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ROBERT T. KELLY, DIRECTOR OF RECORDS

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36

Title of Document: Declaration of Covenants, Conditions  
and Restrictions of The Oaks of Edgewood  
Date of Document: 6-5-03 Phase II, Lots 35-78

Grantor(s):

B + G Land Development, LLC

Grantee(s):

The Oaks of Edgewood

Mailing Address(s):

36606 E. R.D. Mize Rd,  
Oak Grove, Mo 64075

Legal Description:

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~~Return~~

Reference Book and Page(s):

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
THE OAKS OF EDGEWOOD  
PHASE II, LOTS 35-78

THIS DECLARATION, made on the date hereinafter set forth by B & G Land Development, LLC, a Missouri limited liability company, hereinafter referred to as "DECLARANT".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the City of Oak Grove, County of Jackson, State of Missouri, which is more particularly described as:

A TRACT OF LAND LOCATED IN PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, AND PART OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 49 NORTH, RANGE 29 WEST, JACKSON COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 49 NORTH, RANGE 29 WEST, JACKSON COUNTY, MISSOURI; THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31, N 88°21'44" W, 515.33 FEET TO THE TRUE POINT OF BEGINNING.

THENCE FROM THE TRUE POINT OF BEGINNING LEAVING SAID SOUTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, S 01°38'16" W, 30.00 FEET; THENCE S 88°21'44" E, 140.19 FEET; THENCE S 01°53'51" W, 605.99 FEET; THENCE S 52°58'33" W, 86.46 FEET; THENCE S 88°21'44" E, 106.59 FEET; THENCE S 01°53'51" W, 295.00 FEET; THENCE N 88°21'44" W, 455.00 FEET; THENCE S 01°53'51" W, 25.00 FEET; THENCE N 88°21'44" W, 185.00 FEET; THENCE N 01°53'51" E, 1010.02 FEET; THENCE N 88°21'44" W, 351.24 FEET TO THE

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NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 31; THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, N 01°44'24" E, 30.00 FEET TO THE SOUTHWEST CORNER OF LOT 34 "OAKS OF EDGEWOOD LOTS 1 THRU 34 AND TRACT 1"; THENCE LEAVING SAID WEST LINE ALONG THE SOUTH LINE OF SAID "OAKS OF EDGEWOOD LOTS 1 THRU 34 AND TRACT 1"; S 88°21'44" E, 811.60 FEET; THENCE S 01°38'16" W, 30.00 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 14.38 ACRES MORE OR LESS AND BEING SUBJECT TO ALL RIGHT-OF-WAYS, EASEMENTS, RESTRICTIONS, RESERVATION, COVENANTS, AND CONDITIONS, IF ANY, NOW OF RECORD.

WHEREAS, Declarant desires to place certain protective covenants, conditions, restrictions, reservations, liens and charges on said property, as hereafter set forth, and such other property as may subsequently be subjected hereto, for the use and benefit of Declarant, its grantees and assigns; and

WHEREAS, Declarant is in the process of developing the property herein restricted into a first class, high quality residential subdivision of upper-bracket single family homes; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in the residential subdivision to be developed in the aforesaid area and for the maintenance of the property and improvements thereon, and such other property as may be subsequently subjected hereto, and to this end desires to subject the real property heretofore described, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, located either within the property hereinabove described or near the property hereinabove described is a sewer/wastewater collection and treatment facility (collectively referred to as the "Sewer System and Treatment Plant") which has been engineered, designed, and constructed to provide the wastewater and sewage treatment and disposal needs of the owners and occupants of all phases of The Oaks of Edgewood, as same may be enlarged from time to time by additional plantings and annexation of adjacent or adjoining property (as well as other property), and to meet the needs of additional users within the immediate vicinity of the property who may (but not necessarily will) be permitted to attach to an utilized the treatment facility by separate agreement, understanding, or arrangement; and

WHEREAS, said Sewer System and Treatment Plant is owned, operated and maintained by the City of Oak Grove, Missouri (the

"City"); and

WHEREAS, the Declarant deems it necessary and desirable to impose on each Lot, either now or hereafter subject to the terms of the Declaration, the obligation to connect to and use the Sewer System and Treatment Plant, together with the lines, piping, and collection devices which are or become a part thereof and to this end do desire to subject the property heretofore described and any property hereafter subject to the Declaration to the obligations, charges, liens hereinafter forth; and

WHEREAS, it is Declarant's desire that the City of Oak Grove eventually provide sewer services independent of the Sewer System and Treatment Plant for the subdivision; however, until such time as the City of Oak Grove assumes that responsibility, independent of the Sewer System and Treatment Plant, these restrictions shall govern the Sewer System and Treatment Plant; and

WHEREAS, the Declarant has incorporated or caused to be incorporated or will cause to be incorporated, under the laws of the State of Missouri, The Oaks of Edgewood Home Owners Association, Inc., as a not-for-profit corporation for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Declarant hereby declares that all of the property described above and any property subsequently annexed by separate Declaration hereto, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of said property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

#### ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Edgewood Estates Home Owners Association, Inc., its successors and assigns.

Section 2. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the members of the Association.

Section 3. "Declarant" shall mean and refer to B & G Land Development, LLC, or its successors and assigns.

Section 4. "Lot" shall mean and refer to any separately numbered plot of land shown upon any recorded subdivision map.

Section 5. "Maintenance" shall mean the exercise of reasonable care to keep buildings, landscaping, lighting, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weed free environment for optimum plant growth.

Section 6. "Member" shall mean and refer to every person or entity who hold membership in the Association.

Section 7. "Mortgage" shall mean a conventional mortgage or a deed of trust.

Section 8. "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or other land which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, and excluding the Association.

Section 10. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and these restrictions, as hereinafter provided.

Section 11. "Supplementary Declaration" shall mean and refer to any declaration of covenants, conditions or restrictions which may be recorded by the Declarant which contains some complementary provisions in relation to the Property or any portion thereof as authorized herein and is reasonably related to the general welfare of the Owners and occupants within the Property or the portion thereof affected by same.

Section 12. "Sewer System" shall mean and refer to the waste water disposal system and all sewer lines, pipes, fittings, valves, motors, tanks, pumps, and other necessary components of the system.

## ARTICLE II ASSOCIATION MEMBERSHIP

Every person or entity that is a record owner of a fee or

undivided fee interest in any Lot which is subject to covenants of record, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to covenants of record. Ownership of such Lot shall be the sole qualification for membership.

### ARTICLE III VOTING RIGHTS

The Association shall have two classes of voting memberships.

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to nine (9) votes for each Lot in which it holds the interest required for membership by Article II. Class B membership may be converted to Class A membership, as to any Lots, at the option of Declarant, by delivery of a written notice to the President of the Association, or at such time as the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership and shall in any event cease to exist, and all Lots owned by the Declarant shall become the subject of Class A membership, on January 1, 2007.

### ARTICLE IV POWERS AND DUTIES

In addition to any and all powers, rights and privileges granted to a Missouri not-for-profit corporation, the Association shall have the following powers and duties whenever in the exercise of its discretion it may deem them necessary or advisable:

(1) To enforce, in its own name, any covenants, conditions or restrictions which may now or may hereafter be imposed upon any of the property. The expenses and costs of any such proceeding may be paid out of the general fund of the Association.

(2) To maintain, plant, care for, spray, trim, protect and replant trees, grass, shrubs and other landscaping on all streets in public places or in the common areas.

(3) To provide and maintain such lights as the Association may deem advisable on streets, areas dedicated to the public or for the use of members of this Association, gateways, entrances or other features.

(4) To provide uniform rules and regulations for the collection of garbage and rubbish and for the disposal of such garbage and rubbish as is collected and to provide a uniform method for the collection and disposal of garbage and rubbish from the residences of the members.

(5) To erect and maintain signs for the marking of the streets.

(6) To provide for all general items of use, maintenance and repair on or over the common areas.

(7) To provide for additional police service by special arrangement with State, City or County authorities if deemed advisable.

(8) To obtain a standard fidelity bond covering all members of the board of directors of the Association and all other employees of the Association in an amount to be determined by the board of directors.

(9) To enter into such agreements with other Homes Associations, municipalities, political subdivisions, individuals and corporations in order to implement the purposes of the Association and to provide such improvements for the benefit of the owners and members of this Association within the purview of this Declaration.

(10) To require all Lot owners in the above-described property to connect to such Sewer System and Treatment Plant for the collection, treatment, and disposal of sewage and waste water (until such time, if any, as the City of Oak Grove provides for sewer services independent of the Sewer System and Treatment Plant), if ever, subject, however, to the conditions hereinafter provided, and subject to such reasonable rates, rules and regulations as may be prescribed by the City, such rules and regulations to be uniform in application to all owners of Lots of the same classification.

(11) To require all owners to attach to, connect to, or hook onto or into the Sewer System, including all lines, pipes, fittings, valves, motors, tanks, pumps, and other components and appurtenances thereto, upon such terms in conditions as deemed necessary, appropriate, and reasonable by the Association.

(12) To obtain insurance of any kind or nature, insuring the Association against any and all claims by the public, any employee, any owner, any invitee, licensee or tenant of any owner arising out of their occupation or use of the property or common areas. The Policy Limits shall be set by the Association, and shall be reviewed at least annually and increased or decreased at the discretion of the Association.

#### ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and such costs of collection thereof, and reasonable attorney's 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 such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person or persons who were the Owner or Owners 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 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvements and maintenance of the Property, including, but not limited to, the payment of taxes and insurance on the Common Area, repairs to, replacement of and additions to the Common Area, for the cost of labor, equipment, materials, management and supervision of the Common Area, and for the maintenance, repair purposes and services listed in Article V hereof, and for any other purpose which is necessary or desirable for the maintenance and improvement of the



Property and Common Area, or which is of general benefit to the Owners and occupants.

Section 3. Basis and Maximum of Annual Assessments. Until January 1, 2005, the maximum annual assessment shall be Two Hundred Dollars (\$200.00) per Lot.

(a) From and after January 1, 2005, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in an amount equal to 100% of the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) between the months of July during the two immediately preceding calendar years. Any time such increase is declared, the increased annual assessment amount shall remain the maximum annual assessment until such time as a new maximum shall be established for a subsequent year.

(b) From and after January 1, 2005, the maximum annual assessment may be increased no more than \$100.00 in any one calendar year upon the affirmative vote of a majority of the Owners at any annual meeting or special meeting called for the specific purpose of reviewing the annual assessment maximum.

(c) The Board of Directors may, by action taken by the Board alone, fix the annual assessment at an amount not in excess of the maximum annual assessment.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members, regardless of class distinction, who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all members not less than ten (10)

days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the sixth month following the original conveyance of each such Lot by Declarant or on the first day of the month next succeeding the granting of an occupancy permit for occupancy of completed improvements on such Lot, whichever shall first occur. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, that in the event of default in the payment of any obligation

secured by such mortgage or deed of trust such subordination shall apply only to the assessments or installments thereof which shall become due and payable prior to the sale of such property pursuant to a foreclosure of such mortgage or pursuant to power of sale under such deed of trust, or prior to a conveyance to the mortgagee or holder of the deed of trust in lieu of foreclosure. Such sale or conveyance in lieu of foreclosure shall not relieve such property from liability for any assessments or installments thereof thereafter becoming due nor from the lien of any such subsequent assessments or installments.

Section 9. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; and (b) Class B Lots until conveyed as provided in Article V, Section 6. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 10. Sewer Fees. All fees associated with sewer services shall be paid to the City in accordance with the fee structure established by said City. Said fees shall include, but not be limited to, connection fees, monthly service fees, and maintenance fees.

## ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Purpose. The purpose of the provisions contained in Article VI is to regulate the exterior design, appearance, use, location and maintenance of any improvements erected, installed or made to the Property in such manner as to preserve and enhance the values thereof and to maintain a harmonious relationship among structures and the natural vegetation and topography, and further to assure compliance with all the restrictions contained herein.

Section 2. Conditions. No improvements, alterations, repairs, excavations, changes in grade or other work which in any way alters the exterior of any property or the improvements located thereon from its natural or improved state existing on the date such property was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior written approval of the Declarant, so long as the Declarant continues to own any Lot within the Property except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written consent of the Declarant, so long as the Declarant continues to own any Lot within the Property except as expressly provided otherwise in this

Declaration. No application for approval of any of the foregoing shall be deemed to have been submitted unless and until detailed plans and specifications showing the plans for excavation and the nature, kind, shape, height, color, materials, location and elevation of same shall have been submitted in writing to the Declarant.

Section 3. The Architectural Review Board. An Architectural Review Board consisting of three or more persons shall fulfill the functions of the Declarant, as set forth in this Article VI at such time as Declarant shall no longer own any Lot within the Property, or at such earlier time and to such extent as Declarant shall by assignment in writing voluntarily transfer to the Association the authority to make decisions concerning Architectural control. Such Board shall be appointed by the Board of Directors of the Association.

Section 4. Procedures. In the event the Declarant or the Architectural Review Board fails to approve, modify or disapprove in writing a properly submitted application within thirty (30) days after same has been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse Architectural Review Board decision to the Board of Directors, which may reverse or modify such decision to the Board of Directors, which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors. No appeal may be taken from a decision of the Declarant.

## ARTICLE VII USE RESTRICTIONS

Section 1. Use of Land. None of said Lots may be improved, used, or occupied for other than private single family residential purposes (except for model homes used by the Declarant or other Home Builders) and no flat or apartment house, although intended for residential purposes, may be erected thereon. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of any Lot at any time as a residence, either temporarily or permanently. No modular, kit, or pre-manufactured home shall be erected on any Lot. No Lot may be improved, used or occupied for the purposes other than as provided by applicable zoning laws and restrictions filed of record in relation thereof. No more than one single family residence may be erected on any restricted Lot.

Notwithstanding any other provision of this Article, it shall be expressly permissible for the Declarant and its contractors and subcontractors to maintain, during the period of construction of

any improvements upon any Lot, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction of such improvements.

Section 2. Height Limitation. Any residence erected on any of said Lots shall not be more than two (2) levels in height, above ground, provided that a residence more than two (2) stories in height may be erected on any of said Lots with the written consent of the Declarant. The first floor above ground level must be at least 18" above the curb. The words "ground level" as used herein shall mean the ground elevation of a Lot when finish graded at the front of any residence as constructed on such Lot, extended on a plane from front to back of the residence.

Section 3. Minimum Size Requirements. Every residence shall contain a minimum of 1,200 square feet of enclosed floor area. The words "enclosed floor area" as used herein shall mean and include areas of the residence enclosed and finished for all year occupancy, computed on outside measurements of the residence, and shall not mean or include any patio areas, basements, garages, carports, porches, breezeways or attics. Slab homes shall be permitted, provided all other requirements are satisfied. Pursuant to Article VI (2), above, no construction shall begin without the prior written plan approval of the Declarant, so long as the Declarant continues to own any Lot within the Property, or the Architectural Review Board, except as otherwise expressly provided in this Declaration.

Section 4. Above Ground Pools Prohibited. No above ground swimming pools shall be erected, installed, constructed and/or maintained by an Owner on any Lot, other than an entirely portable and movable wading pool. In ground pools may be permitted in the sole discretion of the Declarant or the Architectural Review Board, provided all plans for said pool and any related outbuilding are submitted for review and written approval prior to the commencement of any construction.

Section 5. Building Lines. No dwelling or residence shall be located nearer to the front Lot lines or side Lot lines than as indicated on the recorded plat map. As is indicated on the recorded plat map, Declarant shall create a Landscape Buffer or Easement along all roadways within an adjoining the Subdivision. This Landscape Buffer or Easement shall be reserved for the planting of trees and shrubs to accent and beautify the Subdivision. The Declarant or the Homes Association shall be permitted access to said Landscape Buffer or Easement to initially plant or replace trees and shrubs, install and maintain an irrigation system, and perform any other tasks consistent with said beautification

purpose. All costs associated with any landscaping improvements within said Landscape Buffer or Easement, shall be the sole financial responsibility of the Declarant or the Homes Association. Declarant reserves the right to permit the construction of a dwelling on said property on any Lot two feet nearer to any street line which abuts such Lot by executing and recording a proper instrument in writing changing the building setback line.

Section 6. Garages. Each residence shall have an attached private garage for not less than two (2) cars accessed from the front elevation of the house. Side, rear basement or below ground level garages shall not be counted as complying with or providing the garage area required by the preceding sentence, except in the case of a split or raised ranch house, in which case below ground level garages shall be counted so long as those garages are accessed from the front elevation, without specific written approval of Declarant or Architectural Review Board. The driveway on each Lot shall contain sufficient paved area for the off street parking of at least two (2) cars. All garages facing any street must be equipped with doors which shall be kept closed as much as practicable to preserve the appearance of the elevation of the house fronting on the street.

Section 7. Roofing Pitch, Roofing Material. The pitch of any roof line on a straight ranch style residence shall be no less than 7/12 unless approved by Declarant. All roofing shall be asphalt roofing materials limited to twenty (20) year Three-Tab Weathergray or better, with the appearance of weathered-gray. Any other material or color must be submitted to the Declarant or the Architectural Review Board for written approval.

Section 8. Outbuildings Prohibited - Pool Houses Excepted. The construction, installation, erection, placement or maintenance of any garage, barn, storage shed or other outbuilding detached from a residential structure is prohibited without the prior written approval of the Declarant or the Architectural Review Board, following submission of written construction plans. Said construction plans must include roofing and side wall building materials which are consistent with and match the roof and side wall building materials of the finished house on the Lot in question. The construction of pool houses or gazebos or ornamental structures may be permitted, provided however, that any construction, erection or placement of same is approved by the Declarant or the Architectural Review Board in writing, following submission of written construction plans. All such outbuildings must be constructed upon a concrete slab.

Section 9. Hard Surfaced Driveways Required. Every residence



shall at all times be served by a hard surfaced dust free driveway which shall provide access across the residence owner's property from a dedicated road to the residence's garage. Such driveway shall be paved with a concrete or asphalt or similar surface. No gravel, chat, fly ash, dirt or similar driveway surface shall be allowed.

Section 10. Fences. As set forth in Article VI hereof, all proposed fences must be submitted to Declarant or the Architectural Review Board in advance for approval in writing. In no event shall any fence be located closer to the adjoining street than the front building wall of the residence in question. No chain link fences shall be approved.

Section 11. Commercial Activity Prohibited. No commercial activity of any kind shall be conducted on any Lot, but nothing herein shall prohibit the carrying on of promotional activities by the Declarant for the sale of new construction by the Declarant or other builders.

Section 12. Uncompleted Structures. No building shall be permitted to stand in an unfinished condition for longer than twelve (12) months after commencement of construction; exterior to be substantially completed in six (6) months. In the event of fire, windstorm, or other damage, no building shall be permitted to remain in a damaged condition longer than three (3) months. No building shall be occupied until the exterior shall have been completed.

Section 13. Easements. Easements for installation and maintenance of utilities and drainage facilities are and will be reserved by Declarant as shown on the recorded plat of said land. Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 14. Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.

Section 15. Utilities. Water, gas, lights, telephone and other utilities shall be located underground on each residential Lot.

Section 16. New Construction. All residences and other buildings permitted hereby on residential Lots shall be initially new construction. No building shall be moved onto any of such Lots.

Section 17. Animals Regulated. No livestock, which term shall include, but not necessarily be limited to, horses, goats, potbelly pigs, or cows, shall be raised or allowed to remain on any property. Dogs, cats, or other household pets (excluding potbelly pigs) may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and further provided that not more than three (3) dogs, cats, or other household pets in any combination thereof shall be kept, respectively, on any Lot. No pen, dog run, or other enclosure shall be located any nearer to the front property line than the rear building line nor any nearer than twenty (20) feet from any other property line.

Section 18. Advertising Prohibited. No advertising signs (except one of not more than nine (9) square feet "For Rent" or "For Sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any Lot, nor shall any Lot be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. No business activities of any kind whatsoever shall be conducted on any Lot or on any portion of any Lot, provided, further however, that the foregoing covenants shall not apply to the business activities, signs and billboards or the construction and maintenance of structures by the Developer or other builders of residential structures during the construction and sale period, and of the Association, in furtherance of its powers and purposes as set forth in these Articles.

Section 19. Screening Required. All equipment, trash cans, garbage cans, wood piles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Owners of Lots. All rubbish, trash, or garbage shall be regularly removed from each Lot, and shall be kept in sanitary containers. No clothes lines shall be permitted and no trash burning shall be permitted on any Lot.

Section 20. Antennas Prohibited. No exterior television or radio antennas of any sort shall be placed, allowed or maintained on any portion of any Lot. The foregoing prohibition shall not extend to satellite dishes or other devices designated to receive,



transmit or pick up radio or television transmission signals from the air, provided said dishes or other devices are positioned no closer to the adjoining street than the front building wall, no closer to the adjoining Lot lines than the building setback lines set forth in the plat, and do not exceed 18 inches in diameter.

Section 21. Storage Tanks. No tank for the storage of fuel may be maintained on any Lot above the surface of the ground. Inground tanks may be allowed, provided the size, type, and placement of said tank is approved in writing by the Declarant or the Architectural Review Board prior to its installation.

Section 22. Automotive Repair Prohibited. No automotive repair or rebuilding or any other form of automotive manufacture, whether for hire or otherwise, shall occur on any Lot or Common Area hereby restricted.

Section 23. Parking and Storage of Vehicles Prohibited. No school buses, recreational vehicles, tractors, trucks over one (1) ton, boats, unmounted campers, trailers, unlicensed or inoperable or partially disassembled automobiles or other motor vehicles or trailers shall be regularly parked in the open on any Lot or at the curb for more than 12 hours at any one time.

Section 24. Trash. No trash, refuse, grass clippings or ashes shall be thrown, dumped or placed upon any undeveloped portions of the Property. The Declarant or the Homes Association may negotiate a contract for trash collection within the Subdivision so as to provide uniform collection practices and uniform days of collection. Nevertheless, in the event of uniform collection, each property owner shall be billed separately by the trash collection entity providing said service, although said service is negotiated by the Declarant or the Homes Association.

Section 25. Trees and Landscaping. In the front and/or back yard of each Lot there shall be a combined total of not less than two (2) trees having a trunk diameter of not less than two (2) inches per tree. All landscaping requirements of the City of Oak Grove shall be satisfied.

Section 26. Sod. The front yard, side yard, and the back yard of each Lot must have ground cover of sod, except those areas providing ornamental landscaping. Any alternative ground cover must have the prior written approval of the Declarant or the Architectural Review Board. All landscaping requirements of the City of Oak Grove shall be satisfied.

Section 27. Exterior Walls and Ornamental Materials. All

exterior walls, other than the ornamental portion of the front residence facade, shall be covered with either maintenance-free siding or two coats of paint over primed materials, unless otherwise finished with brick, stone, or stucco. All front residence facades shall have a minimum of two hundred (200) square feet of brick, stone, or stucco. Fireplace surfaces shall not be included for the purposes of this calculation. All exterior siding or paint must be of "earthtone" colors. Any alternative to exterior siding or paint must be brick, stone, stucco, or vinyl, or must have the prior written approval of the Declarant or the Architectural Review Board.

Section 28. Add-on Heat Pump. All homes constructed in this subdivision shall have included with its H.V.A.C. system an add-on heat pump. (Any questions or clarifications on this provision should be directed to the Declarant or the Architectural Review Board prior to the commencement of construction.)

#### ARTICLE VIII GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages or both, and against the land to enforce any lien created by these covenants. Any such action may be initiated by the Declarant, any Owner, or the Homes Association created and referred to herein. Failure by the Declarant or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition to any other remedy provided herein, a party seeking the enforcement of this Declaration and/or restrictions contained herein, shall be entitled to such party's reasonable attorney's fees, court costs and other costs of litigation from a party found to be violating the terms and conditions hereof.

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period

by an instrument signed by those entitled to cast not less than seventy-five percent (75%) of the Class A and B votes combined, and thereafter, by an instrument signed by members entitled to cast not less than two-thirds (2/3) of all votes.

Any amendment provided for hereunder shall become effective when the instrument of amendment is properly executed, acknowledged and filed for record in the Office of the Recorder of Deeds for Jackson County, Missouri, at Independence.


Section 4. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Language Variation. The use of pronouns or of singular or plural as used herein shall be deemed to be changed as necessary to conform to actual facts.

IN WITNESS WHEREOF, the above named Declarant have caused this instrument to be executed this 5<sup>th</sup> day of June, 2003.

B & G LAND DEVELOPMENT, LLC

  
\_\_\_\_\_  
Steve Bailey, Member

  
\_\_\_\_\_  
Robert W. Gurney, Member

STATE OF MISSOURI    )  
                              )    SS:  
COUNTY OF JACKSON    )

ON THIS 5<sup>th</sup> day of June, 2003, before me, the undersigned Notary Public, personally appeared STEVE BAILEY and ROBERT W. GURNEY, known to me to be Members of B & G Land Development, LLC, and who executed the foregoing instrument in behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.

*Sherril Ebert*  
Notary Public

Print Name *Sherril Ebert*

My Commission Expires:

SHERRI S. EBERT  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Jackson County  
My Commission Expires Apr. 26, 2004