

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SPRINGHURST CLUB HOMES INNOVATIVE
SPRINGHURST SUBDIVISION, PHASE VI
VILLAGE OF HARTWICK

JEFFERSON COUNTY, KENTUCKY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SPRINGHURST SUBDIVISION, PHASE VI, VILLAGE OF HARTWICK is made on September 15th, 1994, by HFH, INC., a Kentucky corporation, 101 Bullitt Lane, Suite 450, Louisville, Kentucky 40222 ("Developer").

WHEREAS, Developer is the owner of certain real property in Jefferson County, Kentucky, a portion of which is to be developed as a residential subdivision;

NOW, THEREFORE, Developer hereby declares that all of the property described in this instrument, and such additions as may be made pursuant to Article I, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the real property. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I -- PROPERTY SUBJECT TO THIS
DECLARATION; ADDITIONS

Section 1. Existing Property. The real property which is subject to this Declaration is located in Jefferson County, Kentucky and is more particularly described as follows:

BEING Lots 41 through 67 inclusive and Lots 105, 106 and 107 as shown on the plat of Springhurst Subdivision, Phase VI of record in Plat and Subdivision Book 41, Page 18, in the office of the Clerk of Jefferson County, Kentucky.

BEING part of the same property acquired by Developer by Deed dated April 24, 1991, of record in Deed Book 6058, Page 140, in the office of the Clerk of Jefferson County, Kentucky.

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in any of the following manners:

(a) Additions in Accordance with a General Plan of Development. Developer intends to make this phase, Springhurst Phase VI, containing 40 lots a part of a larger community to be developed in accordance with current plans and known as Springhurst. Additional land may (but is not required to) be included by Developer as other phases of Springhurst within 20 years from January 1, 1990, and may include multi-family and retail commercial developments and certain common properties. Developer reserves the right to create cross easements and to restrict all the properties according to the terms of this Declaration. The common areas initially covered by this Declaration shall inure to the benefit of the owners of any new lots which may become subjected to this Declaration and the common areas allocable to the owners of any new lots shall inure to the benefit of the owners of lots recorded earlier, each to enjoy the common areas of the other and to have and to hold the same as if each new lot had been developed and subjected to this Declaration simultaneously.

The additional land which may be included is the land described in the following instruments recorded in the Jefferson County Clerk's office: Deed Book 6058, Page 140.

All additions shall be made by filing with the Office of the Clerk of Jefferson County, Kentucky, a Supplementary Declaration of Covenants, Conditions and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. The Supplementary Declaration may contain additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration.

(b) Other Additions. Additional residential property and common areas which are not presently a part of the general plan of development may be annexed to Springhurst by Developer.

ARTICLE II -- USE RESTRICTIONS

Section 1. Primary Use Restrictions. No lot shall be used except for private single-family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one single family dwelling designed for the occupancy of one family. Said single family dwellings shall be attached to and separated from adjoining residences by party walls on two sides of the structure. The structures are designed for the occupancy of one family (including a domestic

servant living on the premises), not to exceed one and one-half stories in height and having a single kitchen. All residents of the dwelling, except one resident, must be related by blood, marriage or adoption; it being provided however, that nothing herein contained shall prevent two or three persons from joining together to purchase and share a dwelling unit.

For purposes of this Declaration, there shall be specifically excluded from the meaning of the phrase "private single-family residential purposes", and shall not be permitted on any lot within Springhurst, Phase VI, Village of Hartwick, regardless of whether any of the same would otherwise be permitted by any applicable zoning regulations or other governmental laws, rules or regulations, any uses which constitute or relate to (a) boarding houses, (b) lodging houses, (c) fraternities or sororities, (d) clubs, (e) hotels, (f) residences or homes for social rehabilitation, (g) nursing homes, (h) residences or homes for the aged or infirm, (i) programs with respect to which admission to residency in or occupancy of the premises is limited to or intended in whole or in part for persons in the custody of the criminal justice system or the juvenile justice system and/or persons engaged in the care, custody, nurturance or supervision of such persons, (j) any Exceptional Residential Use (as presently defined in Article 2 of the Regulations of the Louisville and Jefferson County Planning Commission), and (k) any "group home" or other similar use as determined by Developer and/or the Board.

Section 2. Nuisances. No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 3. Use of Other Structures and Vehicles.

(a) No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed.

(b) No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a lot shall at any time be used as a residence, temporarily or permanently.

(c) No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time unless housed in a garage or basement. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street in the subdivision. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in the subdivision for a period in excess of twenty-four hours in any one, calendar year.

Continued

(d) No automobile shall be continuously or habitually parked on any street or public right-of-way in the subdivision.

(e) All garage doors shall remain closed at all times except when required to be open for the entrance or exit of a vehicle housed therein.

Section 4. Animals. No animals, including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, provided they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the lot occupied by the owner of such pet or shall be restrained by a leash.

Section 5. Mail and Paper Boxes; Clothes Lines; Fences and Walls; Tennis Courts; Swimming Pools; Antennae and Receivers/ Transmitters; Yard Ornaments.

(a) A mailbox and paper holder selected by the Developer will be placed by Developer and no other mail box or paper holder shall be permitted.

(b) No outside clothes lines shall be erected or placed on any lot.

(c) No hedge or fence shall be placed or planted on any lot unless its design and placement of planting are approved in writing by Developer or by any person or association to whom it may assign the right. Fence material to be of wood, masonry, brick, or possibly wrought iron, and landscaped. Only a portion of the rear yard shall be fenced. Chain link fences will not be approved. Privacy screens for patios shall not be considered fences, as defined in this paragraph; however, no patio privacy screen shall be placed or erected on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom it may assign the right.

(d) No tennis court shall be erected or placed on any lot.

(e) No inground or aboveground swimming pools shall be erected or placed on any lot.

(f) No antennae (except for standard small television antennae) or microwave and other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any lot unless (i) the Lot owner can show special circumstances requiring the use of extraordinary receivers or transmitters; (ii) the device is adequately screened or buffered by mature shrubbery or trees, by terrain or by fences or other structures; and (iii) its design and placement are approved by Developer or by any person or association to

whom it may assign the right. By granting permission to a Lot owner to erect receivers or transmitters, Developer shall not be deemed to have waived this restriction as it may apply to other lots in Springhurst.

(g) No garden of any nature shall be planted, grown, maintained, placed or allowed to remain on any lot except that small flower gardens may be permitted provided the size, placement and design are approved in writing by Developer or by any person or association to whom it may assign the right.

(h) No ornamental garden material or decoration of a non-growing variety shall be permitted unless its design and placement are approved in writing by the Developer or by any person or association to whom it may assign the right.

(i) No ornamental yard objects, statuary or sculpture, etc. shall be placed on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom it may assign the right.

(j) Developer reserves the right to place a fence on the other perimeter of the subdivision or, to replace existing wire or wood fences. Fences placed will be the responsibility of adjacent Lot Owners for maintenance and repairs.

Section 6. Business; Home Occupations. No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy and other like endeavors) shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Section 1, a new house may be used by a builder thereof or Developer as a model home for display or for the builder's own office provided said use terminates within eighteen months from completion of the house or upon such additional period of time as may be expressly agreed to in writing by Developer.

Section 7. Signs. No sign for advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any lot, except one sign by the builder and one sign by a real estate agent or Lot owner advertising the sale or rent thereof, which shall not be greater in area than nine square feet each; provided, however, Developer shall have the right to (i) erect larger signs when advertising the subdivision (ii) place signs on lots designating the lot numbers, and (iii) following the sale of a lot, place signs on such lot indicating the name of the purchaser. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

Section 8. Drainage. Drainage of each lot shall conform to the general drainage plans of Developer for the subdivision. No storm water drains, roof

downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

Section 9. Disposal of Trash. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers.

Section 10. Underground Utility Service.

(a) Each Lot owner's electric and telephone utility service lines shall be underground throughout the length of service line from Louisville Gas & Electric's (LG&E) and South Central Bell Telephone Company's ("SC Bell"), respective points of delivery to the customer's building. Title to the service lines shall remain in, and the cost of installation and maintenance thereof shall be borne by, the Lot owner upon whose lot the service line is located.

Appropriate easements as shall be acceptable to Developer, are hereby dedicated and reserved to LG&E and SC Bell, together with the right of ingress and egress over abutting lots or properties to install, operate and maintain electric and telephone service lines from each lot to LG&E's and SC Bell's respective termination points. Electric and telephone service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment thereon and no change in the grade or elevation thereof shall be made by any person or Lot owner without the express written consent of LG&E and SC Bell.

(b) Easements for overhead transmission and distribution feeder lines, poles and equipment appropriate in connection therewith are reserved over, across and under all spaces (including park, open and drainage space area) outlined by dash lines and designated for underground and overhead facilities.

Aboveground electric transformers and pedestals may be installed at appropriate points in any electric or other easement.

In consideration of bringing service to the property shown on this plat, LG&E and SC Bell are granted the right to make further extensions of their lines from all overhead and underground distribution lines.

(c) The electric and telephone easements dedicated and reserved in this Section 10, and those as shown on a plat for any phase of Springhurst, including, without limitation, the Phase VI, Village of Hartwick, shall include

easements for the installation, operation and maintenance of cable television service to the lots, common areas, clubhouse and recreational facilities, including the underground installation and service of coaxial cables, cable drop wires, converters, home terminal units and other necessary or appropriate equipment, as well as easements for the installation, operation and maintenance of future communications, telecommunications and energy transmission mediums.

Section 11. Rules for Common Areas. The Community Association is authorized to adopt rules for the use of common areas and such rules shall be furnished in writing to the Lot owners.

Section 12. Insurance Required. The owner of each lot shall insure all improvements, existing or hereafter placed upon his lot against loss by fire, tomado, and such other hazards, casualties, and contingencies, and at a minimum in such amounts, as Developer or any person or association to whom it may assign the right, shall from time to time require. Such insurance shall be made payable to the owner, or his nominee (which may be any mortgage holder) and to the Village of Hartwick Residents Association, Inc., hereinafter sometimes referred to as the "Residents Association", jointly and copies of such policies issued pursuant to this provision shall be delivered by the Lot owner to the Residents Association at the time of the closing of the sale of any lot. The owner, shall, at least fifteen days before the expiration of any policy for any insurance hereinabove required, deliver to the Residents Association evidence of a proper renewal policy.

Section 13. Obligation to Reconstruct or Repair. If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then owner shall, with all due diligence, promptly rebuild, repair, or reconstruct such residence in a manner which shall substantially restore it to its apparent condition immediately prior to the casualty. Such repair or replacement shall conform to this Declaration of Covenants, Conditions and Restrictions and shall be treated as an addition, alteration, or improvement under paragraph 14 below. Any proceeds from insurance received in payment for the damage or destruction of the improvements on any lot shall be disbursed only to cover the expense of repair or replacement until such time as the repair or replacement is completed and paid for, at which time any balance remaining shall be paid to the Lot owner or his nominee.

Section 14. Approval of Construction Plans. No building, fence, wall, structure, addition, alteration or other improvement shall be erected, placed or altered on any lot nor shall the original exterior architecture, design or color of the structure on any lot, be altered, modified or changed in any manner until the construction plans, specifications and a plan showing the grade elevation (including front, rear and side elevation) and location of the structure, fence, wall, addition, alteration or improvement and the type and color of exterior material shall have been approved in writing by Developer or by any person or association to whom

it may assign the right. All additions, alterations or improvements approved by Developer or its assignee shall be completed as promptly as circumstances will permit and a required completion date may be made as a condition of approval. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

Section 15. Window Treatments. No drapes, blinds or window treatment of any kind shall be placed on or at any window unless such drapes, blinds or window treatments are white or lined in such a manner so that the window treatments appear to be white from the exterior of the dwelling.

ARTICLE III -- COMMUNITY ASSOCIATION

Section 1. Community Association. The Springhurst Community Association, Inc. ("Community Association") has been created to maintain common areas (which includes open spaces, lakes and certain other recreational and community facilities) and to provide other functions set forth herein. Every owner of a lot in this phase of Springhurst Subdivision (and such other phases which Developer has by previous deed restrictions so provided or shall by future deed restrictions so provide) shall be a member of the Community Association and subject to the membership obligations established in this instrument, including association rules adopted under Article II Section 11.

Section 2. Lot Owners' Easements of Enjoyment. Every Lot owner shall have a right and easement of enjoyment in and to the common areas which shall be appurtenant to and shall pass with the title to every lot. "Common area(s)" means and refers to all non-residential lots and areas, which are shown on any recorded final subdivision plat within any portion of Springhurst made subject to the Community Association, together with all other improvements owned or to be owned by the Community Association. Developer releases and quitclaims to the Community Association its right and title to the common areas. The right of enjoyment is subject to the following provisions:

(a) The right of the Community Association to borrow money for the purpose of improving the common areas or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or a part of the common areas;

(b) The right of the Community Association to suspend the voting rights and the right to use common areas for any period during which any assessment against a lot remains unpaid, and for a period of time for any infraction of its published rules and regulations; and

(c) The right of the Community Association to dedicate or transfer all or any part of the common areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Community Association and such agency, authority or utility. Developer may dedicate utility or service easements at its sole discretion so long as there is in existence the Class B membership in accordance with Section 14, and so long as additions are permitted under Article I, Section 2(a).

(d) Notwithstanding any provision herein contained, no common areas shall be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The provisions contained in this Article III, paragraph number 2 (d), shall not be amended by the Community Association or the Residents Association, as hereinafter established, without approval from the Louisville and Jefferson County Planning Commission.

(e) The right of the Community Association to permit the use of and to charge an initiation fee and reasonable admission and other fees for the use of the clubhouse and any recreational facilities situated in Springhurst. The Board of Directors of the Community Association may, as part of the operation of the clubhouse and recreational facilities, permit nonresidents of Springhurst to use the clubhouse and recreational facilities for a reasonable annual fee, payable to the Community Association. Such users shall not be members of the Community Association.

Section 3. Delegation of Use. Lot owners may delegate, in accordance with the Bylaws, their right of enjoyment to the common areas to the members of their families or to their tenants or contract purchasers who reside on the property. Membership in the Community Association may not be conveyed separately from ownership in the lot.

Section 4. Community Association's Right of Entry. The authorized representative of the Community Association or the Board shall be entitled to reasonable access to the individual lots as may be required in connection with the preservation of property on an individual lot or in the event of an emergency or in connection with the maintenance of, repairs or replacements within the common areas, or any equipment, facilities or fixtures affecting or serving other lots or the common areas or to make any alteration required by any governmental authority.

Section 5. Assessments; Creation of the Lien and Personal Obligation. Each Lot owner, except Developer, by acceptance of a deed for a lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Community Association (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and

collected as provided in this Article III. Developer shall be responsible for the maintenance costs of the Community Association, incurred over and above assessed amounts payable to the Community Association by the Lot owners, until Developer transfers control of the Community Association. Maintenance cost overruns funded by Developer are an obligation of the Community Association, which shall be repaid to Developer from future surpluses. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 6. Purpose of Assessments.

(a) The assessments levied by the Community Association shall be used exclusively to promote the health, safety and welfare of the residents and in particular for the acquisition, improvement and maintenance of properties and services devoted to this purpose, or for the use and enjoyment of the common areas, including but not limited to, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the common areas, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys to represent the Community Association when necessary, and such other needs as may arise. The Community Association shall maintain, operate and repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the common areas, open spaces, gatehouse, entranceways, streets, crosswalks, medians, berms, storm drains, basins, lakes and other improvements.

(b) In addition to the above obligations, the Community Association shall be responsible for the maintenance of the landscape easement along Hurstbourne parkway shown on the plat of Springhurst Subdivision, Phase I of record in Plat and Subdivision Book 37, Pages 83 and 84 in the office of the Clerk of Jefferson County, Kentucky. The landscaping shall include shrubs, trees, flowers and ground cover which shall be regularly maintained by the cutting of grass, trimming and where necessary, replacement of shrubs and trees. The Kentucky Department of Highways and the Jefferson County Public Works and Transportation Department shall have the right to make changes in the maintenance or in the embankment and slopes where necessary to maintain the integrity of the Hurstbourne Parkway right-of-way.

(c) Developer may construct certain recreational facilities in Springhurst as a part of the common area owned or to be owned by the

06500 0906

Community Association. In order to finance this construction, Developer reserves the right to subject that particular common area and the improvements thereon to a mortgage which, for the initial construction, furnishings and similar improvements, shall not exceed \$600,000.00. If the mortgage is made after transfer of ownership of that particular common area to the Community Association, the Community Association shall be the mortgagor. If the mortgage is made before transfer of ownership of that particular common area, the Community Association shall assume the mortgage upon the transfer of ownership. In either event, the loan secured by the mortgage shall be used solely for the purpose of constructing, furnishing and improving the recreational facilities. The assessments described in this Article III shall be used in part to make principal and interest payments on the mortgage.

(d) Until Class B membership ceases and is converted to Class A membership pursuant to Section 14, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting the Springhurst Community as permitted in this Declaration.

Section 7. Maximum Annual Assessment.

(a) The annual assessment shall be \$15.00 per month per lot for the year 1994. Thereafter, the annual assessment may be increased each year by not more than 20% above the assessment for the previous year without a vote of two-thirds of each class of members pursuant to the Bylaws.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum provided above. The Board of Directors shall determine when the assessments shall be paid.

Section 8. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Community Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon a common area, including fixtures and personal property related thereto. Any such assessment shall have the assent of the members of the Community Association in accordance with the Bylaws.

Section 9. Uniform Rate of Assessment; Exception. Except as otherwise provided herein, both annual and special assessments shall be fixed at a uniform rate for all lots except those unimproved and unoccupied lots owned by Developer or a builder. The Board of Directors may at its discretion waive the assessment for any year or part of a year for any lot not occupied as a residence.

Section 10. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall begin as to any lot subject to the assessment at the time the lot is occupied as a residence. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year when the lot is first occupied as a residence.

Section 11. Effect of Nonpayment of Assessments: Remedies of the Community Association. Any assessment not paid by the due date shall bear interest from the due date at the rate of 10% per annum or the maximum rate of interest then allowable by Kentucky law, whichever is greater. The Community Association may bring an action at law against the Lot owner personally obligated to pay the assessment, or foreclose the lien against the property, and interest, costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessments. No Lot owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of a Lot.

Section 12. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any then existing first mortgage. Sale or transfer of any lot shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any lot pursuant to a first mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien.

Section 13. Membership. Developer and every owner of a lot which is subject to an assessment shall be a member of the Community Association. Such owner and member shall abide by the Community Association's Bylaws, Articles of Incorporation recorded in Corporation Book 416, Page 659 in the office of the Clerk of Jefferson County, Kentucky, rules and regulations, and shall pay the assessments provided for in this Declaration, when due, and shall comply with decisions of the Community Association's Board of Directors. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 14. Classes of Membership. The Community Association shall have two classes of voting membership:

(a) **Class A.** Class A members shall be all Lot owners, with the exception of Developer.

(b) **Class B.** The Class B member shall be Developer. The Class B membership shall cease and be converted to Class A membership on the

happening of any of the events specified in paragraph (c) below whichever occurs earlier.

(c) Each member shall have one vote with respect to each lot owned by such member, but Class A members shall not be entitled to exercise any vote until the earlier of:

(i) When, in its discretion, Developer so determines;

(ii) When 100% of the lots which may be developed as described in Article I Sections 1 and 2 have been sold by Developer and improvements have been constructed thereon; or

(iii) January 1, 2010.

ARTICLE IV -- RESIDENTS ASSOCIATION

Developer has incorporated the Village of Hartwick Residents Association, Inc., a nonprofit Kentucky Corporation, and has filed and recorded Articles of Incorporation and Bylaws which establish a Board of Directors and officers therefore and the duties for which they are responsible. Every owner of a lot in the Village of Hartwick shall be a Class A member of the Village of Hartwick Residents Association, Inc. and by acceptance of a deed for any lot agrees to accept membership in, and does hereby become a Class A member of the Residents Association. Such Owner and member shall abide by the Residents Association's Bylaws, rules and regulations, and shall pay the assessments provided for, when due, and shall comply with all decisions of the Residents Association's Board of Directors.

The objects and purposes of the Association shall be set forth in its Articles of Incorporation and shall otherwise be to promote the social welfare and serve the common good and general welfare of its members, and shall include maintenance, painting and repair of the building exteriors, roofs, streets and walkways, of the property and the Residents Association shall also be responsible for all lawn and grass mowing. Additionally the Residents Association shall be responsible for maintenance of all sanitary sewers from the Lot line of any Lot to the Louisville and Jefferson County Metropolitan Sewer District's Sanitary Sewer and Drainage Easement line. It shall be the responsibility and right of the Residents Association to maintain the building exteriors, roofs, private streets, walkways, and lawns of the property located in the Village of Hartwick, and no Lot owner shall paint, repair or replace any of the property for which the Residents Association is responsible nor shall any Lot owner mow or cut any grass on the property at any time; this being a function of the Residents Association to maintain the uniform appearance of the

*See
Amendment*

Village of Hartwick. Every Lot owner, by acceptance of a deed for any lot acknowledges the need and purpose for the common maintenance of the Village of Hartwick, grants the Residents Association an easement for ingress, egress and access for the purposes set out herein, in the Articles of Incorporation and the Bylaws of the Residents Association, and covenants and agrees to accept and abide by the terms, conditions and provisions of this paragraph.

Each Owner of a Building Site shall pay to the Residents Association monthly maintenance assessments and, when levied, special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as provided herein and in the Association's Bylaws. The monthly and special assessments, together with such interest thereon as provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with such interest thereupon as provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due.

The assessments levied by the Association shall be made and used for the purpose of promoting the health, safety and welfare of the residents of the Village of Hartwick and in particular for the improvement and maintenance of the Property, for services and facilities for the Property, and for the persons residing therein; and improving and maintaining the Property including but not limited to, repair, replacement painting and making additions to the property and the maintenance of utility services, and other comparable services and benefits; and for the cost of labor, equipment, materials, management and supervision thereof.

Every Lot owner, except Developer, shall pay a monthly maintenance fee on the first day of each month, which fee shall be \$79.50 per lot for 1994. This same amount shall automatically be charged monthly until the Residents Association gives notice of an increase or decrease.

In addition to the monthly assessments authorized above, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement, provided that any such assessment shall have the assent of two-thirds of the votes of the Residents Association's voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be set forth the purpose of the meeting.

The Association's Board of Directors shall fix the due date and the amount of each assessment against each lot, which assessment period shall be at least 30 days in advance of such due date. At that time the Board of Directors shall prepare a roster of the Lot owners and assessments applicable thereto and which

it, upon demand, shall furnish to any Owner a certificate in writing signed by an officer of the Association setting forth whether his particular assessment has been paid. Each certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with interest thereon, become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. An officer of the Residents Association shall have the power to file or record a notice of lien, or lis pendens, in the office of the Clerk of the County Court of Jefferson County, Kentucky. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall be enforceable against him.

If an assessment is not paid within 30 days after the delinquency date, the assessment shall bear interest from the date of the delinquency at the statutory rate of interest applicable to judgements, and the association may bring legal action against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided by law, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided to be fixed by the Court, together with the cost of the action.

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon any lot subject to assessment; provided, that such subordination shall apply only to the assessments which have become due and payable prior to a sale, or transfer of such property pursuant to a judicial enforcement of the mortgage, or any proceeding in lieu of foreclosure and not to any assessments which became due thereafter, and provided further that a purchaser for value without notice shall not be bound by delinquent assessments unless due notice is filed as provided hereinabove.

The Common Properties shall be exempt from the assessments and the charge and lien created hereby.

ARTICLE V -- DEDICATION OF ROADS

No road shall be dedicated to a unit of local government without the consent of the owners of all lots abutting said road and without the acceptance by the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The provisions contained in this ARTICLE V shall not be amended by the Community Association or the Residents Association without approval from the Louisville and Jefferson County Planning Commission.

ARTICLE VI -- PARTY WALLS

Walls between adjoining residential structures shall be party walls. With respect to a party wall adjoining a residence the owner of the residence shall have the following rights against the other owner adjoining the party wall and shall be subject to the corresponding duties to the other owner adjoining the party wall.

(a) The right to have the other owner adjoining the party wall bear half of the expenses of maintaining the party wall.

(b) The right to have the other owner adjoining a party wall bear one-half the expense of repairing or rebuilding a party wall damaged or destroyed by any cause whatsoever, except that when such damage or destruction results from the negligence of either owner adjoining the party wall, the entire expense of repair or replacement shall be borne by the negligent party.

(c) The right at reasonable times to enter upon the premises of the other owner adjoining a party wall or to break through the party wall, or both, for the purpose of repairing or restoring sewer, water, or other utilities, subject to the obligations to restore the wall to its previous structural condition, to pay for such restoration, and to pay the other owner the amount of any damages negligently caused by such repairing or restoring.

(d) The right to have the other owner adjoining the party wall refrain from altering or changing the party wall in any manner, interior decorations excepted.

(e) The right to an easement for party wall purposes in that part of the premises of the other owner on which the party wall is located.

ARTICLE VII -- OPEN SPACE AND SIGNATURE WALLS

The Community Association will maintain the open space and signature walls which are an integral part of the subdivision community and development and

it being specifically provided that notwithstanding any article, paragraph, sentence, clause or other provision which may be contained in this Declaration, that in the event that these Covenants, Conditions and Restrictions shall be amended, altered, modified or cancelled, then in such event the lot owners shall continue to be obligated to maintain the common areas and signature walls of Springhurst unless and until the said common areas and signature walls shall have been transferred to and accepted by a governmental agency for upkeep and maintenance. No common areas including medians in the right of way, open space or signature walls shall be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The provisions contained in this Article V, Section 7 shall not be amended by the Community Association.

ARTICLE VIII -- GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceedings at law or in equity, brought by any Lot owner or by Developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. If any Lot owner, the Community Association, the Residents Association or Developer is required to employ legal counsel to enforce any of the provisions or restrictions of this Declaration or exercise any of the remedies provided for herein, the party violating a provision or restriction of this Declaration shall pay all legal expenses, including court costs and attorney fees, incurred by the party enforcing these restrictions. The party enforcing these restrictions shall have a lien on the lot of the party violating these restrictions to secure payment of all such legal expenses, which lien may be enforced in the same manner as the liens provided in Article III, Section 5, Article III, Section 11, and Article IV of this Declaration. Failure of any Lot owner or Developer to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions and the exercise of any remedy provided for herein or, at law or in equity shall not preclude the exercise of any other remedy available at law or in equity.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions Run with Land. Unless cancelled, altered or amended under the provisions of this paragraph, the provisions of this Declaration shall run with the land and shall be binding on the lots, the owners of each lot and

all parties claiming under them, for a period of thirty (30) years from the date this Declaration is recorded. After such thirty (30) years, this Declaration shall be deemed extended automatically for successive periods of ten (10) years, unless and until an instrument signed by at least seventy-five percent (75%) of the Lot owners of the lots subject to this Declaration has been recorded in the aforesaid Clerk's office, agreeing to change this Declaration in whole or in part and the term hereof; provided, however, that if Developer, its designated successors or assigns, as applicable, then owns any lot, or any portion of Springhurst, or if any portion of Springhurst remains unplatted as a phase, this Declaration may not be so changed in whole or in part without the prior written consent of Developer in its sole discretion. From the date of this Declaration and for so long hereafter as Developer, its designated successors or assigns, as applicable, owns any lot or any portion of Springhurst (i) this Declaration may hereafter be unilaterally amended by Developer to bring the terms and provisions hereof in compliance with any applicable governmental law, rule, regulation, order, decree, judgment or ordinance, and (ii) Developer may otherwise unilaterally amend this Declaration as Developer may elect in its sole discretion, provided, that any such amendment under this subpart (ii) shall not materially adversely affect the then existing private single-family residential nature of the developed residential phases of Springhurst. At such time as neither Developer, its designated successors or assigns, as applicable, owns any lot or any portion of Springhurst, or upon such earlier date as Developer may elect in its sole discretion by written notice given to the board of directors of the Community Association, this Declaration may thereafter be cancelled, altered or amended by the recordation of a document in the aforesaid Clerk's Office in which the board of directors of the Community Association certifies that such cancellation, alteration or amendment was executed by the owners of seventy-five percent (75%) of the lots subject to this Declaration.

Section 4. Amendments to Articles and Bylaws. Nothing in this declaration shall limit the right of the Community Association or the Residents Association to amend, from time to time, its Articles of Incorporation and Bylaws.

Section 5. Non-Liability of the Directors and Officers. Neither Developer nor the directors or officers of the Community Association shall be personally liable to the Lot owners for any mistake or judgment or for any other acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The Lot owners shall indemnify and hold harmless each of the director and officers and their respective heirs, executors, administrators, successors and assigns in accordance with the Bylaws.

