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*(Space above reserved for Recorder of Deeds certification)*

**Title of Document:** The Vineyards Declaration of Covenants, Conditions and Restrictions for Napa Valley – Declaration of Annexation For Additional Phase (3<sup>rd</sup> Plat)

**Date of Document:** November \_\_\_\_\_, 2016

**Grantor(s):** Choyce, LLC  
MAR Investments, Inc.

**Grantee(s):** Choyce, LLC

**Grantee(s) Mailing Address(es):** P.O. Box 847  
Lee's Summit, MO 64063

**Legal Description:** Lots 16 through 146, NAPA VALLEY 3<sup>rd</sup> Plat, Lots 116 thru 146, a subdivision in City of Lee's Summit, Jackson County, Missouri.

**Reference Book and Page(s):** 2005I0061937

**After recording return to:**

**Douthit Frets Rouse Gentile & Rhodes, LLC**  
**Attn: Stanley N. Woodworth, Esq.**  
**5250 West 116<sup>th</sup> Place, Suite 400**  
**Leawood, KS 66211**

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*(If there is not sufficient space on this page for the information required, state the page reference where it is contained within the document.)*

**THE VINEYARDS**  
**DECLARATION OF COVENANTS, CONDITIONS**  
**AND RESTRICTIONS FOR NAPA VALLEY -**  
**DECLARATION OF ANNEXATION FOR ADDITIONAL PHASE**  
**(3<sup>rd</sup> Plat)**

THIS DECLARATION is made as of the \_\_\_\_ day of November, 2016, by CHOYCE, LLC, a Missouri limited liability company (the “**Developer**”) and MAR INVESTMENTS, INC., a Missouri corporation (“**MAR**”).

WITNESSETH:

WHEREAS, the Developer and MAR have executed and filed with the Office of the Recorder of Deeds of Jackson County, Missouri (the “**Recording Office**”), an additional plat of the area known as “Napa Valley”; and

WHEREAS, such plat adds the following real properties to the portion of the area commonly referred to as The Vineyards (the “**Annexation Property**”):

Lots 116 through 146, NAPA VALLEY 3<sup>rd</sup> Plat, Lots 116 thru 146,  
a subdivision in City of Lee’s Summit, Jackson County, Missouri.

WHEREAS, the Developer and MAR, as the owners of the Annexation Property, and Developer, as the current holder of the “Developer” rights, desire to subject the Annexation Property to the covenants, restrictions, easements, assessments and other provisions contained in that certain Sonoma Point Declaration of Covenants, Conditions and Restrictions for Napa Valley, executed by the Developer’s predecessor in interest and filed with the Recording Office as Instrument No. 2005I0061937 (the “**Original Declaration**”);

NOW, THEREFORE, in consideration of the premises, the Developer and MAR, for themselves and for their successors and assigns, and for their future grantees, hereby agree and declare that all of the Annexation Property shall be, and hereby is, subject to the covenants, restrictions, easements, assessments, and other provisions set forth in the Original Declaration, except as expressly provided below. As contemplated in Article II of the Original Declaration, this instrument shall have the effect of subjecting the Annexation Property to all of the provisions of the Original Declaration as though the Annexation Property had been originally described therein and subject to the provisions thereof, except as expressly provided below.

- A. Notwithstanding the provisions of Section D of Article VIII of the Original Declaration, subject to the imposition of alternate square footage requirements as may be established on selected Lots due to location and orientation, the minimum square footage enclosed floor areas for the Lots within the Annexation Property shall be as follows:

**NAPA VALLEY, 3<sup>rd</sup> PLAT**

**LOTS 116-146**

Single Level Above Ground (ranch)  
Reverse One and One-Half Story

1,600 sq. ft.  
1,600 sq. ft. on main floor with  
minimum total of 2,300 sq. ft.

One and One-Half Story  
Two Story

finished  
2,500 sq. ft.  
2,500 sq. ft.

- B. The only type of fence that will be allowed on Lots in the Annexation Property will be black wrought iron (or metal) fences not to exceed four (4) feet in height. All fencing must be pre-approved by the ARC before installation. No chain link or wood fences shall be permitted on any Lot.

IN WITNESS WHEREOF, the Developer and MAR have caused this Declaration to be duly executed the day and year first above written.

CHOYCE, LLC

By: \_\_\_\_\_  
Kevin Higdon, Manager

MAR INVESTMENTS, INC.

By: \_\_\_\_\_  
Elizabeth Martin, President

STATE OF MISSOURI       )  
  ) ss.  
COUNTY OF JACKSON    )

On this \_\_\_\_\_ day of November, 2016, before me, a Notary Public, appeared **Kevin Higdon** to me personally known, who, being by me duly sworn did say that he is Manager of CHOYCE, LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company by authorization of its Manager and members, and said **Kevin Higdon** acknowledged said instrument to be the free act and deed of said limited liability company.

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

My Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name:\_\_\_\_\_

STATE OF \_\_\_\_\_)  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me personally appeared **Elizabeth Martin**, to me personally known, who, being by me duly sworn, did say that she is the President of MAR INVESTMENTS, INC., a Missouri corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said **Elizabeth Martin** acknowledged said instrument to be the free act and deed of said corporation.

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 Commission Expires:

\_\_\_\_\_  
[SEAL]

\_\_\_\_\_  
Notary Public in and for said County and State

Print Name:\_\_\_\_\_

RECORDER'S CERTIFICATION  
JACKSON COUNTY, MISSOURI  
07/20/2005 03:57:33 PM

INSTRUMENT TYPE: REST FEE: \$168.00 50 Pages



INSTRUMENT NUMBER/BOOK & PAGE:

200510061937

ROBERT T. KELLY, DIRECTOR OF RECORDS

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Title of Document: **Restrictions** ⑤  
Date of Document: July 13, 2005  
Grantor(s) **Napa Valley Investments, LLC**  
Grantee(s): **Napa Valley Investments, LLC**  
Grantee(s) Address: **PO Box 375**  
**Greenwood, MO 64034**

Legal Description: *Exhibit A*

Reference Book and Pages (s)

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(If there is not sufficient space on this page for the information required, state the page reference where it is contained within the document.)

**THE VINEYARDS  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR NAPA VALLEY**

**THIS DECLARATION** is made this 13th day of July, 2005, by Napa Valley Investments, LLC, a Missouri limited liability company, (hereinafter "Developer").

**RECITALS:**

**WHEREAS**, Developer is the owner of certain property in the City of Lee's Summit, Jackson County, Missouri, which is legally described on Exhibit "A" attached; and,

**WHEREAS**, Developer desires to provide for preservation and enhancement of the property values and to provide a structure for establishing and maintaining such a community, Napa Valley Investments, LLC has developed these Covenants, Conditions and Restrictions for Napa Valley, Phase I, a part of the Napa Valley Community.

**NOW THEREFORE**, Developer hereby declares that the land described in Exhibit "A" which shall be held, sold, used and conveyed subject to the following covenants, restrictions, easements, charges and liens, which shall run with the land and with the title to such land and shall be binding on all persons having or acquiring any right, title or interest therein or any part thereof, subject to the limitations herein provided, and shall inure to the benefit of each Owner, his or its heirs, grantees, distributees, personal representatives, successors and assigns, the Association and the Developer.

**ARTICLE I  
Definitions**

The following terms, when used in this Declaration or any supplemental Declaration made effective against the Property according to law, and when the first letters thereof are capitalized, shall have the following meanings (except as otherwise expressly provided or unless the context otherwise requires):

**1.01 Annexation Property.** "Annexation Property" shall mean and refer to such real property owned or acquired by the Developer and not yet subject to this Declaration which is integrated by the Developer into the Development Plan, and made subject to the scheme of this Declaration.

**1.02 ARC.** "ARC" shall mean and refer to the Architectural Review Committee which shall have the duties and functions specified herein.

**1.03 Assessable Property.** "Assessable Property" shall mean and refer to the Property, together with all permanent structural improvements thereon, except such part or parts thereof as may from time to time constitute "Nonassessable Property."

**1.04 Assessments.** The term "Assessments" shall have the meaning specified herein and shall include Annual Assessments and Special Assessments as such terms are herein defined.

**1.05 Association.** "Association" shall mean and refer to the Napa Valley Property Association, Inc., a Missouri not-for-profit corporation, or any successor thereof, charged with the duties and obligations set forth herein. "Area Association" shall have the meaning set forth in Section 3.07 hereof.

**1.06 Association Board.** "Association Board" shall mean and refer to the Board of Directors of the Association.

**1.07 Common Property.** "Common Property" shall mean and refer to the improved or unimproved real property, together with the Structures and personal property located thereon in which the Association or the Developer owns an interest as designatee for the common use and enjoyment of the Owners, as such areas may be depicted on any recorded subdivision plat of the Property, or portion thereof, as "Common Property" or by similar designation and as shown on the attached Exhibit "B".

**1.08 Completed Unit.** "Completed Unit" shall mean and refer to a Living Unit upon which construction is completed and which has been or is, in fact, occupied.

**1.09 Declaration.** "Declaration" shall mean and refer to this Declaration as the same may from time to time be supplemented or amended in the manner prescribed herein.

**1.10 Developer.** "Developer" shall mean and refer to Napa Valley Investments, LLC, a Missouri limited liability company, and its successors and assigns.

**1.11 Development Guidelines.** "Development Guidelines" shall mean and refer to the rules, regulations and policy statements adopted, promulgated, revised and amended by the Developer and enforced by the ARC pursuant to this Declaration.

**1.12 Development Period.** "Development Period" shall mean and refer to the period of time commencing upon the execution date hereof, and terminating upon the occurrence of the earlier of: (a) the date Developer ends the Development Period, or (b) the date Developer sells seventy-five percent (75%) of all of the Lots in all of the parcels of land located or to be located within the Development Plan.

**1.13 Development Plan.** "Development Plan" shall mean and refer to Developer's plans for the development of the Napa Valley subdivision, and may be amended or expanded to include each and every plat and amendments thereto which may be filed with respect to any portion of the land within the Development Plan.

**1.14 Director.** "Director" shall mean and refer to a member of the Association Board.

**1.15 Easement Area.** "Easement Area" shall mean that real property or portion of real property described within an easement on the Plat, plats or maps filed in accordance with the Development Plan.

**1.16 Living Unit.** "Living Unit" shall mean and refer to any Structure or portion of a Structure situated upon any Lot designed and intended for use and occupancy as a residence by a single person, a family or a "family-sized" group of persons.

**1.17 Lot.** "Lot" shall mean and refer to any plot or parcel of land shown on the Plat or plats or subdivision map of any part of the Property or any other lot or parcel of land constituting part of the Property.

**1.18 Member.** "Member" shall mean and refer to every person or entity holding membership in the Association, as set forth herein.

**1.19 Owner.** "Owner" shall mean and refer to any person or entity holding record title to the fee interest of any Lot or Living Unit. "Owner" shall include a contract for deed seller, but shall exclude a person having an interest merely as security for the performance of an obligation.

**1.20 Plat.** "Plat" shall mean and refer to plats of Napa Valley subdivision filed on the 13<sup>th</sup> day of June, 2005 in the Office of Recorder of Deeds for Jackson County, Missouri, together with all other plats recorded in respect of the Property.



**1.21 Property.** "Property" shall mean and refer to that certain real property described more particularly in Exhibit "A" attached hereto and made a part hereof, together with such Annexation Property as the Developer may at its option, but without obligation, make subject to this Declaration.

**1.22 Restriction.** "Restriction" shall mean and refer to any covenant, restriction, easement, charge, assessment, lien or other obligation created or imposed by this Declaration.

**1.23 Structure.** "Structure" shall mean and refer to:

(a) any thing or object, trees and landscaping, the placement, size, shape, color, height, and quality of which upon any Lot may affect, in the opinion of the ARC, the appearance of such Lot, including any way of illustration and not limitation, any building or part thereof, garage, porch, greenhouse or bathhouse, covered or uncovered patio, swimming pool, fence curbing, paving, wall, fence, hedge, sign, appurtenance, or any temporary or permanent improvement to such Lot; and,

(b) any excavation, fill, ditch, diversion dam, retention basin, or other thing or device which affects or alters the natural flow of waters from, through, under or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; and,

(c) any change in the grade of any Lot of more than six (6) inches.

## **ARTICLE II Annexation**

### **2.01 Right of Annexation.**

(a) During the Development Period, the Developer reserves the right, but without any obligation, to annex all or any portion of the Annexation Property.

(i) The Property and such Annexation Property as may be annexed thereto pursuant to Section 2.02 shall be subject to the Declaration.

(ii) The Developer may annex all or any portion of the Annexation Property without the consent of any Owner or of the Association where any Annexation Property is not included in the Development Plan at the time of the annexation.

(iii) Subject to the provisions of Section 2.01(ii) and the scheme of the Development Plan, nothing contained in this Declaration or in any recorded or unrecorded map, plat, picture, drawing, brochure or other representation of a successor or assignee thereof, to subject to this Declaration any land, now or hereafter owned by the Developer, other than the Property.

(iv) Title to any Common Property located within such Annexation Property may be conveyed by the Developer to the Association without its consent or the consent of the Members, and shall be held, improved and administered in the same manner and for the same purposes as the Property.

(v) The only manner in which any additional land can be subjected to this Declaration shall be by and in accordance with the procedure set forth herein.

**2.02 Annexation Declaration.** Annexation Property shall be subjected to the terms of this Declaration by recording a Declaration of Annexation in the appropriate Recorder of Deeds Office and which Declaration of Annexation:

(a) shall describe the property to be annexed (the "Annexation Property");

(b) shall declare that the Annexation Property is annexed pursuant to the provisions hereof for the purpose of annexing the Annexation Property to the general scheme of this Declaration and the Development Plan;

(c) may provide for such complimentary additions and modifications to this Declaration as may be necessary to reflect

the different character, if any, of the Annexation Property and as are not inconsistent with the Development Plan; and,

(d) may provide a mechanism for creating Area Associations therefor, if appropriate.

**2.03 Annexation after Development Period.** After the Development Period, the Association may annex additional land to the Property by recording a Declaration of Annexation. Any such annexation shall require the approval of two-thirds (2/3) of the Members voting in person or by proxy at an Association meeting at which a quorum is present or voting in a referendum on such issue after proper notice is given.

### **ARTICLE III**

#### **Property Rights and Duties of Members and Association**

**Section 1. Powers and Duties of the Association.** The Association is organized to operate for the promotion of the common good and general welfare of the Members and Owners and consistent therewith, to acquire, own, improve, maintain, preserve, convey and control the Common Property, to administer and to enforce all covenants, restrictions, easements and charges contained in the Declaration and all liens created herein, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers (but not intended as affirmative obligations unless so stated) of the Association, including by way of illustration and not obligation, unless so stated, or limitation:

**(a) Assessments.** The Association may levy Assessments on the Owners and enforcement of such Assessments, all in accordance with the provisions of the Declaration set forth in Article IV.

**(b) Right of Enforcement.** The Association shall also have the power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory or prohibitive injunction or otherwise, all of the provisions hereof or to pursue its Right of Action as provided herein.

**(c) Common Property.** The Association may plan, design, acquire, improve, construct on, lease and equip the Common Property with, by way of example and not limitation or affirmative obligation, parks and other open space landscaping, playgrounds, pools and other recreational facilities (collectively, the "Common Property Improvements" which may be referred to herein with the Common Property as the Common Property). The Association may also enter into contracts, leases or rental agreements for the purpose of providing such recreational facilities as deemed necessary or desirable by the Association Board and shall maintain, repair and replace the Common Property Improvements and provide adequate comprehensive insurance for the Common Property and Common Property Improvements, all as shall be determined to be necessary by the Association Board.

**(d) Easements and Rights-of-Way.** The Association may grant and convey easements and rights-of-way in, on, over or under the Common Property and the Property for the purposes of constructing, erecting, operating or maintaining thereon, therein or thereunder any similar public or quasi-public improvements or facilities as may be considered necessary for the common good of said community.

**(e) Employment of Agents.** The Association may employ the services of any person or corporation as manager (herein "Manager"), together with other employees, to, as may be directed and delegated by the Association Board, manage, conduct and perform the business obligations and duties of the Association and may enter into contracts for such purpose.

**(f) Insurance.** The Association shall obtain and keep in force such policies of insurance and surety bonds, as are necessary to adequately insure and protect the operations thereon and of the Association and as deemed by the Association Board to be necessary and appropriate.

**(g) Management of Improvements.** The Association shall manage and control for its Members all improvements within public right-of-ways and on the Common Property.

**(h) Landscape Maintenance.** The Association shall care for, irrigate, protect and replant shrubbery, resow grass and replace sod in the Common Property.

**(i) Maintenance of Vacant Property.** The Association may mow, care for, maintain and remove rubbish from vacant or unimproved Property (except those Lots on which construction has commenced), and do any other things necessary or desirable in the judgment of the Association Board to keep any vacant and unimproved Property neat in appearance and in good order.

**(j) Street Lighting.** The Association shall provide such lights as the Association may deem advisable on streets and sidewalks in Common Property, gateways, entrances, or other features, and on other Common Property or public property subject to the prior written approval of the ARC.

**(k) Snow Removal and Street Cleaning.** The Association or a Subparcel Association may provide for the removal of snow from sidewalks and streets and the cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways, and for repair and maintenance of sewers, storm sewers and appurtenant drainage facilities.

**(l) Signs.** The Association may erect and maintain signs after such signs are approved by the appropriate public authorities and by the ARC.

**(m) Security Protection.** The Association may employ duly qualified officers for the purpose of providing such security protection as the Association Board may deem necessary or desirable in addition to the protection rendered by public authorities.

**(n) Acquisition of Real Estate.** The Association shall acquire and own title to such real estate as may be reasonably necessary to carry out the purpose of the Association and promote the health, safety, welfare and recreation of Owners; pay taxes on real estate and facilities owned by it; and pay such taxes as may be assessed against the Common Property.

Consistent with the foregoing, the Association is authorized to exercise all powers which a corporation organized under the Not-For-Profit Corporation Law of Missouri may exercise.

## **Section 2. Membership in the Association.**

(a) Each Owner (notwithstanding the number of Lots owned) shall be entitled to one (1) Association Membership and (1) vote in the Association so long as the Owner remains an Owner of such Lot(s), and such Owner shall specify in writing to the Association the name of the individual who holds the Association Membership. Anything in this subsection to the contrary notwithstanding, where a Lot is owned of record in any manner of joint or common ownership, the joint or common owners thereof shall share among them the rights (including voting rights) given to an Owner pursuant to this Declaration, which they shall be entitled to exercise as a whole, but not in part, in whatever manner they shall jointly determine. With respect to voting rights in particular, joint or common ownership of a Lot shall entitle the Owners thereof to a total of one (1) vote, to be exercised in whatever manner they shall jointly determine.

(b) A builder of residence on a Lot, although an Owner, shall not be entitled to any vote in the Association unless and until such builder occupies the Living Unit as such builder's sole place of residence.

(c) Subject to the provisions of this Section, once an Owner has been specified as a Member, a successor Member may only be specified upon at least fifteen (15) days prior notice to the President of the Association.

(d) A Membership shall not be transferred, pledged or alienated in any way, except as herein expressly provided. Subject to the provisions of Section 2(a), an Association Membership shall automatically be transferred to a new Owner upon the transfer of the Lot to which it appertains (and then only to such transferee), whether by sale, intestate succession, testamentary disposition, foreclosure of a mortgage or other legal process transferring fee simple title to such Lot.

(e) Subject to the provisions of this Declaration and the Association's By-Laws, the Association Board may make, amend or rescind such rules and regulations as it deems advisable for any meeting of Members, Association vote, referendum or election.

### **Section 3. Board of Directors (Association Board).**

(a) The powers of the Association shall be vested in, exercised by, and under the authority of, and the affairs of the Association in accordance with the Association Articles of Incorporation and By-Laws, shall be controlled by, a Board of Directors consisting of five (5) persons who, during the Development Period need not be Members but, after the Development Period, shall be

Members (the "Association Board"). The Association Board, by a majority vote, shall exercise for and on behalf of the Association all powers, duties and authority vested in or delegated to the Association.

(b) Directors, except for Directors appointed or elected pursuant to Article III, Section 8 hereof, shall be elected so that two (2) Directors and three (3) Directors shall be elected respectively in alternating years. Directors shall be elected for two (2) year terms of office and shall serve until successors are elected and qualified.

**Section 4. Suspension of Membership and Rights of Enjoyment.**

The Association Board may suspend the voting rights of Members and the rights of enjoyment of any Member or user of the Common Property and the services offered thereon who:

(a) is subject to a Right of Action by reason of having failed to take reasonable steps to remedy a violation or breach of the Declaration within the number of days specified in a written notice given by the Association Board after such violation or breach; or

(b) has allowed any Assessment levied by the Association pursuant to this Declaration to become delinquent; or

(c) has failed to pay any user fee or charge levied by the Association when due and payable; or

(d) has violated any rules and regulations adopted by the Association Board governing the use and enjoyment of the Common Property or services thereon.



Such suspension shall be for the balance of the period in which the conditions set forth in subsections (a), (b), and (d) of this Section 4 exist.

**Section 5. Termination of Membership.** No Owner shall continue to be a Member after he ceases to hold a qualifying interest in any Lot. No Member may avoid his obligations under this Declaration by declining to use Common Property, abandoning his Lot, or by any other act of abandonment or renunciation.

**Section 6. Notice of Meetings and Referendums.** Proper notice shall be given by the Association Board of all meetings of the Association Board at least fifteen (15) days prior to the meeting date; and all of the meetings of the Association Members, public hearings or referendums at least thirty (30) days prior to the hearing or referendum. The methods and procedures of such notice shall be determined by the Association Board in accordance with the By-Laws of the Association.

**Section 7. Area Associations.** Certain areas of the Property may encompass common facilities and designated uses, the governance of which by the Association, may be benefited from informal organizations whose members would be Owners of Lots encompassed by such areas. As may be determined by the Developer, and in order to aid the Association in fulfilling its duties hereunder, the Developer may, in its sole discretion and in order to so assist the Association, establish a localized and informal association of such Owners, which informal association may be shown on any subdivision plat of the Property as an "Area Association".

**(a) Membership.** Any Member of the Association who owns a Lot within an Area Association shown on any subdivision plat shall, by virtue of such ownership, also be a Member of the Area Association created for such area.

**(b) Purpose.** The Area Association will be an informal organization of Owners who may from time to time as such Owners deem appropriate convene informal meetings in order to discuss Association business and the interests of the Owners in and to promote the common good and general welfare of the Owners in the Area Association consistent with this Declaration and the Articles, By-Laws and rules and regulations of the Association.

**(c) Informal Organization.** No Area Association will be incorporated nor in any other way formally organized but nevertheless may conduct meetings and otherwise pursue the common objectives of the Owners in the Area Association consistent with this Declaration and the Articles, By-Laws and rules and regulations of the Association.

**(d) Superior Jurisdiction of the Association.** The Association shall have jurisdiction over all Area Associations and over all of the Property and every Owner who shall be a Member of the Association. Membership in an Area Association shall not grant any greater or lesser right to any Owner or Member, as a result of such membership, than such Owner or Member has as an Owner of any Lot.

**Section 8. Developer's Control of the Association.** Notwithstanding anything in this Article III or elsewhere in this Declaration to the contrary, the Developer shall maintain absolute and exclusive control over the Association, the Association Board and the ARC, including appointment and removal of the president and all officers of the Association, all directors of the Association Board and all members of the ARC until seventy-five percent (75%) of the Development Plans have been sold. Until such time, only the Developer shall be entitled to cast any votes with respect to the election and removal of the Association Officers, directors and members of the ARC, or any other matter requiring the vote or approval of the Association Board or Members. The Developer may voluntarily (but shall not be required to) at any time relinquish all or any part of the Developer's control and rights under this Article.

**Section 9. Retaining Walls.** The Association shall be responsible for the maintenance, repair/reconstruction of certain retaining walls which have been constructed within the City of Lee's Summit's ("City") street right of way. In the event that either the City or any public utility determines that it is necessary to interfere with or disturb any such retaining walls within the City's right of way in order to construct or maintain the City's or utility's improvements, then and in such event, the Association shall at its own expense cause the repair and reconstruction of the retaining walls in conformity with the City's requirements.

#### **ARTICLE IV**

##### **Covenant for Maintenance Assessments**

**Section 1. Covenants for Assessments and Creation of Liens.** The Developer and each Owner, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a Deed or other conveyance for any Lot which is Assessable Property, whether or not the covenants contained herein shall be expressed in any such Deed or other conveyance, hereby covenants and agrees that:

(a) he will pay to the Association all Assessments which may or shall be levied by the Association against Assessable Property owned by him in each year or any part thereof, and that he will pay to the Association the user fees and charges and all other duly authorized charges to be established as herein provided, if applicable, levied by the Association in each year and including Special Assessments levied pursuant hereto;

(b) he shall be personally liable for all such Assessments and user fees and charges which become due while he is the Owner of each Lot being assessed;

(c) all Assessments, together with the continuing obligation to pay each Assessment assessed in all future years, and all user fees and charges, together with all costs, expenses, interest and reasonable attorney's fees incurred in the collection of delinquencies, shall become, upon filing of this Declaration, and thereafter remain a charge against and is secured by a continuing lien upon the Assessable Property of such Owner; and

(d) said charge and lien shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon the Assessable Property (or the Nonassessable Property to the extent that it may later become Assessable Property) whether arising from or imposed by judgment or decree or by an agreement, contract, mortgage or other instruments, excepting only purchase money mortgages or deeds of trust given to finance the purchase of the Lot and liens for taxes or other public charges as are made superior by applicable law.

## **Section 2. Uniform Rate of Assessment.**

(a) For the purpose of providing funds for the uses specified herein, the Association Board shall assess against the Assessable Property in each year a charge (referred to herein as "Assessment" or "Annual Assessment"), which shall be uniform with respect to all Assessable Property within each classification of Assessable Property, as hereinafter provided, and shall be in such amounts as determined by the Association Board. The Association may divide all Assessable Property into classifications, which classifications shall be based upon the character of ownership, nature of use, i.e., residential or commercial, status of occupancy and such other criteria as the Association Board may deem pertinent. Lots owned by the Developer need not be assessed until such Lots are sold to a

builder or Owner. Lots which are owned by a builder shall be assessed at a rate to be determined by the Association Board.

(b) Not later than thirty (30) days prior to the end of each fiscal year for the Association, the Association Board shall prepare an annual cash budget projecting anticipated revenues, cash receipts, cash expenditures, and net cash, surplus or deficit for the ensuing fiscal year (the Association Budget"). The fiscal year for the Association shall be the calendar year. The proposed Association Budget will automatically be approved unless two-thirds (2/3) of the Members vote not to approve such Association Budget. Upon approval of the Association Budget, the Association board will determine the manner in which Assessments are to be made; provided, however, that the Assessments will be made on a per Living Unit basis and not on market value or assessed value. The rate of Assessment for an individual Lot can change as the character of ownership, nature of use and the status of occupancy of said Lot changes, which therefore changes the classification of Assessable Property for such Lot. The applicable Assessment for such a Lot shall be prorated according to the rate required for each type of ownership.

**Section 3. Billing of Annual Assessments.** At such time or times as the Association Board may determine, the Association shall levy the Annual Assessment. The Association shall send a written bill to each Owner stating the amount of the Annual Assessment imposed against each Lot which is Assessable Property owned by the Owner, the time period for the payment thereof, and the interest rate to be charged for late payments thereof. Each Annual Assessment shall be due and payable on a date established by the Association Board and shall become delinquent on a date established by the Association Board. The Association Board may establish payment procedures to allow payment of the Annual Assessment in increments during the year the Assessment is made, provided that this privilege is extended to all Owners on an equal basis, and provided that reasonable notice is given of each payment date, of the interest to be charged for late payments, of the liens established by this Declaration, and of the suspension of membership rights as a consequence of the failure to pay.

**Section 4. Commencement of Assessments.** The Assessable Property shall become subject to the Assessments set forth herein on the date designated by the Developer. Such Assessments shall be adjusted and prorated according to the number of quarters remaining in the fiscal year of the Association as such fiscal year is set forth in the Association By-Laws.

**Section 5. Late Payments.**

(a) The Association Board may from time to time establish or change the rate of interest which shall be charged for the payment after the delinquency date of any portion of an Assessment, provided that such interest rate shall not exceed the maximum interest rate permitted under Missouri law and provided that reasonable notice of such charge is given to the Members.

(b) In the event of default in the payment of any one (1) or more installments of the Annual Assessment established hereunder, the Association may declare any remaining balance of said Annual Assessment at once due and payable.

(c) In the event that an Owner shall fail to fully pay the Assessment by the delinquency date thereof, such unpaid amount shall become a binding personal obligation of such Owner, and the Association shall have the right, pursuant to the provisions hereinafter provided to enforce the lien for Assessments. The Association shall have the right and duty to take all appropriate actions and steps to collect any such unpaid Assessments. Each delinquency shall constitute a separate basis for a demand or claim of lien or liens, but any number of defaults may be included within a single demand or claim of lien or liens on account of prior delinquencies and shall be deemed to include subsequent delinquencies and amounts due on account thereof. the Association may institute a suit to recover a money judgment for the same, together with interest thereon and

reasonable expenses of collection, including attorneys fees, without foreclosing or waiving the lien hereinbefore provided.

**Section 6. Certificate of Payment.** Upon written demand by an Owner, the Association shall issue and furnish to such Owner, within a reasonable period of time, a written certificate stating that all Assessments, including interest and costs (if any), have been paid with respect to any specific Lot owned by said Owner as of the date of such certificate, or if all Assessments have not been paid, setting forth the amount then due and payable.

**Section 7. User Fees and Charges.**

(a) In addition to the Annual Assessments, the Association Board may levy and collect charges and fees for the use of Common Property for the purpose of maintaining, refurbishing, replacing and repairing the Common Property and the Common Property Improvements, and operating services on Common Property.

(b) If any Owner or any other person obligated to pay shall fail to pay any user fee or charge when due and payable, the Association Board may immediately suspend such Owner's right of enjoyment of the Common Property or services thereon and may take whatever action it deems necessary to enforce such suspension.

**Section 8. Additional Procedures.** The Association Board shall have the right to adopt procedures for the purpose of making the Assessments, user fees, and charges provided for herein and for the billing and collection of the same, provided that such procedures are not inconsistent with the provisions hereof.



## **Section 9. Special Assessments.**

(a) In addition to the Annual Assessments authorized herein, the Association may levy in any year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair, or replacement of Common Property Improvements including any capital improvement upon the Common Property, or the cost of any utility deemed necessary by the Association Board to serve the Property including the necessary fixtures and personal property related thereto, or any unexpected cost or expense of the Association, as the Association Board may determine.

(b) A Special Assessment shall become effective upon written notice by the Association Board. Billing of Special Assessments shall be handled according to the procedures set out herein.

(c) Following the Development Period, Special Assessments shall not be imposed by the Association until after the Association Board first presents any such proposed Special Assessment to the Members at a meeting to be called for that purpose pursuant to Article III, Section 6 hereof. The Special Assessment shall be deemed to be approved by the Members unless two-thirds (2/3) of the Members vote not to approve such Special Assessment.

## **ARTICLE V**

### **Association Funds**

**Section 1. Purposes For Which Funds May Be Used.** The Association shall apply all funds received by it pursuant to this Declaration and all other funds and property received by the Association including the accumulated funds referred to in Article V, Section 2, to the following:



(a) the operating costs and expenses of the Association, including planning and implementation of community programs and Common Property Improvements;

(b) payment of all real and personal property taxes and assessments, if any, separately levied upon or assessed against the Association or any property owned by the Association; and

(c) payment of all premiums and charges for all policies of insurance or surety bonds, as deemed by the Association Board to be necessary and appropriate.

**Section 2. Accumulation of Funds Permitted.** The Association shall not be obligated to spend in any calendar year all the sums collected in any such year by way of Annual Assessments, or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessment in the succeeding year, but may carry forward from year to year such surplus as the Association Board may determine to be necessary or desirable for the greater financial security of the Association and the effectuation of its purposes, including accruing funds for the replacement of facilities.

**Section 3. Posting of Bond.** The Association, acting through the Association Board, shall require that all persons or entities who handle the Association funds or monies, which funds and monies shall be deposited in federally insured banks or savings and loans, post bonds sufficient in amount to indemnify the Association from any loss.

**Section 4. Mortgaging of Common Property.** Except as set forth in this Section, and subject to the approval of any holder of an existing lien on the Common Property (the "Development Loan Lien"), the Association may mortgage any Common Property to which it has clear title; provided, however, that any such mortgage shall be subjected to the approval of two-thirds (2/3) of the Members who are present in person or by proxy and

voting in a duly constituted Association election or meeting. The Association shall not mortgage any Common Property to the Developer, or to any other entity or person to secure any conveyance, loan or advance made to the Association by the Developer. The Developer shall not take any action, the result of which may subject any Common Property to a judgment lien or otherwise jeopardize any Common Property, to satisfy a debt of the Developer.

## **ARTICLE VI**

### **Conveyance and Use of Common Property**

#### **Section 1. Conveyance of Common Property.**

(a) The Developer shall convey the Common Property to the Association and, from time to time, may convey to the Association such certain other property as the Developer may determine in accordance with the Development Plan for the common use and enjoyment of the Owners. The deed of conveyance may contain appropriate restrictions and assurances that such property shall be reserved for the common use and enjoyment of the Owners and prohibit the construction thereon of buildings for commercial, retail or Living Unit use.

(b) The Developer may convey an interest in fee simple in any improved land intended to be used as Common Property either by gift or for a consideration which equals the cost of the capital improvements on such property at the time of conveyance. For the purposes of this Article VI, Section 1, "cost" shall mean the actual amounts expended to construct or complete the community facilities or improvements situated on Common Property (excluding the cost of the land devoted to such facilities or improvements), plus a reasonable charge for overhead. Such consideration may be in whatever form agreed to at the time of sale.

(c) Each conveyance of Common Property for consideration to the Association by the Developer shall be subject to the approval of a majority of the Association Board. The Association Board will review the financing proposal for such conveyance and will determine the extent to which Association Assessments and user fees and charges may be committed to finance the debt for such conveyance.

## **Section 2. Use of Common Property.**

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

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

(i) establish, adopt, promulgate, amend and rescind reasonable rules and regulations pertaining to the use, operation and maintenance of Common Property which shall enhance the preservation of such facilities, promote the safety and convenience of the users thereof, and which shall serve to promote the best interests of the Members and the Napa Valley community;

(ii) determine the use or uses to which Common Property may be put; provided, however, that any

designation of use which is inconsistent with the use designated by the Developer upon conveyance, shall be subject to the provisions of this Declaration.

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

(iv) levy user fees and charges and to charge reasonable admissions or other charges or fees for the use of any recreational facility;

(v) borrow money for the purpose of acquiring, mortgaging, developing or improving any Common Property including improvements thereon; provided, further, that any such mortgage shall be subject to the approval of two-thirds (2/3) of the Members who are present in person or by proxy and voting at an Association meeting at which a quorum is present or voting in a referendum called for such purpose after the proper notice is given; and

(vi) apply for, accept and expend loans or grants from federal, state or local governments and to comply with any conditions required by such governments in order to obtain such loans or grants including conditions relating to the use and

enjoyment of Common Property by the general public.

**Section 3. Damage or Destruction of Common Property By Owner.** In the event any Common Property is damaged or destroyed by an Owner, or any of his or her guests, tenants, licensees, agents or members of their families, such Owner does hereby authorize the Association to repair such damaged areas. The amount expended for such repairs shall be a Special Assessment and lien upon the Lot of said Owner and shall be enforceable as other Assessments.

**Section 4. Suspension of Rights.** The Association shall have the right to suspend the right or privilege under this Article of any Member for any period during which the Assessments or user fees and charges assessed under Article IV hereof remain delinquent, and may suspend said right or privilege in connection with the enforcement of any rules and regulations relating to Common Property in accordance with the provisions of this Article.

**Section 5. Joint Use Agreement.**

(a) Each Neighboring Owner, and any member of such Neighboring Owner's household, including guests thereof as permitted by the Association, shall have the right and privilege to enjoy and use the Common Property subject to such rules and regulations as may be enacted by the Association Board.

(b) The rules and regulations which may be imposed or enacted by the Association Board in respect of the Neighboring Owners' use and enjoyment of the Common Property shall not substantially interfere with their right to use, or privilege of enjoyment herein granted, but shall be enacted by the Association Board for the purpose of causing the Neighboring

Owners to be governed by the same rules and regulations applicable to the Owners and for the purpose of protecting and preserving the Common Property in accordance with the intent of this Declaration. Accordingly, all rights and privileges conferred hereunder are subject to the rights of the Association otherwise provided for in this Article.

(c) Notwithstanding the fact that the Neighboring Owners have the right to use and enjoy the Common Property, in order to protect against those situations in which a Neighboring Owner violates the rules and regulations of the Association or of this Declaration, the Association shall be vested with and have the right to impose such restrictions on the use of the Common Property as the Association may deem reasonably necessary in order to give effect to its rights granted hereunder.

(d) The Association may charge a user's fee for the use of any improvements on any of the Common Property but no such fee shall be imposed as a penalty but shall reflect the reasonable costs and expenses, on a proportionate basis, which may be incurred by the Association in owning and operating the Common Property and the improvements thereon. In no event shall any fees charged to the Neighboring Owners be greater than the fees charged and paid by the Owners for the same services or facilities.

(e) Upon the failure of a Neighboring Owner to pay the appropriate fees imposed by the Association or in the event of any violation of the rules and regulations of the Association or if any such Neighboring Owner causes any damage to any of the Common Property then the Association, in addition to the specific remedies herein provided, may pursue such remedies at law or in equity against such Neighboring Owner as the Association may pursue under Missouri law.

## **ARTICLE VII**

## **Architectural Control**

**Section 1. Purpose, Powers and Duties of the Architectural Review Committee ("ARC").** The purpose of the ARC is to assure that all proposed uses and any construction or alteration of any Structure which takes place on any Lot or any other Property shall be performed in conformity with the objective of high quality environmental design and development as set forth in the Development Plan. To carry out that purpose, the ARC shall have all of the rights, powers and duties conferred upon it pursuant to the provisions of this Article, including the right to approve any and all proposed uses, site plans and Structures to be constructed on the Property, including the Common Property Improvements. The ARC shall also have the right to approve or disapprove any and all proposed external alterations or use changes for Lots or Common Property. the ARC will not do anything, however, which would prevent the Developer from fulfilling its obligations under the Development Plan.

**Section 2. Composition and Appointment.** The ARC shall be comprised of three (3) members, each serving one (1) year terms. The members shall be appointed by the Developer during the Development Period and may be employees or agents of the Developer, thereafter the members shall be appointed by a majority vote of the Association Board.

### **Section 3. Operations of the ARC.**

**(a) Meetings.** Except as otherwise provided herein, the act of such majority of members of the ARC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ARC.

**(b) Activities.** The ARC shall adopt and promulgate and, as it deems appropriate, amend the Development Guidelines and will, as required, make findings, determinations, rulings and orders with respect to the conformity with said Development Guidelines or plans and specifications to be submitted for approval to the ARC.

#### **Section 4. Development Guidelines.**

(a) As contemplated by and pursuant to the provisions of this Article, the ARC may adopt, promulgate, amend, revoke and enforce design and development guidelines, hereafter referred to as the Development Guidelines, for the purposes of establishing policies, requirements, standards, restrictions and specifications with respect to the approval and disapproval of all proposed uses and with respect to all construction or alteration of any Structure on any Lot, Easement Area or Common Property.

(b) The ARC shall make a published copy of its current Development Guidelines, readily available to Members and prospective Members of the Association and builders.

**Section 5. Submission of Plans and Specifications.** No structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced, unless plans and specifications (including a description of any proposed new use) therefor shall have been submitted to and approved in writing by the ARC. such plans and specifications submitted to the ARC shall be in such form and shall contain such information as may be required by the ARC in the Development Guidelines.

**Section 6. Approval of Plans and Specifications.** The ARC, in its discretion, is permitted to approve deviations from the Development Guidelines and from this Declaration when, in its judgment, such deviations will result in a more commonly beneficial use. Such approval must be granted in writing and when the ARC approves and grants a deviation from this Declaration, such approved deviation shall for all purposes named in this Declaration but only to the limited extent of such specifically approved deviation. No approved deviation shall be deemed to act as a precedent in respect of any other requests for approvals of deviations.



## **Section 7. Disapproval of Plans and Specifications.**

(a) The ARC shall have the right to disapprove any plans and specifications submitted hereunder as determined by the ARC in its sole judgment and discretion for any reason including, among others, failure of such plans or specifications to comply with this Declaration or the Development Guidelines.

(b) In any case in which the ARC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case, the ARC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

**Section 8. Inspection Rights.** After reasonable notice and at any reasonable time or times, any agent of the Association or the ARC may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Structure thereon is in compliance with the provisions hereof. Neither the Association, nor the ARC, nor any agent thereof shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

**Section 9. Violations.** If any Structure shall be erected, placed, maintained or altered upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with the plans and specifications approved by the ARC pursuant to this Declaration, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. Upon written notice of the violation to the Owner from the Association Board (which shall be deemed to have been delivered if sent by certified or registered mail, return receipt requested, postage prepaid), any such Structure so erected, placed, maintained or altered upon any Lot in violation hereof shall be removed or

altered, and any such use shall be terminated, so as to extinguish such violation. If the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same within the time specified in such notice, the Association shall have the right to pursue its Right of Action as provided herein, together with all remedies whether at law or in equity and whether specified herein, and including but not limited to the remedy of injunctive relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorneys fees and damages.

## **ARTICLE VIII**

### **General Use Restrictions**

#### **Section 1. Maintenance Required by Owner.**

(a) Each Owner shall keep all of his Lots and all improvements thereon, in good order and repair, including, but not by way of limitation, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees, and shrubbery and the painting (or other appropriate external care) of all improvements, all in a manner and with such frequency as is consistent with safety and good property management. The Association shall have the right, after written notice to the Owner of the affected Lot as hereinafter provided, to remove trash or rubbish and to cut grass, weeds, and vegetation and to trim or prune any hedge or other planting that, in the opinion of the ARC, by reason of its location or height or the manner in which it is permitted to grow, is detrimental to adjoining Lots or is unattractive in appearance. The Association shall, further, have the right to care for vacant and unimproved Property, all at the cost and expense of the Owner thereof. Such cost and expenses incurred by the Association shall be paid to the Association upon demand and, if not paid within ten (10) days thereof, shall become a lien upon the Lot affected, equal in priority to the liens provided for herein.

(b) The ARC shall give fifteen (15) day's written notice to the Owner in violation of this Restriction, setting forth the specific violation or breach of this Restriction and the action required to be taken by the Owner to remedy such violation or breach; if, at the end of such time, reasonable steps to accomplish such action have not been taken by the Owner, the ARC may pursue its Right of Action and shall have such other remedies at law or in equity as may then exist or as provided herein.

**Section 2. Land Use and Building Type.** No building shall be erected, altered, placed or permitted to remain on any Lot unless it is an approved Structure and no previously approved Structure shall be used for any purpose other than that for which it was originally approved. The Developer hereby reserved the exclusive right to use any of the Property for temporary use as an office or for model home purposes during the Development Period.

**Section 3. New Construction.** All Living Units and other Structures permitted hereby shall be new construction and no buildings shall be moved onto any Lot.

**Section 4. Uncompleted Structures.** Construction of a Living Unit or any other Structure shall not commence until the ARC has approved the final plans and specification for such Living Unit or any other Structure. No Living Unit or other Structure shall be permitted to stand with its exterior in an unfinished condition for a period longer than six (6) months after commencement of construction. Extensions for periods beyond six (6) months may be granted by the ARC in its sole discretion. In the event of fire, windstorm or other damage, no Living Unit or other Structure shall be permitted to remain in a damaged condition for more than three (3) months. No Living Unit or other Structure shall be occupied until completed according to the plans and specifications approved by the ARC.

**Section 5. Structures.** No temporary building, trailer, garage, barn or other building, whether in the course of construction or otherwise, shall

be placed upon any Lot. No detached Structure for purely ornamental purposes nor above ground swimming pools nor any permanently constructed stoves, grills or ovens may be erected on any part of any Lot without the consent of the ARC.

**Section 6. Fences.** No fences or walls shall be placed on any Lot without permission of the ARC. No chain link fence shall be erected on any Lot.

**Section 7. Placement of Signs on Property.** No sign, billboard, or other advertising device of any nature shall be placed upon any Lot, including property identification signs, except by the Developer and except as provided herein and as are approved by the ARC. The ARC may adopt and promulgate rules and regulations relating to signs which may be used within the Property.

**Section 8. Keeping of Animals on Lots.** No animals or birds, other than custody household pets shall be kept or maintained on any Lot except as specifically authorized by the ARC. In no event shall any such pets be kept, bred or maintained for any commercial purpose or in such a manner as to constitute a nuisance or cause unsanitary conditions. The ARC shall require that dogs shall not be permitted outside of any Lot except on a leash and accompanied by a responsible person. No dog run shall be permitted on any Lot. The ARC may from time to time publish and impose other regulations setting forth the type and number of animals that may be kept on any Lot. Outside animal shelters of any type whatsoever shall be located within the back yard of any Lot within two (2) feet of the Structure thereon and, in the opinion of the ARC shall be compatible in all respects with such structure.

**Section 9. Disposition of Trash and Other Debris.** No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except building materials during the course of construction for a period not to exceed one hundred eighty (180) days (commencing from day one of the first delivery of any of such materials) unless extended by the ARC in its sole discretion, for any approved

Structure, unless such materials are screened from view in a manner approved by the ARC. During the course of construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner. No burning of any trash, leaves, grass or weeds, and no accumulation or storage of litter of any kind shall be permitted on any Lot. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pickup is to be made, at such place on the Lot so as to provide access to persons making such pickup. At all other times such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. All such containers shall be kept in a clean and sanitary condition. The ARC may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the Property.

**Section 10. Parking of Motor Vehicles, Boats and Trailers.** No truck, commercial vehicle, trailer, commercial trailer house, recreational vehicle, all terrain vehicle, camper, motorcycle, automobile, mobile home, boat or boat trailer shall be brought upon, stored or habitually parked on any Lot in front of any Living Unit or garage, or between any residence or garage and abutting side street, or upon any street abutting any Lot. This shall not be construed to prohibit the mere temporary (a maximum of twenty-four (24) hours): (a) standing or parking of a trailer, boat, trailer house, recreation vehicle, or mobile home for short periods preparatory to take same to some other location for use; or (b) the temporary standing or parking of a truck or commercial vehicle for loading, or unloading; or (c) the parking of any operational automobile on any driveway on any Lot. The Association, with the written approval of the ARC, may permit such parking for longer than twenty-four (24) hours. No such vehicle shall be openly stored in any area other than as may be designated by the ARC. However, no mechanical maintenance on any vehicle shall be permitted in front of any Living Unit or garage, or between any Living Unit or garage and an abutting side street, or upon any street abutting any Lot. While nothing contained herein shall be considered to prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use and appearance of such a building or trailer must be specifically approved by the ARC prior to it's being moved on site.

**Section 11. Nuisances.** No noxious or offensive activity shall be carried on or upon any portion of the Lots or Living Units, nor shall anything be done thereon that may be or become a nuisance or annoyance to any other Owners. No exterior lighting shall be directed outside the boundaries of any Lot but shall be directed so as to avoid glare and excessive light spillage onto abutting or adjacent Lots.

**Section 12. Antennas, Poles and Projections.** No facilities, including poles and wires for the transmission of electricity, television messages, CATV signals and the like shall be placed or maintained above the surface of the ground on any Lot and no external or outside antennas or satellite dishes shall be permitted on any Lot or Living Unit.

No external or outside radio or television antennas or satellite dishes shall be permitted on any Lot or Living Unit. No antennas or satellite dishes may be erected, used or maintained outdoors and above the surface of the ground, or attached to a building or otherwise without the written approval of the Architectural Review Committee. However, one satellite dish, thirty nine and one-half inches (39.5") in diameter or smaller may be installed and maintained on any residential Lot so long as the location and manner of mounting is disguised to resemble the surroundings or, is, in fact, visually indistinguishable from the structures, devices or improvements otherwise allowed in the community by these Covenants as to so blend into the background of the surroundings as to cause as little attention as possible. If approved, the type of antenna and exact location on the Lot or residence shall be determined by the Architectural Review Committee. In approving such applications, the Architectural Review Committee may require specific forms of screening as it deems appropriate in order to effectuate the intent of this section in order to render the installation as inoffensive as possible to other Owners and residents.

No solar collector of any kind or type shall be maintained, except with the permission of the Architectural Review Committee. No flag poles, poles nor standard, shall be erected or maintained, except with the prior written permission of the Architectural Review Committee.



**Section 13. Penalties for Violation.** If the ARC determines that provisions of this Article have been violated, the ARC may in its discretion seek appropriate relief at law or in equity to assure that the purposes of this Article and this Declaration are fulfilled.

**Section 14. Restrictions for Residential Lots.** No profession or home industry shall be conducted in or on any part of a Lot or in any improvement thereon in the Residential Areas without the specific written approval of the ARC. The ARC, in its discretion upon consideration of the circumstances in each case, and particularly in consideration of the effect on surrounding Property, may permit a Lot or any improvement thereon to be used in whole or in part for the conduct of a profession or home industry.

No profession or home industry shall be permitted, however, unless it is considered by the ARC to be compatible with the neighborhood. Except as provided herein, any Living Unit located on a Lot designated for residential use within the Property shall be occupied by the Owner of the Living Unit. Notwithstanding the above, however, leasing of single family or villa units will be allowed provided that the Owner first register the lessee with the Association, providing such information as the Association may require, and file with the Association a complete copy of the executed lease agreement.

**Section 15. Lot Use for Model Home or Real Estate Office.** All else herein to the contrary notwithstanding and as expressly limited herein, any residential Lot may be used for a model home or for a real estate office by the Developer during the Development Period. Such right shall be limited to the Developer and shall extend to no other person, builder, Owner or other developer except as may be permitted by a majority of the vote of the Association Board.

**Section 16. Use of Clothes Hanging Devices and Machinery.** No clothing or any household fabrics shall be hung in the open on any Lot. No machinery shall be operated upon any Lot (except such machinery used in the maintenance of a private residence) except with the written approval of the ARC. No machinery shall be placed, parked or stored upon any Lot unless such machinery is placed, parked or stored within an approved Structure. No hoisting devices shall be permitted upon any Lot; except,

however, with the prior written approval of the Association, subject to review and written approval of the ARC.

**Section 17. Provisions Applicable to Lots Designated for Single-Family Residences.** Lots in Napa Valley, Phase I, shall be subject to the general provisions set forth herein, to the following use restrictions:

**(a) Land Use.** None of said Lots may be improved, used or occupied for other than residential purposes (except for model homes used by the Developer) and no flat or apartment house, although intended for residential purposes, may be erected or operated thereon.

**(b) Requirements.**

(i) subject to the imposition of alternate square footage requirements as may be established on selected Lots due to location and orientation the minimum square footage enclosed floor areas and other requests shall be as follows:

<b>NAPA VALLEY, PHASE I</b>	<b>LOTS 63 - 88</b>
Single Level Above Ground	
(ranch)	1,900 sq. ft.
One-and-One-Half Story	2,600 sq. ft.
Two Story	3,000 sq. ft.

All such residences shall have foundation plantings as may be determined by the ARC, and shall have a landscape allowance of a minimum of Four Thousand



Dollars (\$4,000.00) and shall include two (2) two-inch (2") caliper trees in front of the lot of each residence. A corner Lot shall have a Four Thousand Five Hundred Dollar (\$4,500.00) landscaping allowance and three (3) two-inch (2") caliper trees, two (2) of which shall be planted in front of the residence on each lot and one (1) on the corner of each lot. All Lots shall be sodded, unless otherwise approved in writing by Declarant. All exterior wood chases must have a poured concrete foundation or footing. Exterior fireplace chimneys must be masonry, brick, stone or stucco if on the front elevation. The exterior shall be of hard lap siding, stucco or masonry, or equivalent, unless otherwise approved in writing by Declarant or the ARC.

**(c) Building Materials.** All building materials shall be in compliance with the requirements of the Development Guidelines.

**(d) Member Of the Association.** All Lots constructed within Phase I shall be Members of the Napa Valley Homes Association and shall have the right to the use of walking trails, Common Areas, swimming pool, and trash service. The Initial Assessment provided in Article IV, Section 1 shall be in the amount of Sixty Five and no/100 Dollars (\$65.00) per month or Seven Hundred Eighty and no/100 Dollars (\$780.00) per year for said Lots.

## **ARTICLE IX**

### **Construction on Lots**

#### **Section 1. Construction Standards.**

**(a)** Commencement of construction on a Lot shall start within sixty (60) days following the recording of the deed from the

Developer to the purchaser. Construction shall proceed in a timely and orderly manner to a prompt completion.

(b) No Lot is to be cleared nor shall construction commence on any Lot until a building permit therefor is granted, the Lot closing has taken place and the ARC has approved the plans and specifications for such construction.

(c) No dumping or open burning of construction materials, waste or trash shall occur on any building Lot.

(d) Loud music will not be permitted on any construction site.

(e) No construction signs are permitted identifying the home builder, subcontractors or suppliers, unless provided for by the Developer.

(f) All fencing shall be approved by the Declarant or the Architectural Review Committee.

(g) Erosion control shall be provided on Lots with steep grades. The ARC may, at its sole discretion, require the builder to place erosion control materials such as straw bales or fencing on any portion of a Lot that appears to be in an erodible condition due to construction activities.

(h) Builders and contractors are responsible, and will be held accountable, for the actions of their workers as well as those of their subcontractors.

(i) No changes in plans during the construction period will be permitted without prior written approval of the ARC.

(j) Once residences are occupied within Napa Valley, no exterior construction work shall begin before 6:00 a.m. or continue after 7:00 p.m.

(k) Excess excavation materials must be hauled away from the Lot and from the Property.

(l) Concrete suppliers and contractors shall clean their equipment only at locations designated by the Developer for that purpose.

(m) Builders shall clean up all trash and debris on the construction site at the end of each day. Trash and debris shall be removed from each construction site at least once a week to a dumping site located off the Property. Builders and their subcontractors will be responsible for removing all construction debris and keeping the construction sites in a well-maintained appearance at all times.

## **ARTICLE X**

### **Duration and Amendment**

**Section 1. Duration.** This Declaration and the Restrictions contained herein shall run with, burden and bind the Property, shall inure to the benefit of and shall be enforceable by the Developer (during the Development Period), the Association and any Owner, their respective legal representatives, heirs, successors and assigns, and by any Resident until August 1, 2015; after which time the Declaration shall be automatically renewed for successive periods of ten (10) years unless, prior to the

commencement of any such renewal period, an instrument terminating this Declaration and the Restrictions contained herein shall be executed by the proper Association officers and recorded in the appropriate Office of the Recorder of Deeds or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution to such effect approved in writing by not less than two-thirds (2/3) of the total number of Members, which resolution shall have been approved within six (6) months prior to August 1, 2015, or the end of any such ten (10) year extension period.

## **Section 2. Amendment.**

(a) Except as hereinafter specifically provided, this Declaration may not be amended, terminated or modified in any respect except by recording an instrument executed by the proper Association officers and authorized by the Members, subject of course to the rights, if any, of any lien holders of liens on the Property to consent to or approve of such amendment, termination or modification, pursuant to a resolution to such effect approved in writing by not less than two-thirds (2/3) of the total number of Members.

(b) Notwithstanding the foregoing, during the Development Period this Declaration can be abolished, amended, modified or changed in whole or in part by the Developer in order to, among other things, correct deficiencies of this Declaration as determined to exist by the Developer, to annex property as provided for herein or to deannex Property without Association membership approval but with the written consent of Owners located within the boundaries of the Property to be deannexed (who together with Developer shall execute a release document for recording with the appropriate office of the Recorder of Deeds); and, to give effect to all of the rights, obligations and duties created or contemplated herein.

## **ARTICLE XI**

## **Enforcement**

### **Section 1. Right of Action.**

(a) In the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions which shall be taken by the Owner to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within the time limit specified in the written notice, then the Association may pursue its Right of Action. The term "Right of Action" as used herein, shall mean the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot as to which a violation, breach or other condition to be remedied exists, and take the actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof. Such entry or action, or both, shall not be deemed to be a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section. All costs and expenses including reasonable attorney's fees incurred by the Association or on its behalf in enforcing such Right of Action, shall be a binding personal obligation of such Owner enforceable at law, as well as a lien on such Owner's Lot enforceable in accordance herewith. The lien provided under this Section shall not be valid against a bona fide purchaser (or bona fide lien holder) of the Lot in question unless a notice of such lien shall have been filed in the appropriate office of the Recorder of Deeds prior to the recordation of the Deed in the said office (or lien instrument) conveying the Lot in question to such purchaser (or subjecting the same to such lien). "Right of Action" shall also mean and encompass the right to pursue all remedies herein specified, together with all remedies at law or in equity.

(b) During the Development Period, the Developer may pursue its Right of Action in such cases where in the judgment of the Developer the Association has abused its discretion in electing not to exercise its Right of Action to enforce the provisions of the Declaration and has thereby jeopardized the performance of the obligations of the Developer pursuant to the Development Plan. The Developer's Right of Action shall be subject to the following limitations:

(i) the Developer shall give written notice to the Association identifying the violation which Developer seeks to correct and the steps Developer will take to remedy the condition; and

(ii) the Developer may not commence to exercise its Right of Action less than thirty (30) days nor more than sixty (60) days after giving written notice to the Association.

**Section 2. Specific Performance.** Nothing contained herein shall be deemed to affect or limit the rights of the Developer (so long as it is an Owner), the Association, the Members or the Owners, or any one of them, to enforce any of the terms, covenants or conditions of this Declaration by appropriate judicial proceedings. However, the Developer hereby declares that it is impossible to measure in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by this Declaration. Therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof. In any and all such actions, whether at law or in equity, any such beneficiary hereof who is entitled to relief shall also be entitled to recover all costs and expenses, including reasonable attorneys fees, incurred in enforcing such rights.

### **Section 3. Enforcement of Liens.**

(a) The Association shall have a lien for Assessments, user fees and charges (herein collectively, "Assessment" or "Assessments") and shall have a lien for the cost of exercising the Right of Action. The amount which may be recovered by the Association shall include the Assessment or costs, together with the cost of such enforcement proceedings, including reasonable attorney's fees and interest. Suits to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiving the lien provided for in Article IV, Section 1 hereof.

(b) If any demand for payment or claim of lien or liens is not paid when due, the Association Board or its duly authorized representative may thereafter elect to file and record a claim of lien on behalf of the Association against the Lot of the defaulting Owner in the appropriate Office of the Recorder of Deeds. Such claim of lien shall be executed and acknowledged by any officer of the Association and shall contain substantially the following information:

(i) the name of the delinquent Owner;

(ii) the legal description and street address of the Lot against which the claim of lien is made;

(iii) the total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs and reasonable attorney's fees (with any proper offset allowed);

(iv) that the claim of lien is made by the Association pursuant to this Declaration; and



(v) that a lien is claimed against said Lot in an amount equal to the amount stated; together with all other amounts becoming due from time to time in accordance with this Declaration.

(c) Upon such recordation of the duly executed original or copy of such a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment or cost was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except for tax liens or real property taxes and assessments on any Lot in favor of any municipal or other governmental unit and except as provided in Article IV, Section 1 hereof.

(d) Any such lien may be foreclosed by appropriate action at law or in the manner provided by law for foreclosure of mortgages or sale by a judgment creditor or in any other manner permitted by the laws of Missouri. The Association Board is hereby authorized to appoint any attorney or any officer or director of the Association for the purpose of conducting such proceedings.

(e) The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners and shall secure payment of all sums set forth in the claim of lien, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said claim of lien.

(f) Upon the timely curing of any default for which a notice of claim of lien was filed by the Association Board and the payment of all sums secured by the lien created by the recordation of such claim of lien, the Association Board shall (upon payment by such Owner of reasonable costs by the Owner of the Lot subject to the lien) cause an officer of the Association to file and record

an appropriate release of such claim of lien in the appropriate Office of the Recorder of Deeds.

(g) No Owner may waive or otherwise escape liability for the Assessments provided for in this Declaration by nonuse of the Common Area, or any part thereof, or any part of the Property, or abandonment of his Lot. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose or otherwise realize on the lien created by recordation of the claim of lien, until the expiration of thirty (30) days after a copy of said claim of lien, showing the date of recordation thereof, has been mailed to the Owner of the Lot which is described in such claim of lien.

(h) Each Owner does hereby waive to the extent legally possible, all defenses to any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, and the benefit of any exemption laws of the State of Missouri now in effect, or in effect from time to time hereafter.

**Section 4. No Waiver.** The failure of the Developer, the Association, any Owner, his or its respective legal representatives, heirs, successors and assigns, or any Resident, to enforce this Declaration shall in no event be considered a waiver of the right to do so thereafter as to a similar violation or breach occurring prior or subsequent thereto.

**Section 5. Architectural Guidelines and Rules.** The Association Board; and the ARC, each by a majority vote, to the extent specifically provided herein, may adopt, amend, modify, promulgate and rescind or revoke reasonable rules, regulations and procedures regarding the administration, interpretation and enforcement of the provisions of this Declaration; for the ARC in particular, this includes the right of modification, amendment, revocation or rescission of the Development Guidelines. In so adopting, amending, modifying, promulgating, rescinding, or revoking such rules, regulations and procedures, or in making any finding, determination,

ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association and the ARC shall take into consideration the best interests of the Owners of the Property to the end that the Property shall be preserved and maintained as a community of high quality, and shall seek to achieve the development of the Property in accordance with the standards and objectives set forth in the Development Plan.

**Section 6. Successor Developer.** Anything herein mentioned to the contrary notwithstanding, should the Developer lose or divest itself of a substantial legal or equitable interest in the remaining unsold Property:

(a) All of the Developer's rights, powers, duties and obligations under this Declaration (except as to those possessed by each Owner, so long as the Developer remains as Owner) shall pass with such interest in the real property to a new Owner or part or all of such interest in the Property ("New Developer").

(b) Neither the New Developer, the Association, the Members nor the Owners shall assume any liability arising from the Developer's exercise of its rights and powers under this Declaration or its performance of, or failure to perform, its duties and obligations hereunder before the loss or of divestiture of the Developer's rights, powers, duties and obligations hereunder. The foregoing sentence shall not be construed so as to relieve a New Developer, wholly or partially, of the obligation to make advances to the Association pursuant to this Declaration on grounds that any cash deficit of the Association is attributed to the previous action or inaction of the Developer.

## **ARTICLE XII**

### **Miscellaneous**

**Section 1. No Reverter.** No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

**Section 2. Invalidity.** The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof, and to the extent that any term, covenant or condition contained in this Declaration is in conflict with any applicable laws, this Declaration shall be deemed to be amended so as to comply with applicable laws.

**Section 3. No Personal Liability.** No member of the Association Board, officer of the Association, member of the ARC, member of any committee of the Association, whether such committee is specifically described in this Declaration or hereafter created by the Association, or Manager, if any, or the Developer shall be personally liable to any Owner, Member, or to any other party for any damage, loss or prejudice suffered or claimed on account of any act, (including any oral representation regarding any aspect of a Lot whatsoever), omission, error, failure to act, or negligence of any such Association Board Member, officer or committee member of the Association, Manager, if any, the Developer, or any Member of the ARC or any realtor representing the Developer in the sale of a Lot and, further, neither the ARC nor any member thereof shall be liable to the Association, any Owner or to any party for any damage, loss or prejudice suffered by or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, (b) the construction or performance of any work upon the Property, (c) the execution and filing of any estoppel certificate, whether or not the facts therein are correct, or (d) any other act, action or conduct of such committee. Such limitation of liability shall apply in all cases, provided that such person has, on the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

**Section 4. Local Laws Not Superseded.** This Declaration shall not be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body, or by any deed or lease. In the event of any conflict, the most restrictive provision of

such laws, rules, regulations, deeds, leases or this Declaration shall govern and control.

**IN WITNESS WHEREOF**, the undersigned sets his hand and seal as of the above date.

**NAPA VALLEY, LLC**

By: *Keith Wehmeir*

Keith Wehmeir, Member  
WEHMEIR DEVELOPMENT, LLC,  
Member

STATE OF MISSOURI )


) ss.

COUNTY OF JACKSON )

On this 13 day of July, 2005, before me personally appeared Keith Wehmeir, who, being by me duly sworn did say that he is a Member of Napa Valley, LLC, a Missouri Limited Liability Company, and that said instrument was signed in behalf of said Limited Liability Company by authority of its members and acknowledged to me that he executed the same as the free act and deed of said Company.

(\*member Wehmeir Development, LLC)

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

  
Notary Public Karrie Booth

KARRIE BOOTH  
NOTARY PUBLIC  
STATE OF MISSOURI COUNTY OF JACKSON  
MY COMMISSION EXPIRES OCTOBER 16, 2005

My Commission Expires:



**EXHIBIT A**

**Legal Description:**

**All of Lots 63 through 88, NAPA VALLEY, PHASE 1, a  
subdivision in Lee's Summit, Jackson County, Missouri**

KANSAS CITY TITLE  
201 W. LEXINGTON, #301  
INDEPENDENCE, MO 64050  
*In 20265*

*Put:  
Katie  
Booth*



## **Napa Valley**

### **Fence Policy**

The Architectural Review Committee's goal is to keep all fencing harmonious with the architectural character of the community. Therefore, we chose the Ameristar Montage Fence as the exclusive fence line to be installed in the Napa Valley community. This fence is a powder coated black steel fence. It has the look and structural integrity of wrought iron at a fraction of the price and without the maintenance.

All fences must have the approval of the Architectural Review Committee before installation is undertaken. The applicant shall submit a copy of the plot plan showing the location of the proposed fence on the lot in relation to the lot lines, along with a side profiled (elevation) of the fence.

Fencing styles and materials shall be limited to the following:

1. Homeowner Property Perimeter Fencing;

- a. The only perimeter fence approved is the Ameristar Montage black powder coated steel fence. No other aluminum, steel, or wrought iron fence will be permitted.
- b. Fence styles are limited to the Classic, Montage, and Genesis three rail fence systems.
- c. Fence heights are limited to four (4) feet, five (5) feet, six (6) feet. No other fence heights will be permitted.
- d. The build starting point is 41 ft. from the curb. This includes the 11 ft. of city property. This is to create uniformity in adjoining lots.
- e. No fence may have more than two gates and the minimum width of the gate is four (4) feet.

2. Privacy Enclosures for Jacuzzi / Whirlpool tub/;

- a. If a fence is being constructed for the purpose of a Jacuzzi/whirlpool tub enclosure, the fence will then be a privacy fence at 5 ft. or six (6) feet in height. No other fence style or height will be permitted. This fence will only be approved to surround the Jacuzzi/whirlpool tub and not the complete back yard. If you are approved to add a pool, the fence must be 6 feet in order to meet city code.
- b. The privacy enclosure, if completely enclosed, must contain one gate, and no more than one gate. The gate may be no less than 48" in width and no more than 60" in width.

- c. The homeowner also has the option to install Flex Fence as an alternative to privacy fencing.

3. FENCE ENCLOSURE (Pryor Road):

- a. A wood privacy fence. This fence will only be approved to surround the homes that directly back to Pryor Road. Please review and see the wooden privacy fence currently built in the Sonoma Point neighborhood. No other fence style or height will be permitted. Homes in the remainder of the neighborhood will not be approved to have a wooden privacy fence unless they meet these specific guidelines.

4. Restrictions:

- a. No fence will be approved if the installation will obstruct line of sight of traffic.
- b. No fence will be constructed over a driveway.
- c. After completion, the fence may be inspected to insure that the final product is of professional quality and final approval of the fence is withheld until successful completion of this review.

5. Recommendations:

- a. We encourage you to request a survey of your property prior to installing a fence in order to protect you from encroaching on other property lines or easements.
- b. These rules and regulations are set forth to protect and enhance your property value and to maintain the architectural beauty of Napa Valley. We will be diligent in insuring these policies are followed.

Napa Valley Architectural Review Committee

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## NAPA VALLEY POOL RULES

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### POOL HOURS:

- POOL CHEMICAL TREATMENT / CLEANING TIMES:
  - 7:00 – 10:00 A.M.
- POOL IS OPEN 10 A.M. – 10 P.M.
- POOL WILL BE CLOSED AFTER LABOR DAY WEEKEND
- POOL WILL OPEN EVERY YEAR PRIOR TO MEMORIAL DAY WEEKEND

### PRIVACY, GUESTS AND PARTIES:

- Pool use is a privilege for Napa Valley homeowners who abide by the Restrictions, by-laws and have paid their dues.
- Overnight guests of homeowners are welcome, but must be accompanied by homeowner.
- Pool keys shared with non-residents will result in loss of pool privileges.
- Lost pool keys can be replaced for a charge of \$25.00 paid to the Property Association.
- Birthday Parties/ Event Reservations;
  - Requires a \$150.00 fully refundable cleaning deposit.
  - The Association provides trash service.
  - Member is required to leave the pool area clean, free of debris, trash cleaned up, bathrooms cleaned up after their guests.
  - No trash, party favors, balloons, etc. may be put into the pool, fountain, down toilets, etc., which may damage the Pool area.
  - Member is responsible for all their guest activities and behavior.
  - The Deposit will only be returned after the Pool area is inspected following the Party/Event.
  - Reserved Party dates will be published on the Members Only site.

### BEHAVIOR:

- Proper attire shall be worn at all times.
- Sexual misconduct will not be tolerated.
- No fighting.
- Any form of foul language or gestures will not be tolerated.
- Do not run, walk, dive or play with fountain.
- Do not throw pool furniture into the pool.
- Do not stand or jump on any of the pool furniture.
- No smoking is allowed in the pool area.
- No illegal substances or anyone under the influence will be permitted on the premises.
- Do not bring any electrical appliances, except powered by batteries into the pool area.

- Any Napa Valley resident using the pool has the right to request anyone to leave the pool area and request their pool keys who is exhibiting illegal or inappropriate behavior. Please self-police your pool area. Each key is numbered and assigned to a residence. Please turn into the Property Association Board the Violators pool key number. Violators will be fined \$25.00 for each offense and all fines must be paid to the Association.

#### CHILDREN:

- Children who are 13 years and older may use the pool unsupervised with the permission of a parent or guardian.
- Parents are required to review these guidelines with their children prior to entering the pool.
- Children under the age of 13 years may use the pool only if a parent, guardian, or responsible person of 16 years or older and a resident of Napa Valley supervises.
- Children in diapers MUST WEAR A SWIM DIAPER while in the pool. This is a Health Department regulation.

#### FOOD AND DRINKS:

- No gum chewing allowed in the pool area.
- No glass containers inside the pool area.
- No Alcoholic beverages allowed in pool area except during Approved Pool Events. State of MO governing laws will apply to age.
- No electrical appliances allowed in the pool except at pre-approved pool events.

#### PETS:

- No pets are allowed in the pool area except for service assistance dogs for the impaired.

#### BAD WEATHER:

- Leave the pool area immediately if bad weather approaches or if you see lightening even at a distance.

#### HYGIENE:

- Do not swim if you have an open wound.
- Do not apply Tanning oils before swimming. Tanning lotions are gentler on the pool and fountains filtration system.

#### CLEAN UP:

- Every resident is responsible for helping to maintain a clean and well kept pool area. Please keep the restrooms clean, trash picked up and the area in good order.
- Pick-up and throw your own trash or any trash you find away. Trash Service is every Monday
- LOST AND FOUND ITEMS will be thrown away each Monday during trash service pick up.

#### VIOLATIONS AND LOSS OF POOL PRIVILEGES:

- Rule violations can result in loss of privileges and a \$25.00 fine per violation.
- Sharing your pool key with non-residents of Napa Valley
- Non payment of dues
- Repairs and special cleaning needs will be billed to the homeowner(s) causing damage.
- All fines and assessments will be made payable to the Napa Valley Property Association.

#### KEYS

- Numbered pool keys will be assigned each year to resident.
- Keys may not be able to be duplicated. These are special keys made especially for Napa Valley and cannot be duplicated.
- Keys that are lost or not returned will have a \$25.00 fine assessed against homeowner.
- Keys will be returned to Association at the end of each pool season.
- Keys will be distributed each year the week prior to memorial weekend.
- Keys will be returned by September 30<sup>th</sup> each year. KEYS MUST BE RETURNED.
- Keys that require replacement will be at a cost of \$25.00.
- Keys need to be returned prior to any sale of home. The Association will assign new homeowner a new key, packet and they will be required to sign the acknowledgement page.

#### SAFETY INFORMATION

- NO LIFEGUARD IS PROVIDED
- SWIM AT YOUR OWN RISK.
- DO NOT SWIM ALONE.
- MEMBERS ONLY
- OVERNIGHT GUESTS MUST ACCOMPANY MEMBERS
- CHILDREN UNDER 13 MUST BE ACCOMPANIED
- MEMBERS AND THEIR GUESTS MUST EXERCISE EVERY PRECAUTION WHEN SWIMMING AND ENJOYING THE POOL AREA.
- NAPA VALLEY PROPERTY ASSOCIATION DOES NOT ASSUME ANY LIABILITY FOR PERSONAL INJURY AND/OR ACCIDENTS
- NO CLIMBING ON OR OVER, HANGING OFF OF THE FENCES OR GATE.
- NO CLIMBING, WALKING ON, JUMPING OFF OF, SITTING ON, DIVING OFF OF THE WATER FALL OR THE PLANTER BEDS THAT SURROUND THE POOL AREA. THIS WOULD CAUSE DAMAGE TO THE WATERFALL, PLANTERS AND PLANTS.

PLEASE VIEW ALL IMPORTANT DOCUMENTS, ASSOCIATION CALENDAR, FAQ SECTIONS AT THE FOLLOWING ADDRESS: