

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

HIGHLAND VILLAGE SINGLE FAMILY PHASE FOUR

HIGHLAND VILLAGE SINGLE FAMILY PHASE FIVE

THIS DECLARATION, is made this 29th day of August, 1991, by Single Family Home Investors II, L.P., a Missouri limited partnership ("Declarant").

482

RECITALS

A. Declarant intends to develop and improve that certain real property legally described on Exhibit A, incorporated herein by reference (the "Proposed Development Area") or portions thereof and any additions thereto or releases therefrom from time to time with single family homes.

B. ,Declarant intends, by recordation of this Declaration and subsequent amendments thereto, to subject the Proposed Development Area to the terms, conditions, restrictions and provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Proposed Development Area and any parts thereof, shall be held, sold, conveyed, occupied and developed subject to the following easements, reservations, restrictions, covenants, conditions, charges and liens which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "Board of Managers" or "Managers" shall mean the Board of Managers of Highland Village 4 and 5 Homeowners Association, an incorporated Association.

Section 2. "Common Area" shall mean all property including the improvements thereto presently owned or hereafter owned by the Association for the common use and enjoyment of the Owners, subject, however, to the uses, limitations, conditions and restrictions hereinafter provided in this Declaration and the Subdivision Plat. The Common Area set forth on the Subdivision Plat is to be owned by the Association at the time of the conveyance of the first Lot to an Owner. The Common Area shall be designated as such on the Subdivision Plat.

Section 3. "Declarant" shall mean Single Family Home Investors II, L.P., a Missouri limited partnership, its successors and assigns, if its successors and assigns should acquire more than one (1) undeveloped Lot from Declarant for the purpose of development.

Section 4. "Lot" shall mean the separately designated and numbered lots shown upon the Subdivision Plat.

Section 5. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, except that, where a Lot is being sold on a contract for deed and the contract vendee is in possession of the Lot, then the vendee and not the vendor shall be deemed the "Owner."

Section 6. "Properties" shall mean the Proposed Development Area and such annexations and additions thereto, as may hereafter be subjected to the Declaration and excluding such area of the Proposed Development Area as may hereafter be released from the Declaration.

Section 7. "Residence" or "residences" shall mean the single-family homes constructed upon the Lots located within the Properties.

Section 8. "Subdivision Plat" shall mean the plat of Highland Village 4 and 5 Subdivision, the original of which has been filed of record with this Declaration in Plat Book 307, Page 100 and \*, of the Office of the Recorder of Deeds for the County of St. Louis, Missouri and an authentic copy of which is attached hereto as Exhibit B and incorporated herein by reference, and all amendments to said plat as may hereafter be filed of record with the Office of the Recorder of Deeds for the County of St. Louis, Missouri.

Section 9. "Subdivision" shall mean and refer to Highland Village 4 and 5 Subdivision, as shown on the Subdivision Plat, together with such additional parcels of real estate which may be subjected to this Declaration from time to time by amendment in the manner provided herein.

*\* Plat Book 308 Page 1*

## ARTICLE II

### PROPERTY RIGHTS AND EASEMENTS

Section 1. Owners' Easements of Enjoyment. Subject to the following provisions, every Owner shall have a right and



easement of use and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot provided that:

(a) The Board of Managers of the Association shall have the right to charge reasonable admission and other fees (in addition to any assessments as hereinafter described) for the use of the recreational area and facility, if any, situated upon the Common Area;

(b) The Board of Managers of the Association shall have the right to suspend the voting rights and right to use the recreational facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The Board of Managers of the Association shall have the right to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of the members has been recorded;

(d) The Owner's rights shall be subject to the uses, limitations, conditions, and restrictions hereinafter provided in this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the



Common Area, including recreational facilities, if any, to the members of his family, his tenants, or contract purchasers who reside on his Lot.

Section 3. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Such easements may be used or accessed to remote areas for the location of underground electrical communication cables, storm drainage, or sanitary sewage, pipelines for supplying gas, water or heat, including mains, service pipes, and equipment, electric or telephone poles and lines. Wires may be strung between such poles into any building from the nearest pole thereto. Where necessary, anchors for such poles may be placed not more than 10 feet inside of the Lot lines.

Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which the Association, a public authority or utility company is responsible.

The Declarant, its successors or assigns, or any utility company with facilities located within said easements shall have the right to enter upon and over the easements for any of the purposes for which said easements are reserved.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner shall be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Votes. All Owners, including Declarant with respect to unsold Lots, shall be entitled to one vote in the Association for each Lot owned by such Owner and in no event shall more than one vote in the Association be cast with respect to any Lot. If any Owner consists of more than one person, the voting rights of such Owner shall be exercised as if the Owner consisted of only one person.

Section 3. Association Meetings. Meetings of Owners shall be held at a location within the Subdivision or at such other place in St. Louis County, Missouri, as may be specified in the written notice of the meeting. The first annual meeting of the Owners shall be called by the Board of Managers at such time as the Board deems appropriate, but in any event no later than sixty (60) days after Declarant closes on the sale of the last Lot available in the Subdivision to an Owner, and thereafter the annual meeting of the Owners shall be held on the same day of each year on the anniversary date of the first annual meeting called by the Board at the same hour or at such other date or hour specified in the written notice of such meeting. Special meetings of the Owners may be called by a majority of the Board or by at least one-third of the Owners. Written

notice of the place, day and time of the annual meeting and all special meetings shall be personally delivered or mailed by first class mail not less than 5 days before such meetings to all Owners and Managers, if such Managers are not Owners. Any Owner shall have the right to designate a representative to attend all annual and special meetings. If sent by mail, notice shall be deemed delivered when deposited in the United States mail, with postage thereon prepaid, addressed to the person or entity entitled to notice at his or her last known address.

Section 4. Quorum. A quorum of Owners for any meeting shall consist of Owners representing fifteen percent (15%) of the votes in the Association, whether present in person or by written proxy submitted to the Board at or before the meeting. Subject to Article IX, Section 5, and unless otherwise provided herein, the decision of a majority of a quorum shall be valid as the act of the Association. If a quorum is not present at any meeting, another meeting shall be called as provided above, and business may be conducted at said second meeting if at least Owners representing ten percent of the votes in the Association attend in person or by proxy.

#### ARTICLE IV

##### BOARD OF MANAGERS

Section 1. Number and Term. The Board of Managers of the Association shall consist of three (3) persons elected, except as otherwise provided herein, by a majority of the Owners.



Except as otherwise provided herein, each Manager shall hold office for the term of one year and until his successor shall be elected and qualified. The first Board of Managers shall be selected by the Declarant and until the Declarant closes upon the sale to Owners of all of the Lots in the Subdivision, the Declarant shall have sole authority to appoint and replace each of the Managers, provided, however, that Declarant shall have the option of transferring this authority to the Owners at such earlier time as the Declarant may elect. Within sixty (60) days after the closing of the sale of the last Lot in the Subdivision to be sold by Declarant, or at such earlier time as the Declarant may elect, the Declarant shall cause the Managers to call a meeting of the Owners for the purpose of allowing the Owners to elect all of the Managers.

Section 2. Authority. The Board of Managers shall have the authority set forth in this Declaration and in the By-Laws of the Association.

## ARTICLE V

### COVENANTS AND RESTRICTIONS

Section 1. General Covenants and Restrictions. The Declarant, for each Lot owned and presently or hereafter within the Properties, hereby covenants, and each Owner of any such Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to the following terms, provisions, covenants and restrictions:

(a) Residential Use. No Lot shall be used except for

residential purposes, provided that Lots or portions of Lots may be used by the Declarant, its contractors and agents for temporary offices, model homes and/or subdivision entrance monuments. No residence, accessory building or any portion of any Lot shall be used as a boarding house, rooming house, club house, or road house, nor shall any residence, accessory building or any Lot be used or devoted to any manufacturing, industrial, commercial business (including, without limitation, saloons, taverns or filling stations) or professional activity whatsoever.

(b) Dwelling Specifications. No Residence shall be erected, placed, altered or permitted to remain on any Lot other than one single family dwelling not to exceed two stories in height, as measured from grade. No awning, canopy, radio, or television antenna shall be affixed to or placed upon any Lot or upon the exterior of any building on any Lot, including, without limitation, the wall or roof, without the prior written consent of a majority of the Board of Managers.

(c) Minimum Square Footage. All one story, split-level, and tri-level buildings constructed on Lots shall have a fully enclosed floor area of not less than 800 square feet, exclusive of garage, basement and open porches. All two story buildings constructed on Lots shall have a fully enclosed first floor area of not less than 500 square feet, exclusive of garage, basement and open porches.

(d) Exterior Walls. The outside exterior walls of all structures in the Proposed Development Area shall be

constructed of brick, wood or wood products, clay brick, masonite, aluminum, vinyl, stucco, rock or stone, which is aesthetically pleasing and of good workmanship. Any wood or wood product surface shall be painted or stained. The use of any other materials for outside exterior walls shall not be permitted without the written consent of the Board of Managers. All outside exterior walls of any structure shall be completed and finished within 150 days after the footings and foundation of any structure have been substantially completed.

(e) Compliance with Setbacks and Ordinances.

Building setbacks from Lot boundaries shall comply with the City of St. Peters, Missouri and County of St. Charles ordinances, as modified by any special use permit. Each Owner shall comply with all ordinances and subdivision regulations of the City of St. Peters, Missouri and St. Charles County, Missouri.

(f) Animals. No pigeons or poultry, cattle, hogs, rabbits, or other animals may be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept, provided they are not kept, bred or raised for any commercial purpose.

(g) Nuisance. No noxious or offensive trade or activity shall be conducted on any Lot, nor shall anything be done thereon prohibited by law or ordinance or which may be or become an annoyance or nuisance, in the judgment of the Board of Managers, to other Owners or inhabitants of Lots.



(h) Further Subdivision. No Lot shall be re-subdivided nor shall a fractional part of any Lot be sold without the prior written consent of the Board of Managers; provided, this restriction shall not apply to any Lots owned by Declarant. In no event shall this provision require the consent of the Managers for the sale of an entire Lot as now shown on the Subdivision Plat.

(i) Rubbish. No trash, rubbish, garbage, trash can or other receptacle therefor, shall be placed on the Lots outside of the Residences thereon, except upon the day of the week or month upon which regularly scheduled collections are to take place.

(j) Fences. No fence other than those fences built by the Declarant, its contractors and agents, if any, may be erected without the consent in writing of a majority of the Board of Managers. In any event, chain link fences of any type or size are prohibited.

(k) Sight Lines. No fence, wall, hedge or shrub planting which obstructs the sight lines between elevations of two and six feet above the streets or roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by street property lines and a line connecting them at points ten (10) feet from the intersection of the street lines, or, in the case of a rounded property corner, the point at which the street property lines would intersect if extended. The same limitations shall apply on any Lot within ten (10) feet from the intersection of a property line with the

edge of any driveway pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of the sight lines described above.

(l) Grading. No grading, paving, change of terrain, wall, ditch, conduit or other structure or device which would or might have the effect of changing or altering the flow of storm water onto or off of a Lot shall be constructed, erected, performed, done, dug or installed unless prior written permission therefor shall be had from the Board of Managers, except for such grading, paving and changing as Declarant may undertake in connection with the initial construction of improvements upon the Properties.

(m) Utility Lines. Each Owner shall repair, maintain, replace, or clear at such Owner's sole expense each gas, electric, sanitary sewage, and water lateral line servicing only such Owner's Lot or any improvements thereon.

(n) Prohibited Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a temporary or permanent Residence. No garage shall be constructed except those that are attached to the Residence on the Lot.

(o) Signs. No sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than six square feet advertising the Lot for sale or rent, or signs used by the Declarant to advertise Lots for sale during the construction and initial sales period.

(p) Personal Property. Personal property, including but not limited to, boats and trailers, shall not be stored in open or unenclosed carports on any Lot or anywhere else in the front yard of any Lot unless in an enclosed garage, nor, in the case of corner Lots, in the side yard. This shall not prohibit the parking of passenger automobiles, licensed and in operating condition.

(q) Laundry Lines. No permanent poles for attaching wires or lines for the purpose of handling laundry therein shall be erected, installed or constructed on a Lot, but temporary, foldable or removable devices may be used, so long as they are not in place for greater than a 24-hour period.

(r) Sewage. All water and sewage from residential uses shall be disposed of through the public sanitary sewer system. "

(s) Telephone and Service Connection Lines. No telephone or service connection lines may be erected or maintained above ground level, except as provided in Article II, Section 1.

Section 2. Covenant for Maintenance Assessments.

(a) Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned and presently or hereafter within the Properties, hereby covenants, and each Owner of such Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges for the purposes hereinafter set forth



in subsection (b) of this Section, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on such Lot and improvements thereon and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

(b) Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the following purposes: (1) to promote the health, safety, and welfare of the residents in the Properties, including without limitation providing for snow and ice removal from the streets in the Subdivision, and for the improvement, maintenance and re-construction of the Common Area, including without limitation the street lights and recreational areas, if any, within the Subdivision, and (2) for otherwise fulfilling and performing the Association's duties, obligations and functions pursuant to this Declaration and the Articles of Incorporation and By-Laws of the Association.

(c) Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot

to an Owner, the maximum annual assessment shall be One Hundred Dollars (\$100.00) per Lot.

(i) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(ii) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(iii) The Board of Managers may fix the annual assessment at an amount not in excess of the maximum assessment, as set forth above.

(d) Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including, without limitation, the street lighting and recreational area, if any, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a

meeting duly called for this purpose pursuant to subsection (e), below.

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

(f) Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots which are subject to assessment and may be collected on a monthly basis or such other convenient basis as may be decided by the Board of Managers, but at least annually.

(g) Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots which are subject to assessment on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The



Board of Managers shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Managers. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

(h) Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

(i) Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (deed of trust). Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due

prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VI

### ARCHITECTURAL CONTROL

Section 1. New Improvements. No Residence, garage, shed or other building, fence, wall, mailbox, newspaper box, light post, entrance monument, pavement, or other improvement (excluding landscaping) shall be erected or placed upon any Lot without the prior written approval of a majority of the Board of Managers of the contractor who will actually perform the proposed work and of the plans and specifications for the work. For purpose of this Section, the Declarant, its agents and contractors are approved contractors and Plans and Specifications for any work to be performed by Declarant, its agents and contractors, are deemed approved.

Section 2. Change Improvements. The exterior style and materials of any improvement on a Lot shall not be changed without the prior written approval of a majority of the Board of Managers of the contractor who will actually perform the proposed work and of the plans and specifications for the work. For purposes of this Section, Declarant, its agents and contractors, are approved contractors and the Plans and Specifications for any work to be performed by Declarant, its agents and contractors, are deemed approved.

Section 3. Submission of Plans and Specifications. At least fourteen (14) days before any of the foregoing work is commenced, the Owner shall submit to the Board of Managers one complete set of plans and specifications (including, without limitation, full site plans, exterior colors and materials), along with the name of the contractor who will actually perform the proposed work.

Section 4. Review of Plans and Specifications. Within twenty (20) business days after receipt of complete plans and specifications and the name of the contractor, the Board of Managers shall approve or disapprove them in writing. The Board of Managers may disapprove a contractor if the Managers determine, in their sole discretion, that such contractor does not meet the Managers' standards of credit worthiness and/or does not build homes or improvements, as the case may be, of the same quality and in the same price range as in the Subdivision. The Managers may disapprove plans and specifications only for one or more of the following reasons:

- (1) Non-compliance with this Declaration;
- (2) Failure of the exterior of a residence or other improvement to be of a style compatible with, or failure of a residence or other improvement to be of the same general size, quality of construction and price range as the dwellings and improvements built or to be built by Declarant, its agents and contractors, in the Subdivision.
- (3) Failure of a dwelling or other improvement to be placed and oriented on its Lot in a manner compatible to the residences and other improvements built or to be built upon adjoining Lots and in a manner compatible with the terrain of the Lot;



(4) Failure of a fence to be compatible with improvements on adjoining Lots, and with the character of the Subdivision as a whole, in terms of height, location, design, materials and/or obstruction of views; and

(5) Failure of the plans and specifications to show all information necessary to evaluate the foregoing characteristics.

The Managers' determinations concerning the contractor, plans and specifications shall be conclusive. If the Managers disapprove the contractor or the plans and specifications, they shall state in writing the reason for such disapproval and, in the case of plans and specifications, the deficiencies which must be cured to obtain approval.

Section 5. Relief Against Owner. If construction of or exterior changes to a Residence or other improvement are commenced without approval of the contractor and/or approval of the plans and specifications, or if construction of or exterior changes to a Residence or other improvement are completed not in accordance with approved plans and specifications, any Owner of a Lot in the Properties may bring an action to enjoin further construction and to compel the Owner to conform the Residence or fence with plans and specifications approved by the Board of Managers, provided that such action shall be commenced and a notice of lis pendens shall be filed no later than ninety (90) days after the date on which the certificate of occupancy is issued by the appropriate municipal or county authority, in the case of a residence, or the date of completion, in the case of any other improvement or also in the case of a residence if the municipal or county authority does

not issue occupancy permits for residences.

Section 6. Retention of Records. The Board of Managers shall retain for a period of three (3) years all plans and specifications submitted to it and a record of all actions taken with regard to them.

Section 7. Managers' Failure to Act. In the event the Board of Managers fails to approve or disapprove plans or specifications submitted to the Managers within 60 days after submission, and if no suit to enjoin construction in accordance with the plans and specifications submitted to the Managers has been commenced prior to the completion of construction, approval of the Managers will not be required and the related covenants shall be deemed to have been fully complied with.

„

## ARTICLE VII

### EXTERIOR MAINTENANCE

Each Owner shall be responsible at such Owner's expense for the care and maintenance of such Owner's Lot and the improvements thereon. In the event an Owner of any Lot shall fail to maintain the exterior of the improvements situated thereon in a manner satisfactory to two-thirds of the Board of Managers, the Managers shall have the right, but not the obligation, through its agents and employees, to enter upon such Lot to repair, maintain and restore the Lot and the exterior improvements erected thereon and each Owner, by acceptance of a deed to any such Lot hereby grants an irrevocable license to the Managers, their employees and

agents, to enter upon such Lot and improvements thereon to perform such repair, maintenance and restoration. The cost of such maintenance shall be charged against the Lot Owner. Such costs and expenses incurred shall be paid to the Managers upon demand, and if not paid within ten days thereof, shall become a lien on the Lot affected.

## ARTICLE VIII

### ADDING AND RELEASING PROPERTY

Section 1. Additional Property. Additional property situated outside of the Proposed Development Area may be annexed and included in the Properties by the Declarant by executing and recording an amendment to the Declaration.

Section 2. Release. All or any one or more of the Lots owned by the Declarant in the Proposed Development Area may be released from the covenants, conditions and restrictions of this Declaration at any time by the Declarant executing and recording an amendment to the Declaration.

Section 3. Amendments Adding or Releasing Property. Notwithstanding any provision of this Declaration to the contrary, including without limitation, Article IX, Section 5, no Owner's consent shall be required for: (a) the Declarant to amend the Declaration to subject additional property to the Declaration or to release all or any one or more of the Lots from the Declaration as provided in this Article; or (b) the Board of Managers of the Association to subject additional property to this Declaration.



## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Enforcement. The Managers, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants and reservations now or hereafter imposed by the provisions of this Declaration. Subject to the provisions of Article VI, Section 7, failure by the Managers or by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

Section 2. Owners' Right to Compel Action. In the event that the Board of Managers and/or any member thereof shall fail to discharge their respective obligations under this Declaration, then any Owner may bring an action to compel the discharge of said obligations. Such an action shall be the exclusive remedy of any Owner for failure of the Managers and/or its members to discharge such obligations. Under no circumstances shall the Board and/or its members be liable to any person for damages (direct, consequential or otherwise).

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions of this Declaration, all of which shall remain in full force and effect.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Managers and the Owner of any Lot subject to this Declaration,

their respective heirs, personal representatives, successors and assigns, for the duration of the Subdivision.

Section 5. Amendment. Except for amendments pursuant to Article VIII (which do not require Owners' consent), so long as Declarant owns any Lots in the Subdivision, the Declaration may only be amended by an instrument approved by (i) the Declarant, and (ii) sixty-seven percent (67%) of the votes of Owners in the Association, which instrument is executed by the Managers on behalf of the Owners. After the Declarant no longer owns any Lots in the Subdivision, the Declarant's approval of any amendments to the Declaration will no longer be required and the Declaration may be amended by an instrument approved by the aforesaid number of Owners and executed by the Board of Managers. To be effective, all amendments shall be recorded in the office of the St. Charles County, Missouri Recorder of Deeds.

Section 6. Reservation of Expenditures. Declarant reserves the right to receive any monetary consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided by it for joint main sewers, gas pipes, water pipes, conduits, poles, wires, street lights, roads, streets, Common Area, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to the creation and development of the Proposed Development Area.

IN WITNESS WHEREOF, the undersigned has set its hand and seal this day and year first above written.

SINGLE FAMILY HOME  
INVESTORS II, L.P.  
By: V.P. Development Corp.,  
its General Partner

By: Steven A. Dorenkamp  
Steven A. Dorenkamp  
President

STATE OF MISSOURI        )  
                                  ) SS  
COUNTY OF ST. LOUIS    )

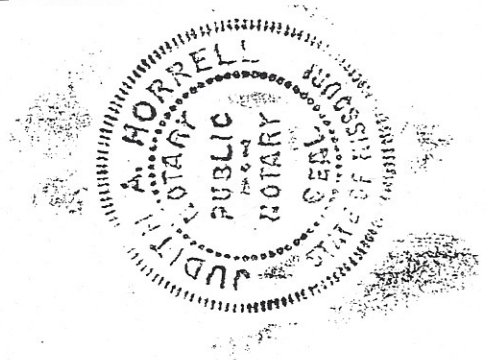
On this 28 day of October, 1991, before me personally appeared Steven A. Dorenkamp, to me personally known, who, being by me duly sworn, did state that he is the President of V.P. Development Corp., a Missouri corporation, the General Partner of Single Family Home Investors II, L.P., a Missouri limited partnership and that said instrument was signed and sealed on behalf of said limited partnership by said General Partner and that said instrument is the free act and deed of said limited partnership.

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.

Judith A. Horrell  
Notary Public

My commission expires:

**Judith A. Horrell, Notary Public  
County of St. Louis, State of Missouri  
My Commission Expires May 28, 1994**





## PARCEL NO. 1:

A tract of land being part of Lot 14 of MERAMEC PACIFIC RAILROAD according to the plat thereof recorded in Plat Book 6 page 97 of the City (formerly County) of St. Louis, Township 44 North, Range 5 East, St. Louis County, Missouri, being more particularly described as follows:

COMMENCING at the intersection of the Southern line of Vance Road and the Western line of Lot 14 of Meramec Pacific Railroad being the Northwest corner of Highland Village Plat 4 as recorded in Plat Book 253 page 77 of the St. Louis County Records; thence along the Western line of Lot 14, South 01 degree 47 minutes 00 seconds East, 608.05 feet to the Southwestern corner of Highland Village Plat 15 as recorded in Plat Book 267 page 53 of the St. Louis County Records, said point being the ACTUAL POINT OF BEGINNING of the tract herein described: thence along the Southwestern line of said Plat 15, South 61 degrees 02 minutes 45 seconds East, 175.26 feet to the Western most corner of Highland Village Plat 16 as recorded in Plat Book 275 page 99 of the St. Louis County Records; thence along the Southwestern and Southeastern lines of Plat 16, South 68 degrees 40 minutes 11 seconds East, 85.22 feet to a point; thence South 43 degrees 47 minutes 00 seconds East, 6.89 feet to a point; thence North 46 degrees 13 minutes 00 seconds East 128.06 feet to a point in the Western line of Highland Village Plat Twenty recorded in Plat Book 280 page 49 of the St. Louis County Records; thence along the Southwestern line of Highland Village Plat 20; Highland Village Plat Twenty One, as recorded in Plat Book 283 page 79 of the St. Louis County Records; and Highland Village Plat Twenty Three, as recorded in Plat Book 286 page 74 of the St. Louis County Records; South 57 degrees 47 minutes 00 seconds East, 371.95 feet to a point; thence South 36 degrees 52 minutes 00 seconds East, 27.85 feet to a point; thence along the Western line of Highland Village Plat Twenty Seven and Highland Village Plat 26, South 15 degrees 57 minutes 00 seconds East, 369.81 feet to a point on the Northern right-of-way line of Missouri Pacific Railroad; thence along a curve to the right having a radius of 3337.87 feet, an arc length of 746.51 feet and a chord bearing of South 84 degrees 51 minutes 07 seconds West to the point of intersection with the Western line of Lot 14; thence along said line, North 01 degree 47 minutes West, 675.53 feet to the actual point of beginning and containing 8.779 acres more or less. (Proposed Phase Four)