

NOV 2 1999 P 75261

DECLARATION OF RESTRICTIONS AND  
HOMES ASSOCIATION DECLARATIONS OF  
CLAYBROOK-SECOND PLAT  
(a subdivision in Clay County, Missouri)

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THIS DECLARATION is made on this 2nd day of November, 1999, by Hines Construction Co., a Missouri corporation.

WITNESS:

WHEREAS, Hines Construction Co., a Missouri corporation (hereinafter referred to as "Developer"), is the owner in fee simple of certain real property located in Kansas City and Gladstone, Clay County, Missouri known by official plat designation as CLAYBROOK-SECOND PLAT (hereinafter referred to as "Claybrook"), pursuant to a plat recorded in Cabinet E, Sleeve 107, in the Recorder of Deeds' Office of Clay County, Missouri and described as follows:

Lots 47 through 105, inclusive, CLAYBROOK-SECOND PLAT, a subdivision of land in Kansas City and Gladstone, Clay County, Missouri, according to the recorded plat thereof.

WHEREAS, Developer is now developing the above-described land and desires to create and maintain a residential neighborhood possessing features of more than ordinary value to said community; and

WHEREAS, it is the desire and intention of the Developer to sell the property described above and to impose on it mutually beneficial restrictions under a general plan or scheme of improvement for the benefit of all of the lands in the tract and the future Owners of those lands; and

WHEREAS, the Property described above is generally located east of and contiguous with a subdivision of land described as CLAYBROOK-FIRST PLAT, which plat has similar (but not exactly the same) restrictions and declarations as those described herein.

NOW, THEREFORE, Developer hereby declares that all of the property described above is held and shall be conveyed or encumbered, leased, rendered, used, occupied and improved, subject to the following limitations, restrictions, conditions and covenants, all of which are declared or agreed to be in furtherance of a plan for the subdivision improvement, sale of land, and maintenance of the property, and which are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the land and every part thereof. All of the limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all of the parties having or acquiring any right, title or interest in the above-described lands or any part thereof.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

1. "Association" shall mean and refer to a non-profit Missouri corporation set up under the law to administer in behalf of its members, the restrictions and declarations set forth herein. It is the present intent of Developer to assign, from time to time, during the complete development and lot sales

- process, in whole or in part, its rights and obligations herein set forth to such an Association; it is also the present intent of Developer to assign, subject to the Developer's right to withdraw same at any time, its said rights and obligations herein to an association already formed and legally known as Claybrook Homes Association, Inc. (said association originally being set up to administer the covenants and restrictions of CLAYBROOK-FIRST PLAT).
2. "Common Area" shall mean all real and/or personal property which the Association and/or the Developer own for the non-exclusive common use and enjoyment of the Owners of Lots in Claybrook. (At the time of this filing, there is no projected real property common area in the described Second Plat of Claybrook, but see Article VIII, Section 19).
  3. "Developer" shall mean Hines Construction Co., a Missouri corporation, its successors and assigns, if any.
  4. "Lot" shall mean and refer to any lot shown in CLAYBROOK-SECOND PLAT, together with any lot added to this Declaration as provided by Article II.
  5. "Owner" shall mean the record Owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the subdivision, including the Developer, and including any individual(s) or corporation acquiring title by foreclosure or other process of law.
  6. "Member" shall mean every person or entity holding membership in the Association, and shall include all Owners of Lots.
  7. "Claybrook" shall mean and refer to all such existing properties, and additions thereto in CLAYBROOK-SECOND PLAT, as are subject to this Declaration and any supplemental Declaration or Declarations, under the provisions of Article II hereof, and shall include the real property described therein.
  8. "Corner Lot" shall be deemed to be any Lot as platted or any tract of land as conveyed, having more than one street contiguous to it.
  9. "Outbuilding" shall mean an enclosed, covered structure, not directly attached to the residence to which it is appurtenant.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION ADDITIONS THERETO AND DELETIONS THEREFROM

1. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Kansas City and Gladstone, Clay County, Missouri, and comprises all of the Lots, tracts and easements shown and/or platted within or upon the property legally described as:

Lots 47 through 105, inclusive, CLAYBROOK-SECOND PLAT, a subdivision of land in Kansas City and Gladstone, Clay County, Missouri, according to the recorded plat thereof.

- 2. The Developer shall be entitled at any time, and from time to time, to plat and/or re-plate any or all of the property, and to file subdivision restrictions and/or amendments thereto, with respect to any undeveloped portion or portions of or additions to Claybrook.
- 3. Additional Land. Developer may, but shall have no obligation to, add at any time, or from time to time, to the scheme of this Declaration, additional land, provided only that:
  - (a) Any portion of the Additional Land from time to time added shall be contiguous to the property then subject to this Declaration;
  - (b) Any portion of such Additional Land shall be platted as single family and residential Lots and/or Common Areas;
  - (c) Any Common Areas included in such Additional Land shall be transferred to the Association on or before the date the last Lot is sold;
  - (d) Upon the addition of Additional Land, the Owners of the property therein shall be and become subject to this Declaration and shall have all privileges and obligations set forth in this Declaration, including assessment by the Association for their pro-rata share of Association expenses.

The addition at any time, or from time to time, of all or any portion of Additional Land to the scheme of this Declaration, shall be made and evidenced by the filing in the office of the Recorder of Deeds of Clay County, Missouri, a supplementary Declaration with respect to that portion of the Additional Land to be added. Developer reserves the right to so amend and supplement this Declaration without the consent or joinder of the Association or any Owner and/or mortgagee of the land in Claybrook, except for the written consent of any existing lienholder(s) whose lien was specifically executed by the Developer.

ARTICLE III

PERSONS BOUND BY THESE RESTRICTIONS

All persons and corporations who now own or shall hereafter acquire any interest in the above-described Lots hereby restricted, shall be taken to hold and agree and covenant with the Owner of said Lots and with its successors and assigns, to conform to and observe the herein stated covenants and restrictions and stipulations as to the use thereof and the construction of residences and improvements thereon for a period of time ending December 31, 2022, and unless amended or modified as provided herein, these covenants and restrictions shall be automatically renewed for successive periods of 25 years each.

STATE OF MO.  
 CLAY COUNTY  
 I CERTIFY INSTR. REC'D  
 99 NOV -2 P 2:39 P  
 SCOR# 3078 PAGE# 375  
 ROBERT T. SEVIER  
 RECORDER OF DEEDS  
 By: *Vanda Watson*  
 Deputy

ARTICLE IV  
USE RESTRICTIONS

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1. Residential Use. The property subject to these covenants and restrictions may be used for single family residential living units only (no more than one family consisting of a father and/or mother and children born of the father and/or mother or legally adopted by the father and/or mother may ever live in or occupy any one residence in the referenced plat) and for no other purpose, provided however, that the Developer reserves the right to maintain a residential real estate sales office upon any of the herein restricted Lots owned by it for the purpose of promoting, advertising for sale, showing and selling Lots, either improved or unimproved, with Claybrook. Further specific use restrictions are as follows:
  - (a) No tents, trailers, vans, shacks, tanks, outbuildings, or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot or Common Area.
  - (b) No radio or television aerial or antennae or microwave dish may be kept or maintained on any of the Lots hereby restricted except within the confines of a dwelling unit erected thereon. Satellite Dishes of 18" or less will be accepted upon approval of location by the Architectural Control Committee, these dishes may only be installed on the backside (away from street view) of any residence.
  - (c) No wild, semi-wild or domestic animals, reptiles or birds may be kept or maintained upon any of the Lots hereby restricted, except that no more than two dogs, two cats, two rabbits, or two birds, or any combination of the foregoing specific animals listed in this exception not exceeding the aggregate of two, may be kept on any such Lots.
  - (d) No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the Lots hereby restricted without the consent in writing of the Association, provided, however, that permission is hereby granted for the erection and maintenance of not more than two (2) advertising boards on each tract as sold and conveyed, which advertising boards shall be not more than four square feet in size and may be used for the sole and exclusive purpose of advertising for sale or lease the Lot or tract upon which they are erected; and provided further that nothing in this section shall be construed to prohibit the erection of subdivision entrance structures by the Developer, its grantees, assigns or licensees at such place or places as they may determine, which structures may or may not display the name of said subdivision.
  - (e) No automotive repair or rebuilding or any other form of automotive work, whether for hire or otherwise, shall occur on any of the Lots hereby restricted except that automotive repairs on a non-commercial basis and not for hire may be conducted in any enclosed garage built on said premises and permitted under the other provisions of these restrictions. No automobile, truck, motorcycle, motorbike, motor scooter, boat, airplane, house trailer, boat trailer, camping trailer, mobile home or vehicle of any other type or description may be stored on any of the Lots or streets hereby restricted except that such storage (except storage for hire) shall be permitted within the confines of any building built on any of the Lots hereby restricted and permitted under other provisions of these restrictions. Nothing in this

section, however, shall be so construed as to prohibit the regular parking of not more than two (2) automobiles only (but not to include a pick-up truck with camper), in running condition and in reasonable state of repair and preservation, on any driveway permitted to be maintained on any of the Lots hereby restricted.

- (f) No air conditioning or heating apparatus or unsightly projections shall be attached or affixed to the front of any residence.
- (g) All exterior foundations and walls which are exposed in excess of twelve (12) inches above final grade level shall be painted the same color as the house or covered with siding compatible with the structure.
- (h) No building, fence, structure, wall, shrub, or hedge shall be erected, constructed, planted or maintained on any of the Lots hereby restricted without approval as to material, design, shape, location, species, and height by the Architectural Control Committee, and said Architectural Control Committee shall have complete discretion with regard to such approval; however, trees, shrubs and related improvements will be planted and installed at a minimum to meet City ordinance requirements. Fences will be limited to wood fences being four feet in height, unless the Lot has an in-ground swimming pool on it, in which case the fence shall be at least 6 feet in height. In addition, all fencing will meet City ordinance requirements, if any; no fencing shall be installed on any lot forward of the rear of any residence constructed thereon.
- (i) No above-ground swimming pool may be maintained on any of the Lots hereby restricted.
- (j) No tank for storage of fuel may be maintained above the surface of the ground on any of the Lots hereby restricted without the consent of the Architectural Control Committee.
- (k) All doors on garages located on the Lots hereby restricted shall be kept closed except when opened for the purpose of parking or removal therefrom of motor vehicles.
- (l) No exterior clothesline or poles may be erected or maintained on any of the Lots hereby restricted.
- (m) No exterior Christmas lights and/or decorations may be erected or maintained upon any of the Lots hereby restricted except during a 75-day period beginning November 15<sup>th</sup> of each calendar year.
- (n) Dogs shall be confined and no dog shall be allowed to run at large on the property hereby restricted. No dog or animal pens or runs are allowed on any Lot hereby restricted.
- (o) No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot or on any Common Area except in sanitary containers located in appropriate areas concealed from public view.
- (p) Nothing shall be used, permitted, or maintained on any Lot or on the Common Areas which may be or become a nuisance to the neighborhood. In the event of a dispute or question a

- to what may be or become a nuisance, such dispute or question shall be submitted to the Architectural Control Committee which shall render a decision in writing, which decision shall be dispositive of such dispute or question.
- (q) Nothing shall be altered in, constructed on, or removed from any of the Common Areas except with written consent of the Association.
  - (r) No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any Lot or any Common Area.
  - (s) No structure shall be moved on said premises from another location; no dwelling or residence shall be occupied until fully completed and such dwelling or residence must be fully completed within eight (8) months after the first earth excavation is started.
  - (t) No tree houses shall be permitted on any residence lot or common area.
  - (u) No basketball goal of any kind shall be constructed or erected upon any lot unless and until the location and materials thereof have been submitted to and approved in writing by the Declarant or the Architectural Review Board.

#### ARTICLE V

#### BUILDING RESTRICTIONS AND ARCHITECTURAL CONTROL

No improvement or structure of any kind, including, without limitation, any residence, building, fence, wall, swimming pool, tennis court, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object, or other improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications, and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee. All plans and specifications shall be evaluated as to harmony of external design and location in relation to the surrounding structures and topography and harmony of external design with existing structures in the subdivision; and as to location of the building with respect to topography and finished ground elevation.

The Architectural Control Committee shall initially consist of two Members, namely: GARY HINES and SHELLY HINES. The Developer shall have the right to appoint all of the Members of the Architectural Control Committee as long as they have not sold on a "first sale" basis all of the Lots in Claybrook, as initially platted and/or additions thereto. If said authority and right to appoint all of the Members of the Architectural Control Committee, as well as to otherwise enforce the provisions of these restrictions, is not sooner assigned or delegated by the Developer, in whole or in part, all such rights and entitlements shall, in all events, be deemed immediately and automatically assigned and transferred to the Association upon the occurrence of the following event: When Developer has sold on a "first sale" basis, all of the Lots within said subdivision, as initially platted or with additions thereto accomplished by subsequent plattings.

Upon expiration of the Developer's rights to appoint the Members of the Architectural Control Committee as heretofore provided, or upon written notice of the Developer to the Association of intent to turn over architectural control to the Association, Members of the Architectural Control Committee shall be appointed by the Board of Directors of the Association and shall be a Member of the Association and serve at the pleasure of the Board.

Any person requesting approval of the Architectural Control Committee shall submit complete building plans, specifications, plat plans, grading plans, landscaping plans and location of the buildings with respect to topography and finished ground elevations ("Plans"). Approval of said plans and specifications may be withheld because of failure to comply with any of these restrictions, or because said plans fail to include such information as may be reasonably requested by the Architectural Control Committee, or because of objection to the design and appearance of the proposed structure, or its failure to conform with existing structures upon other Lots or because the location, grading plan, landscaping plan, color scheme, finish, design, proportions, style of architecture, height, or appropriateness of the proposed structure is inharmonious with the general plan of improvement of the platted property or other structures located on the Lots in the vicinity of the Lot on which said building or structure is proposed to be placed or maintained. The Architectural Control Committee shall approve or disapprove said plans within thirty (30) days after their submission. Failure of the Architectural Control Committee to disapprove plans after thirty (30) days shall constitute automatic approval. Upon approval by the Architectural Control Committee of plans for construction or alteration of any structure, a copy of such plans as so approved shall be deposited for permanent record with the Architectural Control Committee, and a copy of such plans bearing the written approval of the Architectural Control Committee, shall be returned to the Owner of the Lot upon which the structure is or will be placed. The Architectural Control Committee may promulgate rules governing the form and content of the plans to be submitted for its approval, and may issue statements of its policy with respect to approval or disapproval of details or other matters which may be presented to it for approval. Such rules and policy statements may be amended or revoked by the Architectural Control Committee at any time, and no inclusion in, omission from, or amendment of, such rule or statement shall be deemed to bind the Architectural Control Committee as to its approval or disapproval of any feature or matter subject to its approval or to waive the exercise of the Architectural Control Committee's absolute discretion as to any such matter. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the Architectural Control Committee's right in its discretion to disapprove such plans, features or elements which are subsequently submitted for approval for use on any other Lot or Lots.

If any structure shall be altered, erected, placed or maintained upon a Lot otherwise than in accordance with the plans and specifications approved by the Architectural Control Committee pursuant to the provisions contained herein, such alteration, erection and maintenance shall be deemed to have been undertaken in violation of these restrictions and without approval required herein. Any approved work of construction or alteration shall be erected and completed diligently in accordance with the plans so approved and completed within eight (8) months after the date of such approval. Failure to so complete such work shall cause such approval to be automatically withdrawn unless the Architectural Control Committee extends such approval in writing for an additional period not to exceed six (6) months. After such automatic withdrawal of approval, the structure being constructed or altered shall not then or thereafter be occupied or permitted to remain on a Lot for a period longer than three (3) months.

Any residence consisting of a single level, being above ground level, shall have an attached double car (minimum) garage and shall contain a minimum of 1,250 square feet of enclosed floor area. Any raised ranch or split-entry residence, with only one level being above ground level, shall have one attached double car (minimum) garage and shall contain a minimum of 1,250 square feet of enclosed floor area on the first floor above ground level. Any one-and-one-half story residence shall have an attached double car (minimum) garage and shall contain a minimum of 900 square feet of enclosed floor area on the first floor above ground level and a total combined floor area of all levels above ground level of 1,400 square feet. Any two-story residence shall have an attached double car (minimum) garage and shall contain a minimum of 800 square feet of enclosed floor area on the first level above ground and a combined floor area of both levels above ground level of 1,500 square feet. The words "enclosed floor area," as used herein, shall mean and include in all cases areas on the first and second floor of the residence enclosed and finished for all year occupancy, computed on the outside measurement of the residence, and shall not mean or

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include any areas in basements, garages, porches or attics; provided, however, that certain interior areas of the second floor need not be immediately finished for occupancy if the residence is so designed and built that such areas can be finished at a later date without any structural changes being made in the exterior of the residence. The Architectural Control Committee shall have the absolute and incontestable right to determine whether the enclosed floor area of any split-level or bi-level residence, and/or the enclosed floor area on the first floor thereof, meets the minimum requirements provided for hereunder, and such determination shall be final.

Roof pitches shall be no lower than 6/12ths. The Builder shall construct a sidewalk on each lot in accordance with City ordinances and regulations, if any. Driveways from the street to all residences shall be constructed of concrete, brick or cobblestone.

All exterior walls of all buildings and structures and appurtenances thereof shall be approved by the Architectural Control Committee, and such approval shall be final. Windows, doors and louvers shall be of vinyl, wood or wood clad metal and glass. Roofs shall be composition roof, the color of weathered wood. Any building products which may come into general use for dwelling construction in this area after the date of these restrictions shall be acceptable if approved in writing by the Architectural Control Committee. All wood and masonite exteriors, except roofs, shall be covered with a workmanlike finish of paint, stain and/or weather preservative unless another finish is approved in writing by the Architectural Control Committee. Color of finish may be rejected if the Architectural Control Committee finds it offensive. This shall also apply to repainting.

No building shall be permitted to stand with its exterior in an unfinished condition for longer than six (6) months after commencement of construction. In the event of fire, windstorm or other damage, no building shall be permitted to remain in the damaged condition longer than six (6) months. Any Owner of a structure in violation of this section may, in the discretion of the Architectural Control Committee, be assessed a fine of from \$1.00 to \$100.00 per day for every day the violation continues. The fine approved herein, if not paid when due by said Owner, shall become a lien upon the real estate upon which the structure in violation of this section is located; provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage or deed of trust now existing or which may hereafter be placed upon said real estate, and further shall be discharged and not enforceable against any mortgagee acquiring title by sale or foreclosure under any first mortgage of Deed of Trust lien now existing or which may hereafter be placed upon said real estate.

The entire front, rear and side yards of every Lot in Claybrook and the unpaved portion of street easements contiguous thereto shall be sodded with grass at the earliest time after construction of a dwelling on said Lot as weather will permit, and in no instance will seeding or plugging be considered a substitute for such original sodding without the consent in writing of the Architectural Control Committee.

The front line of each structure shall be set back according to the setback lines as indicated on the recorded plat.

No building or other permanent structure shall be erected or maintained on any part of any area indicated as "easement," but the Owner of said Lot may erect a fence or hedge along the property line within such easement, subject to approval of the Architectural Control Committee, and subject at all times to the prior right to use such area for public or quasi-public purposes. The right is reserved to locate, construct, erect and maintain, or cause to be located, constructed, erected and maintained within the areas indicated for such purposes on the plat as easements, sewers or other pipelines, conduits, wires, and any other method of conducting or performing any public or quasi-public utilities, including cable television service, with the right of access at any time to the same for the purposes of repair and maintenance.



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ARTICLE VI

COMMON PROPERTIES

Subject to the transfer provisions as set forth in the preceding ARTICLE V, Developer may retain the legal title to Common Areas so long as it owns at least one (1) Lot in Claybrook. On or before conveyance by Developer of the last Lot in Claybrook, Developer shall convey the Common Areas to the Association, if any, subject to taxes for the year of conveyance, and to restrictions, conditions, limitations, reservations and easements of record; subject also to a reservation hereby perpetually reserved to the Developer, its successors and assigns, of the right to use and enjoy the same non-exclusive common utility easements, easements of drainage and ingress and egress easements and use easements for the benefit of Additional Lands owned or to be owned by the Developer which are added to Claybrook as Additional Land, as provided in ARTICLE II.

The Owners of Lots in Claybrook, as it may exist from time to time, shall have the exclusive right to the use of all Common Areas as designated on the plat of Claybrook or as may be designated on subsequent plats of Claybrook, or as may be created by separate document filed for that purpose with the Recorder of Deeds of Clay County, Missouri. The Association shall have the right and power to make reasonable rules and regulations which shall govern the use of said Common Areas. No land shall be entitled to any of the benefits, improvements, or services provided by the Association unless the Owner or Owners thereof shall have subjected their land to the terms of this Declaration and to the assessments herein provided for. (Notwithstanding all of the above, there are no projected common areas or properties in either CLAYBROOK-FIRST PLAT or CLAYBROOK-SECOND PLAT.)

ARTICLE VII

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Every person or entity which is a record fee simple Owner of a Lot, including the Developer, and including any person or entity acquiring title by Trustee's Sale, foreclosure, or other process of law, shall be a Member of the Association, provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Owners shall include the Owners of Lots of Additional Land that may from time to time be made subject to the terms and provisions of this Declaration in the manner provided for in ARTICLE II. The Association shall be the sole judge of the qualifications of its Members. Each Lot as shown on the plat or any subsequent plats of Claybrook shall be entitled to one vote. Where one or more persons or entities own a single Lot, they shall decide among themselves who shall be entitled to cast the vote for said Lot. In the event Owners are unable to agree as to who shall be entitled to cast the vote, no vote for that Lot shall be counted.

ARTICLE VIII

POWERS AND DUTIES OF THE ASSOCIATION

The Association shall have the following powers and duties now held by the Developer, which it may exercise or perform, in whole or in part, and as authorized and assigned by Developer, whenever in its discretion it may deem same necessary or desirable, to-wit:

1. To enforce either in its own name or in the name of any Owner within the plat, any or all building restrictions and use restrictions, or other covenants, obligations or restrictions which may have been

heretofore or may hereafter be imposed upon any of the land in Claybrook, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, declarations, or contracts in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for. Nothing herein contained shall be deemed or construed to prevent any Owner from enforcing in his own name any such restrictions.

2. To manage and control, as trustee for its Members, all public streets, sidewalks and other public places shown on the plat of Claybrook and any and all improvements thereof, provided that such management and control of said places and improvements shall at all times be subject to that had and exercised by any city, county and state, or any of them in which said places and improvements are located.
3. To provide for the collection and disposal of rubbish and garbage, when adequate services of that type are not available from any public source.
4. To care for, spray, trim, protect and replant trees on all streets and other public places where trees have once been planted when such services are not available from any public source. See also Section 19.
5. To manage, control, operate, maintain, construct, reconstruct, and maintain Common Areas as the Association deems advisable and in the interest of the Members, including, but not limited to, tennis courts.
6. To mow, care for, maintain and remove all rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the subdivision neat in appearance and in good order. See also Section 19.
7. To provide for the plowing and removal of snow from sidewalks and streets when such services are not available from any public source.
8. To provide such lights as the Association may deem advisable on streets, parking lots, pedestrian ways, gateways, entrances or other features, and in all other public and Common Areas, when such facilities are not available from any public source.
9. To provide for the cleaning, repair and maintenance of streets, gutters, catch basins, sidewalks, pedestrian ways, storm sewers and appurtenant drainage facilities, when such services are not available from any public source.
10. To erect and maintain signs for the marking of streets and safety signs for the protection of children and other persons when such signs are not available from any public source.

11. To employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.
12. To exercise control over such easements as it may require from time to time.
13. To acquire and own title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association and to pay taxes and special assessments on such real estate as may be owned by it; and to pay such taxes and assessments as may be assessed against lands in streets, Common Areas, and other public or semi-public places within the district.
14. To levy and collect assessments which are provided for in this Declaration.
15. To provide, where not available from public sources, for the maintenance of playgrounds, tennis courts, public and private streets, parking areas, walks, pedestrian ways, gateways, entrances, drinking fountains and ornamental features now existing or which may hereafter be erected or created in any public or private street, Common Area, parking area or other public place shown on the plat or created by separate instrument from land included as part of Claybrook or as designated as Common Area on the plat of any additional land which may be later added to the district as provided herein.
16. To make reasonable rules and regulations which shall govern the use of Common Areas, including, but not limited to, restricting the use of Common Areas from those individuals or Members who refuse to comply with the Association's reasonable rules, provided, however, that no restriction as to use shall impair that Member's right to vote in the Association, and no restriction as to use shall relieve that Member's obligation to pay common assessments which are provided for in this Declaration.
17. To obtain such insurance as the Association deems advisable, including, but not limited to, fire and extended coverage, covering the full insurable-replacement value of the Common Areas; liability insurance insuring the Association against any and all liability to the public, to any Owner, or to the invites or tenants of any Owner arising out of their occupation and/or use of the lots or any Common Areas; and Workers' Compensation insurance to the extent necessary.
18. To hire or employ such individuals, firms or management companies which the Association shall deem appropriate to carry out the duties of the Association, including, but not limited to, management, maintenance, accounting and legal services and to delegate such responsibilities as it deems advisable.
19. To expend such monies deemed appropriate towards mowing, maintaining, planting and replacing grass, trees and plants and overall maintaining entrance areas of property outside of Claybrook where same is found appropriate to enhance the entry to and ways of ingress and egress to Claybrook; in accordance therewith monies may be expended on other private property, easements and city right-of-ways and properties as deemed appropriate to maintain the value of Claybrook and keep same aesthetically pleasing. It is contemplated that these monies may need be specifically expended on properties as are related to the CLAYBROOK-FIRST PLAT, which plat fronts a major street(s) from which street(s) one egresses and ingresses from and to CLAYBROOK-SECOND PLAT.

ARTICLE IX

METHOD OF PROVIDING GENERAL FUNDS

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For the purpose of providing general funds to enable the Association to perform the duties herein provided for, all privately owned Lots other than those owned by the Developer, shall be subject to an annual assessment which may be levied by the Association from year to year and shall be paid to the Association annually in advance by the respective Owners of the said assessable lots subject thereto, which said assessable lots shall be deemed to be all of the above enumerated Lots in the aforesaid plat of Claybrook on which dwellings have been erected, together with such other Lots as may from time to time be added to these restrictions, as provided herein, and on which dwellings have or may be erected. The Association may from year to year, fix and determine the total amount required in this general fund, and may levy and collect an annual assessment not exceeding \$100.00 for each Lot on which a dwelling has been erected within Claybrook; provided, however, that in respect to the year in which a dwelling is constructed on any certain Lot covered by this Declaration, the assessment for said year shall be prorated on the basis of the date of closing of the sale of or the occupancy on the improved lot, whichever event occurs first. Assessments may be levied whether or not there is any developed Common Area or properties in the platted subdivision(s). Non-use of the Common Area, whether by choice of the Owner or pursuant to Association rule, shall in no way relieve the Owner's responsibility for payment of any assessments set out here. The maximum annual assessment upon each Lot, as aforesaid, may be increased by not more than ten percent (10%) from year to year, provided that a meeting of the Members especially called for that purpose, prior to the date on which the assessment is levied for the first year for which such increase is proposed, a majority of the Members present at such meeting authorize such an increase by an affirmative vote thereof; and provided further that the maximum annual assessment on each Lot as aforesaid may be increased by an amount greater than ten percent (10%), provided that at a meeting of the Members specifically called for that purpose, prior to the date on which the assessment is levied for the year for which such increase is proposed, two-thirds of the Members present at such meeting authorize such an increase by an affirmative vote therefor.

Unless the increases provided for in paragraph 1 of this ARTICLE are specifically limited by the resolutions in which they are contained to be for a specified period, they shall be effective until rescinded by the Association at a meeting specifically called for such purpose, by an affirmative vote of two-thirds of the Members present; any rescissions shall thereafter be effective commencing on the first day of the next succeeding year.

Whenever the Association may deem it advisable to submit to the Members a proposal for increasing or decreasing the permissible maximum amount of the annual assessment, it shall notify the Members of the Association by mailing to such Members at the last known address, with United States postage thereon prepaid, a notice of such meeting, giving the time and place at which it is to be held and the fact that an increase or decrease in the amount of the annual assessment is to be voted upon at such meeting.

The first annual assessment for any one lot, subject to the right of Developer or its successor association to specifically determine same shall be on the date of closing of the sale of or the occupancy on the improved lot, whichever event occurs first (to be prorated if necessary); thereafter, the assessment shall be on an annual basis each calendar year; the assessment shall be fixed and levied prior to January 1 and shall be payable January 1 of each year thereafter; it will be the duty of the Association to notify all Owners of assessable Lots whose address is listed with the Association, on or before that date, giving the amount of the assessment on each tract owned by them and the date when such assessment is due. Failure of the Association to levy the assessment prior to January 1 of each year for the next succeeding year beginning on January 1, (or as otherwise set by the Developer or its Assignee Association), shall not invalidate any such assessment made for that particular year; nor shall failure to levy an

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assessment for any one year affect the right of the Association to do so for any subsequent year. No failure of the Association to notify any Owner, or failure of any Owner to receive notice of assessment, shall relieve any Owner from the duty and obligation of paying an assessment, but may, in the Association's discretion, relieve said Owner of the obligation to pay any interest or late charges thereon. All Owners shall be deemed to have notice of the existence of the assessment, and shall have the duty to inquire as to the amount if notice is not received. If the assessment is made subsequent to January 1 of any year, then it shall become due and payable not later than thirty (30) days from the date of levying the assessment. The Association may elect to permit collection in quarterly or semi-annual payments in lieu of the annual payments provided herein.

The Association may levy a special assessment for a period not to exceed two (2) years, for the purpose of providing emergency funding, construction or reconstruction of common property elements or other purposes, at any time it deems necessary, on an affirmative vote of three-fourths of the Owners present at a special meeting called for said purpose with notice to all Owners mailed not more than sixty (60) days and not less than ten (10) days prior to said meeting. Said notice shall advise Owners of the time and place for the meeting, the purpose of the meeting, and the amount of special assessment being proposed.

It is Developer's present intent, subject to these restrictions and covenants governing CLAYBROOK-SECOND PLAT lots, to assign, subject at any time to withdrawal, all of its rights and obligations related to levying and collecting assessments immediately to an association legally known as Claybrook Homes Association, Inc. (said association originally being set up to administer the covenants and restrictions filed in connection with CLAYBROOK-FIRST PLAT; said assignment(s) may be on a lot by lot basis as same are improved and sold to home buyers).

ARTICLE X

LIEN ON REAL ESTATE

The assessment provided for herein shall become a lien on the real estate against which it is levied as soon as it is due and payable as above set forth, provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may thereafter be placed on said real estate and, in the event of acquisition of title by a first mortgage or deed of trust holder through trustee's sale, foreclosure or other process, such lien shall be discharged as a lien against such lender's acquired property. In the event of the failure of any Owner to pay the assessment on or before the first day of February following the making of such assessment, then such assessment shall bear interest at the legal rate from the first day of January, but if such assessment is paid before February 1 (or within thirty (30) days from the date of the assessment if the assessment is made subsequent to December 1 for the calendar year beginning January 1) then no interest shall be charged.

Within thirty (30) days from the date of levying the assessment for the year for which the assessment is levied, the assessment shall become delinquent and payable of both principal and interest and may be enforced as a lien on said real estate in proceedings in any court in Clay County, Missouri having jurisdiction of suits for the enforcement of such lien. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of non-payment of assessments in the Office of the Recorder of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the Owner or Owners of the property therein described a fee of \$10.00 per year of delinquency, which fee is hereby declared to be a lien upon the real estate so described in said certificate, provided that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. Such fee shall be collectible in the same manner as the original

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assessments provided for herein, and in addition to the interest and principal due thereon. In the event it is necessary to bring suit to enforce such lien, the Association shall be entitled to recover its reasonable attorney fees from the Owner or Owners of the property, jointly and severally, upon which a lien is enforced.

Such liens shall continue for a period of five (5) years from the date of delinquency, and no longer, unless within such time suit shall have been instituted for the collection of the assessment, in which case, the lien shall continue until the termination of the suit and, if need be, until the sale of the property under execution of judgment establishing same.

In the event of trustee's sale or foreclosure of the lien on any valid first mortgage or deed of trust now existing or which may hereafter be placed on said real estate in Claybrook, such sale and/or foreclosure shall discharge the lien for assessments provided in this ARTICLE; however, nothing in these restrictions shall prevent the Association from instituting or prosecuting an action for collection of assessments against the record Owner or Owners of the property at any time the assessment was made and within five (5) years from the date said assessment was due, whether or not the lien provided in this ARTICLE has expired or been discharged.

ARTICLE XI

LIMITS ON EXPENDITURES

The Association shall at no time expend more money within any one year than the total amount of the assessment for that particular year, plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatsoever binding the assessments of any future year to pay for any obligation, and no such contract shall be valid or enforceable against the Association except for contracts for utilities, it being the intention that the assessment for each year shall be applied as far as practicable toward the payment of the obligations of that year.

ARTICLE XII

AMENDMENTS

This instrument may be modified and amended by written consent of sixty percent (60%) of the Owners of Lots within Claybrook, as then constituted, evidenced by a declaration duly executed and acknowledged by such Owners, and recorded in the Office of the Recorder of Deeds of Clay County, Missouri.

This Declaration may be terminated, and all of the land now or hereafter affected may be released from all of the terms and provisions thereof, by the Owners of all the Lots then subject thereto, executing and acknowledging an appropriate agreement or agreements for that purpose and filing the same for record in the Office of the Recorder of Deeds of Clay County, Missouri.

ARTICLE XIII

BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors consisting of five (5) directors, elected by the Members as provided in the Articles of Incorporation of the Association. So long as Developer owns

one or more Lots in CLAYBROOK-SECOND PLAT, it shall have all of the rights and obligations as set forth herein, subject to assignment of same, from time to time, to Association. (See also ARTICLE XIV.) All directors shall be Members of the Association.

#### ARTICLE XIV

#### MISCELLANEOUS PROVISIONS

1. Notice: The Association shall notify all Owners of land in the district as it may exist from time to time (insofar as the addresses of such Owners are listed with said Association) of the official address of said Association, the place and time of regular meetings of the Association, and the place where payment shall be made and any other business in connection with the Association may be transacted, and shall notify Members of the changes thereto.
2. Owners shall list with the Association their official mailing address, and, if none is listed, notices from the Association shall be mailed to the street address shown on the residence in Claybrook. A written or printed notice, deposited in the United States Post Office, with postage thereon prepaid, and addressed to the respective Owners as provided above, shall be deemed to be sufficient and proper notice for any purpose of this Declaration where notices are required.
3. Prior to the assignment, in whole or in part, of all of Developer's rights and duties under this document to the Association contemplated by the terms of this Declaration, Developer shall have the right, at its option, to perform the duties, assume the obligations, levy and collect the assessments, and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such powers and duties were hereby given directly to Developer. Developer may, by appropriate agreement made expressly for that purpose (subject, however, to the transfer provisions hereof), assign or convey to any person or corporation all of the rights, reservations and privileges reserved by it in this declaration, and by such assignment or conveyance being made, its assigns or grantees may at their option, exercise, transfer or assign such rights at any time or times, in the same way and manner as though directly reserved by them or it in this instrument.
4. The Association shall at all times observe state, city, county and other laws, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws, shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby.
5. All of the provisions of this Declaration shall be deemed covenants running with the land, and shall be binding upon Developer, its successors and assigns, and all Owners of Lots and Members of the Association and the Association itself.
6. Developer may, in its discretion, as to the exact date, organize, form and duly qualify the necessary described corporation for the Association or commit by assignment for administration the Property, declarations and restrictions described and filed herein to a previously formed Claybrook Homes Association (Claybrook Homes Association, Inc.) formed and organized in connection with the original CLAYBROOK-FIRST PLAT by written instrument. Developer or the Association shall keep any said organized and qualified corporation in good standing under the laws of the State of Missouri. Any association corporation formed by the undersigned Developer may accept for

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administration the Property, declarations and restrictions filed in relation to CLAYBROOK-FIRST PLAT.

IN WITNESS WHEREOF, Hines Constructions Co., a Missouri corporation, has caused these presents to be executed by its President, Gary Hines, the date first written above.

HINES CONSTRUCTION CO.

By:

[Signature]  
Gary Hines, President

Attest:

\_\_\_\_\_

STATE OF MISSOURI     )  
  ) SS.  
COUNTY OF CLAY     )

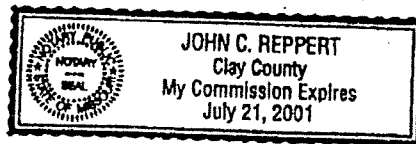
On this 2 day of November, 1999, before me, appeared Gary Hines, to me personally known, who being by me duly sworn, did say that he is the President of Hines Construction Co., a Missouri corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said Gary Hines acknowledged said instrument to be the free act and deed of said corporation.

[Signature] IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in \_\_\_\_\_, Missouri, the day and year last above written.

[Signature]  
Notary Public within and for said County and State

My Commission Expires:

\_\_\_\_\_



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**AMENDMENT TO  
ARTICLES OF INCORPORATION OF  
CLAYBROOK HOMES ASSOCIATION, INC.**

The following Article 12 is hereby adopted and added to the Articles of Incorporation:

**Article 12**

The Corporation shall have the power to sue and be sued, complain and defend, in its Corporate name, and to enforce, either in its own name or in the name of any owner within the subdivision, any or all building restrictions including, but not limited to, the Declaration of Restrictions and Homes Association Declaration of Claybrook, which may have been heretofore or may hereafter be imposed upon any of the land in such subdivision, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases, or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, declarations, contracts, or plats in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Corporation as provided herein; provided, however, the Association shall be entitled to recover its reasonable attorneys' fees, expenses and costs from any party found to have violated any of the building restrictions, covenants or conditions described hereinabove and in the Declaration of Restrictions and Homes Association Declaration of Claybrook Subdivision.

Exhibit A