

Boone County, Missouri

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849. BETIE JOHNSON, Recorder of Deeds.

DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS, EASEMENTS AND RESTRICTIONS OF THORNBROOK SUBDIVISION

THIS DECLARATION made on this 30 day of September, 1998, by
Thornbrook Development, Inc., a Missouri corporation;

WITNESSETH:

WHEREAS, Thornbrook Development, Inc. is the owner of the following
described real estate located in Columbia, Boone County, Missouri,

Thornbrook, Plat No. 1 as recorded in Plat book 42 at Page 56 of the
Boone County records.

and,

WHEREAS, Thornbrook Development, Inc. desires to place certain restrictions
on the above described real estate for its benefit and the benefit of subsequent owners of
individual Lots located therein,

NOW, THEREFORE, Thornbrook Development, Inc. hereby declares that all of
the above real estate herein-before described and all individual Lots therein, and all real
estate contained within any other parcels of real estate which Thornbrook Development,
Inc. hereinafter, in its sole and absolute discretion, elects to annex to the Development

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and any improvements now or hereafter located thereon, shall be held, sold and conveyed subject to the following declarations, easements restrictions and covenants, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of such real estate and all improvements now or hereinafter located thereon. These declarations, covenants, easements, restrictions, charges, liens and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the real property or any part thereof and shall be binding on all parties having. or acquiring any right, title or interest in the real estate or any part thereof, or any improvements located thereon, and shall inure to the benefit of each owner thereof. The declarations, easements, covenants, restrictions and conditions are as follows:

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DEFINITIONS AND MISCELLANEOUS TERMS AND CONDITIONS

Section 1. "Association or HOA" shall mean and refer to Thornbrook Home Owners Association (or an association of a similar name), a not-for-profit corporation or association of property owners to be established as hereinafter provided in this Declaration.

Section 2. "Plat" means Final Plat of Thornbrook Development as hereinabove described. If Thornbrook Development, Inc. makes additional tracts of real estate subject to the jurisdiction of the HOA pursuant to the terms and conditions of this Declaration, the word "Plat" shall further be deemed to mean and include plats of the additional tracts of real estate so annexed to the Development.

Section 3. "Lot" means and includes all Lots as shown on the Plats referred to in Section 2 and all other Lots subject to this Declaration being platted separately hereinafter and described as recorded in the Records of Boone County, Missouri. In addition, if Thornbrook Development, Inc. hereafter elects to annex additional tracts or parcels of real estate to the Development, "Lot" shall further be construed to mean and be deemed to mean and include all Lots platted as an annex to the real estate hereinbefore described. Each Lot shall contain one building, except as permitted herein.

Section 4. "Common Area" shall mean any "common lots, common ground or common property" as shown by the Plats, together with all other areas contained within the Development designated for the common use of the owners of more than one tract or all of the tract owners, together with any other real estate or improvements owned or maintained by the Association or intended for the common use of a number of tract owners or all of the tract owners. This includes the entrance area and Amenities such as the swimming pool, tennis courts, lake and dam areas, volleyball court, and club house. In addition, all areas within the right-of-way of City of Columbia streets, including landscaped medians, sidewalks and other improvements, such as irrigation systems, meters, plantings, and, retaining walls shall be included in this definition of the "common area," excluding actual maintenance of the street, curbs and drainage systems routinely provided by the City of Columbia. Trees, shrubs and plantings placed in the right-of-way by individual Lot owners after purchase of their Lot shall not be considered a part of the "Common Area" to be maintained by the Association.

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Section 5. "Person" shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 6. "Property" means all the land, property and space comprising the parcel, all improvements and structures erected, constructed or contained therein or thereon, including any building or buildings, and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual benefit or enjoyment of the Lot owners.

Section 7. "Lot Owner" means the corporation, person or persons whose estates or interests individually or collectively aggregate fee simple ownership of a Lot.

Section 8. "Common Elements" means the Common Area and all structures and improvements erected or constructed thereon or contained therein or thereon, and all rights and appurtenances belonging, and all fixtures and equipment intended for the mutual use, benefit and enjoyment of the Lot owners, or for the mutual use, benefit and enjoyment of the owners or occupants of several Lots (as opposed to just a single Lot).

Section 9. "Declaration" shall refer to this document.

Section 10. "Developer" shall mean and refer to Thornbrook Development, Inc., a Missouri Corporation, and shall further refer to any person, persons, company or companies or other entities to whom such corporation shall assign all or any portion of its rights as the Developer under the terms of this Declaration. A conveyance by the Developer by Warranty Deed or otherwise shall not be deemed to be an assignment of any of its rights as the Developer, unless such rights are specifically mentioned and described as such in such deed or conveyance. Such rights can only be assigned by a written deed, instrument or assignment by the Developer, including a specific recital in a deed, which specifically refers to the rights of the Developer under this Declaration.

Section 11. "Class A Member" shall mean a Class A Member of the Association and shall mean a Lot owner other than the Developer and its assignees of its Class B membership rights; provided, however, that if the Developer or such an assignee holds a Lot containing a building held for rental or lease purposes, it shall be deemed to be a "Lot Owner" with respect to such Lot and shall be deemed to be a "Class A Member" with respect to such Lot. Immediately upon the renting, leasing or occupancy of a building, whether by the Developer or any assignee of its Class B membership rights, the owner of such Lot shall become a Class A Member of the Association with, respect to such Lot and shall, with respect to such Lot, be subject to

assessment as a Class A member. Such Lot shall continue thereafter to be a Lot to which Class A membership rights, duties and obligations attach. The qualifications for Class A membership is more fully set forth below in this Declaration.

Section 12. "Class B Member" shall mean a Class B Member of the Association and shall mean the Developer or any person to whom the Developer shall have assigned all or a portion of its rights as the Developer under the terms and provisions of the Declaration or a builder who has purchased a lot with the intention of building a house and reselling that house and lot to a third party.. A conveyance by the Developer by Warranty Deed or otherwise shall not be deemed to be an assignment of any of its rights as the Developer, unless such rights are specifically referred to therein. Such rights can only be assigned by an assignment deed or instrument by the Developer, which specifically refers to the rights of the Developer under this Declaration.

Section 13. "Development" shall mean all of the real estate contained within the boundary lines of the Plats referred to above, together with any real estate hereafter annexed to the Development as hereinafter provided for in this Declaration, and, all improvements now or hereafter situated thereon, and all buildings now or hereafter situated thereon.

Section 14. "Limited Common Areas" means and includes those Common Areas, which are reserved for the use of certain Lots to the exclusion of all other property owners.

Section 15. "Builder" means and refers to an individual, company or corporation who or which builds or constructs a building or buildings upon a Lot or Lots. The term "Builder" can include both the Developer and individuals or companies other than the Developer who build or construct improvements located within the Development. The Developer may sell a Lot or portions thereof to a Builder other than the Developer for purposes of building or constructing improvements located within such Lot. As elsewhere indicated in this Declaration, the Developer may sell a Lot or portions thereof to a Builder other than the Developer without assigning the Class B voting rights.

Section 16. "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged and recorded by the Developer stating that all of the Lots in the Development, as herein described, have been sold by the Developer and the buildings to be constructed thereon are substantially completed.

Section 17. "Architectural Control Committee" shall mean the Developer or organization appointed by the Board of Directors with responsibility for overseeing architectural and structural continuity of the development.

Section 18. "Amenities" shall mean the swimming pool, park areas, tennis courts, lake and dam areas, volleyball court, and Club House.

ARTICLE II

USE RESTRICTIONS

The land, buildings, structures and dwelling units located thereon, shall be subject to the following uses and restrictions:

Section 1. Use of Land. The land shall be used for a residential community as per the Final Plat. There shall be no more than one single-family residence located per lot. The replatting of lots is allowed only by the Developer. Residents, builders, and others may not acquire any combination of Lots and then subdivide or reapportion in any manner other than that ensconced in the Final Plat. Nothing herein shall prevent the Developer and others, as approved and authorized by the Developer, from using temporary buildings or structures or any residence for a sales model, sales office, or for storage purposes.

Section 2. Building Uses. No building shall be used for any purpose other than that permitted by the general zoning ordinances of the City of Columbia, Missouri which are applicable to the property. Specifically, except for the common property comprised of the Amenities, no Lot in Thornbrook Development shall be used for any purpose whatsoever other than single family residential for a period of twenty (20) years from date of recordation of these Covenants and Restrictions, without prior written approval of Developer or its successor in interest.

Section 3. Additional Structures. No additional and/or accessory structures or improvements of any kind, including walls, fences, dog houses, or buildings of any nature whatsoever, or sheds, posts, poles, storage sheds, storage boxes or similar items of any kind or nature whatsoever shall be erected upon any lot or building in addition to the basic building, patio, walk, deck, porch and other improvements originally constructed by the Developer or Builder, without the prior approval of the Developer, or without the prior approval of the Association

Architectural Control Committee after the Developer has transferred its control to it. Chain link and other wire fences are not allowed. Fences, other than those required to enclose a swimming pool or tennis court, will generally not be allowed. Specific requirements for fences shall be set forth by the Architectural Control Committee.

Section 4. Parking. No vehicles in inoperable condition, nor any trailer, mobile home, bus, van, camper, recreational vehicle, boat, boat trailer, or other mobile apparatus of any kind shall be parked, left, or stored on any Lot or street for more than 24 hours. No uncovered or non-enclosed parking spaces on any Lot may be used for the storage and parking of any vehicles, or other items, other than operative automobiles, vans and pickup trucks which are in good condition and repair and which are used with regular frequency (it being the intention of the parties that inoperative automobiles not be placed or stored within the Development and that automobiles not so used with regular frequency not be placed within the Development). This Section shall not apply so as to interfere with the construction of buildings or development of any part of the properties, or of additional land annexed to the properties.

Section 5. Nuisances. No illegal, noxious, noisy or offensive activities shall be carried on upon the Lots or upon the Common Areas, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the development. The word "nuisance," as used in this Section, shall be deemed to include, but not be limited to: musical groups performing out-of-doors within the Development; the use of loud tools or other instruments or ones which have not been properly electronically shielded so as to prevent interference with television signals or radio signals; loud outdoor record-players, high fidelity record-players, stereo systems, and other noise-generating devices. Display of fireworks, sparklers or other such items on the Lots or Common Areas is expressly prohibited.

Section 6. Signs. No signs, other than one "For Sale" sign less than five (5) feet square, shall be displayed within the subdivision, except those identifying a Common Area building or structure, such as a swimming pool or lake area, which is approved in advance by the Developer. "For Sale" signs may be posted for a period of time no longer than 360 days. Nothing contained in this Section 6 is to be construed to permit signs anywhere within the Development, or within the boundary lines of the lots, not otherwise permitted by applicable sign ordinances of the City of Columbia, Missouri.

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Section 7. Exterior Wiring, Antennas, Satellite Dishes, or Installations. No visible exterior wiring or antennas shall be permitted on the exterior portion of any building or improvement situated upon any Lot, except upon the roof, other vertical structure thereof, or as may be approved in advance by the Developer or Architectural Control Committee, as the case may be. No satellite dish larger than thirty-six (36) inches is allowed in the subdivision and no satellite dish of any size is allowed on the front of the house or in the front yard. No air-conditioning units or other types of appliance shall be installed or permitted which protrude through the walls, roof or window area of any building on any Lot or Unit, except as may be installed by the owner in the originally approved construction or as may subsequently be approved by the Architectural Control Committee.

Section 8. Livestock, Poultry and Pets. No animals, livestock, poultry, or nontraditional, nondomesticated pets of any kind shall be raised, bred, or kept upon or in any portion of the Development.

Section 9. Trash - Storage and Disposal. All trash, rubbish, garbage and other materials being thrown away or disposed of by Lot owners or tenants on the premises must be placed or contained in bins or containers provided for such by the City of Columbia or a licensed trash disposal firm. All such bins or containers shall be fly-tight, rodent-proof, non-flammable, reasonably waterproof and shall be covered. These bins or containers shall be stored in unobtrusive locations on Lots and may be placed in open locations only for a period not to exceed eight (8) continuous hours in any week, so as to facilitate collection. The outdoor placement of or storage of materials, equipment or other items on any outside portion of a Lot shall be prohibited, with the exception, however, that items such as patio tables and chairs or other outdoor equipment upon porches, patios or decks shall be permitted.

Section 10. Temporary Structures. No structure of a temporary character (shack, shed, tent, locker or other out-building), shall be permitted on any Lot, unless included in the plans and specifications of the building as originally approved by the Developer or unless later approved under the provisions of this Declaration relating to Architectural Control. Developer may waive this provision to allow use of temporary construction trailers or buildings on lots during construction of buildings or other improvements, which in no case shall be allowed to be placed on a site more than two weeks prior to beginning construction and shall not remain for more than two weeks after the completion of construction..

Section 11. Open Fires. No open fires shall be permitted within the development, with the exception of outdoor fires contained in a grill and used for the preparation of food to be consumed on the premises. No such allowed fires shall be permitted in the front yard and/or driveway.

Section 12. Garages. All garage or delivery doors shall be kept closed at all times other than when in actual use.

Section 13. Storage Tanks. No tank for the storage of fuel or other chemicals may be constructed nor maintained on any Lot without the express prior written consent of the Developer or Architectural Control Committee, as the case may be.

Section 14. Automotive Repair Prohibited. No automotive repair, rebuilding or any other form of automotive maintenance, whether for hire or otherwise, shall be permitted on any Lot or Common Area. Lot owners may permit ordinary periodic maintenance for their motor vehicles within enclosed garages.

Section 15. External Changes. No external changes shall be made on or with respect to any building or improvements located within the Development or within any Lot, unless approved in advance in writing by the Developer or by the Architectural Control Committee, as the case may be.

Section 16. Two, Three & Four-Wheeled Recreational Vehicles. No motorcycles, three and four-wheeled vehicles, including all-terrain vehicles and motor bikes of any kind, shall be operated within the Development, either on roads, Common Areas, or within the Lots themselves; provided, however, that they may be used solely for purposes of going to and from work, to one's job, or to school. No such vehicles shall be used within the Development for purposes of recreation. All such vehicles must have a suitable muffler so as to provide for quiet operation. All such vehicles must be stored within a garage or other approved structure.

Section 17. Dumping Ground. No Lot shall be used or maintained as a dumping ground. No trash, junk, debris or refuse shall remain on any Lot for a period in excess of seventy-two (72) hours. All equipment used for the storage or disposal of trash, garbage or solid wastes shall be kept in a clean and sanitary condition.

Section 18. Maintenance. All portions of Lots, including all landscaping, and all buildings, structures and improvements situated on the Lots shall be maintained in a highly clean, neat, safe, sanitary, debris-free, attractive and aesthetically pleasing condition. Improvement and

buildings shall be maintained in good repair and condition, free and clear of all unsightly conditions. No dead and dying vegetation and/or trees, chipped, faded and peeling paint, brickwork requiring tuckpointing, roofs requiring repair or lawns requiring mowing, weeding, or replacement shall be permitted. In the event any Lot owner shall fail or refuse to maintain his property in a clean, safe, neat, attractive and aesthetically pleasing condition, or if such standards are disputed by the Lot owner, the Developer or the HOA's Board of Directors shall notify the Lot owner of the condition and advise that the condition must be corrected by the Lot owner within twenty (20) days of the date of such notice. If the Lot owner fails to correct the deficiency within the time provided, the Developer or HOA, as the case may be, may correct the deficiency with the cost of correcting the condition to be borne by the Lot owner. It is the express intention of this Declaration that the subject property and the Lots thereof be maintained in an attractive, regular, and ongoing state of maintenance with persistent regard by the individual owners there of the requirement that all the properties, structures and lawns of the development be maintained at a standard higher than that found in lesser, economically inferior developments in order to protect the integrity, worth and investment value of all of the Lots and improvements within the Development and the Development as a whole.

Section 19: Swimming Pool, Tennis Courts, Lake and Dam Area, Volleyball Court, and Club House The swimming pool, tennis courts, lake and dam area, volleyball court and club house are intended for the general use of the residents of Thornbrook Development and shall be maintained and controlled by the Thornbrook HOA according to this Declaration, the HOA's By-Laws, and the Rules and Regulations. Developer shall plan, develop, construct, and maintain these common facilities until such time as it deems appropriate to convey such areas and appurtenances to the Thornbrook HOA, to be documented by a Certificate of Substantial Completion. Developer may choose to hold all common properties until conveyed as a whole, or may convey these areas on a parcel by parcel, or plat by plat basis. Admission or special use fees for nonresidents for the use of the swimming pool and tennis courts shall be at the discretion of the Developer or HOA, which ever applicable.

A. Swimming Pool – Developer shall construct at least one swimming pool for the private use of the Thornbrook residents. The HOA shall carry liability insurance protecting the Association, residents, and Board of Directors from any and all potential liabilities from owning and operating a community swimming pool.

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B. Tennis Courts – Developer shall construct at least one tennis court for the private use of the Thornbrook residents. The tennis courts are on a first-come, first-serve basis unless otherwise controlled by the HOA. The HOA shall carry liability insurance protecting the Association, residents, and Board of Directors from any and all potential liabilities from owning and operating a community tennis court.

C. Lake and Dam Area – All lake front areas, but for the dam frontage, belongs to individual home owners and is not common Area. The lake frontage area of the dam is Common Property and, as such, is accessible to the Thornbrook home owners. Home owners whose property does not front the lake may gain access to the lake only at this dam frontage. Permitted activities in this dam-front area include: fishing from shore, picnicking, sunbathing, and playing. Children under the age of twelve (12) years may visit this area only when accompanied by an adult. Home owners whose property fronts the lake may gain access to the lake from their own property. Acceptable activities include fishing from shore and launching of small, nonmotorized watercraft, such as canoes, paddle boats, and 1-person sail boats. These acceptable watercraft must adhere to all Missouri state boating regulations, including sufficient provision of life preservers. Motorized and power boats, including personal watercraft (i.e., “wave runners”) are prohibited and not allowed on the lake at any time. There shall be no swimming in the lake. Private docks must be approved, prior to construction, by the Developer or Architectural Control Committee, as appropriate. Docks must be small, parallel to shore, and aesthetically pleasing. No free-floating docks shall be allowed. Dock repair and maintenance shall be the sole responsibility of the lot owner. Canoes, paddle boats, sunfish, and other small watercraft used by the residents may not be stored on the dock or beach areas adjoining the Lake or in open view within residents’ back yards. All watercraft must be removed and stored away on a daily basis.

D. Club House – is designed for the benefit of the HOA and the residents of Thornbrook. As such, the maintenance, repair, upkeep, and use of the facility shall be directed and managed by the Board of Directors of the HOA. Developer may use such facility, as it sees fit, prior to conveying the facility to the HOA.

E. Volleyball Court – Developer shall construct a volleyball court for the private use of the Thornbrook residents. The volleyball court is available on a first-come, first-serve

basis unless otherwise controlled by the HOA. The HOA shall carry liability insurance protecting the Association, residents, and Board of Directors from any and all potential liabilities from owning and operating a community volleyball court.

Section 20. Mailboxes. Each residence shall have a mailbox of a type specified by and provided by the Developer. Installation, repair, and replacement of the mailboxes shall be at the expense of each Lot Owner.

Section 21. Duration Limit on Construction. All construction of a residence on a Lot shall be completed within nine (9) months after the commencement of construction. No building shall be permitted to stand with its exterior in any unfinished condition for longer than nine (9) months after commencement of construction.

Section 22. Sod, Landscaping, and Sprinkler System. Prior to occupancy, and in no event for any longer period than nine (9) months following the commencement of construction of the residence, all landscaping shall be completed and in accordance with plans approved by the Architectural Control Committee. All front lawns shall be sod with fine leafed turf-type tall fescues, ryes, or bluegrasses. The front lawn of each residence facing Thornbrook Parkway and Thornbrook Terrace shall include and be serviced by an irrigation/sprinkler system. No tree or shrubbery shall be maintained in such a manner as to obstruct the view of vehicular traffic. All front lawns shall include a minimum of two trees each being two inches in diameter. In addition, all lots fronting Thornbrook Parkway and Parkway Terrace shall plant such required trees nineteen (19) feet from the curb.

Section 23. Sales. Other than the one annual neighborhood garage sale, no garage sales, sample sales, or similar activities shall be allowed in the Development.

Section 24. Gardens. Any vegetable any/or general produce gardens require approval by the Architectural Control Committee, and such approval must be renewed on a yearly basis.

Section 25. Swimming pools. Above-ground pools are not allowed; in-ground pools require approval of the Architecture Control Committee.

Section 26. Residential Use Only. No lot shall ever be used, nor any structure placed upon, for business purposes, including day care centers or professional, trade, or commercial purposes. Home offices for the use of occupants of the residence are permitted, provided that they are not discernible from outside the residence and that customers, clients, patients are not received there for business or commercial purposes other than on an incidental basis.

Section 27. Model Homes. Any builder desiring to construct and display a model home (i.e., homes constructed for the sole purpose of showing and sales promotion by a Builder-Buyer and which, generally, are made available and open to the public) must obtain approval for such from the Developer or HOA prior to commencing building construction.

ARTICLE III
THE ASSOCIATION

Section 1. Purpose. The Association is responsible for managing Thornbrook Subdivision including all the common affairs of the Lot Owners.

Section 2. Formation and Articles of Incorporation. The Association shall be formed by the Developer by the filing of Articles of Incorporation for a non-profit corporation in the state of Missouri. This new organization shall be called Thornbrook Home Owners Association, or a name similar thereto. The responsibility of the HOA shall be more fully described by the following terms of this Declaration.

Section 3. Membership in the Association. There shall be two classes of membership in the Association: Class A (voting), Class B (voting and non-voting).

A. Class A

Each Lot owner or owners, if jointly held, as herein described in this Declaration to whom title to the Lot has been conveyed by the Developer, its assignees or its successors in ownership, shall automatically be a Class A Member of the Association and shall be subject to the jurisdiction of the Association as a Class A Member and shall be subject to assessments levied by the Association under the following provisions of this Declaration, and shall be entitled to the rights and privileges of Class A membership in the Association, as provided herein. Class A membership in the Association shall not be optional. There shall be one (1) Class A membership in the Association appurtenant to the ownership of any one Lot which is subject to assessment by the Association. Once conveyed, class A membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of a Lot shall be the sole qualification for Class A membership in the Association. Class A membership in the Association cannot, under any

circumstances, be partitioned or separated from ownership of a Lot subject to the jurisdiction of the Association. Any covenant or agreement to the contrary shall be null and void. No Lot owner or owners shall execute any deed, lease, mortgage or other instrument affecting title to this Lot ownership without including therein both his interest in the Lot and the corresponding membership in the Association, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, lease, mortgage or instrument purporting to affect the one without including also the other shall be taken to include the interest so omitted, even though the latter is not expressly mentioned or described therein.

B. Class B

Class B membership is reserved for those lots owned by the Developer or those to which it assigns all or any part of its rights as the Developer under the terms of this Declaration. Builders who purchase Lots with the intention of building and reselling homes are deemed to hold Class B nonvoting membership rights in the Association. Such membership does not include any voting rights nor are Class B non-voting memberships responsible for paying Association assessments. The Developer and those to which it assigns all or any portion of its rights as the Developer under the terms of the Declaration shall become Class A Members upon and following the termination of Class B Memberships as hereinafter provided in this Declaration. Rights of the Developer shall not be deemed to be assigned by any Warranty Deed or other conveyance made or given by the Developer, unless specific reference is made in such Warranty Deed or other conveyance to the rights of the Developer and to Class B voting rights. Otherwise, rights of the Developer can be assigned only by a written document, properly recorded, which specifically refers to the rights of the Developer hereunder and assigns all or a portion of such rights. The Developer can assign all or a portion of its Class B voting rights hereinafter set forth to other persons, entities or corporations, but such assignment shall be made solely by a written assignment, or by a recital in a Warranty Deed or similar conveyance, which specifically refers to such rights and is properly recorded. Notwithstanding anything to the contrary herein above set forth in this Declaration, in the event a Class A membership has not earlier attached to a Lot under the above provisions of this Article, such membership shall attach to such Lot and the Class B membership attributable to such Lot shall terminate upon the earliest to occur of the following events:

1. Such Lot has been conveyed to someone other than the Developer or the Builder-Buyer as defined below;

2. Such Lots owned by Developer or such Lots owned by third parties wherein Developer has assigned its Class B rights as Developer to any third party Lot owners, upon recording "Developer's Certificate of Substantial Completion," as provided herein.

Upon the termination of a Class B membership attaching to a Lot, a Class A membership shall automatically attach to such Lot. Once a Class A membership has attached to such Lot, such Lot shall thereafter forever be deemed to be a Lot to which a Class A membership attaches and the owner or owners of such Lot shall automatically be a Class A Member of the Association.

Section 4. Voting Rights The Association shall have two (2) classes of voting membership:

A. Class A

Class A members shall have one (1) vote at all meetings of the Association for each Lot in which they hold the interest required for Class A membership as detailed in this Declaration. When more than one (1) person holds such an interest in any Lot such interests are to be negotiated by the portion owners allowing only one unseparable vote per lot.

B. Class B

There shall be two classes of Class B voting rights: Class B (voting) and Class B (nonvoting). One (1) Class B vote shall be allocated for each Lot classified as having Class B (voting) rights and is reserved for the Developer and its assigns. The second type of voting membership is Class B (nonvoting). This designation is reserved for those lots owned by Builder-Buyers and the common areas owned by the HOA, including, Lot 1 (which contains the development amenities). For Plat 1 of Thornbrook Subdivision, common area lots held by the HOA under Class B nonvoting status include Lots 1, 7, 52, 53, and 54. A Builder-Buyer is defined as a builder who purchases lots with the intention of constructing a building thereupon and selling the lot and building combination, which is then considered to hold a Class A membership in the Association. At no time will a Builder-Buyer or the HOA via its common areas, under the Class B (nonvoting) designation, ever hold any voting rights in the Association or be assessed any fees or charges pertaining to holding of such lots. When the Developer sells a Lot to a Builder-Buyer without assigning the Class B (nonvoting) membership designation, then immediately upon such sale, all Class B (voting) rights shall cease and terminate and instill to the Builder-Buyer a Class B (nonvoting) membership. The number of Class B votes may be

increased, if Lots are annexed to the Development, by the number of Class B votes attributable to each such Lot under the above provisions of this Article and shall be decreased as follows:

A. The aggregate number of Class B votes shall be reduced by each Class B vote attributed to an individual Lot upon the sale or conveyance of such Lot by the Developer to a builder or owner other than the Developer without assignment of the Class B votes attributable to such Lot;

B. For each Lot which contains a building, the Class B vote attributable to such Lot shall be terminated when the Lot is sold, the building is rented, leased or otherwise disposed of by the Class B Member owning same, and the Class B vote attributable to such Lot shall cease and terminate upon such sale, renting, leasing or other disposition of the Lot;

Section 5. By-Laws. The Board of Directors shall take up to nine (9) months to organize the Association and shall as soon as practicable, shall adopt and execute the By-Laws which are to serve as the operating documents for the administration of the HOA. Such By-Laws shall be in accordance with these Covenants and Restrictions and shall require that the Development be administered by the Association which, in turn, shall be managed by a Board of Directors elected and constituted as hereinafter provided in this Article.

Section 6. Board of Directors. The Board of Directors shall: (1) have general responsibility to administer the Development; (2) approve the annual budget of the Association; (3) provide for the collection of annual, special, monthly or other assessments from Members; and (4) arrange and direct or contract for the management of the Development, and otherwise administer with respect to any matter generally pertaining to enhancing, maintaining, benefiting and promoting the Development. The Board of Directors shall consist of three (3) Directors elected in the following manner: The Members of the first Board of Directors named in the Articles of Incorporation shall serve until their successors are duly elected and qualified. Thereafter, so long as there are Class B voting rights in existence, a majority of the Directors shall be natural persons (who need not be Lot owners) elected by the Class B Members, and the remaining Directors shall be natural persons holding ownership interests in Lots (other than the Developer) elected by the Class A Members of the Association. (EXAMPLE: Since there Are to be only three (3) Directors, two (2) of the Directors shall be natural person elected by the Developer and one (1) of such Directors shall be a natural person holding an ownership interest in a Lot, elected by the other Lot owners who are also members of the Association.) After all

Class B voting rights have ceased to exist, the Board of Directors shall consist of three (3) Lot owners as herein provided, elected by the Members of the Association. The Directors shall be elected in that manner and for those terms specified by the By-Laws, except as herein provided to the contrary.

Section 7 General Powers and Duties of the Association. The Association, for the benefit of all Lot owners, shall provide for, acquire, and pay for out of the Maintenance Fund the following:

A. Water, sewer, waste removal, electricity, telephone, and other necessary utility services for any and all Common Areas; all maintenance, repair, upkeep and replacement for the Common Areas, including all Amenities.

B. To decrease liability from risks associated with ownership of the Common Areas and Amenities, such as the swimming pool, tennis courts, lake and dam area, volleyball court, other common areas, and club house, the HOA is hereby authorized and required to obtain and maintain a policy or policies insuring the Association, its Members, and its Board of Directors against any liability to any person, including Lot owners or their invitees or tenants, instant to the ownership and/or use of the Common Areas liability under which such insurance shall be of the limits determined by the Association's Board of Directors. Such limits shall be reviewed annually by the Association's Board of Directors and may be changed at its discretion. Such insurance shall be payable to the Association in trust for the benefit of the Lot owners. The Association shall also obtain Workers' Compensation Insurance to the extent necessary to comply with any applicable laws.

C. To manage, operate, and regulate the Amenities of the development and to ensure benefit to the Thornbrook residents, from both a perspective of recreational use and financial investment. To maintain such Amenities in superior operating condition meeting all applicable health, safety, and aesthetic standards. To establish rules and regulations for the use of the amenities and to set membership and fee requirements for access to the swimming pool, tennis courts, lake and dam areas, and club house, as so determined to be appropriate by the Association's Board of Directors.

D. Upon ten (10) days' notice to the manager or the Association's Board of Directors, and upon the payment of a reasonable fee set by the Association's Board of

Directors, to furnish to any Lot owner a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing by such owner;

E. When the Association's Board of Directors, in its discretion, deems it advisable to do so, to retain the services of a professional manager or management firm or managing agent to fulfill the Association's obligations, and to retain the services of such accountants, attorneys, employees and other persons as the Association's Board of Directors shall, in its sole and absolute discretion, deem necessary in order to discharge the Association's duties. The designation and removal of personnel necessary for the maintenance, repairs and replacements to be performed by the Association shall be made by the Association's Board of Directors, as they direct, or the manager or management firm, if one is employed, or the managing agent, if one is employed. The Association's Board of Directors shall have the sole and absolute discretion to retain such a manager, management firm or managing agent.

F. To obtain, provide and pay for any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of this Declaration or the Association's Bylaws, or by law or which, in the opinion of the Board of Directors, shall be necessary or proper for the maintenance and operation of the Development as a first-class development or for the enforcement of any restrictions set forth in the Declaration, including all maintenance items and services required to serve and keep functional and safe the lake and dam area, tennis courts, swimming pool, club house, and other common areas.

G. To provide for the payment of taxes and assessments, general and special, levied against, or by reason of, the Common Areas.

H. To provide for the cutting of grass within the boundary lines of any Lot or area contained within the Development or for the irrigation of lawns, trees, shrubbery and the like within the boundary lines of any Lot or the Development, or for the landscaping, gardening and maintaining and replacing of all lawns within any Lot or the Development, or for the maintenance or replacing of driveways, walkways, sidewalks and parking areas within any Lot or the Development, or for the maintaining or replacing of any sewer lines or other utility lines located within the boundary lines of any Lot or the Development, or for the painting, cleaning or tuck-pointing of the exteriors of any buildings or improvements on any such Lot or the Development, or for the replacement or repair of any roofs or roof structures located within the

boundary lines of any Lot or the Development, or for the performance of any other maintenance, repair or replacement within the boundary lines of any Lot or the Development, if such maintenance, repair or replacement be necessary, as determined by the Association's Board of Directors, to protect the interests of the Association or its Common Areas, or any other Lot or Lots, or to protect any part, portion or aspect of the value of the Properties or Development, or any portion thereof when the owner or owners of the Lot within the boundary lines who are responsible under the following provisions of this Declaration for the performance of same have failed or refused to perform such within a reasonable time after written notice has been delivered by the Association's Board of Directors. No such written notice shall be required in the case of an emergency. The Board of Directors shall levy a Special Assessment against all Lots and the owners responsible (under the following provisions of this Declaration) for the costs of the performance of the above, which assessment shall constitute a lien upon all such Lots and the improvements located thereon. Until any such lien and Special Assessment is paid, the sums due shall bear interest and be enforceable as described below.

I. The Association may, at the discretion of its Board of Directors, allow nonresident use of the Development's amenities. Such use would require payment by the nonresident of a "membership fee" as set by the Board of Directors. A simple majority vote of the Board of Directors is required for establishing the policies associated with nonresident use of the amenities.

Section 8. Entry Into Lots and Common Areas or Building Areas. The Developer and Association shall have, and hereby reserve, the right to locate, relocate, erect, construct, maintain and use, or authorize such, easements and right-of-ways as necessary to fully implement this Declaration. The Developer, Association and its agents or its Directors, may enter upon any Lot or on to the exterior portions of any buildings and onto any of the Common Areas when necessary in connection with any cutting of grass, irrigation of lawns, trees, shrubbery and the like, or any landscaping or gardening, or any painting, cleaning, tuck-pointing, maintenance, decorating, repair or replacement for the Common Areas, or for any building for which the Association is responsible, or which it is authorized to perform under this Article or as otherwise provided herein. Such entry shall be made with as little inconvenience to the Lot owners as reasonably practicable and any damage caused thereby

shall be repaired by the Association, at the expense of the Maintenance Fund established hereinafter. The Association, by its agents or its Directors, shall be specifically authorized to enter onto any Lot or the exterior of any building located upon any Lot for purposes of performing any lawn mowing, irrigation, landscaping, gardening, painting, cleaning, tuck-pointing, maintenance, decorating, repair, replacement or servicing which the Association shall be authorized to perform under the terms of this Declaration, or which the Association's Board of Directors shall elect to perform under the provisions of this Declaration.

Section 9. Owners' Upkeep of Property. The owners of all Lots shall be jointly and severally obligated to each other and to all other Lot owners to perform all lawn mowing, fertilization, irrigation, landscaping work and services of any kind or nature whatsoever which are required to cause their Lot and all lawns, trees, shrubs, landscaping, buildings and other improvements located thereon kept and maintained in as clean safe, neat, attractive and aesthetically pleasing a condition as is reasonably possible. In the event of any dispute over the standards of maintenance, including the standards of cleanliness, safety, neatness, attractiveness, aesthetics and beauty, such dispute shall be resolved either by the Association's Board of Directors acting within its sole, absolute and unmitigated discretion, or by the Developer, if prior to authority by the Board of Directors. Any decisions made by a majority vote of the Board of Directors shall be binding upon all parties.

Section 10. Limitation Upon Power of Association and Board of Directors. The powers of the Association and its Board of Directors as herein set forth shall be limited in that they shall have no authority to acquire and pay for out of the Maintenance Fund any capital additions and improvements (other than for the purpose of replacing or restoring any improvements which have been damaged or which reasonably require replacement for any reason) having a total cost in excess of Five Thousand Dollars (\$5,000), without obtaining approval of a sixty percent (60%) majority of the Class A Members, nor shall the Association or its Board of Directors authorize any structural alterations, capital additions to or capital improvements to the Common Areas requiring an expenditure in excess of Five Thousand Dollars (\$5,000) without, in each case, obtaining the prior approval of a sixty percent (60%) majority of the Class A Members. This Section shall in no way limit, however, the routine maintenance expenditures deemed necessary by the Board of Directors in order to maintain the Development in a first-class manner, or limit the addition to the Development by Developer, at its cost, any additional

common areas or improvements thereto which shall ultimately become the responsibility of the Association to maintain.

Section 11. Rules and Regulations. The Association's Board of Directors may adopt and amend administrative rules and regulations and such reasonable rules and regulations as it may deem advisable for the use, operation, maintenance, conservation and beautification of the Common Areas, and as per the requirements and procedures enunciated in the Bylaws.

Section 12. Active Business. Nothing herein contained shall be construed to give the Association or its Board of Directors authority to conduct an active business for profit on behalf of the Association or the Lot owners.

ARTICLE IV

ARCHITECTURAL CONTROL

The Architectural Control Committee is responsible for overseeing the architectural and structural continuity of the development.

Section 1. Organization of the Architecture Control Committee The Board of Directors of the Association shall assemble an Architecture Control Committee, being composed of two or more representatives appointed by the Board of Directors.

Section 2. Role of the Architecture Control Committee In no event shall the Board of Directors of the Association or its Architectural Control Committee consent to any exterior addition to, change to or alteration of external color or building material, erection or building of any structure, or building or improvement located within a lot or the Common Areas, unless is deemed to be in the very best interests of the Association and the Development and is deemed to be in harmony with the external design, location, size, and appearance of the surrounding structures and topography and is deemed to be of at least the same quality as the then existing structures within the associated Lots. No change shall be made in the exterior appearance of any building or other structures, or portions of structures, within the Development or property until such change has been approved by the Developer, if Class B voting rights are in existence or for so long thereafter as the Developer owns any Lots or other real estate within the Development. Thereafter, the Board of Directors of the Association, or its Architectural Control Committee, shall approve any change in the type or nature of exterior appearance. It is

the intention of this Declaration that that the Board of Directors of the Association, or its Architectural Control Committee, shall have architectural control over the entire Development following the termination of the Class B voting rights and following the termination of the ownership by the Developer of all real estate within the Development, and that the discretion of such committee shall be unlimited, so long as it exercises good faith. So long as the Developer retains architectural control, as provided by this Declaration, the Developer shall approve plans and specifications, only if it, in its sole and unlimited discretion deems same to be in the best interests of the Development. The Developer shall have absolute discretion in determining whether to approve plans and specifications.

Section 3. Architectural Control by Class B Members So long as Class B voting rights are in existence and for so long thereafter (if any time) as the Developer shall own any Lots within the Development or within the boundaries of any real estate made subject to this Development, no building, basketball goal, fence, wall or other structure shall be commenced, erected or maintained within the Lots, the Common Areas or at any other location within the Development other than those placed thereon by the Developer or its assignees of its rights as Developer, or those constructed under the plans, drawings and specifications which have been previously and expressly approved by the Developer. So long as Class B voting rights exist and for so long thereafter (if any time) as the Developer shall own any Lots within the Plat or within the boundaries of any real estate made subject to this Development, no exterior change in materials shall be made on any completed structure, building, fence, basketball goal, wall or improvement located within a Lot, within the Common Areas or at any location within the Development other than those previously approved by the Developer and no building, fence, wall or other structure shall be commenced, erected or maintained within a Lot until the plans and specifications showing the nature, kind, shape, color, height, materials and location of same have been submitted to and expressly approved by the Developer.

Section 4. Architectural Control by Class A Members After Class B voting rights have ceased to exist and the Developer no longer owns any Lots or real estate within the Development, no exterior addition to, change to or alteration of any structure, building or improvement located within a Lot or within the Common Areas shall be made, and no alteration or exterior change in color or exterior building materials shall be permitted on any building, fence, wall or improvements located within the Lots or within the Common Areas,

and no change in the exterior appearance of any such building, fence, wall or improvement shall be made, and no building, fence, basketball goal, wall or other structure, temporary or permanent, shall be commenced, erected or maintained within a Lot or within the Common Areas until the plans and specifications for such addition, alteration, change, change in color, change in materials, or such building, fence, wall or other structure, showing in detail the nature, kind, shape, color, height, materials and location of the same, have been submitted to and approved in writing as to harmony of external design, external color, external building materials, appearance, size, intended use and location in relation to surrounding structures and topography by the Architectural Control Committee. If the Architecture Control Committee fails to approve or disapprove a proposed design and plan within thirty (30) days after said plans and specifications have been submitted to it, approval per this Article will be deemed not satisfied. The absence of an approval for the plans and specifications results in their disapproval.

Section 5. Duty to Approve Approval of plans and specifications is at the sole discretion of the Architectural Control Committee or Developer, depending on phase of development. Plans and specifications approved for one specific lot does not bind the Architectural Control Committee or Developer to approve the same or similar plans and specifications for any other lot.

Section 6. Minimum Requirements. Whether or not architectural control rests with the Developer, if Class B voting rights exist, so long as this Declaration is in full force and effect, the following minimum building standards and architectural controls shall apply, unless expressly waived by Developer, in writing, for good cause shown relating to topography of individual lots, substrate or soil conditions, or configuration of the lots giving justification for such waiver:

A. No building shall be erected or maintained on any lot the main front line of which shall be nearer than twenty-five (25) feet to the front property line of said lot, nor nearer than eight (8) feet to either side line.

B. All buildings constructed within the Development shall be either concrete, brick, stone, or stucco, or a combination thereof. No vinyl or steel siding shall be used in the building or sides without express permission and prior written approval of the Developer. Color lock and lap siding is acceptable.

C. All buildings shall have continuous standard foundations and basement walls of poured concrete.

D. Plans for all fountains, retaining walls, walkways, patios, and other accessory improvements shall be submitted to the Developer for prior approval to ensure compatibility with adjoining properties.

E. All building plans must be submitted for approval to the Developer prior to beginning construction. The plans must include a plot plan showing the exact location of the proposed building, its orientation, and distances to the boundary lines from each side of the building. Lot perimeter fences of any kind are not allowed unless first approved by the Developer or Architectural Control Committee, which ever is in force.

F. All lots must be mowed, trimmed, and maintained by individual owners regardless of whether or not has been constructed thereon.

G. All buildings must meet minimum size standards:

- For ranch style with 2-car garage, 1800 square feet living space on main level;
- For ranch style with 3-car, 1700 square feet living space on main level;
- For multilevel homes, 2000 square feet for main and upper floors.

Section 7. Enforcement Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board of Directors, the lot owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration, or other work. Should the lot owner fail to remove and restore as required hereunder, the Board of Directors or its designees, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. All costs and interest may be assessed against the affected lot and collected as a Special Assessment.

ARTICLE V

ANNEXATION OF ADDITIONAL PARCELS TO SUBDIVISION

The Developer may bring additional parcels of real estate under the jurisdiction of the Association and may make same a part of the Development, provided, however, that the following terms and conditions are satisfied:

A. Any such additional parcel made subject to the jurisdiction of the Association shall be immediately adjacent to or located in the general vicinity of the real estate described aforesaid.

B. Any additional parcel brought under the jurisdiction of the Association shall be so brought under the jurisdiction of the Association either by recorded Supplementary Declaration or by a recital on the Plat of the parcel, which shall provide that the parcel is made subject to this Declaration. The parcel shall, by such Supplementary Declaration or by such a recital on the Plat, be deemed to have been made subject to the assessments by the Association, to this Declaration and to all covenants, conditions, restrictions, liens, charges and assessments provided by the Declaration and all terms, provisions and conditions contained the Declaration, including any future modifications thereof. The owners of all Lots contained within such additional parcels shall be Class A Members of the Association, if they meet the terms and conditions herein above set forth for such Class A membership, and shall be entitled to those rights and privileges in the Common Areas provided for by this Declaration. All such Lot owners shall, as members of the Association, be subject to assessments the same as earlier members of the Association. All portions of any parcels annexed to the Development shall be subject to the terms, covenants, conditions, reservations, easements, restrictions, assessments, liens and charges established by this Declaration and to all duties established by this Declaration.

C. Lot owners obtaining or now possessing any ownership interest in any Lot shall be deemed to have automatically consented to annexation to the Development by the Developer of any additional real estate which is immediately adjacent to such real estate or is located in the general vicinity of such real estate. The Developer shall, in its discretion, have the right, but not the obligation, to cause any additional real estate to be annexed to the Development.

The rights of the Developer to annex additional parcels of real estate shall vest exclusively in the Developer, and neither the Association nor assignees of Developer shall have such authority.

ARTICLE VI

ASSESSMENTS FOR MAINTENANCE FUND AND OTHER EXPENDITURES

Section 1. Purpose of Assessment. The annual and special assessments established and collected under the terms of this Article shall constitute a fund to be known as the "Maintenance Fund" and for other expenses deemed necessary in this Declaration or by the Board of Directors. The assessments levied by the Association shall be used exclusively by the Association to discharge its duties and obligations as provided for by the Declaration and for the purposes of promoting the health, safety, recreation or welfare of the Lot owners of the Development and, in particular, for the improvement and maintenance of the property and the services and facilities devoted to this purpose, and for the improvement and maintenance of the Common Areas and the equipment and facilities related to the use and enjoyment of the Common Areas and where applicable under the following provisions of this Declaration, for the improvement and maintenance of the buildings, structures, and other improvements situated upon the Lots, as required by the provisions of this Declaration, including, but not limited to, the payment of taxes levied upon and insurance premiums incurred for the Common Areas and for all maintenance, repairs, services and other items to be performed or provided by the Association under the provisions of this Declaration.

Section 2. Amount and Setting of Annual Assessments to be Paid to Association. From and after the conveyance of the first Lot to an owner other than the Developer or another Class B Member, whichever shall first occur, and until January 1 of the year immediately following such conveyance, the annual assessment upon each Lot, which shall be paid to the Association, shall be payable as hereinafter provided. All Class A Members shall be assessed annually a three hundred dollar (\$300) annual assessment fee for any period of lot ownership in 1999, 2000, and 2001. Starting with the calendar year 2002, the Board of Directors of the Association shall estimate the total amount necessary to pay the costs of wage, materials,

insurance, services, supplies, and all other reasonable expenses which will be required during the ensuing calendar year for the rendering of all services required of the Association by this Declaration, together with a reasonable amount considered by the Board of Directors to be necessary to contribute to the maintenance of the Common Areas and for a reserve for contingencies and replacement or for maintenance of a periodic, but not annual, nature (such as painting) and shall, on or before December 1st, notify each Lot owner in writing as to the amount of such estimate with reasonable itemization thereof, which shall thereafter be considered as the minimum annual assessment. This annual assessment may be increased or decreased above or below the assessment for the preceding year by the Association's Board of Directors effective January 1st of each year, without a vote of the membership, if required to meet the established cash requirements described in subpart A of this Section, provided, however, if such increase increases the sum of the annual assessment by more than twenty percent (20%) over the prior year, the Board shall call a meeting of the Class A Members to discuss same before setting the new assessment. Such meeting shall provide advisory input by the Class A Members to the Board regarding the assessment and the Board shall itemize the needs of the Association and expected revenues by presentation. However, final authority to set the assessment shall rest with the Board of Directors of the Association by simple majority vote.

Section 3. Membership Fee. In a calendar year that a Lot is conveyed to the Owner by the Developer, there shall be an initial assessment in the amount of two hundred fifty dollars (\$250) payable to the Developer or HOA.

Section 4. Uniform Rate of Assessment. In all cases, the rates of assessments provided for in this Article must be uniformly applied to all Lots, except that no Lot owner shall be required to pay that portion of an assessment for maintenance of Common Area levied by another homeowners association for maintenance of the same Common Area upon proof to this Association that such levy has been already paid for the current period by the Lot owner. Each individual numbered lot of each plat will be assessed a uniform rate of one assessment per lot. In the event a lot owner owns more than one lot, that lot owner will be assessed the equivalent number of assessments corresponding one to each lot.

Section 5. Special Assessments

- A. Repair, Replacement or Maintenance to be Done by Lot Owners.

The Lot owners are required to provide for all maintenance, repairs, replacements, servicing and upkeep required to maintain their respective Lots and all buildings and improvements located thereon in such condition as fully complies with and satisfies the standards of maintenance set forth in this Declaration. In the event a Lot owner does not cause to be performed the maintenance, repairs, replacements, servicing and upkeep which he is required to perform under the provisions of this Section or under any of the other provisions of this Declaration, then the Association's Board of Directors, in its discretion may (but shall not be required to do so), cause the item of repair, maintenance, replacement, servicing or upkeep to be performed at the expense of the Lot owner required to perform same. The cost of such performance of such item of repair, maintenance, replacement, servicing or upkeep shall automatically become a special Lot assessment against the Lot owner required to perform same, and his respective Lot, and shall constitute a lien upon such Lot and the real estate and improvements thereof. Such special assessments shall bear interest at that rate hereinafter provided for in this Declaration and shall be enforceable against the Lot owners in that manner hereinafter provided for in this Article, and shall be a lien against the Lot just as are all other assessments provided for by this Declaration.

B. Special Assessments for Replacements or Non-periodic Maintenance.

In the event the need for nonperiodic maintenance, repair or replacement for any improvements located within or constituting the Common Areas should occur, or in the event any unexpected replacement or maintenance shall be required with respect to any such replacements, and in the event the annual assessment for the Lots shall be insufficient to cover the cost of such repair or replacement or shall not have established a sufficient reserve for such repair or replacement (a requirement that such reserve be established, although advisable, shall not be implied herefrom), then the entire sum of the cost of such repair, replacement or nonperiodic maintenance or repair shall be apportioned equally among all of the Lots (whether owned by Class A or Class B Members), and that portion of such cost apportioned to each such Lot shall constitute a special assessment against each such Lot. Such special assessment shall be used to pay the cost of such repair, replacement or nonperiodic maintenance or repair and shall be due and owing from each Lot owner in time to permit timely payment of the cost of such replacement, maintenance or repair. Special assessments provided for in this Section shall

constitute liens on the Lots and shall be enforceable in that manner hereinafter provided for in this Declaration for enforcement of all such assessments.

C. In addition to the annual assessments to the Association as authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction or unexpected repair, maintenance or replacement of any capital improvement located within any Common Area or; provided that any such assessment shall have the assent of a majority of the votes of the Board of Directors who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than forty (40) days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Collection of Assessments. Both annual and special assessments shall be due and payable at such times and in such installments as the Association's Board of Directors shall determine and may be collected on an annual, semi-annual, quarterly or monthly basis.

A. **Date of Commencement of Annual-Assessments.**

All of the annual and special assessments and other assessments herein above provided for in this Article shall apply to each Lot on the date when Class A membership is affixed to the lot. The annual assessments provided for herein shall commence on the first day following the sale to any owner other than the Developer. The above provisions of this Section to the contrary notwithstanding, however, a Lot shall become subject to assessments automatically, should the Class B voting rights attributable to such Lot terminate under any one of the provisions of this Declaration. In the event of such termination, the Lot shall become automatically subject to assessment effective on the date of such termination of the Class B voting rights attributable to such Lot. The first annual assessment described under this Article shall be apportioned on a pro-rata basis (i.e., adjusted according to the number of months remaining in the calendar year.). The Association's Board of Directors shall fix the amount of the annual assessment against each Lot at least fifteen (15) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Lot owner subject thereto. The due date shall be established by the Association's Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the said annual assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such

certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

B. Nonpayment of Assessment--Remedies of the Association.

Any assessments herein above described in this Article which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the then current prime rate plus four percent (4%), such prime rate as being charged by Columbia, Missouri banks to standard risk, individual borrowers, but in no event, less than five percent (5%). Furthermore, the Association may bring an action at law or in equity against the owner obligated to pay the same, or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot or Lots.

C. Creation of a Lien and Obligation for Assessments.

The Developer, for each Lot owned within the subdivision, hereby covenants, and each of the subsequent owners, by acceptance of a Deed therefor, whether or not it shall be so expressed in any Deed of other conveyance, is deemed to covenant and agree to pay to the Association or the duly authorized officers, representatives or agents of the Association: (1) Annual Assessments to be paid to the Association, as hereinafter provided; (2) Special Assessments for capital improvements hereinafter provided for; (3) Special Assessments for replacements and nonperiodic maintenance of Common Areas hereinafter provided for; and (4) any other sums or assessments provided for in this Declaration, such sums and assessments to be fixed, established and collected from time to time as hereinafter provided. All such annual and special assessments and other sums and assessments, together with interest thereon and costs of collection thereof, as may be hereinafter provided for, shall be a charge on the land and improvements and shall be a continuing lien upon the land and improvements against which each such assessment or charge is made. Each such assessment or charge shall also be the joint and several personal obligation of the person or persons who were the owners of such Lot, land, property or improvement at the time when the assessment fell due. The personal obligation only shall not pass to such owner's successor in title unless expressly assumed by them.

D. **Mortgages.** The lien of assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon any property subject to assessment; provided, however, that in the event of default in the payment of any obligation secured by such mortgage or deed of trust, such subordination shall apply only to the assessments or installments thereof which shall become due and payable prior to the sale of such property pursuant to power of sale under such deed of trust, or prior to a conveyance to the mortgaged or holder of the deed of trust in lieu of foreclosure. Such sale or conveyance in lieu of foreclosure shall not relieve such property from liability for any assessments or installments thereof thereafter becoming due or from the lien of any such subsequent assessments or installments thereof thereafter becoming due.

Section 7. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) All lots dedicated to and accepted by a local public authority; (b) except to the extent specifically provided to the contrary herein, all Lots to which Class B (voting and nonvoting) memberships are attached until such Class B memberships have terminated; and (c) the Common Areas

Section 8. Retroactive Effect of Assessments. If a change in the annual assessment provided for by this Article requires approval of the Board of Directors and such approval is not obtained until after the first day of the calendar year within such assessment is to be charged, such new assessment shall be retroactive from the date of approval to the first day of the calendar year and shall apply for the entire calendar year. If installments upon the assessment have been previously paid prior to such approval, then the sum of any deficiency in such installments shall be due on the due date of that installment which next follows approval of the assessment or, if there is no such installment, shall be immediately due following such approval.

Section 9. Failure to Set Assessments. In the event an annual assessment provided for by this Article is not set for any year, then the assessment in effect for the preceding year shall be in full force and effect for such year.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Developer, so long as Class B voting rights exist, and the Association at any time, or any owner, shall have the right to enforce by any proceeding at law or in equity, any covenants, restrictions, liens, charges or assessments now or hereafter imposed by the provisions of this Declaration. Failure by the Developer, the Association or any owner to enforce any covenants or restrictions herein contained shall, in no event, be deemed to constitute a waiver of the right to do so thereafter. In the event the Developer or the Association seeks to enforce these restrictions by legal proceedings and the Developer or Association prevails in such legal proceedings, then the Developer or Association shall, in addition to other rights and remedies to which it or they may be entitled, shall further recover their reasonable costs, expenses and attorneys' fees incurred in such proceedings.

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

Section 3. Amendment. The covenants, conditions, restrictions, easements, charges and liens of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Developer, the Association or by the owner of any Lots subject to this Declaration and their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time, they shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by not less than seventy-five percent (75%-) of the Class A Members has been recorded, which instrument provides for amending or terminating this Declaration in whole or in part. During the first twenty (20) year period of this Declaration, beginning with the date of recording of this Declaration, it may be amended in whole or in part only by an instrument signed by seventy-five percent (75%) of the Class A Members and seventy-five percent (75%) of the Class B Members. All amendments to this Declaration shall be recorded in Boone County, Missouri.

Section 4. Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed,

postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

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

Section 6. Titles and Captions. The titles or captions of the various provisions of this Declaration are not part of the covenant hereof, but are merely labels to assist in locating paragraphs and provisions herein.

Section 7. Developer's Responsibilities. Until such time as the Thornbrook HOA is duly incorporated and its Board of Directors duly elected, all powers vested in said Association shall be retained by Developer whose authority and responsibilities shall be the same as those of said Board, including indemnification from the HOA for any liabilities encountered by Developer, as would apply to the HOA or a Director of the HOA. Actions by the Developer in this authority may not be subsequently overruled, changed or amended, except as provided herein and any waiver of any requirement herein by Developer shall be final notwithstanding the existence of any Board of Directors later organized or existing.

Section 8. Extension of Liability. Lot Owners are responsible for reimbursing the HOA for any and all property damage and/or destruction to Common Areas and other common property which is willfully, intentionally, or negligently caused by any Lot Owner, their children, pets, guests, agents, and/or assigns.

Boone County, Missouri
Unofficial Document

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IN WITNESS WHEREOF, THORNBROOK DEVELOPMENT, INC, a Missouri Corporation, with principal offices located in Boone County, Missouri, has caused this instrument to be signed by its President, attested to by its Secretary, and have its corporate seal affixed hereto the day and year first above written.



THORNBROOK DEVELOPMENT,

A Missouri Corporation

By:

Elvin Sapp

Elvin Sapp, President

Attest:

Marvin Sapp

Marvin Sapp, Secretary

State of MISSOURI }
County of BOONE } ss.

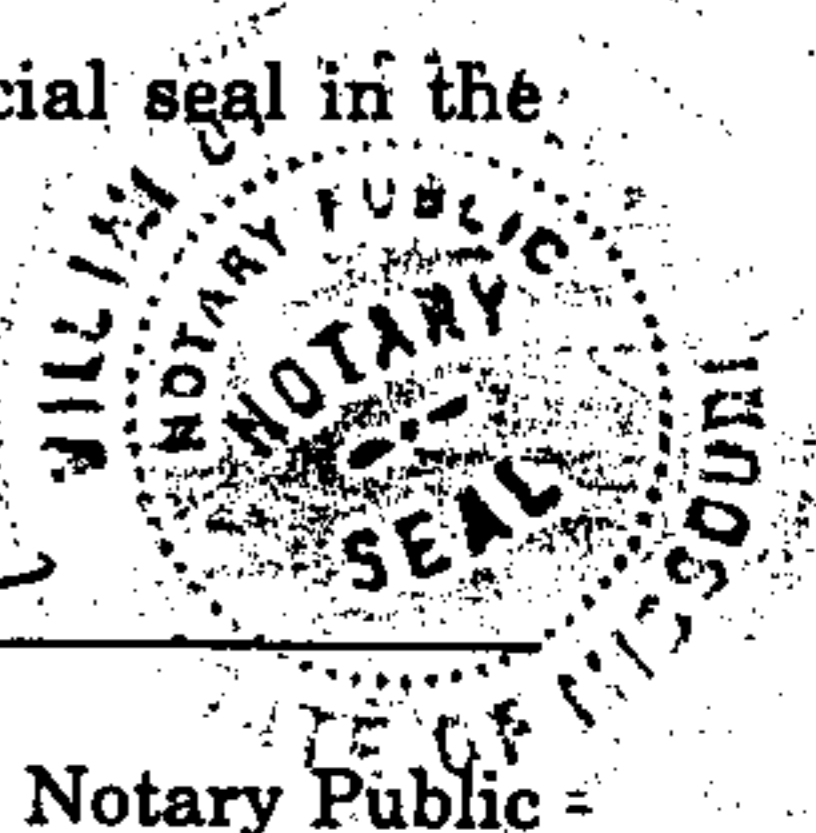
On this 5th day of OCTOBER, 1998 before me personally appeared ELVIN E. SAPP AND MARVIN SAPP, Pres & Sec. to me known to be the person or persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

My term expires:

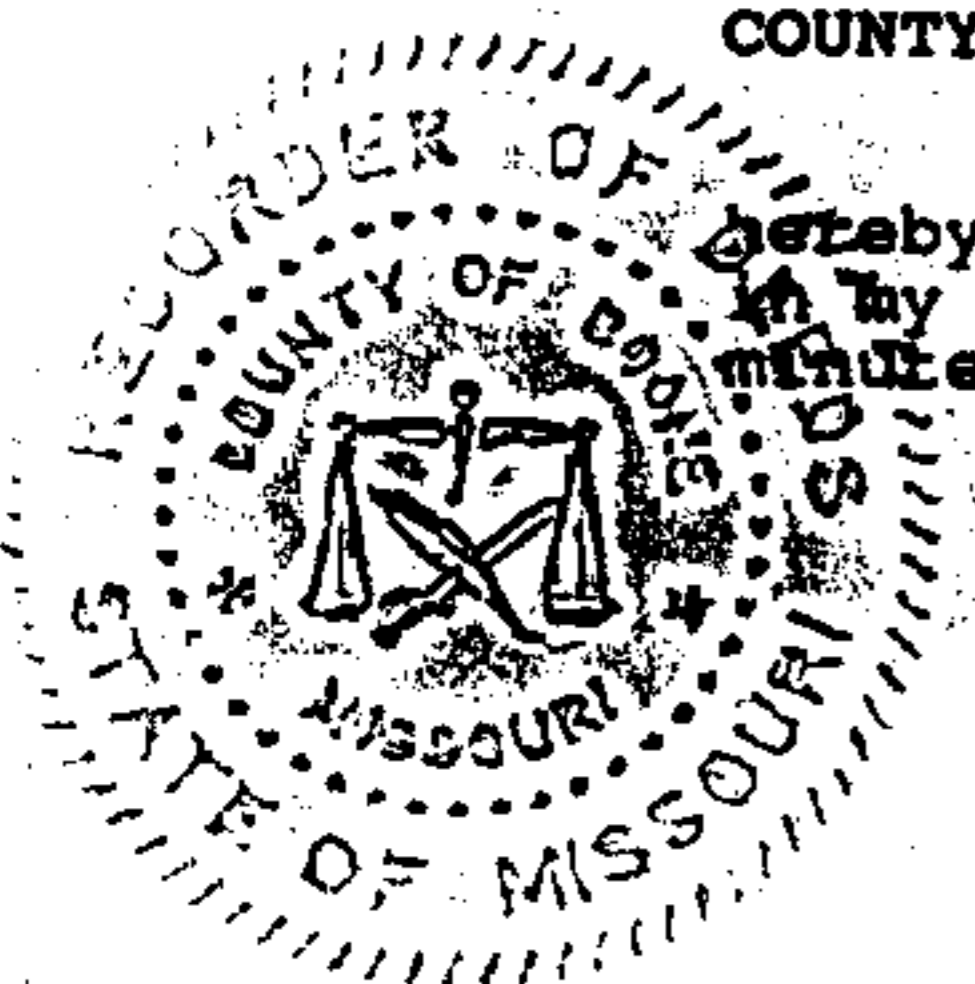
4-3-99

William D McGowan
WILLIAM D. MCGOWAN Notary Public
(Printed name)



STATE OF MISSOURI)
COUNTY OF BOONE) ss.

Document No. 26802



I, the undersigned Recorder of Deeds for said county and state do hereby certify that the foregoing instrument of writing was filed for record in my office on the 5th day of October, 1998 at 12 o'clock and 37:37 minutes PM and is truly recorded in Book 1458 Page 849.

Witness my hand and official seal on the day and year aforesaid.

BETTIE JOHNSON, RECORDER OF DEEDS
by Karen Johnson deputy
Karen Johnson