

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS
AND RESTRICTIONS OF AUGUSTA SHORES
(THE AUGUSTA SHORES DECLARATION)

THIS DECLARATION, made this 3rd Day of October 1997 by Augusta Shores, L.L.C., a Missouri Limited Liability Company having an office located at 4503 Highway 94 South, Augusta, MO 63332, hereinafter referred to as the "Developer," and R & H, L.L.C., a Missouri Limited Liability Company, (hereinafter referred to as "R & H") the owner of certain real property referenced herein.

WITNESSETH

WHEREAS, Developer and R & H are the owners of real property which Developer and R & H desire to develop into a residential community; and

WHEREAS, Developer and R & H desire that some of such real property be subdivided into lots upon which are or will be constructed residential dwelling units, which lots and units will be individually owned and Developer and R & H desire that other portions of such real property shall remain available for the benefit of all members of the community; and

WHEREAS, Developer and R & H desire to provide for the preservation of the property values and amenities in said community and for the maintenance of said open spaces; and, to this end, desire to subject the real property to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer and R & H have deemed it desirable, for the efficient preservation of the property values and amenities in said community to create an agency to which should be delegated and assigned the powers of (i) maintaining and administering the open space property, (ii) administering and enforcing the covenants and restrictions contained herein, and (iii) collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated Augusta Shores Owners Association, Inc., under the Not-For-Profit Corporation Law of the State of Missouri for the purpose of exercising the aforesaid functions.

NOW THEREFORE, Developer and R & H, for themselves, their successors and/or assigns, declare that the real Property described in Section 2.01 hereof and such additional property described in Section 2.02 hereof, as may be brought under the scope of this Declaration from time to time, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants, conditions and restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1.01. Definitions. The following words, phrases or terms when used in this Declaration or in any instrument supplemental to this Declaration shall, unless the context otherwise prohibits, have the following meanings:

- A. "Association" shall mean and refer to the Augusta Shores Owners Association, Inc.
- B. "Association Property" shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by the Association.

- C. "Builder" shall mean and refer to any person, partnership, corporation or other entity which undertakes the construction of a dwelling unit on a Lot, whether or not the Lot was purchased from the Developer.
- D. "Certificate of Compliance" shall mean and refer to the document issued by the Developer with respect to a Lot or other portion of the property acknowledging that the initial development thereof has been completed to the satisfaction of Developer in accordance with the requirement of the Declaration for issuance of such Certificate.
- E. "Declaration" shall mean and refer to this document of Protective Covenants, Conditions, and Restrictions of Augusta Shores, as it may from time to time be supplemented, extended or amended in the manner provided for herein.
- F. "Developer" shall mean and refer to Augusta Shores L.L.C., its successors and/or assigns.
- G. "Improvements" shall mean and refer to any thing or device (other than trees and shrubbery less than 2 feet high) the placement of which upon the property may affect the appearance or use of the property including, by way of illustration and not of limitation, any building, structure, garage, porch, shed, greenhouse, bath house, coop or cage, covered or uncovered patio, swimming pool, clothes line, radio or vision antenna, fence, curbing, paving, wall, trees and shrubbery more than 2 feet in height, signboard or any temporary or permanent living quarters, or any other temporary or permanent thing or structure on the property.
- H. "Lot" shall mean and refer to any portion of the property (with the exception of Association property as heretofore defined) under the scope of this Declaration and (i) identified as a separate parcel on the tax records of the County of St. Charles or (ii) shown as a separate lot upon any recorded or filed subdivision map.
- I. "Member" shall mean and refer to each holder of a membership interest in the Association as such interests are set forth in Article III of this Declaration.
- J. "Owner" shall mean and refer to the holder of record title, whether one person or persons or entities of the fee interest of any lot or unit, whether or not such holder actually resides on such lot or in such unit.
- K. "Property" shall mean and refer to all land and the Improvements thereon as are subject to this Declaration and any streets within the community known as Augusta Shores.
- L. "Unit" shall mean and refer to each completed dwelling unit (as evidenced by issuance of a Certificate of Occupancy issued by the County of St. Charles) situated on the property or any dwelling unit on the property which has been occupied as a residence, except that there shall be no units on Association property.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of St. Charles and State of Missouri, all of which property shall be hereinafter referred to as the "Property." The real property initially subject to this Declaration is all those lands in the Augusta Shores subdivision as set forth in Schedule A to this Declaration which lands include the Lots and the "common areas": as shown on a plat filed in the St. Charles County Recorder of Deeds Office. Further, an additional tract of land known as "Augusta Shores Addition Tract", the legal description of which is attached

hereto as Schedule A-1, and incorporated herein by reference, which tract is owned by R & H, L.L.C., a Missouri Limited Liability Company, shall also be subject to this Declaration of Protective Covenants, Conditions and Restrictions.

Section 2.02. Additional Property. Other lands ("Additional Property") in addition to the lands described in Schedule A, may become subject to this Declaration in the following manner:

- a. Lands added by Developer without consent of Lot Owners. Developer may without the consent of the Lot Owners, within 12 years from the date of recording of this Declaration bring within the scope of this Declaration all or any portion of any lands which are adjacent to lands which are now, or may in the future, be part of the Augusta Shores development.
- b. Lands added with consent of Lot Owners. The owner of any other lands who desires to add such lands to the scope of this Declaration and to subject such lands to the jurisdiction of the Association may do so upon the approval in writing by the Association pursuant to a vote of the Lot Owners as provided in the By-Laws.

Such lands shall be added to the Declaration by an amendment or by a supplemental extending declaration which shall extend the scope of the covenants and restrictions of this Declaration to such other lands and thereby subject such other lands and the owners of such other lands to assessments for their fair share of the expenses of the Association. The amendment or supplement which extends the covenants and restrictions contained in this Declaration shall reflect the different character, if any, of the added lands and as are not inconsistent with the provisions of this Declaration.

Nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a plan of development shall be construed as requiring Developer or the Association to subject to the provisions of the Declaration any other lands now or hereafter owned by them regardless of whether or not such lands are subjected to an agreement containing provisions similar to those contained in this Declaration. This Section may not be amended to alter or abridge Developer's right to bring lands within the scope of this Declaration prior to 12 years from the date of recording of this Declaration without the written consent of Lot Owners.

ARTICLE III

THE ASSOCIATION STRUCTURE, MEMBERSHIP, VOTING RIGHTS & DIRECTORS

Section 3.01. Formation of the Association. Pursuant to the Non-for-Profit Corporation Law of Missouri, the Developer has formed Augusta Shores Owners Association, Inc. to own, operate, and maintain the Association Property, enforce the covenants, conditions and restrictions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Association, as the same may be amended from time to time. Subject to the additional limitations provided in this Declaration and the Certificate of Incorporation, the Association shall have all the powers and be subject to the limitations of a not-for-profit corporation as contained in the Missouri Not-For-Profit Corporation Law as the same may be amended from time to time.

Section 3.02. Membership. The Association shall have as members only Lot Owners, Developer and R & H. There shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from the ownership of a "Lot" or from the interest as "Developer" as defined in Article I of this Declaration.

Section 3.03. Voting Rights. Voting Rights of Lot Owners shall be as provided in the By-Laws. Any Lot Owner shall be entitled to assign such Lot Owner's right to vote, by power of attorney, by proxy or otherwise, provided that such assignment is made pursuant to the By-Laws of the Association.

The By-Laws may require that the assignment specify the meeting or issue to which the assignment applies.

Section 3.04. Holder of Security Interest Not a Member. Any person or entity which holds an interest in a Lot merely as security for the performance of an obligation shall not be an Owner.

Section 3.05. Meeting and Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of this Declaration and the Certificate of Incorporation and By-Laws of the Association and the Not-for-Profit Corporation Law of the State of Missouri as it may deem advisable for any meeting of the Lot Owners, regard to proof of membership in the Association, Lot ownership, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Lot Owners for voting purposes, the establishment of representative voting procedures, the establishment of extended canvass periods for voting and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.06. Selection of Directors. The appointment or nomination and election of Directors, the filling of vacancies on the Board of Directors and the removal of Directors shall be governed by the By-Laws of the Association.

Section 3.07. Powers and Duties of Directors. The powers and duties of the Board of Directors shall be as set forth in the By-Laws of the Association.

Section 3.08. Indemnification of Directors and Officers. Every officer and director of the Association shall be, and hereby is, indemnified by the Association against all expenses and liabilities, including fees of counsel, judgments, decrees, fines, fees, penalties or amounts paid in settlement, reasonably incurred by or imposed upon such officers or directors in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which such officer or director may be a party, or in which such officer or director may become involved by reason of being or having been a director or officer of the Association, whether or not such person is a director or at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful malfeasance or malfeasance in the performance of duties; provided, that in the event of settlement, the indemnification herein shall only apply when the Board of Directors of the Association approves such settlement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to, and shall not be exclusive of, all rights to which such director or officer may otherwise be entitled. Funds to cover such expenses, including fees of counsel, may be advanced by the Association prior to final disposition of the matter, upon receipt of an undertaking by or on behalf of the recipient to repay such amounts if it shall ultimately be determined that the recipient is not entitled to indemnification thereunder.

ARTICLE IV PROPERTY RIGHTS AND EASEMENTS

Section 4.01. Rights and Easements of Developer and Lot Owners. The Developer shall have the right to create and grant easements, perpetual or otherwise, with or without consideration, on, over, under, or through any property that is subject to this Declaration, to any public or private utility company, coaxial cable company or similar entity, governmental or quasi-governmental agency or political subdivision; provided, however, that Developer shall first obtain the consent of R & H, which consent shall not be unreasonably withheld, as to any easement affecting property within Augusta Shores Addition.

Every Lot Owner (and such Lot Owner's guests, licensees, tenants and invitees) shall have a right and easement of:

- a. enjoyment in and to all Association Property, subject, however, to the rights of the Association as set forth in Section 4.02 herein; and

- b. a right and easement over the roadways as shown on any recorded plat of the lands covered by this Declaration. Such easement shall be in common with the other owners of Lots covered by this Declaration and shall be for ingress and egress by vehicle, bicycle or on foot and for the installation, use, repair, maintenance and replacement of any utility lines located within such roadways. These easements will be subject to the rights of the Association as set forth in Section 4.02 herein, provided, however, that any conveyance or encumbrance referred to in Section 4.02 below shall be subject to said easement of each Owner for ingress and egress.

The easements set forth in this Section 4.01 shall be appurtenant to and shall pass with the interests of a Lot Owner, as defined in Article 1, Section 1.01 hereof.

Section 4.02. Rights of Association. With respect to the Association Property owned, and in accordance with the Certificate of Incorporation and By-Laws of the Association, the Association shall have the right:

- a. to promulgate rules and regulations relating to the use, operation and maintenance of the Association Property for the safety and convenience of the users thereof or to enhance the preservation of such facilities or which, in the discretion of the Association, shall serve to promote the best interests of the Lot Owners;
- b. to grant easements or rights of way, with or without consideration, to any public or private utility corporation, coaxial cable company or similar entity, governmental agency or political subdivision;
- c. to dedicate, sell, transfer, abandon, partition, or encumber (except for any transfer or encumbrance to a public utility or for other public purposes consistent with the intended use of such land by or for the benefit of the Lot Owners) all or any part of the land or improvements to such land which it owns for such purposes and subject such conditions as may be agreed to by the Association and the transferee. Such a conveyance shall require the consent of two-thirds (2/3) vote of Lot Owners present, in person or by proxy, at any meeting called to discuss such purpose, provided a quorum of Lot Owners is met to conduct such business, as provided in the bylaws of the Association.
- d. To enter into agreements, reciprocal or otherwise, with other homeowners' and residents' associations for the use or sharing of facilities. Such agreements shall require the consent of the Lot Owners as provided in Section 4.02 above..

Section 4.03. Right of Association to Contract Duties and Functions. The Association may contract with any person, corporation, firm, trust company, bank, or other entity for the performance of its various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with other community associations.

Section 4.04. Distribution of Condemnation Awards. In the event all or part of the Association Property is taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Association. The Board of Directors of the Association shall arrange for the repair and restoration of such Association Property and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. If there shall be surplus of such proceeds, such surplus shall be part of the general funds of the Association to be used as the Association deems appropriate.

In the event of any dispute with respect to the allocation of the award, the matter shall be submitted to binding arbitration in accordance with the arbitration statutes of the State of Missouri.

Section 4.05. Association's Easement and Right of Access for Maintenance, Repair, Construction, Improvement and Replacement. The Association (and its employees, contractors and agents) shall, upon reasonable notice to the Lot Owner(s) directly involved, if any, have an easement and right of access to, on, through and over any Lot to permit the maintenance, repair, construction, improvement, or replacement of any Association Property, and the improvements thereon, except that in an emergency, the Association shall have such access right without notice. The repair of any damage caused in gaining access or in making repairs, maintaining, constructing, improving, or replacing Association Property shall be at the expense of the Association.

Section 4.06. Hearing Procedures. Where the Board of Directors of the Association is required, in accordance with the provisions of this Declaration, to hold a hearing prior to taking certain action (hereinafter referred to as a "Hearing"), the procedures set forth in this Section 4.06 (the "Hearing Procedures") shall be followed. The Hearing on the proposed action (the "Proposal") shall be held not less than 30 days nor more than 60 days after the Board of Directors has initiated the Proposal. Notices of the Hearing (the "Notice") shall be mailed to all Lot Owners as their names appear on the books and record of the Association, not less than 10 nor more than 40 days prior to the date of the Hearing. The Notice shall describe in detail the Proposal, the Hearing Procedures set forth herein as well as any other procedures applicable thereto as may be imposed by other sections of this Declaration, and shall specify the date, time and place of the Hearing. The Hearing will be held on the property or in a place reasonably accessible to a Majority of the Lot Owners. All Lot Owners and other interested persons shall be entitled, subject only to reasonable rules and regulations established by the Board of Directors for the conduct of such Hearing, to attend the Hearing, to express their views on the Proposal, to ask questions, or to submit written comments with regard to the Proposal. If, in connection with a proposal, a Hearing is required pursuant to more than one section of the Declaration, the Board of Directors may elect to hold one combined Hearing on such Proposal, provided that all restrictions, limitations or additional procedures; if any, imposed by each of the applicable sections are followed.

Section 4.07. Acquisition, Conveyance, Improvement and Changes in Use of Association Facilities. Subject to the limitations as set forth in this Section 4.07, the Board of Directors of the Association, on such terms and conditions as it deems appropriate, may effectuate (i) the acquisition, through purchase, gift, lease or any combination thereof, of land or Improvements as Association Property; (ii) the transfer, conveyance, donation, lease or other disposition of any Association Property; (iii) the construction of, or the making of additions, modifications or alterations to, or the demolition of, Improvements to Association Property; and (iv) the material change in the use of any Association Property.

a. Upon the affirmative vote of a majority of the Board of Directors proposing:

- (1) a transfer, conveyance, donation, lease or other disposition of Association Property (a "Transfer") the effect of which will be to deprive or substantially limit the use and enjoyment of such Association Property by some or all Lot Owners; and/or
- (2) a change in use of Association Property (including, without limitation, construction of Improvements so as to convert passive recreational or open space to active recreational use), which change in use will be a material alteration or abridgment of the use of such Association Property (hereinafter referred to as a "Material Change in Use");

the Board of Directors shall hold a Hearing on the Proposal in accordance with the Hearing Procedures set forth in Section 4.06 hereof.

The Lot Owners shall vote on the Proposal, with such modifications thereto made by the Board of Directors of the Association as the Board deems appropriate after due consideration of the written and oral comments received at the Hearing. An affirmative vote of two-thirds (2/3) of the Owners present, in person or by proxy, provided a quorum of Owners is met, as provided in the By-laws, be required for approval, provided, however, that any Material Change in Use shall not be in

violation of the zoning laws or any other laws, ordinances, rules or regulations of the County of St. Charles or any other governmental authority.

- b. If a proposed acquisition of land or Improvements or the construction, addition, modification alteration to, or the demolition of Improvements on, Association Property, will result in the imposition of a Special Assessment as provided in Section 5.07 of this Declaration, the Board of Directors shall hold a Hearing thereon in accordance with the Hearing Procedures set forth in Section 4.06 hereof, and the provisions of Section 5.07, prior to finally authorizing such action.

ARTICLE V ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 5.01. Imposition, Personal Obligation Lien. Each Lot Owner, by becoming a Lot Owner by acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which title was obtained so provides, shall be deemed to covenant and agree to pay to the Association:

- a. annual assessments or charges for the maintenance and operation of Association Property ("Maintenance Assessments") and for services performed by the Association; and

- b. special assessments for capital improvements ("Special Assessments");

together hereinafter being referred to as "Assessments".

The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such late charges, interest thereon and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the Lot against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time the Assessment falls due.

Section 5.02. Purpose of Maintenance Assessment. The purpose of the Maintenance Assessment shall be to fund the maintenance, preservation, operation and improvement of the Association Property, including, but not limited to, the maintenance and operation of the recreational areas and facilities and the promotion of the recreation, safety and welfare of the Lot Owners, including but not limited to, the payment of taxes on Association Property, liability and other insurance covering the Association Property and the Association's officers, directors, members and maintenance, repair, improvement, and replacement of all Association Property and facilities and for such other needs as may arise.

Section 5.03. Date of Commencement and Notice of Assessments. The Assessments provided for herein shall commence for each lot owner and with respect to said Lot upon conveyance of said lot by Developer or by R & H, L.L.C. to said Lot Owner. The first Assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Board of Directors and such Assessments shall thereafter be on a full year basis. The Board of Directors of the Association shall fix the amount of the Assessment against each Lot at least 30 days in advance of each annual Assessment period. The Assessments shall be due and payable annually unless the Board of Directors establishes other periods for payment. Separate Due dates may be established by the Board for partial annual Assessments as long as said Assessments are established at least 30 days before due. Written notice of the annual Assessments shall be sent to every Lot Owner subject thereto.

Section 5.04. Assessments for Specific Lots. Once Assessments have commenced pursuant to Section 5.03 above, the Owner of each Lot subject to this Declaration shall be liable for the payment of full Maintenance Assessments and Special Assessments, if any. The initial assessment per lot conveyed by Developer or by R & H, L.L.C. to any Lot Owner for the calendar year of the recording

of this Declaration shall be the sum of Four Hundred Dollars (\$400.00). Future annual assessments shall be determined by the Board of Directors.

Section 5.05. Basis for Maintenance Assessments. Once Assessments have commenced pursuant to section 5.03 above and subject to Developer and R & H paying a lesser amount as permitted by Section 5.04 above, the Owner of each Lot, i.e. each subdivision lot subject to this Declaration, shall be liable for all Maintenance Assessments and Special Assessments, if any, assessed against such Owner's Lot. Assessments shall be equal for all Lots so that the number of Lots subject to Assessments divided into the total amount which the Board of Directors of the Association deems to be necessary to fully fund the Association's budget of estimated expenses and reserves (and any operating deficit previously sustained) shall determine the annual Maintenance Assessment for each Lot.

Any change on the basis of Assessments shall be equitable and nondiscriminatory within the following classifications: (1) Lots subject to the payment of full Maintenance Assessments, and (ii) Lots subject to the payment of less than full Maintenance Assessments pursuant Section 5.04 above.

Section 5.06 Change in Basis of Assessments. The Association may change the basis of determining Assessments by obtaining the written consent of not less than two thirds (2/3) of the total votes of all Lot Owners, voting in person or by proxy, written notice of which change shall be sent to all Lot Owners whose names appear on the records of the Association at least 40 days in advance of the date or initial date set for voting thereon, except that so long as Developer holds or R & H, L.L.C. hold title to any Lot on lands covered by this Declaration, but not longer than 12 years from the date of recording of this Declaration, any change in the basis of Assessments which, in the opinion of Developer or R & H, L.L.C., adversely affects a substantial interest or right of Developer or R & H, L.L.C. with respect to unsold Lots shall require the Board specific consent of Directors developer, or R & H, L.L.C., (with respect to lots in Augusta Shores Addition), in writing, which consent shall not be unreasonably withheld.

Section 5.07. Special Assessments. In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying, in whole or in part, unusual expenses including capital improvements, including without limitation, the construction, reconstruction, improvement, or replacement of, or repair of a capital nature to, the Association property. Before levying such a Special Assessment the Board of Directors shall hold a Hearing on said proposed Special Assessment in accordance with the Hearing Procedure set forth in Section 4.06 of this Declaration. Not less than 10 nor more than 45 days after such Hearing, the Board of Directors shall vote on such proposed Special Assessment with the affirmative vote of not less than two-thirds (2/3) of the entire Board being necessary to approve a Special Assessment for the amount proposed or a lesser amount. In addition, for any Special Assessment for the construction (rather than the reconstruction or replacement) of any capital improvement, and for any Special Assessment amounting to more than 20% of the then current amount of annual Maintenance Assessments, the consent must be obtained of two-thirds (2/3) or more of the total votes of all Lot Owners voting in person or by proxy at a meeting duly called for such purpose, written notice of which meeting shall be sent to all Lot Owners at least 30 days in advance, setting forth the purpose of the meeting. The Association shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Lot Owner thereof in writing at least 30 days prior to the first such due date.

Section 5.08. Non-Payment of Assessment. If an Assessment, or installment payments thereof, is not paid on the due date established pursuant to Section 5.03 hereof, then such Assessment payment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated installments, if any, and cost of collection thereof including reasonable attorney's fees, as herein provided, shall thereupon become a continuing lien on the property, shall bind such property in the hands of the then Lot Owners and their personal representatives, successors and assigns, and the Owner of the Lot shall be held personally liable

(including interest, penalties and costs of collection, including reasonable attorney's fees). The obligation to pay such Assessment shall remain such Lot Owner's personal obligation and shall not pass to such Lot Owner's successors in title unless expressly assumed by them.

If the Assessment of any installment thereof is not paid within 10 days after the due date, the Association may impose a late charge or charges in such amount or amounts as the Board of Directors deems reasonable, not to exceed 10% of the amount of such overdue Assessment or installment thereof.

If the Assessment or any installment thereof, is paid within 30 days after the due date, (i) the Assessment shall bear interest from the due date at such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed the maximum rate, of interest then permitted by law, (ii) the Board of Directors may accelerate the remaining installments, if any, of such Assessment upon notice thereof to the Owner, (iii) the Association may bring legal action against the Lot Owner personally obligated to pay the same or foreclose the liens against the Lot of such Owner, and the cost of such proceedings, including reasonable attorneys' fees, shall be added to the amount of such Assessments, accelerated installments, if any late charges and interest, and (iv) the Association may preclude the delinquent Lot Owner from using Association Property.

Once an Assessment is deemed delinquent as described above, any payments received from the Lot Owner shall be applied in the following order: attorneys' fees, other costs of collection, late charges, interest, and then the delinquent Assessment or installments thereof beginning with the amounts past due for the longest period.

Dissatisfaction with the quantity or quality of maintenance or other services furnished by the Association shall, under no circumstances, entitle any Lot Owner to withhold or fail to pay the Assessments due to the Association for the Lot or Lots owned by such Owner.

Section 5.09. Notice of Default. The Board of Directors, when giving notice to a Lot Owner of a default in paying Assessment, may, at its option, or shall, at the request of a mortgagee, send a copy of such notice to each holder of a mortgage covering such Lot. The mortgagee shall have the right to cure the Lot Owner's default with respect to the payment of said Assessments.

Section 5.10. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of maintenance Assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Maintenance Assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Association

Section 5.11. Assessment Certificates. Upon written demand of an Owner or lessee with respect to a Lot which such Owner owns or leases, (or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Lot), the Association shall, within a reasonable period of time, issue and furnish a certificate in writing signed by an officer designee of the Association setting forth with respect to such Lot as of the date of such certificate, (i) whether the Assessments, if any, have been paid; (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g. for the cost of extinguishing a violation of this Declaration. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser, lessee or title insurer of, or lender, on the Lot on which such certificate has been furnished.

Section 5.12. Subordination of Assessment Lien to Mortgages. The lien of the Assessment provided for herein shall be subordinate to the lien of any first mortgage of record now or hereafter placed upon any Lot subject to such Assessments; provided, however, that such

subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Section 5.13. Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution and, in conjunction therewith, mortgage its properties. The amount, terms, rate or rates of all borrowing and the provisions of all agreements with note holders shall be subject solely to the discretion of the Board of Directors acting in its absolute discretion.

Section 5.14, Repayment of Moneys Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power:

- a. to assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the Assessments, hereunder;
- 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 to:
 - 1) assess the Maintenance Assessments on a given day in each year and, subject to the limitation on amount specified in Section 5.05 hereunder, to assess the same at a particular rate or rates;
 - 2) establish sinking funds and/or other security deposits;
 - 3) apply all funds received by it first to the payment of all principal and interest on such loans, when due, or to apply the same to such purpose after providing for costs of collection
 - 4) establish such collection, payment and lien enforcement procedures as may be required by the note holders;
 - 5) provide for the custody and safeguarding of all funds received by it.

ARTICLE VI

MAINTENANCE

Section 6.01. Maintenance and Repair by the Association. The Association shall have the responsibility, at its cost and expense, to undertake all maintenance, repair, improvement of and replacement to Association Property, including the lakes, including the maintenance and operation of the recreational areas and facilities and the maintenance of unimproved lands and open space areas.

Subject to the provisions of Section 6.02 below, the cost of all maintenance, repair, construction, improvement or replacement performed by the Association shall be funded from Maintenance Assessments.

The Association shall have an easement and right of access for maintenance, construction, repairs, improvement or replacement as set forth in Section 4.05 of this Declaration.

Section 6.02. Repairs and Maintenance Which Are Not the Responsibility of the Association. Any maintenance, repair or replacement necessary to preserve the appearance and value of Association Property or Property which the Association is obligated to maintain, repair or replace, made pursuant to Section 6.01 above but which is occasioned by a negligent or willful act or omission of a Lot Owner (including (1) any family member, tenant, guest or invitee of such Owner, (2) any family member, guest or invitee of the tenant of such Owner, and (3) any guest or invitee (i) any member of such Owner's family or (ii) any family member of the tenant of such Owner) shall be made at the

cost and expense of such Owner. If such maintenance, repair or replacement is performed by the Association, it shall not be regarded as common expense, but shall rather be considered a special expense allocable to the specific Lot and such costs shall be added to the Lot Owner's Maintenance Assessment and, as part of that Assessment, shall constitute a lien on the Lot of such Owner, to secure the payment thereof.

Section 6.03. Quality and Frequency of Maintenance and Repairs. All maintenance, repair, replacement or construction of any improvement, whether or not performed by the Association, shall be of a quality and appearance consistent with the enhancement and preservation of the appearance and value of the Property. The Association may establish reasonable schedules and regulations for maintenance, repair, improvement, construction and replacement of any Association Property or of any improvement which it is obligated to maintain, repair or replace pursuant to Section 6.01, which schedules and regulations shall take into account the useful life of any painting and exterior materials and the enhancement and preservation of the appearance and value of the Property.

ARTICLE VII

INITIAL DEVELOPMENT OF PROPERTY

Section 7.01. Control of Developer. The initial construction of any improvements on a Lot and the initial use of any Lot shall be under the exclusive control of Developer until the initial development of such Lot has been completed to the satisfaction of Developer as evidenced by issuance of a Certificate of Compliance pursuant to Section 7.03 hereof. After issuance of a Certificate of Compliance with respect to the Lot, control of all further development or construction on said Lot and of the use of such Lot shall be the responsibility of the Association as set forth in Article VIII below.

Section 7.02. Submission of Plans for Initial Development. No improvements shall be initially made to or constructed on any Lot unless and until such plans for such improvements, in such detail as Developer may require, have been approved by Developer, in Developer's sole discretion, as to the proposed use and external design of the improvements. In addition, all plans and proposed improvements shall comply with the applicable zoning, building, health or other laws, codes and ordinances and all permits and approvals, if any, required by governmental agencies for such development shall be obtained. No such development shall be commenced except in accordance with such approved plans or a modification thereof similarly approved. Developer may impose such other requirements with respect to the construction of such initial improvement or such other development of such Lot as Developer deems appropriate, provided such requirements do not conflict with the provision of this Declaration, applicable zoning and building codes, or any other applicable laws, codes or ordinances.

In recognition of the diversity in the size of lots to be developed, and the topography of the lots and surrounding areas, and in order to maintain and control the aesthetic beauty and architectural integrity and character of the overall development of Augusta Shores, the Developer shall have absolute discretion with respect to the approval or disapproval of proposed house or other structure plans, including but not limited to, the size of the house or other structure, and the type or style of house or other structure plans. Further, in recognition of the existence of underground springs on the property, all structural foundations must have footer drains.

Section 7.03. St. Charles County Building Department Review. Due to the numerous springs, wells and steep slopes on the site future building permits must be accompanied by a sealed set of engineered plans that also include the plot plan denoting the location of the house on the lot. The Building Department may, at its discretion, require additional engineering plans for building permits on a lot by lot basis. This may include, but not be limited to a geotechnical survey, a geological engineering report and a soil compaction report. Also, tie walls may be required on a lot by lot basis, and will have to be engineered and submitted for approval to the St. Charles County Building Department.

Section 7.04. Certificate of Compliance. Upon completion of the construction of initial improvements on a Lot to the satisfaction of Developer in accordance with the approved plans, this Declaration and such other requirements as Developer may have imposed, Developer shall issue a Certificate of Compliance identifying such improvements, and stating generally that such improvements or development have been satisfactorily completed. Any Certificate of Compliance issued in accordance with the provisions of this Section 7.03 shall be prima facie evidence of the facts stated therein as of the date thereof and, as to any purchaser, lessee or mortgagee or other encumbrancer in good faith and for value and as to any title insurer, such Certificate shall be conclusive evidence that all improvements on the Lot as of the date thereof, and the use or uses therein described, comply with all of the requirements of this Declaration. Prior to actual completion of certain improvements, Developer may issue temporary Certificates of Compliance under such circumstances and on such terms and conditions as it deems appropriate.

Section 7.05. Liability of Developer. Except to the extent specifically provided in Section 7.03 above with respect to issuance of a Certificate of Compliance, of action taken by Developer or any officer, employee or agent of Developer pursuant to this Article VII shall entitle any person to rely thereon with respect to conformity with laws, regulations, codes or ordinances or with respect to the physical or other condition of the Property or any Lot. All claims, demands or other causes of action arising out of any such action (including issuance of a Certificate of Compliance) by Developer shall be deemed to be hereby waived. Developer shall not be liable for any damages to anyone submitting plans to it for approval or to any developer, Member or any other person by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of such plans. Every person or other entity which submits plans to Developer for approval, agrees by submission of such plans, that no action or suit will be brought against Developer in connection with such submission. Developer's approval of any member's plans shall not be deemed to be a warranty by the Developer of any kind, including but not limited to, the fitness of said plans as a house structure or for any particular purpose.

Section 7.06. Consent of Developer Necessary to Amend this Article VII. Notwithstanding any other provision of this Declaration, any amendment to this Article VII which alters or abridges the rights or authority of Developer shall not be valid without the consent in writing of Developer. This section shall not be amended without the specific written consent of Developer which consent shall not be unreasonably withheld.

ARTICLE VIII

CONTROL AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE

Section 8.01. Control by Association. After issuance of a Certificate of Compliance with respect to a Lot or any other portion of the Property, enforcement of the Declaration with respect to control over any change in use or any additions, modifications or alterations to any improvement on said Lot or other portion of the Property shall be the responsibility of the Association acting through the Architectural Standards Committee, as provided in Section 8.02 below.

Section 8.02. Composition and Function of Architectural Standards Committee. The Architectural Standards Committee (the "Architectural Committee") shall be a permanent committee of the Association and shall approve all proposed additions, modifications or alterations to any improvements or any proposed change in the use of a Lot or any other portion of the Property (including Association Property) after issuance of a Certificate of Compliance with respect thereto. The Architectural Committee may also assist and advise the Board of Directors of the Association in enforcing the Declaration and in advertising and publishing rules and regulations and guidelines and may from time to time perform such other duties or functions as may be assigned to it by the Board of Directors. The Architectural Committee shall be composed of three (3) or more persons (as determined by the Board of Directors from time to time). The Committee members shall be designated by the Board of Directors of the Association for terms of two (2) years, but shall be subject to removal, with or without cause by the affirmative vote of not less than two-thirds (2/3) of the members of the Board of Directors. All Committee members shall be

Members of the Association or principals, partners, officers, directors, agents or employees of Developer.

Section 8.03. Submission of Plans to Architectural Committee. After issuance of a Certificate of Compliance with respect to a Lot or any other portion of the Property no addition, modification or alteration shall be made on or to such Lot or other portion of the property or the Improvements located thereon, nor shall the use thereof as designated in the Certificate of Compliance be changed unless or until a plan or plans therefore in such form and detail as the Architectural Committee requires, have been submitted to, and reviewed and approved by the Architectural Committee, in its sole discretion. The Architectural Committee may charge and collect a reasonable fee for the examination of plans submitted for approval.

Section 8.04. Basis for Disapproval of Plans by Architectural Committee. The Architectural Committee may disapprove any plans submitted pursuant to Section 8.03 above for any of the following reasons:

- a. Failure of such plans to comply with any protective covenants, conditions, and restrictions contained in the Declaration and which benefit or encumber the Lot or other portion of the Property;
- b. Failure to include information in such plans as requested;
- c. Objection to the site plan, exterior design, appearance, or materials for any proposed Improvements, including without limitation, colors or color scheme, finish, proportion, style or architecture, proposed parking, height, bulk or appropriateness of any proposed Improvements;
- d. Incompatibility of proposed Improvements or use of the proposed Improvements with existing Improvements or uses in the vicinity;
- e. The failure of proposed Improvements to comply with the zoning, building, health or other governmental laws, codes, ordinance, rules or regulations;
- f. The opinion of the Architectural Committee that the size of the proposed structure and/or the type or style of structure, in consideration of the size of lot or its topography, and the surrounding homes or lots, would not be consistent with the aesthetic integrity or character of the overall development of Augusta Shores.
- g. Any other matter which in the judgment and sole discretion of the Architectural Committee would render the proposed improvements, use or uses inharmonious or incompatible with the general plan of improvement of the Property or portion hereof or with Improvements or uses in the vicinity.

Section 8.05. Approval of Architectural Committee. Upon approval or qualified approval by the Architectural Committee of any plans submitted pursuant to Section 8.03 above, the Architectural Committee shall notify the applicant in writing of such approval or qualified approval, which notification shall set forth any qualifications or conditions of such approval, shall file a copy of such plans as approved for permanent record (together with such qualifications or conditions, if any) and, if requested by the applicant, shall provide the applicant with a copy of such plans bearing annotation of such approval or qualified approval. Approval of any such plans or other portion of the Property shall be final as to such Lot or portion of the property and such approval may not be revoked or rescinded thereafter provided (i) that the Improvements or uses shown or described on or in such plans do not violate any protective covenants, conditions or restrictions set forth in the Declaration which benefit or encumber the Lot or other portion of the property, and (ii) that such plans and any qualifications or conditions attached to such approval of plans do not violate any applicable government law, rule or regulation, zoning, building, health or other code or ordinance. Approval of any plans for use in connection with any Lot or other portion of the Property shall not

be deemed a waiver of the right of the Architectural Committee to disapprove similar plans or any of the features or elements included therein if such plans, features or elements are subsequently submitted for use in connection with any other Lot or other portion of the Property.

Section 8.06. Written Notification of Disapproval. In any case where the Architectural Committee disapproves any plans submitted hereunder, the Architectural Committee shall so notify the applicant in writing together with a statement of the grounds upon which such action was based as set forth in Section 8.04 above. In any such case, the Architectural Committee shall, if requested and if possible, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Section 8.07. Failure of Committee to Act. If any applicant has not received notice of the Architectural Committee approving or disapproving any plans within 35 days after submission thereof, said applicant may notify the Committee in writing of the fact. The plans shall be deemed approved by the Committee unless notice to the contrary is given by the Committee not later than the later thereof:

- A. 15 days after the date of such notice, if such notice is given:
- B. 70 days after the date the plans were originally submitted.

Section 8.08. Committee's Right to Promulgate Rules and Regulations. The architectural Committee may from time to time promulgate rules and regulations governing the form and content of plans to be submitted for approval or with respect to the approval or disapproval of certain types of alterations, additions or modifications to Improvements, or uses; provided, however, that no such rule or regulation shall be deemed to bind the Architectural Committee to approve or disapprove any plans submitted for approval, or to waive the exercise of the Committee's discretion as to such plans, and provided further that no such rule or regulation shall be inconsistent with the provisions of this Declaration or any applicable governmental law, code, ordinance, rule or regulation.

Section 8.09. Delegation of Functions. The Architectural Committee may authorize its staff, subcommittees or individual members of the Architectural Committee to perform any or all of the functions of the Committee as long as the number and identity of such staff or members, the functions and scope of authority have been established by a resolution of the entire Architectural Committee. The approval or disapproval of plans by a staff member, individual member or subcommittee member will be subject, however, to the reasonable review of the Architectural Committee in accordance with procedures to be established by the Committee.

Section 8.10. Records of Meetings and Regulations. The Architectural Committee shall keep minutes of meetings and maintain records of all votes taken at meetings. The Architectural committee shall make such records and current copies of its rules and regulations available at reasonable places and times for inspection by any person.

Section 8.11. Liability of Architectural Committee. No action taken by the Architectural Committee or any member, subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances or with respect to the physical or other conditions of any Lot or other portion of the property. Neither the Association nor the Architectural Committee nor any member, subcommittee, employee or agent of the Association or Architectural Committee shall be liable to anyone submitting plans to them for approval or for any Lot Owner or Lot Purchaser or any other person in connection with any submission of plans or the approval or disapproval thereof, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Architectural Committee agrees, by submitting such plans, that no action or suit will be brought against the Association or the Architectural Committee (or any member, subcommittee, employee or agent thereof) in connection with such submission.

ARTICLE IX

INSURANCE

Section 9.01. Insurance to be Carried. To the extent reasonably obtainable and to the extent obtainable at a reasonable cost, and in such amounts as the Board of Directors of the Association shall determine to be appropriate unless otherwise required herein, the Board of Directors of the Association shall obtain and maintain (1) fire and casualty insurance for any improvements on Association Property, (2) liability insurance for occurrences on Association Property, (3) directors' and officers' liability insurance covering wrongful acts of officers and directors of the Association, (4) fidelity bond covering those who handle Association funds, and (5) workers' compensation insurance covering Association employees and those who perform work for the Association and (6) "umbrella" catastrophe coverage.

The Board of Directors shall not be liable for failure to obtain any of the above coverage or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are available, in the opinion of the Board of Directors, only at demonstrably unreasonable cost.

ARTICLE X

GENERAL COVENANTS AND RESTRICTIONS

Section 10.01. Signs. Unless approved in writing by the Board of Directors of the Association, no sign or other advertising device of any nature shall be placed for display to the public view on any Lot or other portion of Property except temporary signs advertising property for sale or rent, the number and size of which shall be subject to the approval of the Board of Directors of the Association. This Section shall not apply to temporary signs erected by or with the permission of the Developer in connection with the initial sale of Lots or homes.

Section 10.02. Animals, Birds and Insects. The Board of Directors of the Association shall have the right to require any Lot Owner (or tenant of a Lot Owner or any family member or guest of any Lot Owner or tenant) to dispose of any animal, bird or insect, if, in the opinion of the Board of Directors, acting in its sole discretion, such animal, bird or insect is creating a nuisance, for reasons including but not limited to the following: the Lot Owner does not clean up after the animal, the animal is too noisy, the animal is not properly controlled, or the animal is dangerous, exotic or otherwise presents a potential health or safety risk to anyone.

Section 10.03. Fences, Walls, Screen Planting. No fence, wall, or screen planting of any kind shall be planted, installed or erected upon any Lot or other portion of the Property nor shall any fence, wall or screen be replaced with other than a similar type of planting, fence or wall except with the written consent of the Architectural Committee of the Association, and in compliance with the St. Charles County Revised Zoning Ordinances. Notwithstanding the foregoing, no fence, wall or screen planting shall be maintained so as to obstruct sight lines for vehicular traffic.

Section 10.04. Garbage and Refuse Disposal. Except for building materials during the reasonable course of construction or repair of any approved improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (all of which are referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate outdoors on any Lot or the portion of the Property, except in Sanitary containers and screened for adjacent and surrounding property. Such containers may be placed in the open within 24 hours of a scheduled pick-up, at such place on the Lot or other portion of the Property so as to provide access to persons making such pick-up. The Association may, in its discretion, adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner and location of storage

of the same on any portion of the Property. All facilities for the storage or disposal of Trash, shall be kept in a clean and sanitary condition.

Section 10.05. Noxious, Offensive, or Illegal Activities. No noxious, offensive, or illegal activity shall be carried out or permitted upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance in the area or to the residents or Owners thereof. The emission of smoke, soot, fly ash, dust, fumes, herbicides, insecticides, and other types of air pollution or radioactive emissions or electro-magnetic radiation disturbances, shall be controlled so as not to (i) be detrimental to or endanger the public health, safety, comfort or welfare, (ii) be injurious to property, vegetation or animals, (iii) adversely affect property values or other wise produce a public nuisance or hazard or (iv) violate any applicable zoning regulation or other governmental law, ordinance or code.

Section 10.06. Single-Family Residential Dwellings. , The only dwellings permitted to be constructed on the Property shall (i) be single-family detached residential dwellings; and (ii) other improvements such as shed, work shops, (iii) be on a permanent foundation and (iv) be completed within twelve (12) months after the commencement of construction. No Lot shall be used for camping, or similar activities. All Lots shall be used exclusively for single-family, residential purposes.

Section 10.07. Dwelling in Other Than Residential Units. No temporary building, trailer, basement, tent, shack, barn, outbuilding, garage or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a dwelling on any Lot or other portion of the Property.

Section 10.08. Subdivision of Lots. There shall be no further division of any Lot or Lots shown on the plat filed in the St. Charles County Recorder of Deed's Office, except by Developer. This provision is not intended to preclude the subdivision of a lot between the two adjoining Lot Owners for the purpose of making each such portion part of the adjoining lot.

Section 10.09. Trees and Other Natural Features. No trees or shrubs more than 3" in trunk diameter (other than trees or shrubs under or within 25 feet of any physical improvement existing or to be undertaken, including but not necessarily limited to a house and driveway) shall be removed from any Lot or portion of the Property except with the written permission of the Board of Directors of the Association, which, in its discretion, may adopt and promulgate rules and regulations regarding the preservations of trees and other natural resources and wildlife upon the Property.

Section 10.10. Residential Use Only. Except as provided in Section 10.11 below, the Property shall be used only for single-family residential purposes and purposes incidental and accessory thereto, except that with the consent of the Developer given prior to the initial occupancy of any dwelling constructed on a Lot, any such dwelling may be used as a model home and/or real estate office.

Section 10.11. Home Occupation. No occupation or profession shall be conducted without the consent of the Board of Directors. The Board of Directors may approve the following type of home occupation. Any occupation or profession carried on by a member of the immediate family, residing on the premises, the connection with which there is used no sign other than a nameplate, not more than two square feet in area, or no display that will indicate from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises except that prepared therein; no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except such as is customary for purely domestic household purposes.

Section 10.12. Outside Storage or Parking of Commercial or Recreational Vehicles, Camper Bodies, Boats and Trailers. There shall be no outside storage of or parking of commercial or recreational vehicles, camper bodies, boats and trailers and no parking of commercial vehicles for more than seven (7) consecutive days or for more than 15 days of any calendar month in any

location on a Lot or on the public roadway as to be readily visible from the public roadway, except as may otherwise be consented to by the Board of Directors of the Association and otherwise in compliance with the St. Charles County Revised Zoning Ordinances.

Section 10.13. Outdoor Repair Work on Vehicles, Boats or Machines. No extensive work on any motor vehicles, boats or machines of any kind shall be permitted outdoors on any Lot or other portion of the Property in any location as to be readily visible from any public roadway, except with the consent of the Board of Directors of the Association.

Section 10.14. Oversized, Commercial and Unlicensed Vehicles. Unless used in connection with construction on the Property or with the maintenance, repair, construction or replacement of the property, or unless otherwise consented to by the Board of Directors of the Association, the following shall not be permitted to remain overnight on the Property in any location as to be readily visible from any common roadway:

- a. Commercial vehicles of a weight of two (2) tons or more;
- b. Unlicensed motor vehicles of any type.

Section 10.15. Snowmobiles and All Terrain Vehicles. No snowmobile, all terrain vehicle or similar motor vehicle shall be operated on any portion of the Property except with the consent of the Board of Directors of the Association. If permitted, the operation of any such vehicles shall conform to all rules and regulations which may be promulgated from time to time by the Board of Directors of the Association.

Section 10.16. No Hunting or Discharge of Fire Arms. There shall be no hunting and no discharge of fire arms, air rifles or explosives of any kind on the Property, except with the consent of the Board of Directors of the Association, and otherwise in compliance with the laws of the State of Missouri and the St. Charles County Revised Zoning Ordinances.

Section 10.17. Oil and Mining Operations. No portion of the Property shall be used for the purpose of boring, drilling, refining, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth (except soil boring in connection with the improvement of said part of the Property) and no derrick or other structure designed for use in boring for oil or natural gas or any other mineral shall be erected, maintained or permitted on any portion of the Property, except with the consent of the Board of Directors of the Association.

Section 10.18. Maintenance. Each Lot and any Improvements thereon shall be kept in good order and repair, including, but not limited to, seeding, watering and mowing all lawns, pruning and cutting of trees and shrubbery, and painting or other appropriate external care of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management. In the event any Lot Owner, or tenant thereof, fails to properly maintain any Lot, or any improvement thereon, then the Association shall have the right, after reasonable notice to the Owner and/or tenant, to perform such maintenance or repair to the property as deemed appropriate by the Association, and to assess the cost thereof to the Lot Owner, which assessment shall become a lien on the property until paid, and shall be collectible in the same manner as assessments under Article V of this Declaration.

Section 10.19. Television and Radio Antennas. No television, radio or other communication antenna shall be erected on any Lot or other portion of the Property so as to be visible from any other Lot, the roadway, or from Association Property. If any communication system emanates or creates radio, television or other communication interference with the use of electrical devices on any other Lot, the Board of Directors shall determine whether or not such system or device is unreasonable under the circumstances and may, in its discretion, require that the system or device not be used or impose certain conditions on the use of such system or device so as to reduce or eliminate such interference. However, nothing herein shall be deemed to prevent the installation and use of small, eighteen inch (18") (or smaller), television satellite dishes by an owner.

Section 10.20. Roadway and Lot to be Kept Clear of Mud and Debris During Construction. Each Lot and the roadway accessing such Lot shall be kept reasonably clear of any accumulation of mud and debris occasioned by any construction undertaken on such Lot. The Developer and the Association shall have the right if such accumulation has not been removed after 3 days notice to that Lot Owner to remove said mud or debris and to recover the cost thereof from the Lot Owner including, if necessary, the cleaning and flushing of sewers, flush basins and catch basins. In addition to being the personal obligation of the Owner, any such costs if expended by the Association shall be a charge and continuing lien on such Lot and shall be collectible in the same manner as Assessments under Article V of this Declaration.

Section 10.21. No Erection of Docks, Etc. No wharf, pier, dock, bulkhead, barge, piling, float or other structure shall be built or maintained upon any lake or pond on the Property except with the consent of the Board of Directors of the Association, in its sole discretion.

Section 10.22. Alteration of Waterways. No facility or device shall be constructed or installed which shall in any way alter the course of, or the natural or established boundaries of any lake or pond on the Property except with the consent of the Board of Directors of the Association.

Section 10.23. Boats. No gasoline or diesel powered boat, whether powered by onboard or outboard motor, shall be operated on any lake or pond on the Property without the consent of the Board of Directors of the Association. The operation of all boats shall conform to all rules and regulations which may be promulgated from time to time by the Board of Directors of the Association.

Section 10.24. Use of Waterways. All use of any lake or pond on the Property, including boating, mooring of boats, swimming, skating, fishing, and as a source of water for landscape maintenance shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

Section 10.25. No Disposal of Refuse Into Waterways. No garbage, trash or other refuse of any kind shall be dumped, disposed of or placed into any lake or pond on the Property.

Section 10.26. Sewer and Water System. Augusta Shores will receive its water from Alliance Water, District 2 Water Authority, St. Charles County, Missouri. Augusta Shores shall be serviced with private sanitary sewers employing a Low Pressure Sewer System (LPSS) under regulations issued by the Missouri Department of Natural Resources, and in conjunction with Duckett Creek Sanitary District. The common collector main of the LPSS system and the waste water treatment plant shall be dedicated to and owned by the Duckett Creek Sanitary District which will maintain and operate said common collector main of the LPSS system and treatment plant. The Developer shall have the authority to establish and create easements for installation, maintenance and repair of all of the LPSS system throughout the development, including, easements on, over, under and through each lot and Association property. Each lot shall have an industrial Grinder Pump Station (GPS) which shall remain the property of the lot owner. The Developer shall dedicate all easements required for the treatment plant and common collector main of the LPSS system to the Duckett Creek Sanitary District.

ARTICLE XI

ENFORCEMENT, AMENDMENT AND DURATION OF DECLARATION

Section 11.01. Declaration Runs With the Land. Each person or entity acquiring an interest in a Lot or other portion of the Property or otherwise occupying any portion of the Property (whether or not the deed, lease or any other instrument incorporates or refers to this Declaration) covenants and agrees for him, her, or itself, and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of this Declaration including personal responsibility for the payment of all charges that may become liens against his, her or its property and which

become due while he, she or it is the Owner thereof, and also covenants to incorporate this Declaration by reference in any deed, lease or other instrument further transferring an interest in such Lot or other portion of the Property.

Section 11.02. Enforceability.

a. Actions at Law or Suits in Equity. The provisions of this Declaration shall bind the Property and shall be construed as running with the land and shall inure to the benefit of and be enforceable by the Association (being hereby deemed the agent for all of its members), and by any Lot Owner, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of this Declaration, 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.

b. Penalties and Fines. In addition or as an alternative to an action at law or suit in equity, the Board of Directors of the Association may, with respect to any violation of this Declaration or of the By-Laws or rules and regulations of the Association or of any committee of the Association, and after affording the alleged violator a reasonable opportunity to appear and be heard, establish monetary and non-monetary penalties, the amount and/or severity of which shall be reasonably related to the violation and to the aim of deterring similar future violations by the same or any other person. Monetary penalties imposed against a Lot Owner or occupant of a Lot shall be deemed a Special Assessment against the Owner of such Lot and, as such, shall be a charge and continuing lien upon such Lot, shall constitute a personal obligation of the Lot Owner, and shall be collectible in the same manner as Assessments under Article V of this Declaration.

Section 11.03. No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or similar violation occurring prior or subsequent thereto. No liability shall attach to the Association (or any officer, director, employee, member, agent, committee or committee member of the Association) or to any other person or organization for failure to enforce the provisions of this Declaration.

Section 11.04. Obligation and Lien for Cost of Enforcement. If the Association or any other party successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration, or the rules and regulations promulgated hereto, the costs of such actions, including legal fees, shall become a binding, personal obligation of the violator. If such violator is (1) the Owner of a Lot, or (2) any family member, tenant, guest or invitee of the Owner of a Lot, or (3) a family member or guest or invitee of the tenant of the Owner of a Lot, or (4) a guest or invitee (i) any member of the family of the Owner of a Lot, or (ii) any family member of the tenant of the Owner of a Lot, such costs shall also be a lien upon the Lot, and a personal obligation of the Owner of said Lot.

Section 11.06. Amending or Rescinding.

A. The Developer or the Association may, at any time, make amendments to this Declaration to correct omissions or errors, provided such amendments shall not adversely modify substantial rights of any Lot Owner without such Lot Owner's written consent.

B. Except as otherwise specifically provided for herein, the Board of Directors on its own initiative, or pursuant to a written petition signed by the Owners of not less than 25 percent of the Lots subject to this Declaration, may propose an amendment to this Declaration.

The Board of Directors shall hold a Hearing in accordance with Section 4.06 herein for the purpose of considering such proposed amendment. Notice shall be given as pursuant to such Section 4.06.

Not less than 30 nor more than 45 days after the Hearing, the Lot Owners shall vote on the proposed amendment. Notice of such vote, containing the date, time and place of the canvass thereof and a copy of the proposed amendment, with such changes as the Board of Directors shall have made as a result of the written and oral comments received and a form of ballot shall be mailed or delivered by the Board of Directors to all Lot Owners not less than 14 days prior to the date or initial date set for the canvass thereof.

The affirmative vote of Owners not less than two-third (2/3) of the total number of Lots shall be required for approval of a proposed amendment.

Section 11.07. Owner Responsible for Tenants and Guests. Any lease of a Lot or any improvement thereon shall provide that the tenant shall comply in all respects with the terms of the Declaration, By-Laws and rules and regulations, if any, of the Association. If a tenant or any guest of a Lot Owner is in violation of such Declaration, By-Laws or rules and regulations, the Board of Directors shall so notify the Owner of the Lot which such tenant or guest occupies in writing by certified mail, return receipt requested or by telephone. If the violation is not promptly cured, or eviction proceedings promptly commenced against the tenant after the Owner has received notice of such violation, and diligently pursued thereafter, the Board of Directors may pursue any remedies which it may have pursuant to Section 11.02 of this Declaration.

Section 11.08. When Amendment or Rescission Becomes Effective. Any amendment or rescission to this declaration shall not become effective until the instrument evidencing such change has been duly recorded in the Office of the St. Charles County Recorder of Deeds. Such instrument need not contain the written consent of the required number of Lot Owners but shall contain a certification by the Board of Directors of the Association that the consents required for such amendment have been received and filed with the Board.

Section 11.09. Duration. Except as otherwise provided for herein, this Declaration shall continue with full force and effect (unless terminated by any amendment to this Section 11.09 pursuant to Section 11.06 herein).

Not less than 30 nor more than 45 days after the Hearing, the Lot Owners shall vote on the proposed termination. Notice of such vote, containing the date, time and place of the canvass thereof, and a form of ballot, shall be mailed or delivered to all Lot Owners not less than 14 days prior to the date or dates set for the canvass thereof.

The affirmative vote of not less than 75% of the total number of Lot Owners shall be required for termination.

Any approved termination to the Declaration shall become effective only when an instrument describing such termination has been duly recorded in the St. Charles County Recorder of Deeds Office and upon such recording shall be binding from the date of such recording on all of the Property unless otherwise specifically provided in such termination. Such instrument need not contain the written consent of the required number of Lot Owners but shall contain a certification by the Board of Directors that the consents required for such termination have been received and filed by the Board.

Section 11.10. Construction and Interpretation. The Association shall have the right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all person or property benefited or bound by the provisions hereof.

Any conflict in construction or interpretation between the Association and any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association. The Association may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any

findings, determinations, rulings or orders or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interests of the Lot Owners and to the end that the Property shall be preserved and maintained as a high quality community.

In granting any permit, authorization, or approval, as herein provided, the Association may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

Section 11.11. Conflict With Municipal Laws. The protective covenants, conditions and restrictions set forth herein shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease.

Section 11.12. Change of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of this Declaration, and the same may be amended only in the manner provided herein.

Section 11.13. Invalidity of Agreement or Declaration. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

ARTICLE XII

AUGUSTA SHORES ADDITION TRACT

Section 12.01. Augusta Shores Addition Tract. Notwithstanding anything herein otherwise provided to the contrary, no action shall be taken by the Association pursuant to the provisions of §§ 4.02, 4.04, 4.05 or 4.07 which would in any way affect any lot, or Association property, which is located on that tract of land identified as the Augusta Shores Addition Tract, without the separate approval of a majority of the lot owners of lots located on the Augusta Shores Addition Tract.

Notwithstanding anything herein to the contrary with respect to the initial development of property as provided in Article VII hereof, with respect to the construction of any improvements on lots located on that tract now identified as the Augusta Shores Addition Tract, the approval, authority and control of the Developer as provided in Article VII shall be exercised by Developer subject to the consent and approval by R & H, L.L.C., as owner of the Augusta Shores Addition Tract, which consent and approval shall not be unreasonably withheld.

No amendment of the Declaration shall be made which would in any way provide separate covenants, conditions, or restrictions applicable to the lots located on the tract of property now identified as the Augusta Shore Addition Tract without the separate approval of the majority of the lot owners located within that tract.

Notwithstanding anything herein to the contrary, the authority of the Developer under Section 4.01 and Section 10.26 to grant easements over or within the Augusta Shores Addition Tract may only be exercised with the consent of, and by a recorded easement or similar instrument signed by, R & H, L.L.C.; provided, however, that R & H, L.L.C. may grant easements as described in Section 4.01 and Section 10.26 over or within the Augusta Shores Addition Tract without the consent of Developer, so long as said easements do not interfere or conflict with the overall development and use of the Property. Furthermore, the rights of Developer under Section 10.08 to further divide Lots shall not be applicable to the Augusta Shores Addition Tract; R & H, L.L.C. shall possess the exclusive right within the Augusta Shores Addition Tract to further divide a Lot or Lots.

ARTICLE XIII

GENERAL

Section 13.01. Headings and Captions. The headings and captions contained in this Declaration are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 13.02. Notice. Any notice required to be sent to the Owner of a Lot under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as such Owner on the records of the Association.

Section 13.03. Right of Association to Transfer Interest. Notwithstanding any other provision herein to the contrary, the Association and its successors, shall at all times have the absolute right to transfer, convey and assign any portion or all of its right, title and interest in such property of the Association under this Declaration to any successor not-for-profit corporation or trust and, upon such assignment, the successor corporation or trust shall have all the rights and be subject to all the duties of said Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation or trust had been an original party and all references herein to the Board of Directors shall refer to the board of directors, trustees or other governing board of such successor corporation or trust. Any such assignment shall be accepted by the successor corporation or trust under a written agreement pursuant to which the successor corporation or trust expressly assume all the duties and obligations of the Association. If, for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation or trust, the covenants, easement, charges and liens imposed hereunder shall nevertheless continue and any Owner may petition the court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation or trust to take over the duties and responsibilities of the Association, subject to the conditions provided herein with respect to an assignment and delegation to a successor corporation or trust.

Section 13.04. Right of Association to Transfer Functions. Unless otherwise specifically prohibited herein or within the Certificate of Incorporation or By-Laws of the Association, any and all functions of the Association shall be fully transferable in whole or part to any other homeowners' or residents' association, or other not-for-profit corporation, or similar entity.

Section 13.05. Duration of Developer's Rights. The rights, powers and authorities possessed by Developer or by R & H, L.L.C., hereunder shall continue until the earlier of twelve years from the date of recording of this Declaration or the sale of all Lots owned by either Developer or R & H, L.L.C., or upon the voluntary relinquishment of such rights, power, and authority by either the Developer or R & H, L.L.C.; and, upon the occurrence of any such event, such rights, powers and authorities shall devolve to the Association. In the event Developer shall sell all Lots owned by Developer, or voluntarily relinquish its rights hereunder, prior to the expiration of the Developer's rights hereunder, R & H, L.L.C., shall be the "Developer"; in the event R & H, L.L.C., shall sell all Lots owned by R & H, L.L.C., or voluntarily relinquish its rights hereunder, prior to the expiration of the Developer's rights hereunder, Developer shall be authorized to exercise any rights, powers, or authorities reserved herein to R & H, L.L.C.

Augusta Shores, L.L.C.

By:

Joseph E. Dupre

(SEAL)

STATE OF MISSOURI)

)SS.

COUNTY OF ST. CHARLES)

On this 3 day of October, 1997, before me personally appeared Joseph E. Dupre, to me known and who being by me duly sworn did depose and say that he resides at 3649 Bluff Valley Court, St. Charles, MO 63303; that he is a Member of Augusta Shores, L.L.C.; and that he executed the foregoing instrument on behalf of Augusta Shores, L.L.C., as its authorized Member.

Donna M. Wesselschmidt
Notary Public

Subscribed and sworn to before me this 3 day of October, 1997.

My commission expires:

DONNA M. WESSELSCHMIDT
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
ST. CHARLES COUNTY
MY COMM. EXP. SEPT. 25, 2000

R & H, L.L.C.

By:

Huey Rodeheaver

STATE OF MISSOURI)

)SS.

COUNTY OF ST. CHARLES)

On this 3 day of October, 1997, before me personally appeared Huey Rodeheaver to me known and who being by me duly sworn did depose and say that he is a Member of R & H, L.L.C., and that he executed the foregoing instrument and submitted the property described in Schedule A-1 to this Declaration on behalf of R & H, L.L.C., as its authorized Member.

Donna M. Wesselschmidt
Notary Public

Subscribed and sworn to before me this 3 day of October, 1997.

My commission expires:

DONNA M. WESSELSCHMIDT
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
ST. CHARLES COUNTY
MY COMM. EXP. SEPT. 25, 2000

R & H, L.L.C.

By: Thomas Howell
Thomas Howell

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

On this 3 day of October, 1997, before me personally appeared Thomas Howell to me known and who being by me duly sworn did depose and say that he is a Member of R & H, L.L.C., and that he executed the foregoing instrument and submitted the property described in Schedule A-1 to this Declaration on behalf of R & H, L.L.C., as its authorized Member.

Donna M. Wesselschmidt
Notary Public

Subscribed and sworn to before me this 3 day of October, 1997.

My commission expires:

DONNA M. WESSELSCHMIDT NOTARY PUBLIC - NOTARY SEAL STATE OF MISSOURI ST. CHARLES COUNTY MY COMM. EXP. SEPT. 25, 2000
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FIRST AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS OF
AUGUSTA SHORES

THIS AMENDMENT to the Declaration of Protective Covenants, Conditions and Restrictions of Augusta Shores is made and entered into as of this 24th day of April, 2019.

WHEREAS, on the 23rd day of March, 2019, a meeting was held for the purpose of tabulating the votes on Amendments to the Declaration, and,

WHEREAS, an issue was raised concerning postal delivery of the ballots resulting in the meeting being suspended until April 13, 2019, and,

WHEREAS, when the meeting was resumed and the ballots tabulated, that there were Eighty-Eight (88) votes in favor of the amendments; Twenty (20) votes against the amendments; Twenty-One (21) ballots not received, which were counted as negative votes. It was then determined that the required two-thirds (2/3) majority in favor of the amendments were received and the amendments were received and the amendments were declared approved,

NOW, THEREFORE, the Declaration of Protective Covenants, Conditions and Restrictions of Augusta Shores are hereby amended as follows:

To add the following to Article I:

- M. "Fiber Optic Internet Provider" shall mean any company that provides Fiber Optic Internet Services to a group of customers on a consistent basis.

To delete the following from Article IV, Section 4.02:

"Association Property Owned" and enact in its place "Property Subject to This Declaration".

To add the following to Article IV, Section 4.02:

- E. To contract with a Fiber Optic Internet Provider for the purpose of providing internet service to the Members' property.

To delete from Article V, Section 5.01a the following:

"By" and replace it with "Under Contract With".

To add the following to Article V, Section 5.02:

"And for any fiber optic Internet services contracted for by the Directors for the benefit of the Members".

IN WITNESS WHEREOF, we set our hands the day and year first above-written.

AUGUSTA SHORES OWNERS ASSOCIATION, INC.

By Kenneth A. Daming
KENNETH DAMING, President

ATTEST:

Maria-Louisa Knierim
MARIA-LOUISA KNIERIM, Secretary

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

On this 24 day of April, 2019, before me personally appeared KENNETH DAMING, President, and MARIA-LOUISA KNIERIM, Secretary, of AUGUST SHORES OWNERS ASSOCIATION, INC., A Not-For-Profit Corporation, and first being duly sworn upon their oath stated that they have executed the same as their free act and deed.

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

Lisa A. Hough
Notary Public

My Commission Expires:

