

**Declaration of Covenants, Restrictions, Easements, Charges,  
Assessments and Liens for**

**EAGLESGATE, L.L.C.**

*A masterplanned community located in  
Greene County, Missouri*

**Developed by**

**Resource Development, Inc.  
1411 East Primrose, Suite A  
Springfield, Missouri 65804**

**William R. Jester, President**

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EXHIBITS

Exhibit “A”                      LEGAL DESCRIPTION OF THE PROPERTY

Exhibit “B”                      COMMON PROPERTY

**DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES, ASSESSMENTS AND  
LIENS FOR EAGLESGATE**

THIS DECLARATION is made this 13th day of November, 2003, by Eaglesgate, LLC, a Missouri entity (hereinafter “Developer”).

WHEREAS, the Developer is the owner of certain hereinafter described land located in Greene County, Missouri and

WHEREAS, the Developer desires to create thereon a planned community to be known as Eaglesgate containing residential areas and related uses in substantial conformance with the governmental approvals therefore; and

WHEREAS, the developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of common use areas, including any improvements located thereon: and, to this end, desires to subject the real property hereinafter described to the covenants, restrictions, easements, charges and liens hereinafter set forth; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation of the values and amenities of said community, to create an agency to which should be delegated and assigned the power of maintaining, administrating and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer will incorporate under the laws of the Sate of Missouri, a not-for-profit corporation for the purpose of exercising the functions herein described.

NOW, THEREFORE, the Developer hereby declares that the land described in Exhibit “A” Shall be held, sold, used and conveyed subject to the following covenants, restrictions, easements, charges and liens, all of which are for the purpose of promoting the common good and general welfare of all Residents, Members and Owners and thereby enhancing and protecting the value, desirability and attractiveness of such land. These covenants, restrictions, easements, charges and liens shall run with such land and with the title to such land and shall be binding on all parties having or acquiring any right, title or interest in such land or part thereof, subject to the limitations herein provided, and shall inure to the benefit of each Owner, his or its heirs, grantees, distributes, personal representatives, successors and assigns, the Association, each Resident, and the Developer.

ARTICLE 1

Definitions

The following terms, when used in this Declaration, or in 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 Development Plan, and made subject to the scheme of this Declaration.
- 1.02 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.”
- 1.03 Assessments. The term “Assessments” shall have the meaning specified in Article IV, and shall include Annual Assessments and Special Assessments as such terms are defined in Article IV.
- 1.04 Association. “Association” shall mean and refer to the Eaglesgate Community Association, Inc., a not-for-profit Missouri corporation, or any successor thereof, charged with the duties and obligations set forth herein. “Area Association” shall have the meaning set forth in Section 3.08 hereof.
- 1.05 Association Board. “Association Board” shall mean and refer to the Board of Directors of the Association.
- 1.06 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 designated for the common use and enjoyment of the Owners and Residents, as such areas may be depicted on any recorded subdivision plat of the Property, or portion thereof, as “Private Open Space” and as shown on the attached Exhibit “B”, or as shown as common drainage easement, including but not limited to the landscaped portion of any street within the Subdivision, cul-de-sac islands, landscaped areas within any public street within the Subdivision, any private streets, entry roads, curb and gutter, sidewalks, gates and other improvements as shown on the recorded plat of the Property. Such interest or interests may include, without limitation, estates in fee, easements, leaseholds or licenses. Notwithstanding any legal presumption to the contrary, the fee title to any land shown upon any filed or recorded map or plat of any part of the Property which shall be designated as “Private Open Space” shall be reserved to the Developer until such time as the same shall be conveyed to the Association. The Common Property shall not contain any buildings used for commercial, residential or Living Unit purposes.
- 1.07 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.
- 1.08 DRC. “DRC” shall mean and refer to the Design Review Committee which shall have the duties and functions specified in Article VIII hereof.

- 1.09 Declaration. “Declaration” shall mean and refer to this Declaration of Covenants, Restrictions, Easements, Charges and Liens, as the same may from time to time supplemented or amended in the manner prescribed herein.
- 1.10 Deed. “Deed” shall mean and refer to a deed, assignment or other recordable instrument conveying the fee simple title to a Lot or a recorded land sale contract, contract for deed similar instrument which requires the vendee to make periodic payments towards the purchase price for the purpose of eventually obtaining the fee simple title to a Lot.
- 1.11 Developer. “Developer” shall mean and refer to Eaglesgate, LLC, a Missouri entity, and its successors and assigns.
- 1.12 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 DRC pursuant to Article VIII of this Declaration.
- 1.13 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 ninety-five percent (95%) of all the Lots in all of the parcels of land located or to be located within the Development Plan.
- 1.14 Development Plan. “Development Plan” shall mean and refer to Developer’s plan for the development of the Eaglesgate community which, as of the date hereof, contemplate both residential and common uses and which plans may from time to time be amended, expanded, changed, abandoned or implemented and include each and every plat, and all amendments thereto, which may be filed with respect to any portion of the land within the Development Plan.
- 1.15 Director. “Director” shall mean and refer to a member of the Association Board.
- 1.16 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 or to be filed for record by the Developer in accordance with the Development Plan, and from time to time by recorded instrument, reserved for the easement purposes set forth in such instruments and as generally described in Article IX hereof and including access easement areas.
- 1.17 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.
- 1.18 Lot. “Lot” shall mean and refer to any plot or parcel of land, including a condominium unit, shown on the Plat or plats or subdivision map of any part of the Property or any



other lot or parcel of land, including a condominium unit, constituting part of the Property described in a Deed from the Developer or any subsequent Owner, which Deed has been recorded in the Recorder of Deeds Office of Greene County, Missouri with the exception of Common Property, together with all permanent structural improvements thereon.

- 1.19 Member. “Member” shall mean and refer to every person or entity holding membership in the Association, as set forth in Article III.
- 1.20 Nonassessable Property. “Nonassessable Property” shall mean and refer to all land designated “Private Open Space” or with a similar common property designation upon the Plat, any map or plats or any part of the Property.
- 1.21 Nonresidential Property. “Nonresidential Property” shall mean and refer to any Property or building or any portion of a building which has a nonresidential use and which is situated on Assessable Property. Structures constructed with Living Units, such as swimming pools, shall be considered “residential.”
- 1.22 Note. “Note” shall mean and refer to all notes, bonds, debentures or other evidences of indebtedness issued and sold by the Association.
- 1.23 Note Holder. “Note Holder” shall mean and refer to the holder of any Note and all trustees and other representatives of any such holder.
- 1.24 Owner. “Owner” shall mean and refer to a 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.
- 1.25 Plat. “Plat” shall mean and refer to that certain Eaglesgate Plat recorded the \_\_\_ day of \_\_\_\_\_, 2003 in the office of Recorder of Deeds for Greene County, Missouri, together with all other plats recorded in respect of the Property.
- 1.26 Private Open Space. “Private Open Space” shall mean and refer to those areas of the Property designated as “Private Open Space” on any plat of the Property. The Developer has set aside the Private Open Space as depicted on the Plat.
- 1.27 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 by annexation pursuant to Article II hereof.
- 1.28 Resident. “Resident” shall mean and refer to any person who:
- (a) owns a Living Unit within the Property and has manifested his present intent to reside it that dwelling even though he may be temporarily absent; or

- (b) is actually living within the Property in the same household with a person described in either Section 1.28(a) or in Section 1.28(c), whether or not he is a member of the immediate family of such person; or
  - (c) is a Residential Tenant.
- 1.29 Residential Area. “Residential Area” shall mean and refer to Lots 1 through, 210 Eaglesgate Plat, together with Lots within the Annexation Property which may be specifically designated as “Residential Area” in any Declaration of Annexation.
- 1.30 Residential Tenant. “Residential Tenant” shall mean any person who occupies a Living Unit as the named “lessee” under a written lease from an Owner and which lease has been filed with the Association and which lessee has been registered with the Association as herein provided and required.
- 1.31 Restriction. “Restriction” shall mean and refer to any covenant, restriction, easement, lien or other obligation created or imposed by this Declaration.
- 1.32 Right of Action. “Right of Action” shall have the meaning specified in Article XV hereof.
- 1.33 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 DRC, the appearance of such Lot, including by 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 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. Each Owner and each Resident, by the act of becoming such, shall be deemed to have acknowledged and agreed that:

- (i) The Property described in Exhibit "A" and such Annexation Property as may be annexed thereto pursuant to Section 2.02 shall be the only land subject to the Declaration.
  - (ii) The Developer may annex all or any portion of the Annexation Property without the consent of any Owner, Resident, Residential Tenant or of the Association where any Annexation Property is not included in the Development Plan at the time of 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 scheme of development shall be construed as requiring Developer, or any 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 of the Members, and shall be held, improved and administered in the same manner and for the same purposes as the Property described in Exhibit "A".
  - (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 in Section 2.02 or in Section 2.03.
- (b) Prior to selling any Annexation Property, the Developer may annex such Annexation Property pursuant to Section 2.02 and may subject such Annexation Property to another set of covenants, restrictions, easements, charges and liens in accordance with the Development Plan.

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 Development Plan;

- (c) may extend jurisdiction of the Association to include the Annexation Property if appropriate as determined by Developer;
- (d) shall declare that the Annexation Property has been or is being developed substantially in accordance with the Development Plan;
- (e) 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;
- (f) may provide for other restrictions, conditions and allocations of rights and benefits not inconsistent with the Development Plan;
- (g) may provide that Owners, upon recordation of such Declaration of Annexation, shall also have a right and nonexclusive easement of enjoyment in and to the Common Property within the Annexation Property in accordance with the provisions of such Declaration of Annexation and an obligation to contribute to the cost of improvement, operation and maintenance of such Common Property within the Annexation Property in like manner as if such Common Property had been originally located within the Property; and
- (h) may provide a mechanism for creating Area Associations therefore, 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 pursuant to Section 2.02. 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.

2.04 Right of Deannexation. The Developer's right of deannexation is set forth in Section 14.02 hereof. The Association, after the Development Period, upon a majority vote of the Members may deannex and release any portion of the Property or any portion of the Annexation Property from this Declaration, from any Declaration of Annexation and from the jurisdiction of the Association, provided that:

- (a) there has been first filed with the Association Board a written request for deannexation (the "Deannexation Request") which shall describe by legal description and by street address, if available, all of the Property with respect to which deannexation is requested;
- (b) notification of the receipt of the Deannexation Request has been given according to the notice provisions of this Declaration to all Owners at least sixty (60) days prior to any vote by the Members with respect thereto;

- (c) each Owner of a Lot or Living Unit, and including any lienholder on any such Lot or Living Unit whose consent may need to be obtained, situated within the boundaries of the Property proposed to be deannexed and released has executed a written statement of consent to such action, which statement of consent shall be in such form as deemed appropriate by the Association Board.

Upon a majority vote of the Members to deannex and release such Property from this Declaration, from any Declaration of Annexation and from the jurisdiction of the Association, the Association Board shall cause to be filed in the appropriate Office of the Recorder of Deeds, a written release describing the Property to be released. Such release document shall be signed by all of the Owners of the Lots and Living Units within the boundaries of the Property to be deannexed and shall contain such covenants, terms and conditions as the Association Board deems appropriate.

### ARTICLE III

#### Eaglesgate Community Association

- 3.01 Powers and Duties of the Association. The Association is organized to operate for the common good and general welfare of the Residents, 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 otherwise to promote the health, safety and general welfare of the people of said community, 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 affirmation 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 enforce payment 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 to pursue its Right of Action as provided in Article XV herein.
  - (c) Programs. The Association may plan and implement community programs and conduct Association programs on or in Common Property.

- (d) 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, trees, flowers, other landscaping, fountains, benches, shelters, public sculpture, pedestrian pathways, ornamental walls, lighting systems for such pathways, bridges or underpasses for such pathways, retention basins, tot lots, playgrounds, pools and other recreational facilities, office space, storage and maintenance buildings, garages and other buildings and facilities deemed necessary or desirable by the Association Board (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. The Association may convey and dedicate to the City or County and to the use and enjoyment of the general public any of the Common Property, subject to the approval of, and the appropriate acceptance by, the City or County.
- (e) 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 (i) overhead or underground lines, cables, wires, conduits or other devices for the transmission of electricity and for lighting, heating, power, telephone, community television, radio and audio antenna facilities and other purposes, (ii) public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and (iii) any similar public or quasi-public improvements or facilities as may be considered necessary for the common good of said community.
- (f) 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.
- (g) 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 Common Property and the operations thereon and of the Association and as deemed by the Association Board to be necessary and appropriate.
- (h) Management of Improvements. The Association shall manage and control for its Members all improvements within public right of ways and on the Common Property, provided that such management and control of said improvements

shall at all times be subject to that had and exercised, if any, by the City, the appropriate county and the State of Missouri.

- (i) Landscape Maintenance. The Association shall, subject to the approval of the City or County, care for, spray, trim, protect, provide irrigation for, and replant shrubbery, ground cover and trees on all streets, and on islands located therein, on the Common Property at the Subdivision entrance, medians, or other landscaped areas within any right-of-way of any public street located within the Subdivision and any Lot, if necessary, and shall care for, irrigate, protect and replant shrubbery, resow grass and replace sod in the Private Open Spaces and Common Property, where the maintenance thereof is for the welfare and benefit of the Residents, Members and Owners in the judgment of the Association Board, and to the extent that the Greene County Highway Department deems necessary to maintain public safety. The Board of the Association shall be the sole judge as to the appropriate maintenance of all grounds within any Common Property, except any landscaped or planted areas within the right-of-way of a public street or any common area drainage easement depicted on the final plat shall be maintained to the satisfaction of the Greene County Highway Department and the Greene County Resource Management Department, respectively. In the event landscaping within any right-of-way or common area drainage easement shall not be maintained by the Association to the satisfaction of the Greene County Highway Department or Resource Management Department, the County shall provide the homeowners association, or its last known registered agent, with written notification of any deficiencies, whereupon, the Association shall have thirty (30) days to correct any deficiencies. In the event the Association fails to correct any deficiencies in landscaping of road right-of-ways or common area drainage easements within the Subdivision as delineated by Greene County officials within thirty (30) days of receipt of notice, then in that event the County may either (1) have the maintenance performed and the homeowners association shall be billed for the cost of said maintenance, or (2) the county may remove the Landscaping, median or landscaped area within any right-of-way in said subdivision. Except as otherwise specifically provided, any expense of the Association for administration, maintenance, operation, repair or replacement of any common area drainage easement and landscaping within any public right-of-way shall be treated as and paid for as a common expense of the Association, provided, however, if the County is not reimbursed for the costs of maintaining common area drainage, easements or landscaping within any right-of-way on the Property by the Association, Greene County may assess the cost of such maintenance or abatement in the same manner as assessments are levied by the Association, and the same shall be a levy and a personal liability to each lot owner in the Subdivision to the same extent as other assessments provided in Article IV. In the event the property is annexed into the City of Springfield, Missouri, the City of Springfield shall succeed to the rights of Greene County hereunder. All areas shown as Common Property on the final plat of the Property and all common area drainage easements shown thereon shall be

owned, kept and maintained by the Developer until such time as the Developer shall determine to convey the same to the Association which thereupon shall accept delivery of said conveyance and shall thereafter hold all such areas as Common Properties and be responsible for such maintenance.

- (j) 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 and the parking in front of any Property neat in appearance and in good order.
- (k) Street Lighting. The Association shall provide such lights as the Association may deem advisable on streets and sidewalks, in Private Open Space, gateways, entrances, or other features, and on other Common Property or public property subject to the prior written approval of the DRC.
- (l) Snow Removal and Street Cleaning. The Association may provide for the removal of snow from sidewalks and streets and cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways, and for repair and maintenance of sewers, storm sewers and appurtenant drainage facilities.
- (m) Signs. The Association may erect and maintain signs, after such signs are approved by appropriate public authorities and after such signs are approved in writing by the DRC.
- (n) Security Protection. The Association may employ duly qualified officers or implement electronic security systems 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.
- (o) 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.
- (p) Retention Pond. The Association shall maintain the lakes to be constructed by Developer as shown on Eaglesgate Plat from and after the conveyance of said from Developer to the Association. Until the conveyance to the Association, Developer shall maintain such lakes pursuant to the provisions of Article XII hereof.

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.



### 3.02 Membership in the Association.

- (a) Each Owner (notwithstanding the number of Lots owned) shall be entitled to one (1) Association Membership and one (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. In the absence of such written specification, Assessments shall be charged against the Lot and Owner thereof, but there shall be no right to vote the Membership. The Member must be an individual who, is either an Owner, or if the Owner is or includes another individual, the Member may be an individual who is a partner if the Owner is or includes a partnership, or an officer of a corporation if the Owner is or includes a corporation, or a beneficiary of a trust if the Owner is or includes a trust, or an owner of an entity if the Owner is or includes a person other than an individual, a partnership, a corporation or a trust. 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 a 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 place of residence.
- (c) Subject to the provisions of this Section 3.02, once a Member has been specified as an Owner, a successor Member may only be specified as such Owner upon at least fifteen days' prior notice to the President of the Association; provided, however, the foregoing shall not impair the provisions of Section 3.02(d).
- (d) A Membership shall not be transferred, pledged or alienated in any way, except as herein expressly provided. Subject to the provisions of Section 3.02(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.

3.03 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 Section 3.09 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 or office and shall serve until successors are elected and qualified.

3.04 Suspension of Membership and Rights of Enjoyment. The Association Board may Suspend the voting rights of Members and the rights of enjoyment, except as to the Private Open Space and to the lakes of any Member, Resident 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), (c) and (d) of this Section 3.04 exist.

3.05 Termination of Membership. No owner shall continue to be a Member after he ceases to hold a qualifying interest in any Lot or Living Unit. 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.

3.06 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 of all 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.

- 3.07 Limitation of Liability. No member of the Association Board, officer of the Association, member of any committee of the Association, whether such committee is specifically described in this Declaration or hereafter created by the Association, shall be personally liable to any Owner, Member or Residential Tenant or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of such Association Board, officer to the Association, committee member, or of the Manager, if any, any other representative or employee of the Association or of Developer, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.
- 3.08 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 and Living Units 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 or Living Unit within an Area Association shown on any subdivision plat shall, be 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 the Lots and Living Units located within the Area Association. The Area Association will operate 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 or Living Unit on the Property.

- 3.09 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 DRC, including appointment and removal of the president and all officers of the Association, all directors of the Association Board and all members of the DRC until ninety-five percent (95%) of the Lots in the Development Plan (as it exists from time to time) have been sold to Owners other than builders. 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 DRC, or any other matter requiring the vote or approval of the Association Board or of Association 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 III.
- 3.10 Voluntary Dissolution of the Association. The Association may not be voluntarily dissolved without the prior written consent of Greene County, Missouri or the City of Springfield, Missouri in the event the Property has been annexed into the City of Springfield, notwithstanding any contrary provisions in its Articles of Incorporation or By-Laws.

#### ARTICLE IV

##### Imposition of Assessments and Liens Upon Property

- 4.01 Covenants for Assessments and Creation of Liens. The Developer and each Owner, jointly and severally, for himself, his heirs, distributes, 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 to Section 4.09 hereof;
  - (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 or Living Unit 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 fees incurred in the collection of delinquencies, shall become, upon the filing of this Declaration, and thereafter remain a charge against and be 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 any agreement, contract, mortgage or other instruments, excepting only:
  - (i) purchase money mortgages or deeds of trust given to finance the purchase of the Lots subject to the mortgage or deed of trust or to finance construction of improvements on the Lot subject to the mortgage or deed of trust; provided, however, that this subordination to such mortgages shall apply only to Assessments which have become due and payable prior to a sale or transfer of any Lot on account of the foreclosure of any such mortgage or on account of any other proceeding in lieu of foreclosure; such a sale or transfer at foreclosure or in lieu of foreclosure shall not release such Lot from the lien of or relieve the new Owner, his successors and assigns from liability for any Assessments thereafter becoming due; and
  - (ii) such liens for taxes or other public charges as are made superior by applicable law; provided, however, that this subordination to such liens shall apply only to Assessments which have become due and payable prior to a sale or transfer of any Lot on account of the foreclosure of any such lien or on account of any other proceeding in lieu of foreclosure; such sale or transfer at foreclosure or in lieu of foreclosure shall not release such Lot from the lien of or relieve the new Owner, his successors and assigns from any liability for any Assessments thereafter becoming due.

Nothing contained in this subsection (d) of Section 4.01 shall be construed so as to constrain or impair the payment of funds realized from a foreclosure sale, to the extent of any funds remaining after satisfaction of prior liens; in order of priority to holders of subordinated liens.

#### 4.02 Uniform Rate of Assessment.

- (a) For the purpose of providing funds for the uses specified in Article V hereof, the Association Board shall assess against the Assessable Property in each year, beginning with the year in which Common Property is first transferred to the Association, 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 type, status of occupancy and such other criteria as the Association Board may deem pertinent. Lots or Living Units which are not occupied by a Resident and which are owned by a builder shall be assessed at a rate to be determined by the Association Board.

- (b) Not later than ninety (90) days prior to the end of each fiscal year for the Association, the Association Board shall prepare and 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 Association Board may not increase Annual Assessments to any Living Unit by more than fifteen percent (15%) of the previous year's Assessment for such Living Unit unless the Association Board determines that a greater adjustment is necessary solely as a result of inflation. 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.

4.03 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 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. The initial assessment shall be due upon occupancy of the house.

4.04 Commencement of Assessments. With regard to the Property, and any Annexation Property, each part of the Assessable Property shall become subject to the Assessments set forth herein on the first day of the fiscal quarter following the month in which each part meets the definition of a Lot. 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.

4.05 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 lesser of six percent (6%) over the Base Rate or Prime Rate as announced by Great Southern Bank, Springfield, N.A. (or any successor thereto) as its base per annum lending rate, from time to time, or the Maximum interest rate permitted under the laws of the State of Missouri 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 of Section 15.03 hereof, to enforce the lien for Assessments imposed by Section 4.01. 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 suite to recover a money judgment for the same, together with interest thereon and reasonable expenses of collection, including attorney fees, without foreclosing or waiving the lien hereinbefore provided.

4.06 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. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter herein stated as between the Association and any bona fide purchaser or encumbrancer of the Lot in question.

4.07 User Fees and Charges.

- (a) In addition to the Annual Assessments, the Association Board may levy and collect charges and fees from all Owners for the use of Common Property for the purpose of maintaining, refurbishing, replacing and repairing Common Property and the Common Property Improvements, and operating services on Common Property.
- (b) In establishing user fees and charges, The Association Board may formulate reasonable classifications of users. Fees and charges shall be uniform within each classification, but need not be uniform from classification to classification.
- (c) If any Owner 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 except as to Private Open Space and the Retention Pond and may take whatever action deems necessary to enforce such suspension.

4.08 Additional Procedures. The Association Board shall have the right to adopt procedures for the purpose for 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.

4.09 Special Assessments.

- (a) In addition to the Annual Assessments authorized by Section 4.01 hereof, 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 in Section 4.03 hereof.
- (c) 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 Section 3.06 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.
- (d) Any Lots owned by Developer or builders shall not be subject to Special Assessments.

## ARTICLE V

### Use of Funds

5.01 Purposes of 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 proceeds of loans referred to in Sections 5.02 and 5.05 and the accumulated funds referred to in Section 5.03, to the following:

- (a) the operating costs and expenses of the Association, including planning and implementation of the community programs;
- (b) the planning, design, acquisition, improvement, construction, maintenance and equipping of Common Property Improvements;
- (c) Association programs and services conducted on or in Common Property;
- (d) Payment of all principal and interest when due on all loans made to the Association to the extent required under any agreement with Note Holders pursuant to Section 5.02 hereof;
- (e) 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;
- (f) 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, including but not limited to workmen's compensation insurance, to the extent necessary to comply with any applicable law and then-current insurance practices, and indemnity, faithful performance, fidelity and other bonds as the Association Board shall deem necessary,

appropriate or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or property; and

- (g) The repair, improvements, construction, operation or extension of any utility servicing the Property or any utility deemed reasonably necessary by the Association Board to service the Property.

5.02 Handling of Funds. In order to secure the repayment of any and all sums borrowed by it from time to time, the Association Board is hereby granted the right and power:

- (a) to assign and pledge revenues received and to be received by it under any provision of this Declaration, including, but not limited to, the proceeds of the Assessments payable hereunder; and
- (b) to enter into agreements with Note Holders with respect to the collection and disbursements of funds, including, but not limited to, agreements wherein the Association covenants:
  - (i) to assess the Assessments on a given day in each year and subject to the limitations specified in Article IV;
  - (ii) to establish sinking funds or other security deposits, or both;
  - (iii) to apply funds received by the Association to the payment of all principal and interest when due on such loans or to apply the same to such purpose after providing for costs of collection;
  - (iv) to establish such procedures as may be required by the Note Holders, but not inconsistent with the Declaration;
  - (v) to provide for the custody and safeguarding of all fund by the Association; and
  - (vi) to negotiate and arrange the amount, terms and rate or rates of all borrowing and the provisions of all agreements with Note Holders.

5.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in 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.

5.04 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.

5.05 Advances by the Developer.

- (a) On an annual calendar year basis, the Association Board shall prepare the Association Budget which shall include a cash budget projecting anticipated cash receipts, cash expenditures and net cash surplus or deficit for the ensuing fiscal year.
- (b) The Developer may, but is not obligated to, make cash advances to the Association to eliminate any projected net cash requirements of the Association which occur during the course of any fiscal year throughout the Development Period. Such cash advances may be considered borrowings of the Association if necessary, in order to satisfy the requirements of the Developer in making such advances.
- (c) The foregoing provisions notwithstanding, the Developer will not make an advance if the Developer shall determine that such an advance would materially jeopardize the performance of its obligations pursuant to the Development Plan or the requirements of its creditors. In such event, the Developer will undertake to notify the Association in writing within thirty (30) days after a request is made by the Association that it is not able to make an advance and may state the reasons relating thereto.
- (d) If required by the Developer, all such advances shall be evidenced by promissory notes of the Association to bear interest at the effective rate of interest being paid by the Developer on its debentures or debt obligations.

5.06 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 "Developer Loan Lien"), the Association may mortgage any Common Property to which it has clear title; provided, however, that any such mortgage shall be subject to the approval of two-third (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

### Common Property

#### 6.01 Conveyance of Common Property.

- (a) The Developer shall convey the Private Open Space to the Association and, from time to time, 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 and Residents. Such property shall be free of encumbrances and liens, except for the Development Loan Lien, but subject to easements and rights created by this Declaration or similar instruments, including utility easements. 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 Residents 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 Section 6.01, "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. Any debt which may be incurred by the Association in connection with a conveyance to the Association by the Developer shall be considered a borrowing subject to the provisions of Section 5.02.
- (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 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.
- (c) The Developer has set aside the Private Open Space as depicted on the Plat.

6.02 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. All Residential Tenants who are not also Owners shall have a nontransferable privilege to use and enjoy all Common Property for so long as they are a Resident. 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 VI 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 Eaglesgate community;
  - (ii) determine the use or uses 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 Article VII 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 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 pursuant to Section 4.07 of this Declaration 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, developing or improving any Common Property including improvements

thereon, and in aid thereof to mortgage the same, provided that the rights of any such mortgagee shall be subordinate to the rights, easements and privileges herein granted and assured; 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.

6.03 Damage or Destruction of Common Property by Owner. In the event any Common Property is damaged or destroyed by an Owner, Resident or any of their guests, tenants, licensees, agents or members of their families, such Owner and Resident do hereby authorize the Association to repair such damaged areas. The Association shall repair such damaged area in a good and workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association at the discretion of the Association. The amount necessary and actually expended for such repairs shall be a Special Assessment upon the Lot or Living Unit of said Owner, shall be a lien upon the Lot or Living Unit of said Owner and shall be enforceable as other Assessments under Article IV.

6.04 Maintenance of Common Property. The Association shall maintain the Common Property according to at least the same standard of maintenance required of Owners.

6.05 Suspension of Rights. Except with regard to the Private Open Space and Retention Pond, the Association shall have the right to suspend the right or privilege under this Article VI 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 VI.

## ARTICLE VII

### Designation of Use of Property

7.01 Designation. Initially, and from time to time, the Developer shall file with the Association and the DRC, for information purposes, a duplicate of each plat as such is recorded in the appropriate Recorder of Deeds Office. The Developer

may at the time of filing, or at any time thereafter, without the approval of the DRC, designate any Lots owned by the Developer according to such uses or designations as the Developer may determine in accordance with the Development Plan.

- 7.02 Change of Designation. After a Lot is no longer owned by the Developer there shall be no change in the designation, if any, of such Lot except with the mutual consent of the Owner thereof and the DRC, together with such additional government approval as may be required. So long as the Developer has the right to appoint the Association Board, the Developer may change the designation of Common Property after its conveyance to the Association. Thereafter, any such change in the designation of Common Property after its conveyance to the Association shall require the approval of two-thirds (2/3) of the Association Board.

## ARTICLE VIII

### Design Review Committee

- 8.01 Purpose, Powers and Duties of the DRC. The purpose of the DRC is to assure that all proposed uses and any construction or alteration of any Structure which take 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 DRC shall have all of the rights, powers and duties conferred upon it pursuant to the provisions of this Article VIII, 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, except that the DRC shall not have the right, without the approval of the Developer during the Development Period, to disapprove a use for a Lot which is within the use category designated for such Lot by the Developer pursuant to Section 7.01. The DRC shall also have the right to approve or disapprove any and all proposed external alterations or use changes for Lots, Living Units or Common Property. The DRC will not do anything, however, which would prevent the Developer from fulfilling its obligations under the Development Plan.
- 8.02 Composition and Appointment.
- (a) The DRC shall be comprised of five (5) members, each serving one (1) year terms. The members shall have the following qualifications and shall be selected by the following entities:
    - (i) DRC Member #1:
      - (A) may be an architect registered in Missouri;

- (B) shall be appointed by the Developer during the Development Period and may be an employee of the Developer; thereafter Member #1 shall be appointed by a majority vote of the Association Board;
- (ii) DRC Member #2:
  - (A) may be a civil engineer licensed in Missouri
  - (B) shall be appointed by the Developer during the Development Period and may be an employee of the Developer; thereafter Member #2 shall be appointed by a majority vote of the Association Board;
- (iii) DRC Member #3:
  - (A) may be an employee or agent of Developer during the Development Period and , thereafter, shall be a Member;
  - (B) shall be appointed by the Developer during the Development Period; thereafter Member #3 shall be appointed by a majority vote of the Association Board;
- (iv) DRC Member #4:
  - (A) may be an employee or agent of Developer during the Development Period and , thereafter, shall be a Member;
  - (B) shall be appointed by the Developer during the Development Period; thereafter Member #4 shall be appointed by a majority vote of the Association Board;
- (v) DRC Member #5:
  - (A) may be an employee or agent of Developer during the Development Period and, thereafter, shall be a Member;
  - (B) shall be appointed by the Developer during the Development Period; thereafter Member #5 shall be appointed by a majority vote of the Association Board;
- (b) During the Development Period, Developer may, but shall not be obligated to, assign its rights to appoint the DRC Members to the Association. At such time as the Association Board, exclusive of the Developer, has the power and authority to appoint Members to the DRC, it may but is not obligated to appoint such Members with backgrounds similar to those set out in the above paragraph.
- (b) If any vacancy shall occur in the membership of the DRC by reason of death, resignation, removal or otherwise, including the failure to find a



candidate with the necessary qualifications for a specific DRC member's position, the remaining vacancies of the DRC shall be filled by the Developer during the Development Period, or, thereafter, by the Developer or the majority vote of the Association Board, as appropriate. Any DRC member may resign at any time by giving written notice of such resignation to the Chairman of the DRC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the DRC may be removed with or without cause by the Developer or the majority vote of the Association Board, whichever appointed him. If, subject to the above, the Developer or the Association Board, as appropriate, fails to act to fill a vacancy within thirty (30) days of the receipt of a written notice or resignation, a majority of the remaining members of the DRC shall appoint the new member to fill the vacancy.

- 8.03 Officers, Subcommittees and Compensation. The members of the CRD shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees as they shall from time to time determine. In addition, the DRC may establish advisory committees, which may include such members of the DRC, employees or Members of the Association, or other persons as the DRC may in its discretion determine; provided that any such subcommittees or advisory committees may make recommendations to the DRC but shall have no power to finally exercise any of the power and authority of the DRC under this Declaration. Members of advisory committees may receive such compensation and reimbursement for expenses as the Association Board may determine. Each member of the DRC shall receive reasonable compensation from the Association for his services as a member thereof and shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of his duties as a member of the DRC; provided, however, that the Developer shall compensate any of its employees who serve as members of the DRC and shall reimburse them for traveling expenses and out-of-pocket costs incurred in the performance of their duties as Members of the DRC.
- 8.04 Conflicts of Interest. No member of the DRC may participate in any decision of the DRC on a matter in which he has a direct or indirect financial interest, or on a matter in which he has personally provided professional consulting services for a fee to the party whose application is before the DRC; provided, however, that this restriction shall not apply to any employee of the Developer solely by reason of his capacity as such employee; provided further, if two (2) or more members may not participate in the making of a decision because of disqualification as provided herein, the Developer or the Association Board, whichever appointed the disqualified members, shall name substitute members to act only on the matter resulting in the disqualification. For a period of one (1) year after his service on the DRC no former member may represent any matter before the DRC where that member has participated in any decision on said matter. Each member of the DRC shall inform the DRC in writing of any direct or indirect financial relationship which he may have with the Developer and with any applicants,

builders and developers with an ownership interest in any Lot or Living Unit within the Property. Such disclosure shall be made within fifteen (15) days of knowledge of the establishment of the relationship or commencement of a member's service on the DRC, and shall be available for inspection by the Developer, the Association Board and all Members.

8.05 Operations of the DRC.

- (a) Meetings. The DRC shall hold regular meetings as may be determined by the members of the DRC. Special meetings of the DRC may be called by the Chairman of the DRC upon the written request of a majority of the members of the DRC then in office. Regular and special meetings of the DRC shall be held at such time and at such place as the members of the DRC shall specify. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Attendance of a member of the DRC at a meeting shall constitute a waiver of notice of such meeting. At each meeting of the DRC, the presence of a majority of the members then in office, which majority during the Development Period shall include DRC Member #1 and DRC Member #2, shall constitute a "quorum," herein so called, for the transaction of business. Except as otherwise provided herein, the act of such majority of members of the DRC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the DRC. In the absence of a quorum, a majority of the members of the DRC present at the time and place of the meeting may adjourn the meeting from time to time and until such time as a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The DRC shall maintain both a written record of votes and minutes for each of its meetings. Upon written request, the DRC shall make such records and minutes and current copies of its Development Guidelines available at reasonable places and times for inspection by Members and prospective Members of the Association.
- (b) Activities.
- (i) The DRC shall adopt and promulgate and, as it deems appropriate, amend the Development Guidelines as provided in Section 8.06 hereof and will, as required, make findings, determinations, rulings and orders with respect to the conformity with said Development Guidelines of plans and specifications to be submitted for approval to the DRC as provided in Section 8.07 hereof. As required, the DRC shall issue permits, authorizations or approvals pursuant to the directions and authorizations contained herein.

- (ii) Any three (3) or more of the members of the DRC, two (2) of which members during the Development Period must be DRC Member #1 and DRC Member #2, may be authorized by the DRC to exercise the full authority of the DRC with respect to the review of plans and specifications pursuant to the provisions of the Article and with respect to all other matters as may be specified by resolution of the DRC, except with respect to the adoption or promulgation of the Development Guidelines. The unanimous action of three (3) or more members of the DRC, two (2) of which members during the Development Period must be DRC Member #1 and DRC Member #2, in issuing an approval based upon specified conditions or a modification or any plans and specifications submitted under the provisions of this Article, or in issuing an approval or disapproval of any permit or authorization, shall be final and binding upon the DRC, subject, however, to an appeal to the DRC as a whole. Any application for such approval, permit or authorization may, within thirty (30) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the entire DRC. Upon filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed as soon as possible, the entire DRC. Thereafter, the unanimous decision of all members of the DRC with respect to such matter shall be final and binding.

8.06 Development Guidelines.

- (a) As contemplated by and pursuant to the provisions of this Article VIII, the DRC may adopt, promulgate, amend, revoke and enforce design and development guidelines, hereafter referred to as the Development Guidelines, for the purposes of:
  - (i) governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions of Section 8.07;
  - (ii) governing the procedure for such submission of plans and specifications; and
  - (iii) 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, Living Unit, Easement Area or Common Property.
- (b) The DRC shall make a published copy of its current Development Guidelines, readily available to Members and prospective Members of the

Association and builders which Guidelines shall include the Residential Plan Submission Procedure, Site Planning and Landscape Standards, and Residential Design Standards.

- 8.07 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) therefore shall have been submitted to and approved in writing by the DRC. Such plans and specifications submitted to the DRC shall be in such form and shall contain such information as may be required by the DRC in the Development Guidelines promulgated by the DRC pursuant to Section 8.06 of this Declaration. At a minimum, submissions to the DRC shall include (in such detail and according to the scale as required by the Development Guidelines) two (2) copies of (i) the site plan; (ii) floor plans; (iii) the list of building materials; (iv) the landscape plan; and (v) the exterior color scheme. Such submissions shall include, among the other requirements of the Development Guidelines, a two (2) step design process whereby the DRC shall first have submitted to it for its approval “preliminary” site plan showing building location and relation to the lot lines with preliminary indication of finish grades, and “preliminary” floor plans showing four (4) exterior elevations noting the location of all windows, doors, openings and finish materials, all in as much detail as required by the DRC and the Development Guidelines. Thereafter, and prior to final approval, the DRC shall have submitted to it for approval “final” site and floor plans indicating final grading and landscaping and showing the four (4) exterior elevations including doors, windows and openings together with actual samples of materials and colors.
- 8.08 Approval of Plans and Specifications. Upon approval by the DRC of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited as a permanent record with the DRC and a copy of such plans and specifications bearing such approval in writing shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the DRC’s right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. The DRC, 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 DRC approves and

grants a deviation from this Declaration, such approved deviation shall for all purposes amend 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.

8.09 Disapproval of Plans and Specifications.

- (a) The DRC shall have the right to disapprove any plans and specifications submitted hereunder as determined by the DRC in its sole judgment and discretion for any reason including, among others:
  - (i) failure to include information in such plans and specifications as may have been requested by the DRC or as required herein or in the Development Guidelines;
  - (ii) failure of such plans or specifications to comply with this Declaration of the Development Guidelines;
  - (iii) objection to the exterior design, appearance or materials of any proposed Structure or improvements;
  - (iv) incompatibility of any proposed Structure, uses or Lot improvements to other existing neighboring Structures;
  - (v) objection to the site plan due to incompatibility with neighboring Lots;
  - (vi) objection to the grading plans and drainage patterns for any Lot;
  - (vii) objection to the color scheme, finish, proportions, style or architecture, height, bulk, safety or appropriateness of any proposed Structure or improvement;
  - (viii) failure to satisfy minimum or maximum floor area requirements or standards;
  - (ix) objections to the parking areas proposed for any Lot based on amount other things:
    - (A) incompatibility with proposed uses and Structure of the Lot;
    - (B) insufficiency of size or the parking area in relation to the proposed use; or
    - (C) undesirable alteration of the flow of water over or through the Lot;

- (x) any other matter with respect to such submitted plans and specifications, whether or not such matters are included in the Development Guidelines, if such matters, in the sole judgment and discretion of the DRC, would conflict with the value and amenities of the Eaglesgate community established in the Development Plan and as may be set forth in this Declaration or the Development Guidelines
- (xi) any other matter which, in the judgment of the DRC, would render a proposed Structure or use in harmonious with the standards for Eaglesgate as set forth in the Development Plan.
- (b) In any case in which the DRC 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 DRC 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.
- (d) The approval or disapproval of plans and specifications by the DRC shall not be constructed as approval or disapproval of engineering decisions or of compliance of such plans and specifications with zoning and building ordinances nor with any such industry or governmental standards, rules, regulations and codes. It is the responsibility of each Owner to employ properly qualified and, as applicable, licensed professionals to design and construct this residence. By approving or disapproving the plans and specifications neither the DRC nor any member thereof assumes any liability or responsibility therefore or for any defect in any Structure or part thereof constructed from such plans and specifications.

8.10 Failure to Act. In the event that the DRC shall fail to take action on any plans and specifications as herein provided within thirty (30) business days after receipt of “preliminary” plans and specifications, together with the fees authorized by Section 8.13 hereof, and such other requirements as called for by the Development Guidelines, the same shall be deemed to have been approved as submitted, and no further action by the DRC shall be required for the applicant to begin construction. Such approval shall be placed in writing on the plans and specifications and shall be returned to the applicant.

8.11 Inspection Rights. After reasonable notice and at any reasonable time or times, any agent of the Association or the DRC 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 DRC, 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.

- 8.12 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 DRC 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. If in the opinion of the DRC, such violation shall have occurred, the DRC shall notify the Association. If the Association Board shall agree with the determination of the DRC with respect to the violation, then 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 paid), 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 in Article XV hereof together with all remedies whether at law or in equity and whether specified herein or in Article XV hereof, 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.
- 8.13 Fees. As a means of defraying its expenses, the DRC may, in unusual circumstances, charge and collect a reasonable and appropriate fee as established from time to time and published in the Development Guidelines. The fees shall be made payable to the Association and shall be payable at the time plans and specifications are submitted as a condition precedent for the review and approval of such plans and specifications. Such fees shall not be charged for ordinary review of plans and no fees shall be charged without prior notice to the builder.
- 8.14 Nondiscrimination by DRC. The DRC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, national origin, family composition or marital status. Further, the DRC in the exercise of its power granted pursuant to this Declaration shall not take any action which is intended to or does, in effect, discriminate against persons or a particular race, color, sex, religion, national origin, family composition or marital status.

## ARTICLE IX

### Easements

#### 9.01 Easements.

- (a) In respect of the Easement Area of each Lot and the Common Property the Developer reserves to itself, its assignees and designees the right, power and authority to:
- (i) erect, install, construct and maintain wires, lines, conduits and poles and the necessary or proper attachments and appurtenant structures in connection with the transmission of electricity, telephone, fire alarm systems, communication systems, television cables and other utilities and similar facilities;
  - (ii) erect, install, construct and maintain storm water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, and of r any other public or quasi-public facility, service or function, and appurtenant structures whether above ground or underground
  - (iii) control slope, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Developer or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;

this section 9.01(a) shall not be construed to exempt Structures erected or placed in the Easement Area from the provisions of Article VIII.

- (b) Developer reserves unto itself, its assignees, successors and designees, the right, power and authority to direct and control the installation of facilities, in cooperation with a public authority or any utility company which will install, own, operate and maintain the respective facilities, which utilities and drainage services (as provided for in paragraphs (a) (i), (ii) and (iii) of this Section 9.01) shall be installed in and occupy any specific easement. Within any easements, no Structure, planting or other material or improvement shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the directional flow of drainage channels in the easement, or which may alter, obstruct or retard the flow of water through drainage channels within the Easement Areas, or which may change or prevent the intended use of any easement.



- (c) Subject to all of the other Restrictions contained in this Declaration, and subject to the easements and rights thereto pursuant to the Plat, each Owner shall have the right to use the Easement Area of his Lot in any manner not inconsistent with the purposes for which such Easement Area is reserved, and the area within any Easement Area and all improvements within the bounds of such Easement Area shall be maintained continuously by the Owner except for such improvements for which a public authority or utility company is or may become responsible for maintenance.
- (d) Notwithstanding anything herein to the contrary, each Owner covenants and agrees that, in cooperation with the Developer, each Owner shall execute all grants of easements, grants of right-of-way or any other similar grant or conveyance documentation required to be executed by an Owner in order to grant and convey to any public authority or utility company, their assigns or lessees, the right, privilege and easement to lay, construct, maintain, alter, inspect, repair, replace, protect, relocate, change the size of, operate and remove all utility lines, service taps, distribution facilities, valves, regulators and other equipment appurtenant to and necessary for providing any and all of the utility and drainage services as provided for in paragraphs (a) (i), (ii) and (iii) of this Section 9.01.

9.02 Entry. The Developer reserves for itself and the Association, their agents, designees, successors and assigns the right at all reasonable times and upon reasonable notice to enter upon all parts of the Easement Areas of each Lot for any of the purposes for which said easements or right-of-ways are reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry. The Developer and the Association, their agents, designees, successors and assigns shall be responsible for leaving each Easement Area in good repair and condition following any work or activity within such Easement Area pursuant to the provisions of Section 9.01.

9.03 Disposition During Development Period. During the Development Period, the Developer may convey an Easement Area to a public authority or utility company where such conveyance is required by the public authority or utility company as a prerequisite to installing the utility facility on the Easement Area or where such conveyance is required by the public authority or utility company as a prerequisite to accepting ownership of the utility facility for operation and maintenance.

## ARTICLE X

### General Restrictions

#### 10.01 Maintenance Required by Owner.

- (a) Each Owner shall keep all of his Lots (including Easement Areas, if any), and all improvements therein or 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 buildings and other improvements, all in a manner and with such frequency as is consistent with safety and good property management. There is reserved to the Association, its agents, successors, designees or assigns a “maintenance easement” on Property lying between the foundation of any Structure on any Lot and the property line of said Lot to permit the Association, its agents, successors or assigns, at its election, to maintain said Property at any reasonable hour. The Association shall have the right, after written notice to the Owner of the affected Lot or Living Unit 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 DRC, by reason of its location or height or the manner in which it is permitted to grow, is detrimental to adjoining Lots or Property or is unattractive in appearance. The Association shall further have the right to care for vacant and unimproved Property and to remove grass, weeds and rubbish therefrom and to any and all things necessary or desirable in the opinion of the DRC to keep such Property in neat and good order, all at the cost and expense of the Owner. 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 Property affected, equal in priority to the liens provided for in Article IV hereof.
- (b) The DRC shall give fifteen (15) days’ 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 DRC may pursue its Right of Action and shall have such other remedies at law or in equity as may then exist or as provided in Article XV hereof.

#### 10.02 Land Use and Building Type. Lots shown on the Eaglesgate Plat, shall be used solely for residential purposes. The term “residential purposes” as herein, excludes hospitals, clinics, hotels, industrial, commercial and professional uses, whether from homes, residences or otherwise, and all such uses of the Lots are expressly prohibited. 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. No Lot shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise without the written consent of the Developer. The Developer hereby reserves the exclusive right to use any of the Property for temporary use as an office or for model home purposes during the Development Period.

- 10.03 Landscape Restrictions. No tree shrubbery shall be maintained in such a manner as to obstruct the view of vehicular traffic. No tree having a diameter of four (4) inches or more (measured from a point two (2) feet above ground level) shall be removed from any Lot without the express written authorization of the DRC. The DRC may adopt and promulgate rules and regulations regarding the requirement of planting trees, preservation of trees and other natural resources and wildlife to protect and encourage the preservation of the ecological balance of the Property. The DRC may mark certain trees, regardless of size, as not removable without written authorization. Landscaping must conform to the area in the opinion of the DRC. Each Lot must be sodded with fine leaved turf-type tall fescues, ryes and blue grasses, except in areas to be left in a natural state upon approval of the DRC. In carrying out the provisions of this Section 10.03, the DRC, the Association and its agents or designees may come upon any Lot (following reasonable notice) during reasonable hours for the purpose of inspecting and marking trees. Notwithstanding the foregoing, the DRC, in its sole discretion may grant written permission to an Owner to partially or completely grass seed a Lot in lieu of sodding. The grass seed and seeding procedure shall be approved by the DRC prior to commencement of any seeding activities and such seeding shall be performed in strict compliance with the seeding procedure as specified by the DRC.
- 10.04 Building Locations. No building or other Structure shall be located on or built on any Lot nearer to the front Lot line or nearer to the side street right-of-way line than the minimum set back line. No building or Structure shall be placed nor shall any refuse or material, including but not limited to firewood, be placed or stored on any Lot within thirty (30) feet of the rear property line of any Lot.
- 10.05 New Construction. All Living Units and other Structures permitted hereby shall be new construction and no buildings shall be moved onto any Lot.
- 10.06 Uncompleted Structures. Commencement of construction of a Living Unit or any other Structure shall not commence until the DRC 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 DRC 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 of r 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 DRC.

- 10.07 Structures. No temporary building, trailer, tent, 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 DRC.
- 10.08 Fences. No fences or walls shall be placed on any Lot without permission of the DRC and no approved fence or wall shall be erected or maintained in such a manner as to obstruct the view of vehicular traffic. No wire or chain link fence shall be erected on any Lot.
- 10.09 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 DRC. The DRC may adopt and promulgate rules and regulations relating to signs which may be used within the Property. If approved by the DRC as to color, location, nature, content, size and other characteristics, “For Rent” and “For Sale” signs shall be permitted to be placed upon any Lot provided that such signs have first been approved by the DRC.
- 10.10 Keeping of Animals on Lots. No animals or birds, other than customary household pets shall be kept or maintained on any Lot except as specifically authorized by the DRC. 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. No animal of any kind shall be kept, walked or exercised on landscaped Common Property. Pit Bulls or other household pets with vicious propensities, or restricted by local ordinances or of an exotic type or breed are specifically prohibited. As used herein, the term “Pit Bulls” shall mean Pit Bull Terriers, Staffordshire Bull Terriers, American Pit Bull Terriers, American Staffordshire Bull Terriers, or any combination of those breeds and dogs which have the appearance and characteristics of the breed. The DRC may require that dogs shall not be permitted outside any Lot except on a leash and accompanied by a responsible person. No dog run shall be permitted on any Lot. No dog over six (6) months of age shall be kept by any Resident unless such animal shall have a rabies inoculation and a proper license. The DRC 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. The DRC shall have the right to prohibit the keeping of any animal on any Lot, which animal continually barks, howls or make any other noises so as to, in the opinion of the DRC, unreasonable disturb the peace of any Resident. No outside animal shelters of any type whatsoever shall be located within any Lot.

10.11 Disposition of Trash and Other Debris. No Lot shall be used or maintained as a dumping ground for rubbish. 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 DRC in its sole discretion, for any approved Structure, unless such materials are screened from view in a manner approved by the DRC. 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, as such place on the Lot as to provided 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 DRC 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.

10.12 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 an 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 DRC, 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 DRC. 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 in Eaglesgate, the use and appearance of such a building or trailer must be specifically approved by the DRC prior to its being moved on site.

- 10.13 Nuisances. No noxious or offensive activity shall be carried on 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 Property or Lots. Exterior lighting shall consist of concealed sources of illumination and shall maintain lighting levels consistent with the recognized standards of the lighting industry. Exterior lighting shall be from white sources only. Upon notice from the DRC that an exterior light is objectionable, such Owner shall immediately shield such light in such a manner so that in the opinion of the DRC such light is no longer objectionable. If shielding cannot be accomplished to the satisfaction of the DRC or the light continues to be objectionable, the DRC may require that such light be removed or replaced with a light that is not objectionable. Notwithstanding the foregoing, temporary, decorative lighting shall be permitted provided that such lighting conforms to the requirements and limitations as may be imposed by the Association.
- 10.14 Antennas, Poles and Projections. No Facilities, including poles and wires for the transmission of electricity, telephone 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 without the prior written approval of the DRC. No solar collectors of any kind or type shall be maintained except with the permission of the DRC. No flag poles, poles, nor standards shall be erected or maintained except with the prior written permission of the DRC. All basketball goals including type and color and location must be located in the rear of the structure.
- 10.15 Surface Water. No well, pump, shaft, casing or other facilities for the removal of subsurface water shall be placed or maintained on any Lot, nor shall any boring, drilling, removal of or exploration for subsurface water be conducted on any Lot, except by or with the permission of the DRC. No individual water supply system shall be permitted on any Lot.
- 10.16 Drainage. Drainage from a Living Unit or Lot directly on to an adjoining Lot as a result of any construction activity or any change to the grade of any Lot shall be prohibited and each Owner shall be required to maintain the Lot and to construct and maintain the gutters and downspouts to control such drainage. The final grading on each Lot shall not cause any adverse change (as determined solely by the DRC) to the natural grade of such Lot.
- 10.17 Sanitary Sewers. No individual sewage treatment system shall be permitted on any Lot. All sanitary sewer lines shall connect with the central sewage disposal system provided. Water from downspouts or any surface water shall not be permitted to drain into the sanitary sewer system.

- 10.18 Air and Water Pollution. No use of any Lot (other than the normal use of Living Unit fireplaces and chimneys) will be permitted which emits pollutants into the atmosphere, or discharges liquid or solid wastes or other harmful matter into any waterway in excess of environmental standards applicable thereto, to be established by the DRC, which standards shall at a minimum meet the requirements of federal and state law and any regulations thereunder applicable to the Property. No waste or any substance or materials of any kind shall be discharged into any private or public sewer serving the Property, or any part thereof, in violation of any regulations of the State of Missouri or any private or public body having jurisdiction. The burning of leaves, trash or any debris is specifically prohibited.
- 10.19 Mining and Drilling. No Lot or portion thereof shall be used for any mining, boring, quarrying, drilling, removal of, or any other exploitation of subsurface natural resources, with the sole exception of subsurface water, except for areas specifically designated for such purposes by the DRC. No oil drilling, oil development operation, oil refining, quarry or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other Structure designed for use in boring oil or natural gas shall be erected, maintained or permitted upon any Lot.
- 10.20 Placement of Pipeline. No water pipe, gas pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, other than as may be approved by the DRC, except at the point of connection of such pipe to Living Unit service and except for hoses used for the watering of lawns.
- 10.21 Commercial Activity. No commercial activity of any kind shall be conducted in any Residential Area or in any Living Unit, but nothing herein shall prohibit the carrying on of promotional activities by the Developer.
- 10.22 Fireworks and Use of Firearms. The sale and use of fireworks of any kind whatsoever on the Property is prohibited. Except as permitted by law for security personnel, the use of or discharge of firearms of any kind whatsoever is prohibited, except by permit granted to individuals by the Association for the purpose of target practice and trap or skeet shooting. The Association may set aside certain areas for this use if, in its sole discretion, it deems such action appropriate and desirable. Hunting of any kind, and by any method, including but not limited to firearms, traps, snares, bow and arrows, or manually propelled missiles is prohibited.
- 10.23 Laws and Ordinances. Each Owner shall promptly comply with all laws and statutes, ordinances, rules and regulations of federal, state or municipal governments or authorities applicable to use, occupancy, construction and maintenance of improvements upon any Lot or Living Unit.

- 10.24 “Off Road” Vehicular Traffic. None of the Property, including but not limited to the Common Property shall be used for motorized vehicular traffic of any nature except as to maintenance vehicles used in the ordinary course of maintaining the Property. Such prohibition extends to vehicles generally referred to and categorized as all terrain vehicles, motorcycles, motorized bikes and all other such motorized vehicles.
- 10.25 Penalties for Violation of Article X. If the DRC determines that provisions of this Article have been violated, the DRC may in its discretion seek appropriate relief at law or in equity to assure that the purposes of this Article are fulfilled, including those specified in Section 8.12 hereof.

## ARTICLE XI

### Residential Protective Covenants and Restrictions

- 11.01 Residential Provision. The provisions of the Article XI shall relate to all Lots on the Eaglesgate Plat.
- 11.02 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 DRC. The DRC, 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 DRC 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 occupied by the Owner of the Living Unit. Notwithstanding the above, however, leasing of single family or condominium 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 the Association a complete copy of the executed lease agreement.
- 11.03 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 extent to no other person, builder, Owner or other developer except as may be permitted by a majority vote of the Association Board.
- 11.04 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 written approval of the DRC. 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 DRC.

11.05 Provisions Applicable to Lots Designated for Single-Family Residences. All Lots in phases I, II, and III on the Plat shall be subject, in addition 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) Size 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 shall be as follows:

<u>Lots 29 through 87 Phase I</u> <u>Lots 2, 18 through 70 Phase II</u>	Minimum Square Footage <u>(Enclosed Floor Area)</u>
1. Single Level Residences	2000
2. Two Story Residences	2500
3. One and one-half Story Residences	2300
	(2000 square feet on first floor)

<u>Lot 88 Phase I</u> <u>Lots 1, 3 through 17 Phase II</u> <u>Lots 1 through 7 Phase III</u>	Minimum Square Footage <u>(Enclosed Floor Area)</u>
1. Single Level Residences	3100
2. Two Story Residences	3800
3. One and one-half Story Residences	3400

<u>Lots 1-4 Re-plat of lots 25-28, Phase I</u> <u>Lots 1-18 Re-plat of lots 1-24, Phase I</u>	Minimum Square Footage <u>(Enclosed Floor Area)</u>
1. Single Level Residences	1500
2. Two Story Residences	2200
	(1500 square feet on first floor)

- (ii) “Enclosed floor area” as such herein shall mean and include areas of the residence enclosed and finished for all-year occupancy,

computed on outside measurements of the residence, plus any living areas of basements, garages, porches, or attics.

- (iii) When lesser square footage requirements are permitted by the DRC, the DRC will permit such variance from the requirements herein in a consistent manner, and not on a spot basis, taking into consideration the use of adjoining Lots.
- (iv) Developer shall have the right to alter the plat and lot size requirements on Lots at any time during the Development Period.
- (c) Building Lines. Unless otherwise shown on any recorded plat or as otherwise shown or permitted in the Development Guidelines or permitted by the DRC, no part of any residence shall be located on any Lot nearer to the front street or the side street than the front building line or the side building line; nor shall any part of any residence be located on any Lot nearer than six (6) feet to the side property lines. Each residence shall be placed on each Lot in compliance with all governmental requirements and ordinances.
- (d) Uncompleted Structures. Construction of each residence shall proceed diligently and without delay or interruption until completion. In the event of fire, windstorm or other damage, no building shall be permitted to remain in a damaged condition longer than three (3) months.
- (e) Garages. Each residence shall have an attached, private, fully enclosed garage for not less than two (2) nor more than four (4) cars. The driveway constructed on each Lot shall contain sufficient paved area for the off-street parking of at least two (2) cars. Any garage facing a street shall be equipped with doors which shall be closed as much as practicable to preserve the appearance of the elevation of the residence fronting on the street. Garages may be used only for the storage of automobiles and related use as a storage facility and for no other purposes, i.e., no garage space shall be enclosed for use as living space.
- (f) Frontage. Each residence shall front and present a good frontage on the street on which it is located as shown on the Plat. Each residence located on a corner Lot shall front or present a good frontage on both streets. On corner Lots as designated by the DRC, the residence must be set at a forty-five degree angle as determined by the DRC. Each residence shall present good frontage on all four (4) sides.
- (g) Building Materials. All roofs shall be made of materials in conformity with the DRC Eaglesgate Building Standards. Roof pitches must be consistent with the architectural style of the building. Exterior building materials may be combinations of brick, stone, wood siding, wood

paneling, stone, masonite horizontal lapped siding which is painted, plate glass or stucco, or a combination thereof. No masonite board or batt, or lava rock, exposed concreted block, simulated brick, or wood for exterior walls are allowed with the prior approval of the DRC. Building materials must remain consistent on all exterior elevations.

## ARTICLE XII

### Retention Pond

#### 12.01 Retention Pond Obligations.

- (a) Developer, at its sole cost and expense, shall construct lakes which will serve as the Retention Pond (as herein so called) on the Plat to collect runoff water from all parts of the Property and which Retention Pond shall be in conformance with governmental specifications and related requirements. From and after construction thereof, until the conveyance of such tract to the Association, Developer at its sole cost and expense, and, upon conveyance to the Association, which conveyance shall occur only after prior notice thereof has been given to the appropriate government entity, then the Association, at its sole cost and expense, shall: (i) maintain, repair and replace the Retention Pond as necessary to keep the Retention Pond in good operating condition; (ii) maintain liability insurance coverage on the Retention Pond. (iii) not use or cause to be used the Retention Pond in any manner which would interfere with the maintenance and operation thereof.

## ARTICLE XIII

### Construction on Lots

#### 13.01 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 therefore is granted, the Lot closing has taken place and the DRC 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 supplies.
- (f) Certain tree protection procedures have been formulated for Eaglesgate. It should be understood that compacting of soil, trenching and grade changes involving cutting or filling often causes death to a healthy tree within three to four years. The following procedures are, therefore, recommended:
  - (i) Tree clearing of building sites should be done by hand to minimize disturbance of remaining trees.
  - (ii) Grading or trenching within the dripline of trees should be minimized and preferably limited to areas away from the center of the tree crown. A qualified arborist or landscape architect should be consulted when working within the dripline of major (as determined by the DRC) trees.
  - (iii) A qualified arborist should also be consulted if overhead branches of major trees interfere with the construction of the dwelling.
  - (iv) A four foot construction fence should be erected at the dripline of major trees and tree groupings. No construction activities including storage of materials or parking of vehicles or equipment should be allowed within the dripline of trees. Signs, bracing, and temporary wiring should not be nailed to any tree.
- (g) Erosion control shall be provided on Lots with steep grades. The DRC 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 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 express written approval of the DRC.
- (j) Once residences are occupied within the Eaglesgate community, no construction work shall begin before 7:00 a.m. or continue after 7:00 p.m. Exterior construction on new homes is not permitted on Sundays. Interior work on new homes and normal maintenance on existing structures is permitted on Sundays.

- (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 week. 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 construction sites in a well-maintained appearance at all times.

#### ARTICLE XIV

##### Duration and Amendment

14.01 Duration. This Declaration and the Restrictions contained herein shall run with, burden and bind the Property, shall inure to the benefit of all 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, 2013; 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, 2013, or the end of any such ten (10) year extension period.

14.02 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 lienholders 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, 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.
- (c) Notwithstanding the foregoing, any amendment or modification of this Declaration and the restrictions contained herein which would change any obligation of the Developer or the Association to maintain any Common Property, common area drainage easement, retention pond, or any landscaping within the right-of-way of any public or private streets within the boundaries of the Property as depicted on the final plat shall require the written approval of Greene County, Missouri or the City of Springfield, Missouri if the Property is subsequently annexed into the City of Springfield, before it shall become effective. No amendment shall be effective until it is recorded in the Recorder of Deed's Office of Greene County, Missouri.

## ARTICLE XV

### Enforcement

#### 15.01 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 pursuant to the provisions of Section 15.02 hereof. The lien provided under this Section shall not be valid against a bona fide purchaser (or bona fide lienholder) 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 and specified in Sections 15.02 and 15.03, 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 provision 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.

15.02 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, the Residents or the Owners, or any one of them, to enforce any of the terms, covenants or conditions of the 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.

15.03 Enforcement of Liens.

- (a) The Association shall have a lien for Assessments, user fees and charges (herein collectively, "Assessment" or "Assessments") as set forth in Section 4.01 hereof and shall have a lien for the cost of exercising the Right of Action as set forth in Section 15.01 hereof. 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 Section 4.01 hereof.
- (b) If any demand for payment or claim of lien or liens is not paid when due as provided in Section 4.05 hereof, 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 or Living Unit 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 or Living Unit 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 or Living Unit 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 or Living Unit 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 for real property taxes and assessments on any Lot or Living Unit in favor of any municipal or other governmental unit and except as provided in Section 4.01 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 proceeding.
- (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 or Living Unit 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 or Living Unit. 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 or Living Unit 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 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.

- 15.04 No Waiver. The failure to 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 of breach occurring prior or subsequent thereto.
- 15.05 Additional Rules. The Association Board, and the DRC, 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 DRC 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, regulation 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 DRC shall take into consideration the best interests of the Owners and Residents 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.
- 15.06 Incorporation of Provisions in Deeds.
- (a) Each grantee, by accepting a Deed, lease or other instrument conveying any interest in any Lot, whether or not such instrument incorporates or refers to this Declaration, covenants for himself or itself, its heirs, successors and assigns to observe, perform and be bound by the Declaration and to incorporate this Declaration by reference in any Deed or other conveyance of all or any portion of his interest in any real property subject hereto.
- (b) The Developer and each grantee taking title through the Developer by acceptance of a Deed, lease or other instrument conveying any interest in any Lot further agrees to cause all subsequent grantees to execute any Deed, lease or other instrument conveying any interest in any Lot for the purpose of affirmatively assuming the obligations of an Owner hereunder and agrees to include the following covenant in any such Deed or other instrument conveying any interest in any Lot:  
For the benefit of the grantor, the Developer, the Eaglesgate Community Association, and their respective heirs, successors and assigns, the grantee hereunder executes this instrument for the purpose of assuming the obligations of an Owner under the Declaration of Covenants, Restrictions, Easements, Charges and Liens to which the property is subject and expressly agrees to comply with each provision thereof to the extent such provision applies to him or it.

This covenant, and any such covenant in any deed to any Lot, may be specifically enforced against the grantor or the grantee, or both.

15.07 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 of Eaglesgate:

- (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 of part or all of such interest in the Property ("New Developer").
- (b) Neither the New Developer, the Association, the Members, the Owners nor the Residents 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 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 nay cash deficit of the Association is attributed to the previous action or inaction of the Developer.

## ARTICLE XVI

### Miscellaneous

- 16.01 No Reverter. No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.
- 16.02 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.
- 16.03 Violation and Nuisance. Any act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Developer, the Association or any Owner of a Living Unit or Lot.

- 16.04 Violation of Law. Any violation of any federal, state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Property is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.
- 16.05 Remedies Cumulative. Each remedy set forth in this Declaration shall be in addition to all remedies whether available at law or in equity and all such remedies, whether or not set for the in this Declaration, shall be cumulative and not exclusive.
- 16.06 Limitations. During the Development Period, the Association may not use its resources nor take a public position in opposition to the general Development Plan or to changes thereto proposed by the Developer. Nothing in this Section shall be construed to limit the rights of Members acting as individuals or in an affiliation with other members of groups.
- 16.07 No Personal Liability. No member of the Association Board, officer of the Association, member of the DRC, 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, Resident 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 DRC or any realtor representing the Developer in the sale of a Lot and, further, neither the DRC nor any member thereof shall be liable to the Association, any Owner or to any other party for any damage, loss or prejudice suffered by or claimed on account of (a) the approval or disapproval of any plans, drawing 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.
- 16.08 View Lots. The aesthetically appealing vista of certain Lots, as of the approximate date hereof, due to the location of such Lots or the absence of completed development within the Development Plan may be altered as a result of further development of the Property.
- 16.09 Assignability.
- (a) The Association shall be empowered to assign its rights, or any part thereof, to any successor public body, authority, agency, district or not-

for-profit corporation (hereinafter referred to as the “Successor Entity”), and upon such assignment the Successor Entity shall have those rights and be subject to those duties assigned thereby and shall be deemed to have agreed to be bound by the appropriate provisions hereof to the same extent as if the Successor Entity had been an original party to the Declaration. Any such assignment shall be accepted by the Successor Entity under a written agreement pursuant to which the Successor Entity expressly assumes the duties and obligations thereby assigned.

- (b) If for any reason the Association shall cease to exist without having first assigned its rights hereunder to a Successor Entity, the covenants, restrictions, easements, charges and liens imposed hereunder shall nevertheless continue and any Owner or Resident may petition a court of competent jurisdiction to have a trustee appointed for the purpose of organizing a not-for-profit corporation and assigning the rights hereunder with the same force and effect, and subject to the same conditions, as provided in this Section 16.09 with respect to an assignment and delegation to a Successor Entity.
- (c) Any assignment or delegation of rights shall be approved by 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 called for such purpose after proper notice is given.
- (d) The Developer may, at its option, assign any or all of its rights under this Declaration.

16.10 Headings. The headings of the Articles and Section hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

16.11 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

16.12 Effect of Violation of Declaration on Mortgage. No violation of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in possession or any purchase at any foreclosure sale or any person in a similar position shall be bound and subject to this Declaration as fully as any other Owner of any portion of the Property.

16.13 Delivery of Notices and Documents.

- (a) Any written notice or other documents addressed to the Association, the Association Board, the DRC, or the Developer relating to or required or permitted by the Declaration may be delivered either personally or by

certified or registered mail, return receipt requested. If by certified or registered mail, it shall be deemed to have been given, delivered and received upon receipt thereof by the addressee.

- (c) Any written notice or other documents relating to or required or permitted by the Declaration may be delivered to an Owner or Member either personally or by mail unless other requirements are specifically made in any provision hereof. If by mail, it shall be deemed to have been given, delivered and received seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to such Owner or Member, to the address of any Lot or Living Unit owned, whether in whole or in part, by such Owner or Member, or to any other address last furnished by such Owner or Member to the Association. Each Owner or Member shall file his correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address. Any notice given or required to be sent pursuant to this Section 16.13(b) shall be deemed to have been properly given, unless other requirements are specifically made in any provision hereof, when mailed, postage prepaid, to the last known address of the person to whom notice is to be given.

16.14 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, **William R. Jester** has executed this document on the 13<sup>th</sup> of November, 2003.

\_\_\_\_\_  
**William R. Jester**

Notary's Acknowledgment

State of Missouri   )  
  ) ss  
County of Greene   )

On this \_\_\_\_\_, before me personally appeared **William R. Jester**, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that **William R. Jester** executed the same as his free act and deed.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**

Property Description Eagle's Gate Phase I

A tract of land situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri and more particularly described as follows: Beginning at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East along the South Line of said Northwest Fractional Quarter a distance of 25.00 feet to the East Right of Way Line of Farm Road 163 for a point of beginning; THENCE North 00 degrees 27 minutes 32 seconds East along said East Right of Way Line a distance of 2,153.76 feet to a point for corner; THENCE South 89 degrees 27 minutes 09 seconds East a distance of 281.72 feet to a point for corner; THENCE South 05 degrees 15 minutes 31 seconds East a distance of 117.35 feet to a point for corner; THENCE South 48 degrees 12 minutes 25 seconds East a distance of 210.24 feet to a point for corner; THENCE South 20 degrees 51 minutes 57 seconds East a distance of 180.54 feet to a point for corner; THENCE South 22 degrees 24 minutes 36 seconds West a distance of 17.29 feet to a point for corner; THENCE South 63 degrees 44 minutes 51 seconds West a distance of 50.00 feet to a point for corner; THENCE North 74 degrees 54 minutes 54 seconds West a distance of 33.30 feet to a point on a curve; THENCE along a curve to the left having a radius of 305.00 feet a delta of 21 degrees 20 minutes 40 seconds, an arc length 113.62 feet and a chord which bears South 43 degrees 38 minutes 24 seconds West having a chord distance of 112.97 feet to a point on a line; THENCE South 22 degrees 34 minutes 15 seconds East a distance of 347.91 feet to a point for corner; THENCE South 56 degrees 19 minutes 32 seconds East a distance of 192.73 feet to a point for corner; THENCE South 23 degrees 51 minutes 46 seconds East a distance of 97.42 feet to a point for corner; THENCE North 62 degrees 11 minutes 24 seconds East a distance of 189.41 feet to a point for corner; THENCE North 53 degrees 07 minutes 16 seconds East a distance of 227.74 feet to a point for corner; THENCE North 48 degrees 44 minutes 13 seconds East a distance of 152.77 feet to a point for corner; THENCE South 40 degrees 47 minutes 33 seconds East a distance of 189.26 feet to a point for corner; THENCE South 63 degrees 15 minutes 41 seconds East a distance of 55.39 feet to a point for corner; THENCE North 28 degrees 01 minutes 30 seconds East a distance of 12.35 feet to a point for corner; THENCE South 71 degrees 46 minutes 29 seconds East a distance of 90.00 feet to a point for corner; THENCE South 12 degrees 35 minutes 45 seconds West a distance of 166.48 feet to a point for corner; THENCE South 09 degrees 24 minutes 45 seconds East a distance of 50.00 feet to a point on a curve; THENCE along a curve to the right having a radius of 175.00 feet a delta of 27 degrees 38 minutes 16 seconds, an arc length 84.41 feet and a chord which bears South 85 degrees 35 minutes 37 seconds East having a chord distance of 83.60 feet to a point of tangency; THENCE South 71 degrees 46 minutes 29 seconds East a distance of 37.90 feet to a point for corner; THENCE South 18 degrees 13 minutes 31 seconds West a distance of 128.67 feet to a point for corner; THENCE North 73 degrees 29 minutes 20 seconds West a distance of 134.54 feet to a point for corner; THENCE South 13 degrees 45 minutes 00 seconds East a distance of 65.91 feet to a point of curve; THENCE along a curve to the right having a radius of 325.00 feet a delta of 102 degrees 06 minutes 33 seconds, an arc length 579.20 feet and a chord which bears

South 37 degrees 18 minutes 17 seconds West having a chord distance of 505.53 feet to a point on a line; THENCE South 45 degrees 27 minutes 53 seconds West a distance of 35.32 feet to a point for corner; THENCE South 00 degrees 24 minutes 39 seconds West a distance of 111.08 feet to a point of curve; THENCE along a curve to the left having a radius of 125.00 feet a delta of 07 degrees 38 minutes 27 seconds, an arc length 16.67 feet and a chord which bears South 03 degrees 24 minutes 34 seconds East having a chord distance of 16.66 feet to a point on a line; THENCE South 82 degrees 46 minutes 12 seconds West a distance of 50.00 feet to a point on a curve; THENCE along a curve to the right having a radius of 175.00 feet a delta of 07 degrees 38 minutes 27 seconds, an arc length 23.34 feet and a chord which bears North 03 degrees 24 minutes 34 seconds West having a chord distance of 23.32 feet to a point of tangency; THENCE North 00 degrees 24 minutes 39 seconds East a distance of 34.10 feet to a point for corner; THENCE South 87 degrees 25 minutes 55 seconds West a distance of 142.96 feet to a point for corner; THENCE South 03 degrees 16 minutes 37 seconds East a distance of 352.49 feet to a point on said South Line of the Northwest Fractional Quarter for corner; THENCE North 89 degrees 49 minutes 28 seconds West along said South Line a distance of 864.37 feet to the POINT OF BEGINNING, and containing 43.07 acres of land, more or less, subject to easements and/or rights of way.



**EXHIBIT "B"**

**Property Description of Common Areas of Eaglesgate Phase One**

A tract of land, situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri, and more particularly described as follows: Commencing at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East a distance of 51.00 feet to the point of beginning; THENCE North 00 degrees 27 minutes 32 seconds East a distance of 759.65 feet to a point for corner; THENCE North 45 degrees 27 minutes 27 seconds East a distance of 42.43 feet to a point for corner; THENCE South 00 degrees 27 minutes 32 seconds West a distance of 109.12 feet to a point for corner; THENCE South 59 degrees 08 minutes 02 seconds East a distance of 78.99 feet to a point for corner; THENCE South 73 degrees 09 minutes 35 seconds East a distance of 76.90 feet to a point for corner; THENCE North 75 degrees 15 minutes 54 seconds East a distance of 86.32 feet to a point for corner; THENCE North 46 degrees 37 minutes 02 seconds East a distance of 61.99 feet to a point for corner; THENCE North 42 degrees 08 minutes 49 seconds East a distance of 84.06 feet to a point for corner; THENCE South 63 degrees 59 minutes 52 seconds East a distance of 72.04 feet to a point for corner; THENCE South 42 degrees 08 minutes 49 seconds West a distance of 155.01 feet to a point for corner; THENCE South 06 degrees 10 minutes 36 seconds West a distance of 47.34 feet to a point for corner; THENCE South 48 degrees 31 minutes 59 seconds West a distance of 181.48 feet to a point for corner; THENCE South 07 degrees 07 minutes 57 seconds East a distance of 69.17 feet to a point for corner; THENCE South 78 degrees 41 minutes 05 seconds West a distance of 81.93 feet to a point for corner; THENCE South 35 degrees 43 minutes 09 seconds West a distance of 85.08 feet to a point for corner; THENCE South 22 degrees 47 minutes 31 seconds West a distance of 49.55 feet to a point for corner; THENCE South 11 degrees 34 minutes 02 seconds West a distance of 73.33 feet to a point for corner; THENCE South 00 degrees 12 minutes 06 seconds West a distance of 51.53 feet to a point for corner; THENCE South 00 degrees 12 minutes 19 seconds West a distance of 107.81 feet to a point for corner; THENCE North 89 degrees 49 minutes 28 seconds West a distance of 25.57 feet to the POINT OF BEGINNING, and containing 2.29 acres of land, more or less.

AND

A tract of land, situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri, and more particularly described as follows: Commencing at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East a distance of 51.00 feet; THENCE North 00 degrees 27 minutes 32 seconds East a distance of 884.65 feet to the point of beginning; THENCE continuing North 00 degrees 27 minutes 32 seconds East a distance of 361.12 feet to a point for corner; THENCE North 42 degrees 29 minutes 22 seconds East a distance of 33.07 feet to a point on a curve; THENCE along a curve to the left having a radius of 302.50 feet a delta of 21 degrees 27 minutes 21 seconds, an arc length 113.28 feet and a chord which bears North 72 degrees 22 minutes 19 seconds East having a chord distance of 112.62 feet to a point on a line;

THENCE South 79 degrees 34 minutes 53 seconds East a distance of 39.73 feet to a point on a curve; THENCE along a curve to the left having a radius of 195.00 feet a delta of 05 degrees 47 minutes 05 seconds, an arc length 19.69 feet and a chord which bears South 42 degrees 07 minutes 29 seconds East having a chord distance of 19.68 feet to a point of tangency; THENCE South 45 degrees 01 minutes 01 seconds East a distance of 137.01 feet to a point of curve; THENCE along a curve to the right having a radius of 95.00 feet a delta of 94 degrees 42 minutes 41 seconds, an arc length 157.04 feet and a chord which bears South 02 degrees 20 minutes 19 seconds West having a chord distance of 139.76 feet to a point of tangency; THENCE South 49 degrees 41 minutes 39 seconds West a distance of 54.03 feet to a point of curve; THENCE along a curve to the left having a radius of 125.00 feet a delta of 35 degrees 28 minutes 13 seconds, an arc length 77.38 feet and a chord which bears South 31 degrees 57 minutes 33 seconds West having a chord distance of 76.15 feet to a point on a line; THENCE South 14 degrees 12 minutes 50 seconds West a distance of 71.08 feet to a point for corner; THENCE South 52 degrees 20 minutes 15 seconds West a distance of 39.34 feet to a point for corner; THENCE North 89 degrees 32 minutes 28 seconds West a distance of 116.18 feet to a point for corner; THENCE North 44 degrees 32 minutes 23 seconds West a distance of 42.43 feet to the POINT OF BEGINNING, and containing 2.36 acres of land, more or less.

AND

A tract of land, situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri, and more particularly described as follows: Commencing at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East a distance of 51.00 feet; THENCE North 00 degrees 27 minutes 32 seconds East a distance of 1362.10 feet to the point of beginning; THENCE continuing North 00 degrees 27 minutes 32 seconds East a distance of 557.75 feet to a point on a curve; THENCE along a curve to the right having a radius of 1,450.00 feet a delta of 05 degrees 31 minutes 30 seconds, an arc length 139.82 feet and a chord which bears North 07 degrees 45 minutes 29 seconds East having a chord distance of 139.77 feet to a point of reverse curve; THENCE along a curve to the left having a radius of 1,550.00 feet a delta of 03 degrees 33 minutes 06 seconds, an arc length 96.08 feet and a chord which bears North 08 degrees 44 minutes 41 seconds East having a chord distance of 96.06 feet to a point on a line; THENCE South 89 degrees 27 minutes 09 seconds East a distance of 4.39 feet to a point for corner; THENCE South 01 degrees 07 minutes 03 seconds East a distance of 109.05 feet to a point on a curve; THENCE along a curve to the left having a radius of 50.00 feet a delta of 98 degrees 57 minutes 16 seconds, an arc length 86.35 feet and a chord which bears South 06 degrees 01 minutes 53 seconds West having a chord distance of 76.01 feet to a point of reverse curve; THENCE along a curve to the right having a radius of 15.00 feet a delta of 52 degrees 01 minutes 12 seconds, an arc length 13.62 feet and a chord which bears South 17 degrees 26 minutes 09 seconds East having a chord distance of 13.16 feet to a point of tangency; THENCE South 08 degrees 34 minutes 27 seconds West a distance of 52.45 feet to a point of curve; THENCE along a curve to the left having a radius of 295.00 feet a delta of 21 degrees 44 minutes 51 seconds, an arc length 111.97 feet and a chord which bears South 02 degrees 17 minutes 58 seconds East having a chord distance of 111.30 feet to a point of tangency; THENCE South 13 degrees 10 minutes 24 seconds East a distance of 34.54 feet to a point of curve;

THENCE along a curve to the right having a radius of 245.00 feet a delta of 27 degrees 35 minutes 28 seconds, an arc length 117.98 feet and a chord which bears South 00 degrees 37 minutes 20 seconds West having a chord distance of 116.84 feet to a point of reverse curve; THENCE along a curve to the left having a radius of 295.00 feet a delta of 52 degrees 18 minutes 47 seconds, an arc length 269.35 feet and a chord which bears South 11 degrees 44 minutes 20 seconds East having a chord distance of 260.09 feet to a point on a line; THENCE South 11 degrees 29 minutes 47 seconds West a distance of 30.82 feet to a point on a curve; THENCE along a curve to the right having a radius of 237.50 feet a delta of 15 degrees 49 minutes 58 seconds, an arc length 65.63 feet and a chord which bears South 71 degrees 34 minutes 41 seconds West having a chord distance of 65.42 feet to a point on a line; THENCE North 48 degrees 26 minutes 25 seconds West a distance of 37.92 feet to the POINT OF BEGINNING, and containing 0.69 acres of land, more or less.

AND

A tract of land, situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri, and more particularly described as follows: Commencing at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East a distance of 51.00 feet; THENCE North 00 degrees 27 minutes 32 seconds East a distance of 2153.76 feet; THENCE South 89 degrees 27 minutes 09 seconds East a distance of 139.10 feet to the point of beginning; THENCE continuing South 89 degrees 27 minutes 09 seconds East a distance of 116.61 feet to a point for corner; THENCE South 05 degrees 15 minutes 31 seconds East a distance of 117.35 feet to a point for corner; THENCE South 48 degrees 12 minutes 25 seconds East a distance of 210.24 feet to a point for corner; THENCE South 20 degrees 51 minutes 57 seconds East a distance of 118.29 feet to a point on a curve; THENCE along a curve to the left having a radius of 355.00 feet a delta of 46 degrees 33 minutes 07 seconds, an arc length 288.43 feet and a chord which bears South 47 degrees 33 minutes 47 seconds West having a chord distance of 280.56 feet to a point of tangency; THENCE South 24 degrees 17 minutes 14 seconds West a distance of 99.91 feet to a point for corner; THENCE North 23 degrees 43 minutes 48 seconds West a distance of 56.49 feet to a point for corner; THENCE North 00 degrees 24 minutes 16 seconds East a distance of 95.11 feet to a point for corner; THENCE North 00 degrees 24 minutes 04 seconds East a distance of 59.56 feet to a point for corner; THENCE North 02 degrees 48 minutes 56 seconds West a distance of 59.03 feet to a point for corner; THENCE North 02 degrees 50 minutes 22 seconds West a distance of 55.09 feet to a point for corner; THENCE North 08 degrees 54 minutes 24 seconds West a distance of 32.13 feet to a point for corner; THENCE North 26 degrees 56 minutes 24 seconds East a distance of 26.04 feet to a point for corner; THENCE North 11 degrees 31 minutes 56 seconds East a distance of 107.10 feet to a point for corner; THENCE North 14 degrees 15 minutes 12 seconds West a distance of 98.50 feet to a point for corner; THENCE North 36 degrees 47 minutes 33 seconds West a distance of 91.47 feet to the POINT OF BEGINNING, and containing 1.98 acres of land, more or less.

AND

A tract of land, situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri, and more particularly described as follows:

Commencing at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East a distance of 51.00 feet; THENCE North 00 degrees 27 minutes 32 seconds East a distance of 813.93 feet; THENCE South 89 degrees 32 minutes 28 seconds East a distance of 332.14 feet to the point of beginning; THENCE North 25 degrees 30 minutes 29 seconds East a distance of 110.00 feet to a point for corner; THENCE North 32 degrees 45 minutes 40 seconds East a distance of 55.44 feet to a point for corner; THENCE North 25 degrees 30 minutes 29 seconds East a distance of 55.00 feet to a point for corner; THENCE North 20 degrees 26 minutes 46 seconds East a distance of 79.34 feet to a point for corner; THENCE North 01 degrees 10 minutes 44 seconds West a distance of 79.14 feet to a point for corner; THENCE North 20 degrees 52 minutes 36 seconds West a distance of 79.40 feet to a point for corner; THENCE North 31 degrees 41 minutes 06 seconds West a distance of 296.40 feet to a point for corner; THENCE North 24 degrees 17 minutes 14 seconds East a distance of 95.49 feet to a point of curve; THENCE along a curve to the right having a radius of 305.00 feet a delta of 08 degrees 40 minutes 50 seconds, an arc length 46.21 feet and a chord which bears North 28 degrees 37 minutes 39 seconds East having a chord distance of 46.16 feet to a point on a line; THENCE South 22 degrees 34 minutes 15 seconds East a distance of 347.91 feet to a point for corner; THENCE South 56 degrees 19 minutes 32 seconds East a distance of 192.73 feet to a point for corner; THENCE South 23 degrees 51 minutes 46 seconds East a distance of 97.42 feet to a point for corner; THENCE South 62 degrees 11 minutes 24 seconds West a distance of 84.72 feet to a point for corner; THENCE South 12 degrees 07 minutes 41 seconds West a distance of 199.52 feet to a point for corner; THENCE South 52 degrees 19 minutes 18 seconds East a distance of 48.40 feet to a point for corner; THENCE South 37 degrees 40 minutes 42 seconds West a distance of 138.09 feet to a point on a curve; THENCE along a curve to the left having a radius of 205.00 feet a delta of 08 degrees 16 minutes 37 seconds, an arc length 29.61 feet and a chord which bears North 59 degrees 51 minutes 34 seconds West having a chord distance of 29.59 feet to a point of tangency; THENCE North 63 degrees 59 minutes 52 seconds West a distance of 166.19 feet to the POINT OF BEGINNING, and containing 2.71 acres of land, more or less.



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Book:2008  
Page:046874-08  
7 pages

REAL ESTATE DOCUMENT  
GREENE COUNTY, MISSOURI  
RECORDERS CERTIFICATION

*Linda S. Montgomery*  
RECORDER OF DEEDS

recsmb

11

**Title of Document:** First Amendment to the Declarations of Covenants, Restrictions, Easements, Charges, Assessments and Liens for Eaglesgate, L.L.C.

**Date of Document:** October 31, 2008

**Grantor(s):** Eaglesgate Community Association, Inc.

**Grantee(s):**

**Mailing Address(s):** 4035 S Fremont  
Spbd mo 65804

**Legal Description:** See Exhibit "A" Attached.

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



RMMC - attn: Carol  
4035 S Fremont  
Springfield, MO 65804

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES, ASSESSMENTS AND LIENS FOR  
EAGLESGATE, L.L.C.**

THIS AMENDMENT is made as of the 31<sup>st</sup> day of October, 2008, by Eaglesgate Community Association, Inc., a Missouri Corporation.

WHEREAS Eaglesgate, L.L.C., having previously executed and filed with the Recorder of Deeds of Greene County, Missouri the Declaration of Covenants, Restrictions, Easements, Charges, Assessments and Liens ("Declaration of Covenants"), at Book 2003, Page 083080-03, with regard to real property described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND  
INCORPORATED HEREIN BY REFERENCE.

WHEREAS, pursuant to the Declaration of Covenants, the Eaglesgate Association Board, having taken into consideration the best interests of the Owners and Residents of the Property to the end that the Property shall be preserved and maintained as a community of high quality, has the authority to amend said Declaration of Covenants;

NOW, THEREFORE, Eaglesgate Association Board hereby declares that the Declaration of Covenants is hereby amended as follows:

- 1) Page 18, Section 4.05(c) changing "Section 15.03" to read "Section 15.04."
- 2) Page 40, Section 10.12, inserting the following after the first complete sentence:  
  
"In the event of a violation of this Section, the Association Board or DRC shall give written notice to the Owner of the Lot that the offending vehicle must be removed within 24 hours. If the vehicle shall not be removed within such time period, the Association Board or DRC shall impose an Individual Assessment in accordance with Section 15.02. against the Owner of the Lot."
- 3) Page 43, Section 10.25 the last line reading thusly: "...including those specified in Sections 8.12, 15.01, 15.02, 15.03 and 15.04 hereof."
- 4) Page 50, Section 15.02(a) changing the first reference to "Section 15.02" to read "Section 15.03" and the last two lines to read thusly: "...specified and specified in Section s 15.02, 15.03, and 15.04, together with all remedies at laws or in equity."
- 5) Pages 50-54, Sections 15.02 – 15.07, renumbering the same as 15.03 – 15.08.
- 6) Page 50, inserting the following paragraph after Section 15.01(b)(ii):  
  
"15.02 Individual Assessments. The Board shall have the authority to levy from time to time an Individual Assessment against any Lot and its Owner to correct or eliminate any

breach by such Owner of any agreement , obligation, reservation or restriction contained in any deed, declaration or plat covering such Lot (including without limitation, to maintain or repair any Lot or improvement thereon), the amount of such assessment to be equal to the greater of (1) any amount expended by the Eaglesgate Community Association to correct or eliminate such breach or (2) \$25 per day that such breach continues following ten days written notice of such breach to the Owner (unless a different notice period is specified herein with regard to such breach, in which case such different notice shall apply). Each such Individual Assessment shall be due and payable upon giving notice of the assessment to such Owner.”

IN WITNESS WHEREOF, the Association Board has caused this Amendment to be duly executed the day and year first written above.

EAGLESGATE COMMUNITY ASSOCIATION, INC.

(No Corporate Seal)

By: *Bryan King*  
Bryan King, President

Attest: *Mary Zile*  
Mary Zile, Secretary

JERRIE BAUMGARTNER  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Christian County - Comm#08548503  
My Commission Expires May 4, 2012

STATE OF Missouri ) ss  
COUNTY OF Greene )

On this 31<sup>st</sup> day of October, 2008, before me personally appeared Bryan King to me personally known who, being first duly sworn, did, upon his oath, state that the representations made by him in the foregoing are true and correct according to his best information and belief; and did further acknowledge that he executed the same for the purposes therein expressed, as his own free act and deed.

IN WITNESS WHEREOF, I have hereunto appended my hand and official seal at Springfield, Missouri

*Jerrie Baumgartner*  
Notary Public  
My commission expires: 5-4-12  
Jerrie Baumgartner

(Seal)

## EXHIBIT "A"

### Property Description Eagle's Gate Phase I

A tract of land situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri and more particularly described as follows: Beginning at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East along the South Line of said Northwest Fractional Quarter a distance of 25.00 feet to the East Right of Way Line of Farm Road 163 for a point of beginning; THENCE North 00 degrees 27 minutes 32 seconds East along said East Right of Way Line a distance of 2,153.76 feet to a point for corner; THENCE South 89 degrees 27 minutes 09 seconds East a distance of 281.72 feet to a point for corner; THENCE South 05 degrees 15 minutes 31 seconds East a distance of 117.35 feet to a point for corner; THENCE South 48 degrees 12 minutes 25 seconds East a distance of 210.24 feet to a point for corner; THENCE South 20 degrees 51 minutes 57 seconds East a distance of 180.54 feet to a point for corner; THENCE South 22 degrees 24 minutes 36 seconds West a distance of 17.29 feet to a point for corner; THENCE South 63 degrees 44 minutes 51 seconds West a distance of 50.00 feet to a point for corner; THENCE North 74 degrees 54 minutes 54 seconds West a distance of 33.30 feet to a point on a curve; THENCE along a curve to the left having a radius of 305.00 feet a delta of 21 degrees 20 minutes 40 seconds, an arc length 113.62 feet and a chord which bears South 43 degrees 38 minutes 24 seconds West having a chord distance of 112.97 feet to a point on a line; THENCE South 22 degrees 34 minutes 15 seconds East a distance of 347.91 feet to a point for corner; THENCE South 56 degrees 19 minutes 32 seconds East a distance of 192.73 feet to a point for corner; THENCE South 23 degrees 51 minutes 46 seconds East a distance of 97.42 feet to a point for corner; THENCE North 62 degrees 11 minutes 24 seconds East a distance of 189.41 feet to a point for corner; THENCE North 53 degrees 07 minutes 16 seconds East a distance of 227.74 feet to a point for corner; THENCE North 48 degrees 44 minutes 13 seconds East a distance of 152.77 feet to a point for corner; THENCE South 40 degrees 47 minutes 33 seconds East a distance of 189.26 feet to a point for corner; THENCE South 63 degrees 15 minutes 41 seconds East a distance of 55.39 feet to a point for corner; THENCE North 28 degrees 01 minutes 30 seconds East a distance of 12.35 feet to a point for corner; THENCE South 71 degrees 46 minutes 29 seconds East a distance of 90.00 feet to a point for corner; THENCE South 12 degrees 35 minutes 45 seconds West a distance of 166.48 feet to a point for corner; THENCE South 09 degrees 24 minutes 45 seconds East a distance of 50.00 feet to a point on a curve; THENCE along a curve to the right having a radius of 175.00 feet a delta of 27 degrees 38 minutes 16 seconds, an arc length 84.41 feet and a chord which bears South 85 degrees 35 minutes 37 seconds East having a chord distance of 83.60 feet to a point of tangency; THENCE South 71 degrees 46 minutes 29 seconds East a distance of 37.90 feet to a point for corner; THENCE South 18 degrees 13 minutes 31 seconds West a distance of 128.67 feet to a point for corner; THENCE North 73 degrees 29 minutes 20 seconds West a distance of 134.54 feet to a point for corner; THENCE South 13 degrees 45 minutes 00 seconds East a distance of 65.91 feet to a point of curve; THENCE along a curve to the right having a radius of 325.00 feet a delta of 102 degrees 06 minutes 33 seconds, an arc length 579.20 feet and a chord which bears



South 37 degrees 18 minutes 17 seconds West having a chord distance of 505.53 feet to a point on a line; THENCE South 45 degrees 27 minutes 53 seconds West a distance of 35.32 feet to a point for corner; THENCE South 00 degrees 24 minutes 39 seconds West a distance of 111.08 feet to a point of curve; THENCE along a curve to the left having a radius of 125.00 feet a delta of 07 degrees 38 minutes 27 seconds, an arc length 16.67 feet and a chord which bears South 03 degrees 24 minutes 34 seconds East having a chord distance of 16.66 feet to a point on a line; THENCE South 82 degrees 46 minutes 12 seconds West a distance of 50.00 feet to a point on a curve; THENCE along a curve to the right having a radius of 175.00 feet a delta of 07 degrees 38 minutes 27 seconds, an arc length 23.34 feet and a chord which bears North 03 degrees 24 minutes 34 seconds West having a chord distance of 23.32 feet to a point of tangency; THENCE North 00 degrees 24 minutes 39 seconds East a distance of 34.10 feet to a point for corner; THENCE South 87 degrees 25 minutes 55 seconds West a distance of 142.96 feet to a point for corner; THENCE South 03 degrees 16 minutes 37 seconds East a distance of 352.49 feet to a point on said South Line of the Northwest Fractional Quarter for corner; THENCE North 89 degrees 49 minutes 28 seconds West along said South Line a distance of 864.37 feet to the POINT OF BEGINNING, and containing 43.07 acres of land, more or less, subject to easements and/or rights of way.

# Eaglesgate Phase II

## LEGAL DESCRIPTION:

A tract of land situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri and more particularly described as follows: Commencing at the Southwest Corner of said Northwest Fractional Quarter of Section 30; THENCE South 89 degrees 49 minutes 28 seconds East along the South Line of said Northwest Fractional Quarter a distance of 889.37 feet to the point of beginning; THENCE continuing South 89 degrees 49 minutes 28 seconds East along said South Line a distance of 964.73 feet to an existing iron pin at the Southeast Corner of said Northwest Fractional Quarter of Section 30 for corner; THENCE N 00 degrees 01 minutes 20 seconds East along the East Line of said Northwest Fractional Quarter a distance of 2142.16 feet to an existing iron pin for corner; THENCE North 89 degrees 27 minutes 35 seconds West a distance of 1531.05 feet to a point for corner; THENCE South 05 degrees 15 minutes 31 seconds East a distance of 117.35 feet to a point for corner; THENCE South 48 degrees 12 minutes 25 seconds East a distance of 210.24 feet to a point for corner; THENCE South 20 degrees 51 minutes 57 seconds East a distance of 180.54 feet to a point for corner; THENCE South 22 degrees 24 minutes 36 seconds West a distance of 17.29 feet to a point for corner; THENCE South 63 degrees 44 minutes 51 seconds West a distance of 50.00 feet to a point for corner; THENCE North 74 degrees 54 minutes 54 seconds West a distance of 33.30 feet to a point on a curve; THENCE along a curve to the left having a radius of 305.00 feet a delta of 21 degrees 20 minutes 40 seconds, an arc length 113.62 feet and a chord which bears South 43 degrees 38 minutes 24 seconds West having a chord distance of 112.97 feet to a point on a line; THENCE South 22 degrees 34 minutes 15 seconds East a distance of 347.91 feet to a point for corner; THENCE South 56 degrees 19 minutes 32 seconds East a distance of 192.73 feet to a point for corner; THENCE South 23 degrees 51 minutes 46 seconds East a distance of 97.42 feet to a point for corner; THENCE North 62 degrees 11 minutes 24 seconds East a distance of 189.41 feet to a point for corner; THENCE North 53 degrees 07 minutes 16 seconds East a distance of 227.74 feet to a point for corner; THENCE North 48 degrees 44 minutes 13 seconds East a distance of 152.77 feet to a point for corner; THENCE South 40 degrees 47 minutes 33 seconds East a distance of 189.26 feet to a point for corner; THENCE South 63 degrees 15 minutes 41 seconds East a distance of 55.39 feet to a point for corner; THENCE Northerly, through a curve to the right having a radius of 275.00 feet, a delta of 02 degrees 34 minutes 23 seconds, an arc length of 12.35 feet and a chord which bears North 28 degrees 01 minutes 30 seconds East a chord distance of 12.35 feet to a point for corner; THENCE South 71 degrees 46 minutes 29 seconds East a distance of 90.00 feet to a point for corner; THENCE South 12 degrees 35 minutes 45 seconds West a distance of 166.48 feet to a point for corner; THENCE South 09 degrees 24 minutes 45 seconds East a distance of 50.00 feet to a point on a curve; THENCE along a curve to the right having a radius of 175.00 feet a delta of 27 degrees 38 minutes 16 seconds, an arc length 84.41 feet and a chord which bears South 85 degrees 35 minutes 37 seconds East having a chord distance of 83.60 feet to a point of tangency; THENCE South 71 degrees 46 minutes 29 seconds East a distance of 37.90 feet to a point for corner; THENCE South 18 degrees 13 minutes 31 seconds West a distance of 128.67 feet to a point for corner; ; THENCE South 73 degrees 29 minutes 20 seconds West a distance of 149.16 feet to a point for corner; THENCE South 16 degrees 08 minutes 13 seconds West a distance of 66.82 feet to a point of curve; THENCE along a curve to the left having a

distance of 66.82 feet to a point of curve; THENCE along a curve to the left having a radius of 325.00 feet a delta of 13 degrees 32 minutes 09 seconds, an arc length 76.78 feet and a chord which bears South 09 degrees 22 minutes 09 seconds West having a chord distance of 76.60 feet; THENCE South 02 degrees 36 minutes 05 seconds West a distance of 24.29 feet to a point for corner; THENCE through a curve to the right having a radius of 225.00 feet, a delta of 40 degrees 29 minutes 40 seconds, an arc length of 159.03 feet and a chord which bears South 22 degrees 50 minutes 59 seconds West, a chord length of 155.74 feet; THENCE South 43 degrees 05 minutes 53 seconds West, 48.57 feet; THENCE along a curve to the left having a radius of 275.00 feet a delta of 10 degrees 56 minutes 02 seconds, an arc length 52.48 feet and a chord which bears South 37 degrees 37 minutes 50 seconds West having a chord distance of 52.40 feet; THENCE through a curve to the right having a radius of 125.00 feet, a delta of 20 degrees 12 minutes 48 seconds, an arc length of 44.10 feet and a chord which bears South 42 degrees 16 minutes 12 seconds West a chord distance of 43.87 feet; THENCE along a curve to the left having a radius of 194.48 feet a delta of 25 degrees 58 minutes 25 seconds, an arc length 88.16 feet and a chord which bears South 39 degrees 23 minutes 22 seconds West having a chord distance of 87.41 feet; THENCE through a curve to the right having a radius of 125.00 feet, a delta of 23 degrees 01 minutes 38 seconds, an arc length of 50.24 feet and a chord which bears South 37 degrees 54 minutes 52 seconds West, a chord length of 49.90 feet; THENCE South 49 degrees 25 minutes 38 West, 120.44 feet; THENCE North 20 degrees 48 minutes 06 seconds West, 121.92 feet; THENCE South 74 degrees 30 minutes 58 seconds West, 186.24 feet; THENCE South 82 degrees 46 minutes 12 seconds West, 50.00 feet; THENCE through a curve to the right having a radius of 175.00 feet, a delta of 07 degrees 38 minutes 27 seconds, an arc length of 23.34 feet and a chord which bears North 03 degrees 24 minutes 34 seconds West, a chord length of 23.32 feet; THENCE NORTH 00°24'39" EAST, 34.10 FEET; THENCE South 87 degrees 25 minutes 55 seconds West, 142.96 feet; THENCE South 03 degrees 16 minutes 37 seconds East, 352.49 feet to the POINT OF BEGINNING, and containing 43.03 acres of land, more or less, subject to easements and/or rights of way.

HULSTON INVESTMENTS, INC.

### DEDICATION:

I, WILLIAM JESTER, MEMBER OF EAGLESGATE, L.L.C., OWNER AND DEVELOPER OF SAID REAL ESTATE DESCRIBED AND SHOWN HEREON, DO HEREBY CERTIFY THAT WE HAVE CAUSED SAID REAL ESTATE TO BE PLATTED AS SHOWN HEREON AND THAT SAID REAL ESTATE SHALL BE KNOWN AND DESIGNATED AS EAGLESGATE - PHASE TWO SUBDIVISION, AND THAT ALL STREETS, EASEMENTS AND ACCESS LIMITATIONS AS SHOWN HEREON ARE DEDICATED TO THE PUBLIC. IN WITNESS WHEREOF, WE, AS SOLE OWNERS, HAVE HEREUNTO SET OUR HAND AND AFFIXED OUR SEAL THIS 24<sup>th</sup> DAY OF

WILLIAM JESTER - MEMBER (NO SEAL)

### ACKNOWLEDGMENT

STATE OF MISSOURI  
COUNTY OF GREENE

ON THE 24 DAY OF MAY 20 05  
BEFORE ME PERSONALLY APPEARED WILLIAM JESTER, TO ME KNOWN, WHO DULY SWORN, DID SAY THAT HE IS A MEMBER OF EAGLESGATE, L.L.C. AND THAT THE FOREGOING INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF SAID EAGLESGATE, L.L.C. BY AUTHORITY OF ITS MEMBERS AND ACKNOWLEDGE SAID

MISSOURI  
Range 21 West



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Book: 2004  
Page: 070781-04  
1 page

REAL ESTATE DOCUMENT  
GREENE COUNTY, MISSOURI  
RECORDERS CERTIFICATION

*John S. Montgomery*  
RECORDER OF DEEDS

recnlp

Property Description Eagle's Gate Phase III

A tract of land situated in the Northwest Fractional Quarter of Section 30, Township 28 North, Range 21 West, Greene County, Missouri and more particularly described as follows: Beginning at the Southwest corner of Lot 88 of Eaglesgate Phase One; THENCE South 73 degrees 29 minutes 20 seconds East a distance of 283.70 feet to a point for corner; THENCE South 16 degrees 08 minutes 13 seconds West a distance of 66.82 feet to a point of curve; THENCE along a curve to the left having a radius of 325.00 feet a delta of 13 degrees 32 minutes 09 seconds, an arc length 76.78 feet and a chord which bears South 09 degrees 22 minutes 09 seconds West having a chord distance of 76.60 feet to a point of tangency; THENCE South 02 degrees 36 minutes 05 seconds West a distance of 24.29 feet to a point of curve; THENCE along a curve to the right having a radius of 225.00 feet a delta of 40 degrees 29 minutes 49 seconds, an arc length 159.03 feet and a chord which bears South 22 degrees 50 minutes 59 seconds West having a chord distance of 155.74 feet to a point of tangency; THENCE South 43 degrees 05 minutes 53 seconds West a distance of 48.57 feet to a point of curve; THENCE along a curve to the left having a radius of 275.00 feet a delta of 10 degrees 56 minutes 08 seconds, an arc length 52.48 feet and a chord which bears South 37 degrees 37 minutes 50 seconds West having a chord distance of 52.40 feet to a point of reverse curve; THENCE along a curve to the right having a radius of 125.00 feet a delta of 20 degrees 12 minutes 50 seconds, an arc length 44.10 feet and a chord which bears South 42 degrees 16 minutes 12 seconds West having a chord distance of 43.87 feet to a point of reverse curve; THENCE along a curve to the left having a radius of 194.48 feet a delta of 25 degrees 58 minutes 30 seconds, an arc length 88.17 feet and a chord which bears South 39 degrees 23 minutes 22 seconds West having a chord distance of 87.41 feet to a point of reverse curve; THENCE along a curve to the right having a radius of 125.00 feet a delta of 23 degrees 01 minutes 30 seconds, an arc length 50.23 feet and a chord which bears South 37 degrees 54 minutes 52 seconds West having a chord distance of 49.90 feet to a point of tangency; THENCE South 49 degrees 25 minutes 38 seconds West a distance of 120.44 feet to a point for corner; THENCE North 20 degrees 48 minutes 06 seconds West a distance of 121.92 feet to a point for corner; THENCE South 74 degrees 30 minutes 58 seconds West a distance of 186.24 feet to a point on a curve; THENCE along a curve to the right having a radius of 125.00 feet a delta of 07 degrees 38 minutes 27 seconds, an arc length 16.67 feet and a chord which bears North 03 degrees 24 minutes 34 seconds West having a chord distance of 16.66 feet to a point of tangency; THENCE North 00 degrees 24 minutes 39 seconds East a distance of 111.08 feet to a point for corner; THENCE North 45 degrees 27 minutes 53 seconds East a distance of 35.32 feet to a point on a curve; THENCE along a curve to the left having a radius of 325.00 feet a delta of 102 degrees 06 minutes 33 seconds, an arc length 579.20 feet and a chord which bears North 37 degrees 18 minutes 17 seconds East having a chord distance of 505.53 feet to a point of tangency; THENCE North 13 degrees 45 minutes 00 seconds West a distance of 65.91 feet to the POINT OF BEGINNING, and containing 160,727 square feet or 3.69 acres of land, more or less.

3. CENTRAL ZONE.  
THE MISSOURI  
E ESTABLISHED  
AND GR-15A2.

3 FEET

DEDICATION:

I, WILLIAM JESTER, MEMBER OF EAGLESGATE LLC, OWNER AND DEVELOPER OF SAID REAL ESTATE DESCRIBED AND SHOWN HEREON, DO HEREBY CERTIFY THAT WE HAVE CAUSED SAID REAL ESTATE TO BE PLATTED AS SHOWN HEREON AND THAT SAID REAL ESTATE SHALL BE KNOWN AND DESIGNATED AS EAGLESGATE PHASE THREE AND THAT ALL STREETS, EASEMENTS AND ACCESS LIMITATIONS AS SHOWN HEREON ARE DEDICATED TO THE PUBLIC. IN WITNESS WHEREOF WE, AS SOLE OWNERS, HAVE HEREUNTO SET OUR HAND AND AFFIXED OUR SEAL THIS 29<sup>th</sup> DAY OF December, 2004.

*William Jester*  
WILLIAM JESTER - MEMBER (NO SEAL)

ACKNOWLEDGMENT

STATE OF MISSOURI  
COUNTY OF GREENE

ON THE 29<sup>th</sup> DAY OF December, 2004, BEFORE ME PERSONALLY APPEARED WILLIAM JESTER, TO ME KNOWN, WHO DULY SWORN, DID SAY THAT HE IS A MEMBER OF EAGLESGATE L.L.C., AS AMENDED AND RESTATED, AND THAT THE FOREGOING INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF SAID L.L.C. BY AUTHORITY OF ITS MEMBERS, AND ACKNOWLEDGE SAID INSTRUMENT TO BE THE FREE ACT AND DEED OF SAID TRUSTEES.

by 1389

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