believes that a risk to health or safety is present), and (4) a statement that the proposed penalty shall be imposed as contained in the notice unless a written request for hearing is received within fourteen (14) days of the notice. If a timely request for a hearing is not made, the penalty stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed penalty. Such suspension shall not constitute a waiver of the right to penalize future violations of the same or other provisions of the Governing Documents by any Person.
- (b) Hearing.** If a hearing is timely requested by the Respondent, the hearing shall be held in executive session unless the Respondent requests the hearing be conducted during open session. The purpose of the hearing is to provide the Respondent with an opportunity to be heard and present facts and witnesses in response to the alleged violation prior to the levy of a penalty.
- (c) Good Faith Compliance.** Any failure to comply with this Section shall not invalidate any fine levied so long as the Owner had notice of the hearing.
- (d) Repeat Violations.** Fines may be levied on a daily basis for recurring and continuous violations, and notice and opportunity to be heard not need to be provided for subsequent violation of the same provision of the Governing Documents unless: (a) the amount of the fine is 50% higher than the previous fine, or (2) the fine was levied more than two years prior.

## **XI. GENERAL PROVISIONS**

**11.1 Integrity of Governing Documents.** The following provisions are to protect the integrity of the Governing Documents:

- (a) **Severability.** Invalidation of any one of the provisions of the Governing Documents, by judgment, order or decree shall in no way affect any other provision hereof, each of which shall remain in full force and effect.
- (b) **Rule Against Perpetuities.** The rule against perpetuities shall not be applied to defeat any provision of the Governing Documents.
- (c) **Recitals.** Recitals are incorporated as if fully stated within these Restrictions.

**11.2 Interpretation.** The provisions of the Governing Documents shall be liberally construed to effectuate their purpose of creating a uniform plan for the Subdivision and for operation of the Association. Whenever the context so requires, the use of any gender shall be deemed to include all and neutral genders, the use of plural shall include the singular and the singular shall include the plural. The captions contained in the Governing Documents are inserted only as a matter of convenience, reference, and context, and in no way define, or limit the intent of any provision thereof.

**11.3 Persons Bound by the Documents.** All Owners, tenants, Guests, Residents, and invitees, and mortgagees are bound by and shall comply with the Governing Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or occupancy of a Lot constitutes agreement that the provisions of the Governing Documents are accepted and ratified by each such person. All provisions of the Governing Documents recorded in the Office of Recorder of Deeds of St. Charles County, Missouri, are covenants running with the land and shall bind any Persons having at any time any interest or estate in the Property.

**11.4 Eligible Mortgagees.** Any institutional holder, insurer, or guarantor of a first security Interest in a Lot which provides a written request to the Association, stating the name and address of such holder, insurer or guarantor and the Identifying Number of the Lot to which its Security Interest relates is deemed to be an "Eligible Mortgagee." The Association, upon written request, shall comply with any desired notices requested by the Eligible Mortgagee.

**11.5 Condemnation.** In the event any public agency acquires all or any part of the Common Ground, the Association, acting through the Board, is hereby authorized to negotiate with such agency for such acquisition and to execute instruments necessary to that purpose. Only the Association need be made party, and any proceeds received shall be paid to the Association.

**11.6 Termination of Subdivision.** Except in the case of a taking of all the Subdivision by eminent domain, the Subdivision may be terminated or sold only by agreement of at least 90% of the Members in Good Standing. In the event of termination, fee simple title to the Common Ground shall remain vested in the Association until

sold. None of the authority of the Association or Board shall be affected by such termination. No such agreement of termination or sale shall be effective unless made and recorded at least one year in advance of the effective date of such termination or sale, and unless written notice of the proposed agreement of termination or sale is sent to every Owner at least 90 days in advance of any action taken.

**11.7 Restrictions Run With the Land.** Unless otherwise provided herein, these Restrictions shall run with the land and bind the Subdivision until termination.

**11.8 Effective Date.** Except as may otherwise be expressly provided, these Restrictions shall be effective upon approval by the Owners and its recordation in the records of St. Charles County, Missouri.

**11.9 Applicability.** These Restrictions shall be applicable to events and circumstances occurring after its recording.

IN WITNESS WHEREOF, the Board of Directors of Timberwood Trails Homeowners' Association hereby execute the foregoing and, by their signatures, certify that the Owners have approved the foregoing in accordance with the amendment provisions in the Original Indenture, and hereby execute these Restrictions on the day and year first above written.

*This space is intentionally left blank.*





**EXHIBIT "A"**  
**TIMBERWOOD TRAILS**  
**PLATS OF THE SUBDIVISION**

PARCEL 1: A tract of land being part of U. S. Surveys Number 58, 948, 1776 and 1785 in Township 46 North, Range 3 East, and being more particularly described as follows: Commencing at an old stone marking the most Southeast corner of Lot 1 of the Estate of Rudolph Hillenkamp in U. S. Survey 58; thence South 77° 30' 28" West, along the South line of said Survey 58 and its extension, 3523.07 feet to an old stone; thence North 11° 50' 29" West, 416.97 feet to an old iron pipe on the South line of U. S. Survey 1776; thence North 78° 50' 33" East, along said South line, 83.15 feet to an old stone; thence North 15° 46' 13" West, 1346.50 feet to an old iron pipe; thence South 73° 10' 02" West, 275.73 feet to an old iron pipe; thence North 16° 48' 23" West 165.09 feet to an old iron pipe; thence North 73° 11' 22" East, 246.20 feet to an old iron pipe on the South line of State Highway "N"; thence South 88° 17' 34" East, along said South line, 248.07 feet to an old iron pipe at the Northwest corner of property conveyed to Raymond F. Fehr and wife by deed recorded in Book 262 page 227; thence South 07° 23' 30" East, along the West line of said Fehr tract, 211.02 feet to an old iron pipe at its Southwest corner; thence South 88° 34' 12" East, along the South line of said Fehr tract and along the South line of tract conveyed to Raymond Fehr and wife by deed recorded in Book 232 page 518, a distance of 594.24 feet to an old iron pipe at the Southeast corner of said tract conveyed to Fehr; thence North 01° 33' 18" East, along the Eastern line of said Fehr tract, 208.14 feet to an old iron pipe at its Northeast corner, in the South line of said State Highway "N"; thence South 88° 42' 48" East, along said South line, 208.51 feet to an old iron pipe at the Northwest corner of property conveyed to Elroy W. Hillenkamp and wife by deed recorded in Book 229 page 74; thence South 01° 30' 14" West, along the West line of said Hillenkamp tract, 208.73 feet to an old iron pipe at its Southwest corner; thence South 88° 36' 26" East, along the South line of said Hillenkamp tract, 214.37 feet to an old iron pipe at its Southeast corner; thence North 12° 38' 22" West, along the East line of said Hillenkamp tract, 213.96 feet to an old iron pipe at its Northeast corner, in the South line of State Highway "N"; thence along the South line of State Highway "N", South 88° 27' 55" East, 163.00 feet to an iron pipe, South 01° 32' 05" West, 5.00 feet to an iron pipe, South 88° 27' 55" East, 250.00 feet to an iron pipe, North 01° 32' 05" East, 5.00 feet to an iron pipe and South 88° 27' 55" East, 2003.20 feet to a concrete monument on the East line of said Lot 1; thence South 12° 33' 47" East, along the East line of said Lot 1, a distance of 1034.18 feet to the point of beginning, according to survey by P. R. & S., Inc., dated September, 1977.

EXCEPTING THEREFROM the following: A tract of land being part of U. S. Survey Number 58 in Township 46 North, Range 3 East, St. Charles County, Missouri, and being more particularly described as follows: Commencing at an old stone marking the Southeast corner of Lot 1 of the Rudolph Hillenkamp Estate in U. S. Survey Number 58 thence South 77° 30' 28" West, 1188.13 feet to a point; thence North

12° 29' 32" West, 383.17 feet to a point marking the TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; thence South 77° 30' 28" West, 208.71 feet to a point; thence North 12° 29' 32" West 208.71 feet to a point; thence North 77° 30' 28" East, 208.71 feet to a point; thence South 12° 29' 32" East, 208.71 feet to the point of beginning as calculated by P.R.&S., Inc.

PARCEL 1A: A tract of land being part of U. S. Survey Number 1776, in Township 46 North, Range 3 East, in St. Charles County, Missouri, and being more particularly described as follows: Commencing at an old stone marking the Southeast corner of Lot 1 of the Rudolph Hillenkamp Estate in U. S. Survey Number 58; thence South  $77^{\circ} 30' 28''$  West, 3523.07 feet to an old stone marking the Southeast corner of a tract of land conveyed to Daniel Schulte per deed recorded in Book 735, page 273 of the St. Charles County Recorder's Office; thence North  $11^{\circ} 50' 29''$  West along the East line of said Schulte tract 416.97 feet to an old iron pipe marking the Northeast corner of said Schulte tract, said old iron pipe marks THE TRUE POINT OF BEGINNING OF THE 20 FEET ROADWAY HEREIN DESCRIBED; thence South  $78^{\circ} 05' 02''$  West along the Northern line of said Schulte tract 579.45 feet (Rec.) to a point in the centerline of Mothershead Road, said point marks the Northwestern corner of above mentioned Schulte Tract; thence North  $13^{\circ} 29' 41''$  West along said centerline 20.01 feet to a point marking the Southwestern corner of a tract of land conveyed to Virgil Aubuchon per deed recorded in Book 746, page 664 of the St. Charles County Recorder's Office; thence North  $78^{\circ} 05' 02''$  East along the South line of said Aubuchon tract 579.58 feet to a point; thence North  $78^{\circ} 50' 33''$  East, 82.23 feet to a point marking the Southeast corner of said Aubuchon tract; thence South  $15^{\circ} 46' 13''$  East, 20.06 feet to an old stone; thence South  $78^{\circ} 50' 33''$  West, 83.15 feet to the point of beginning as calculated by P. R. & S., Inc.

PARCEL 2: A tract of land being part of U. S. Surveys 58, 353 and 1776, Township 46 North, Range 3 East, and being more particularly described as follows: Beginning at an old iron rod in concrete on the Southeastern line of U. S. Survey 353, distant North  $42^{\circ} 31' 25''$  East, 1186.02 feet from the Southwest corner of said U. S. Survey 353; thence North  $42^{\circ} 10' 48''$  East, along said Southeastern line, 228.47 feet to a point in the centerline of Dardenne Creek (as traveled); thence North  $69^{\circ} 13' 01''$  East, along said centerline, 325.47 feet to a point; thence leaving said centerline and running along the line of a 1.19 acre tract conveyed to Hercules as per deed recorded in Book 407 page 580, the following courses and distances: South  $61^{\circ} 21' 02''$  East 230.92 feet to a point, South  $84^{\circ} 51' 02''$  East 106.00 feet to a point, North  $66^{\circ} 08' 58''$  East 107.00 feet to a point and North  $21^{\circ} 53' 58''$  East 164.00 feet to a point on the Eastern line of U. S. Survey 1776; thence South  $12^{\circ} 51' 02''$  East,

along said East line, 1085.0 feet to an old stone on the Northern line of U. S. Survey 58; thence North  $77^{\circ} 25' 55''$  East, along said Northern line, 135.23 feet to an old iron pipe on the Eastern line of Lot 1 of the Estate of Rudolph Hillenkamp, in U. S. Survey 58; thence South  $12^{\circ} 00' 02''$  East, along said East line, 1971.37 feet to an iron pipe at the Northeastern corner of property conveyed to John Gittemeier by deed recorded in Book 181, page 204; thence South  $81^{\circ} 09' 07''$  West, along said North line, 733.67 feet to an old iron pipe at the Northwest corner of said Gittemeier tract; thence South  $02^{\circ} 39' 06''$  West, along the West line of said Gittemeier tract, 750.28 feet to an old iron pipe on the Northern line of State Highway "N"; thence along said North line, North  $86^{\circ} 58' 07''$  West, 188.63 feet to an iron pipe on the Western line of said Lot 1 of the Estate of Rudolph Hillenkamp; thence North  $12^{\circ} 29' 06''$  West, along said West line, 2326.14 feet to an old iron pipe and North  $12^{\circ} 19' 12''$  West, along said West line, 1205.67 feet to the point of beginning, according to the plat of a survey thereof by Pickett, Ray, Silver, Inc., dated March and April, 1978.

PARCEL 3: A tract of land being part of U. S. Surveys 1785 and 948 in Township 46 North, Range 3 East, more particularly described as follows: Commencing at an old iron pipe marking the Northwestern corner of Greenwood Acres Subdivision, according to the Plat thereof recorded in Plat Book 7 page 25 in the St. Charles County Recorder's Office; thence North  $12^{\circ} 07' 05''$  West, 466.49 feet to an old stone marking the most Northeastern corner of Westward Manor Plat 2, according to the Plat thereof recorded in Plat Book 12, page 19; thence along the Northern line of said Westward Manor Plat 2, South  $57^{\circ} 24' 38''$  West, 1408.60 feet to a PK nail marking the intersection of the Northern line of Westward Manor Plat 2, with the centerline of Mothershead Road, 30 feet wide (recorded), extended; thence along said centerline, the following courses and distances: North  $08^{\circ} 51' 59''$  West, 1135.41 feet to a PK nail; thence North  $21^{\circ} 01' 59''$  West, 77.22 feet to a PK nail; North  $12^{\circ} 31' 05''$  West, 163.74 feet to a PK nail; North  $05^{\circ} 37' 39''$  West, 223.77 feet to a PK nail; North  $13^{\circ} 30'$  West, 245.23 feet to a PK nail; thence leaving said centerline and along the Southern line of property conveyed to Schulte by deed recorded in Book 731 page 1052, North  $78^{\circ} 05' 03''$  East, 567.56 feet to an old stone; thence North  $77^{\circ} 30' 28''$  East, 1354.71 feet to a set iron pipe on the Southern line of U. S. Survey 58, marking the Northwestern corner of property now or formerly owned by Julius C. Hirsch and wife; thence South  $11^{\circ} 40' 17''$  East, along the Western line of said Hirsch property, 1760.41 feet to an old fence post; thence South  $72^{\circ} 33' 40''$  West, 662.40 feet to the point of beginning, according to the plat of a survey thereof by PRS Inc., dated October 13, 1977.

**EXHIBIT “B”**  
**TIMBERWOOD TRAILS HOMEOWNERS’ ASSOCIATION**  
**ARCHITECTURAL STANDARDS**

The following architectural standards and conditions shall apply to all Lots in the Subdivision as authorized in these Restrictions. Architectural Standards and Conditions may exceed the applicable Ordinance, but in no instance shall be less than whether or not such Exterior Alteration or New Construction is addressed within these Documents.

When reviewing an Application, in many instances, the role of the Board (or Committee) is to ensure that the Alteration does not adversely impact the community during, and after, the Alteration is made, such as parking, trash and debris removal, and ensuring timely completion.

**Section 1. Categories of Alterations.** There are two categories of alterations: minor alterations and major alterations. This distinction between Minor and Major Alterations is in the scope of the review by the Association with Minor Alterations not requiring any review or approval.

**(a) Minor Alterations.** The following are designated as Minor Alterations: (a) siding replacement, (b) any replacement, addition, removal, enlargement or reduction in a driveway, sidewalk, or walkway, (c) relocation or addition of any exterior HVAC, pool, or generator equipment, (d) roof (shingle) replacement, (e) tree removal if such removal requires approval by Ordinance, (f) exterior lighting to prevent direct or excess ambient light pollution onto adjacent Lots, Common Ground, or the street, (g) utility relocation, and (h) grading or landscape drainage changes.

Further Minor Alterations also includes maintenance, repair or replacement of an improvement on a Lot or Residence that already exists at the time of adoption of these Restrictions, does not require a permit, and is of like type, appearance and quality as what is already existing. For example, replacement of wood trim with composite material of the same color constitutes a Minor Alteration and approval is not required.

**(b) Major Exterior Alterations.** Unless identified as a Minor Alteration above, all Alterations shall be considered Major Alterations. The following (without limitation) are examples of major alterations: (a) changes to roof lines or other profile of the house, (b) demolition of any structure or portion thereof, (c) replacement, addition, removal, enlargement or reduction of any hardscape such as patios, stonewalls, and decks, and (d) new or relocation of water discharge pipes from sump pump, water retention wells, downspouts (including installation or replacement of new gutters and/or downspouts), and (e) any work performed within the Lot that requires a permit by a political subdivision of the State of Missouri, with the exception of work wholly contained to the interior of the Residence.

**Section 2. Existing Structures and Alterations.** Adoption of these Restrictions shall not create or result in an existing structure, alteration or improvement being a violation of

these Restrictions. Provided, however, if such structure, alteration or improvement also violates the Original Indenture, then the Original Indenture shall govern and apply. The structure, alteration or improvement remains subject to the obligation and restrictions herein to ensure proper upkeep and future alterations or changes.

**Section 3. Residence Size and Placement.** All Residences shall have a minimum square footage of living space equal to, or in excess of, the existing Residence consistent with Section 5.1 excluding any garage (originally constructed), decks, porches, and basement. The Residence shall not exceed two (2) stories in height (excluding walk-out basements in making this determination)

No Residence, building or other structure shall be erected within any setbacks as set forth on any Plat or by Ordinance. All Residences and alterations thereto shall be constructed onsite.

**Section 4. Additions.** As most exteriors are finished with brick and/or siding, any additions shall have substantially the same characteristics as the Residence, including, but not limited to, materials, scale, and design. All portions of any addition shall comply with all applicable Ordinances.

As provided for in Section 2 of this Exhibit, existing additions or Alterations that might otherwise constitute a violation under these Restrictions but permitted under the Original Indenture shall be treated as permitted Alterations under these Restrictions.

**Section 5. Ordinances.** Exterior Alterations and New Construction shall be in compliance with all applicable Ordinances. Regardless of whether made a condition of approval, the Owner shall provide a copy of all permits issued by a political subdivision of the State within five (5) days upon written request from the Board.

**Section 6. Worksite.** Work should only be performed during the construction hours as permitted by Ordinance. Construction or other commercial vehicles, trailers, equipment, or attachments may not be parked on the street or unpaved areas except during construction hours, and in no instance shall they be parked parallel or diagonal to another vehicle parked on the street in a manner that may block street access by vehicles, including larger vehicles such as school busses, waste trucks, delivery trucks, etc. Worksite shall be maintained free of debris, and Lot Owner shall be responsible for clean-up of any dirt or debris on the street or Common Ground from such work. Debris includes not only construction waste, but also landscape waste such as grasses, limbs, leaves etc. which shall not be disposed of within the Common Ground, or left on the Lot in an unmaintained manner such that they may adversely impact adjoining Lots, Common Ground, or streets. Measures shall be taken to avoid the run-off of soil or other debris during construction, for example, via the use of a silt fence.

**Section 7. Storage Sheds or other outbuildings.** Storage sheds are allowed but only to the extent approved by the Association under Article VI regardless of whether permitted under Ordinances. As provided for in Section 2 of this Exhibit, existing sheds that might

otherwise constitute a violation under these Restrictions but permitted under the Original Indenture shall be treated as permitted Alterations under these Restrictions.

**Section 8. Fences.** Fences are permitted only as described below. With respect to materials, fences shall be black wrought iron, or black aluminum (which resembles wrought iron), vinyl, or wood, left natural in color and finish. Chain link is not permitted. With respect to height, the fences shall be six (6) feet in height for those lots with an in-ground pool or homes that share a boundary with real property not within the Subdivision; otherwise, all fences shall four (4) feet. Fences on Lots adjoining Common Ground may not block reasonable pedestrian access to the Common Ground. All fences shall be open slat unless otherwise approved.

Approval of fences is hereby limited to fences that meet the following specifications:

#### **Type 1**

- (a) The material used shall material remain in its natural in color and finish or, if wood, stained consistent with a natural wood color. Solid slate fences are prohibited unless surrounding an in-ground pool.
- (b) Design shall be of standard posts with two or three rails, more commonly referred to as post and rail construction.
- (c) Posts shall not exceed ten (10) feet from center of post to center of post.
- (d) All posts shall be anchored in a base of concrete at least one (1) foot six (6) inches into the soil.

#### **Type 2**

- (a) The material used shall remain in its natural color and finish or, if wood, stained consistent with a natural wood color. Solid slate fences are prohibited unless surrounding an in-ground pool.
- (b) Posts may be either round or square.
- (c) Rails shall only be of a size commonly known as 2x4 or 2x6 inches. There may be two or three rails.
- (d) Slats or pickets shall be attached to the rails and said slats shall be vertical to the ground. The size of the slats shall be between 1x4 inches to 1x6 inches. Any combination of these size slats may be used. Slats may all be placed on one side of the rails or slats may alternate from one side of the rails to the other side of the rails. Slats may abut or slats may have a space between them.
- (e) The posts shall not exceed ten (10) feet from center of post to center of post.
- (f) All posts shall be anchored in a base of concrete at least one (1) foot six (6) inches into the soil.

The above requirements are for yard fences only, and do not apply to privacy screens near patios or other areas, subject to Board approval. Gardening and decorative fencing are permitted so long as the fencing is black or white and does not exceed sixteen (16) inches in height.

A six (6) foot privacy fence that does not enclose any portion of a Lot is permissible so long as it is not longer than the length of one side of the property lot line, does not run parallel to the street (perpendicular only) and may not pass a front corner of the house.

**Section 9. Roofs.** No Residence or other structure shall be erected with a flat roof or false flat roof. All portions of the roof, including additions or roofs located over a patio or deck, of the Residence shall be of similar color.

**Section 10. Pools & Hot Tubs.** Only fully in-ground pools are permitted and the application shall include the required information related to fencing. Inflatable “kiddie pools” are permitted so long as they do not exceed 18” in depth. In addition to the plans submitted under Article VI, the application shall include proposed alterations adjacent to the pool to ensure there is no impact on drainage of storm water to adjacent lots. Hot tubs are permitted so long as they are properly screened and located in its entirety no further than twenty (20) feet away from the exterior of the Residence, and no closer than ten (10) feet from the lot’s boundary.

As a fence will be required for any pool, the application shall include: (1) detailed information as to its location identifying any existing fences, utility boxes, etc., (2) the name of the company installing the fence, (3) whether the applicant has discussed the fence with their adjoining lot owners, and (4) planned discharge of water. Approval shall be contingent upon the construction of an in-ground pool, and construction of the fence may not commence until substantial completion of construction of the associated in-ground pool.

**Section 11. Patios.** Patios may be enclosed if attached to the rear of the Residence, subject to Board (or Committee) approval.

**Section 12. Electric Charging Stations.** Electric Charger Stations located outside of the Residence, such as the driveway or along the street, are prohibited. Electric Charging Stations are permitted within an enclosed garage. The use of a cord from a permitted Electric Charging Station to a vehicle in a driveway shall not be a violation of this Section.

**Section 13. Emerging Technologies.** It is not the intent of these Restrictions to prevent adoption and use of emerging technologies. As they technologies are consistently and rapidly involving, home generators, battery systems, solar panels and shingles, wind capturing devises or other similar type alterations shall constitute a Major Exterior Alteration. The Board may decline or reject any Application proposing such an alteration should the Board determine solely using its discretion that: (1) the change in appearance is substantial to the Community, and/or (2) the change in appearance cannot be effectively screened.