

612

PREPARED BY:

SC

SANGAMON COUNTY
ILLINOIS

97-54066

Filed 12/24/997

97 DEC 24 AM 10:31

Michael C. Connelly
Sorling, Northrup, Hanna,
Cullen and Cochran, Ltd.
Suite 800 Illinois Bldg.
P.O. Box 5131
Springfield, IL 62705
Telephone: 217/544-1144

Mary Ann Samuel
RECORDER



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BRECKENRIDGE ESTATES SUBDIVISION

This Declaration of Covenants, Conditions and Restrictions for BRECKENRIDGE ESTATES SUBDIVISION is made this 9th day of December, 1997, by Breckenridge Development Corporation, hereinafter referred to as "Declarant."

WITNESS:

WHEREAS, Declarant is the Owner of the following described real property located in the Village of Chatham, Sangamon County, Illinois:

BRECKENRIDGE ESTATES SUBDIVISION, PLAT VI

and desires to create thereon a subdivision with permanent common areas for the benefit of said subdivision; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said Subdivision and for the maintenance of common areas and to this end, desires to subject the real property herein 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 the subsequent owners thereof; and

WHEREAS, Declarant has deemed it desirable for this efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of Illinois, as a not-for-profit corporation, the Breckenridge Estates Homeowners Association for the purpose of exercising the function aforesaid;

NOW, THEREFORE, Declarant hereby declares that the real property described herein is and shall be held, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied and

000120

improved subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

(a) "Association" shall mean and refer to Breckenridge Estates Homeowners Association, Inc., an Illinois not-for-profit corporation, its successors and assigns.

(b) "Properties" shall mean and refer to the real property described in Article II.

(c) "Common Areas" shall mean and refer to all real and personal property, facilities and improvements now or hereafter owned by the Association for the common use and enjoyment of the Owners.

(d) "Lot" shall mean and refer to a portion of the property intended for independent ownership and use as may be set out in the Declaration and as shall be shown on the Plat of Subdivision recorded as Document Number 97-54065. DEC 24 1997

(e) "Owner" shall mean and refer to the record owner from time to time, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation unless and until such person acquired title pursuant to foreclosure or any proceeding or conveyance in lieu of foreclosure.

(f) "Member" shall mean and refer to every Owner who therefore is a member of the Association.

(g) "Developer" shall mean and refer to the Declarant and its assigns if such assigns should acquire a portion of the land described in Article II from the Declarant for the purposes of resale to an Owner or for the purpose of construction improvements thereon for resale to an Owner.

(h) "Area of Common Responsibility" shall mean and refer to the Common Areas together with those areas, if any, upon a Lot the maintenance, repair or replacement of which is made the responsibility of the Association by this Declaration.

(i) "Board" shall mean and refer to the Board of Directors of the Association.

(j) "Easements" shall mean the easements shown on the plats of Breckenridge Estates Subdivision, and such other easements as may be granted to or by Developer and/or the Association.

(k) "Single Family Lots" shall have the meaning referred to in Article VIII, Section 1.

(l) "Committee" means the Architectural Control Committee.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 1. Property Subject to Declaration. The real property which is and shall be held, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to this Declaration is located in the Village of Chatham, Sangamon County, Illinois, known as Breckenridge Estates Subdivision, Plat V, and is more particularly described on Exhibit A attached hereto, together with the Easements. Developer may subject additional property to the terms of this Declaration from time to time at Developer's discretion by written instrument referring hereto.

ARTICLE III

ADMINISTRATION AND OPERATION OF THE ASSOCIATION

Section 1. Board of Directors. The directors named in the Association's Articles of Incorporation constitute the Association's first Board which shall hold office and which shall hold and exercise all of the rights, duties, powers and functions of the Board set forth in this Declaration, until the first election of Directors by the Members of the Association shall adopt such By-Laws as it may from time to time deem advisable in carrying out its duties and responsibilities hereunder.

The Board shall have all powers for the conduct of the affairs of the Association which are enabled by law or the founding documents which are not specifically reserved to Members or the Developer by said documents. The Board shall exercise its powers in accordance with the governing documents. Without limiting the generality thereof the Board shall have the power and obligation to perform the following duties:

(a) Real and Personal Property. To acquire, own, hold, improve, maintain, manage, lease, insure, pledge, convey, transfer or dedicate real or personal property for the benefit of the Members in connection with the affairs of the Association, except the acquisition, mortgaging or disposal of Common Area

and/or improvements shall be subject to the provisions of Article IV.

(b) Rule Making. To establish, modify and enforce rules and regulations for the use of the Properties as provided herein, and to review, modify and approve architectural standards as recommended by the Architectural Control Committee.

(c) Assessments. To fix, levy and collect assessments as provided in Article V.

(d) Easements. To grant and convey easements to the Common Area as may become necessary and as provided in Article VIII.

(e) Employment of Agents. To employ, enter into, contract with, delegate authority to and supervise such persons or entities as may be appropriate to manage, conduct and perform the business obligations and duties of the Association.

(f) Enforcement of Governing Documents. To perform acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, and to enforce or effectuate any of the provisions of the governing documents.

(g) Membership Meetings. To call the first annual meeting of the Members of the Association, within 90 days after two thirds of all Lots have been transferred to Class "A" Members, written notice of which first annual membership meeting shall be sent to the Members at least ten (10) days in advance of such meeting. Notwithstanding anything to the contrary in this Declaration provided, until the date of said first annual membership meeting no Class "A" Member shall have any voting rights, and the right of each such Class "A" Member to vote on any matter is hereby denied until such meeting. Each annual meeting of the Members of the Association following such initial annual membership meeting shall be held at the time and place specified in the By-Laws of the Association.

(h) Retention Ponds. To operate, keep and maintain any and all retention ponds in good condition, order and repair in accordance with all applicable laws and regulations.

ARTICLE IV

COMMON AREAS PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every 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 subject to the following:

(a) The right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the Common Areas and to impose reasonable limits on the number of guests who may use the facilities.

(b) The right of the Association to suspend the voting rights and right to use the Common Areas and facilities by any Owner for any period during which any assessment of the Association against said Owner's Lot remains unpaid, and for any infraction by an Owner of the Association's published rules and regulations for the duration of the infractions, and for an additional period thereafter not to exceed sixty (60) days.

(c) The right of the Declarant with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the Common Areas contained within the Properties to any public agency, authority or utility for such purposes as benefit the Properties or parties thereof and owners of Lots contained therein.

(d) The rights of the Association by a majority vote of all of the Members of the Board to borrow money from any person, *including the Developer, or any shareholder thereof, for the purpose of improving the Common Areas, or any portion thereof, for acquiring additional 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 covering all or any portion of the Common Areas provided, however, that the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant of any Owner, or the holder of any mortgage, irrespective of when executed, given by Declarant or any owner encumbering any Lot or other property located within the Properties.*

(e) The right of the Association to dedicate or transfer all or any portion of the Common Areas to any public body, agency, authority or utility for such purpose and subject to such conditions as may be agreed by the Members of the Association. No such dedication or transfer shall be effective unless such dedication or transfer has been approved (i) by at least 66 2/3 percent of the votes which the Class "A" Members present or represented by proxy are entitled to cast at a meeting duly called for such purpose, and (ii) by the Class "B" Members of the Association, so long as such membership shall exist.

(f) The right of the Association with regard to the Properties which it may own to grant easements to Declarant, any public agency, authority or utility for such purposes as benefit

the Properties or portions thereof and Owners or Lots contained therein.

Section 2. Conveyance to the Association. The Declarant shall convey the Common Areas designed as such on the Plat V to the Association on that date that more than two-thirds of the Lots subject hereto have been sold.

ARTICLE V

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided herein. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one vote be cast nor office held for each Single Family Lot.

Section 2. Voting. The Association shall have two classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Declarant, and any successor of Declarant specifically identified in the deed of conveyance as a Class B Member who takes title for the purpose of development and sale. Class "A" Members shall be entitled to one vote for each Single Family Lot. When more than one person holds such interest in any Lot, the vote(s) for such Lot shall be exercised as those Owners themselves determine and advise in writing the Secretary prior to any meeting. In the absence of such advice, the Lot's vote(s) shall be suspended in the event more than one person seeks to exercise it. If a Lot is owned by a corporation, condominium association, partnership or trust, such entity shall designate in writing the person authorized to vote in behalf of such entity.

(b) Class "B". The Class "B" Member shall be the Developer, or its successor as identified in a deed of conveyance as a Class B Member who takes title for the purpose of development and sale. The Class "B" Member shall be entitled to four votes for each Lot in which it holds the interest required

for membership by Section 1, Article III, provided that the Class "B" membership shall cease on the happening of either of the following events, whichever occurs earlier:

- (1) When all lots are sold; or
- (2) At such time as the Developer voluntarily relinquishes its Class "B" membership rights.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1. Purpose of Assessments. The assessments levied by the Association are for the purpose of promoting the recreation, health, enjoyment, welfare and safety of the residents and for protecting, advancing and promoting the environment of the Properties for the common benefit and enjoyment of the Owners and occupants of residences, improvement and maintenance of the Common areas, detention and retention areas, and other common facilities and areas of common responsibility including but not limited to repair, replacement and additions thereto, and for the cost of labor, equipment and materials, management and supervision thereof, all as may be authorized from time to time by the Board of Directors.

Section 2. Creation of Lien and Personal Obligations of Assessments. Each Class A Member, acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay and shall pay the Association such fees, assessments and charges as are herein provided and authorized:

(a) Annual assessments, (b) special assessments and/or individual assessments against any particular Lot as shall be established and collected by the Association pursuant to the terms of this Declaration, including but not limited to such reasonable fines as may be imposed herein. All such assessments together with interest thereon, late charges and costs of collection thereof, including reasonable attorneys' fees (i) shall be a charge and a continuing lien upon the Lot against which any such assessment is made, subject to foreclosure and the Association shall have the right to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property, and the Association shall have the conclusive power and authority to file in the Office of the Recorder of Deeds of Sangamon County, Illinois a lien or liens against such Lot, and (ii) shall also be the joint and several personal obligation of each person who was an Owner of said Lot at the time when any such assessment made against said Lot fell due.

No Owner shall be entitled to a refund of any portion of any annual or special assessment, or installment of a special assessment, paid by him, even though said Owner's membership in the Association terminates prior to expiration of the period covered by any such assessment or installment theretofore paid by him. No Owner may avoid or escape liability for any annual or special assessment or individual assessment imposed or levied pursuant to this Article VI by abandonment of his Lot, or by attempted waiver of non-user of the benefits of membership in the Association, or of the Common Areas and facilities.

Section 3. Annual Assessment. It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated costs of operating the Association during the coming year which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall also prepare a proposed assessment to be levied against each Lot for the following year of each Class A Member. The budget and the assessment shall become effective unless disapproved at the annual meeting by a vote of at least fifty-one (51%) percent of the total Association membership votes including those votes of the Class "B" Member or Members. Notwithstanding the foregoing, however, in the event the Members disapprove the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year. The initial annual assessment shall be One Hundred Twenty Dollars (\$120.00) per Single Family Lot, per Class A Member, and the amount of such assessment shall continue until changed as provided above. The Board shall cause a "Notice of Assessment" to be delivered against every Lot so assessed by delivery by U.S. Mail to the last known residence address of each Class A Member on or about January 1 of each year.

Section 4. Entering Member. Any person or entity becoming the initial Class A Member with respect to a Lot, on a date after January 1, shall, for said initial year, pay a reduced annual and special assessment, if any, prorated on the basis of the remaining days in the calendar year after the date of the deed of conveyance to the Lot in issue, which prorated amount shall be due to the Association on the closing on said Lot.

Section 5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any calendar year a special assessment 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 upon the Common Areas, including the necessary fixtures and personal property related thereto, and, any retention area, including the necessary equipment related

thereto, provided, that any such assessment shall have the assent of two-thirds (2/3) of the votes of the total membership including Class "B" Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days in advance of the meeting setting forth the purpose of the meeting. The Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted.

Section 6. Individual Assessment. In the event that the need for maintenance or repairs of the Common Area is caused or occurs by or through the willful or negligent act or omission of an Owner, his family, lessees' guests or invitees, or in the event that a Class A Member shall fail or refuse to maintain such Lot or repair or replace the improvements situated thereon in a manner satisfactory to the Board, or the Architectural Control Committee, or as required by the covenants herein, then, the Association, after approval by a vote of 66 2/3% of all members of the Board, shall give such written notice of the Association's intent to provide the required maintenance, repair, replacement or corrective work, at such Member's sole cost and expense. The Member shall have fifteen (15) days within which to complete said maintenance, repair, replacement, or corrective work. If such Member fails or refuses to discharge properly his obligations as outlined above, the Association shall have the right, through its duly authorized agents or employees to enter at reasonable hours of any day, upon said Lot to perform such work. The Association may levy an individual assessment upon any Lot, except as provided in Section 7 of this Article, to cover the cost and expense incurred by the Association in fulfilling the provisions of the Section. The Association shall also have the right to issue individual assessments for sidewalk installation as provided in Article VIII, Section 17.

Section 7. Exemption from Assessment. The following property subject to this Declaration shall be exempt from all assessments, charges and liens created herein:

(a) All Properties to the extent of any easement or other interest therein dedicated and accepted by any public authority and devoted to public use.

(b) All Common Areas as defined in Article I hereof.

(c) Any vacant land or Lots owned by a Class "B" Member unless a Lot is occupied as a residence.

Section 8. Assessments Due Dates. The annual assessment for each Lot shall become due and payable 30 days after the postmark date of the Notice of Assessment. The method of payment

and due dates for special assessments shall be as established by the Association in accordance with Section 5 of this Article VI. The method of payment and due dates for individual assessments shall be as determined by the Board in accordance with Section 6 of Article VI. The Association shall prepare a roster of Lots and assessments applicable thereto, which shall be open to inspection by any Member upon reasonable notice to the Board.

Section 9. Computation. Annual and special assessments shall be charged equally against each Single Family Lot, except as provided in Section 4 regarding Entering Members. Annual and special assessments against Duplex Lots shall be double the charge against Single Family Lots.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment or assessment installment delinquent for a period of more than ten (10) days may incur a late charge in an amount as the Board may determine from time to time. The Association shall cause a notice of delinquency to be given to any Member who has not paid within the ten (10) days following the due date. If the assessment or assessment installment is not paid within thirty (30) days, a lien as herein provided for shall attach to and be a continuing lien upon the Lot against which such assessment shall have been made, and in addition the lien shall include the late charge, interest on the principal amount due at the maximum allowable rate from the date first due and payable, all costs of collection, reasonable attorneys' fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may as the Board shall determine, institute suit to collect such amounts or to foreclose its lien. Each Owner, by acceptance of a deed or other conveyance to a Unit, vests in the Association or its agents the right and power to bring all actions against such Owner or Owners personally for the collection of such charges as a debt, and/or to foreclose the aforesaid lien in the same manner as other liens for the mortgage of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Unit at any foreclosure sale or to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration but no limitation, abandonment of the Unit.

Section 11. Subordination of Lien. The lien provided for in this Declaration shall be subordinate to the lien of any first mortgage theretofore of record upon the Lot subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of

foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 12. Estoppel Certificates. The Association shall, upon request of a Member, at any reasonable time, furnish an estoppel certificate signed by an officer or other authorized agent of the Association, setting forth the amount of unpaid assessments and/or other charges, if any, against said Member's Lot, up to a given date or time of conveyance, also certifying as to whether or not there are violations of the governing documents on the Lot as of the date of preparation of the certificate. Said certificate shall be delivered to the place of closing and all outstanding assessments and other charges, if any, and a reasonable charge, as determined by the Board to cover the cost of providing such certificate, shall be deducted from the Seller's account at the closing and transmitted directly to the Association.

ARTICLE VII

MAINTENANCE BY AND SERVICES OF THE ASSOCIATION

Section 1. Maintenance, Repairs and Services by the Association. The Association, subject to the provisions of this Declaration and the By-Laws of the Association, shall maintain and keep in good repair the area of common responsibility, which responsibility shall be deemed to include by example and not by limitation: (a) maintenance, repair and replacement of all common areas and facilities including park areas, landscaping, utility lines, pipes, wires and conduits, not dedicated to any public authority, if any, (b) furnish and provide the necessary maintenance and repair service for the utility systems, and for any drainage collection facility or storage pond serving the Properties and the improvements situated thereon. With respect to such drainage collection facility or storage pond, the Association shall have the duties specified in the easements granting the Association the rights to such facilities and ponds.

Section 2. Easement. The Association is hereby granted an easement of use and right-of-way on, over, in, under and through all Lots in order to comply with the terms of this Article VII, and entry on any Lot for such purpose shall not be deemed a trespass.

ARTICLE VIII

RESTRICTIVE COVENANTS

Section 1. General Lot Usage. No Lot shall be used except as a Single Family Lot or as a Duplex Lot. "Single-family Lot"

shall mean and refer to any Lot of land to be used for single-family residential purposes and so designated on the subdivision plat or survey of the Breckenridge Estates Subdivision which shall be a public record. "Duplex Lot" shall mean and refer to any Lot of land to be used for duplex residential purposes and so designated on any subdivision plat or survey of the Breckenridge Estates Subdivision which shall be a public record. No Duplex Lot or Lots in the R-2 zoning district may be subdivided.

Section 2. Architectural Control Committee.

A. Members. The Architectural Control Committee (the Committee) is composed of George H. Stelle, Allan R. Young and John Bavetta, of Springfield, Illinois. A majority of the Committee may designate a representative to act for it. In the event of death, resignation or removal of any member of the Committee, the remaining members shall have full authority to designate a successor. None of the members of the Committee nor their designated representative shall be entitled to any compensation for services performed pursuant to this covenant. All Committee decisions shall be in writing. The Developer reserves the right to remove any member of the Committee.

B. Approval of Plans by Architectural Control Committee. No construction, reconstruction, remodeling, alternation or addition to any structure, building, fence, wall, road, drive, path or improvement of any nature shall be constructed without obtaining the prior written approval of the Committee as to location, plans and specifications. As a prerequisite to consideration for approval, and prior to beginning the contemplated work, two (2) complete sets of building plans and specifications must be submitted to the Committee. All plans, including but not limited to plans which include basements, shall state to the Committee's satisfaction how the excavated soil will be handled so as not to interfere with drainage swales or otherwise materially change the grade or elevation of the subject Lot or the drainage of adjacent Lots as compared to the final engineering plans of the Developer. No Lot owner shall cause increased water runoff on neighboring property not specifically authorized by such neighboring Lot owner. The Committee shall be the sole arbiter of such plans and may withhold approval for any reason including purely aesthetic considerations. In the event the Committee fails within forty-five (45) days to approve or disapprove such plans and specifications, approval will not be required, and the requirements of this Section with respect to presentation to and approval by the Committee will be deemed to have been fully complied with. Upon approval, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans.

C. Easements - Utility and Drainage. An Easement over that portion of any Lot designated as "Easement" shown on the

recorded plat of subdivision West is hereby reserved for drainage and the use of public utility companies and others to install, lay, construct, renew, operate and maintain pipes, conduits, cables, poles and wires, either overhead or underground, for the purposes of providing any property in said section with gas, electric, television, telephone, water, sewer or other utility services. Overhead cables, poles and wires for public utilities shall be permitted only on such portion of any Lot designated for public utilities, but all electric and telephone service lines therefrom for any improvements in said subdivision shall be installed and maintained underground. Drainage in such portion so designated as "Easement" shall not be blocked or impaired, either intentionally or by negligent maintenance on any Lot or Lots.

D. Construction. All construction must be diligently pursued to completion within a reasonable period but in no case to exceed one (1) year. No structure shall be occupied for living purposes which is not functionally complete in detail as to the exterior of the structure. All front and side yards shall be sodded as soon as possible, weather permitting, after construction is complete, and in any event, not later than six (6) months after construction is complete. In addition, after construction is complete on each Lot, and as soon as weather permits, the Association shall cause the installation of concrete sidewalks as required by the Village of Chatham and the Architectural Control Committee, which expenses of said sidewalk shall be borne by the Lot Owner. Upon completion of the sidewalk, the Association shall issue a written individual assessment to the Lot Owner which assessment shall be due in thirty (30) days and if not paid, then shall become a lien as provided in Article VI, Section 10. No building materials, paint nor building equipment shall be exposed to the public view if occupied as a dwelling. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any building site at any time as a residence either temporarily or permanently.

E. Splash Blocks. Water discharge from sump pumps shall be on a splash block located within 5 feet of the house in the front or rear yard unless otherwise approved by the Architectural Control Committee. No discharge shall be in a side yard.

F. Lot Contours. No owner of any Lot shall change, or permit to be changed, the contours of such Lot, without the express consent of the Architectural Control Committee.

G. Finished Grade. All finished grades at each residence perimeter shall be within 18" to 24" above the back of the street curb and sloping to the street and rear yard grade for drainage, except at otherwise approved by the Architectural Control

Committee. Drainage swales shall not be filled with excavation materials.

H. Structure Location and Quality. No building shall be erected, placed or altered until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finished grade elevation and as provided in this Section 2. No fence or wall shall be erected, placed or altered on any Lot nearer to any street line than the minimum building set back line unless similarly approved.

I. Enforcement. The Committee shall be entitled to stop any construction in violation of these restrictions, or in the event of a violation of the terms of subparagraphs B, C, D, E, F, G, or H of this Section 2 of Article VIII affecting drainage, grade or elevation, whenever occurring, then the Association shall have the right and obligation to correct the violation and issue an individual assessment as provided in Article VI, Section 6. In the event drainage in any portion of any Lot designated as "Easement" is blocked or impaired in violation of subparagraph C of this Section 2 of Article VIII, the Owner of any Lot or part thereof in said subdivision or the Committee shall have the right to remove any obstruction blocking or impeding such drainage, in which case an individual assessment may issue against the Lot or Lots of the Owner or Owners whose willful or negligent act or omission has caused the violation as provided in Article VI, Section 6, if costs were insured.

J. Brick. All houses shall incorporate brick into the design, acceptable qualities of which shall be determined by the Architectural Control Committee.

K. Mail Receptacles. The Architectural Control Committee shall have the right and power to prescribe and enforce uniform mail receptacles throughout the subdivision.

L. Additional Rules. From time to time the Architectural Control Committee shall adopt additional rules and amend existing rules, including but not limited to rules to regulate potential problems relating to the use of the Properties and the well-being of the residents, tenants, guests and invitees. Such additional rules may only be adopted or amended by a two-thirds vote of the Architectural Control Committee, following a hearing for which due notice has been provided to all residents. All such additional rules and any subsequent amendment thereto shall be placed in the Book of Resolutions and furnished in writing to all residents prior to the effective date of such rules and shall be binding on all residents, except where expressly provided otherwise in such rules.

Section 3. Set Back. No building shall be located on any Lot nearer to the front lot line or side line than the minimum set back line as shown on the recorded plat of subdivision.

Section 4. No Outbuildings. No trailer, basement, tent, shack, garage, barn or other outbuilding placed on any Lot shall, at any time, be used as a residence, temporarily or permanently.

Section 5. Vacant Lots. All vacant Lots shall be kept free of weeds and shall not be permitted to fall into an unsightly condition.

Section 6. Concrete Driveways. All driveways located upon a Lot shall be constructed exclusively of concrete.

Section 7. No Liquor Sales. No spirituous, vinous or malt liquor shall be sold, or kept for sale, on any Lot.

Section 8. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other generally recognized household pets may be kept; provided they are not kept, bred or maintained for any commercial purposes. Any such domestic pet shall not be permitted to cause or create a nuisance, disturbance or unreasonable amount of noise which may affect any resident or other person on the properties. Any such pet must be kept within the confines of the Owner's Lot or must be on a leash held by a person when allowed upon the Common Areas. Notwithstanding any other provision to the contrary, the Architectural Control Committee shall have the absolute power to adopt rules and regulations from time to time pertaining to the keeping of any and all pets upon the properties, including but not limited to the right to remove or cause to be removed from the properties (including the inside of a residential building) any such pet or pets when the Architectural Control Committee determines such action to be in the best interest, well-being and enjoyment of any or all of the residents of Breckenridge Estates Subdivision.

Section 9. Vehicles and Devices. No Lot, or any part thereof, shall be used, either temporarily or permanently, to sell, store or accumulate used cars, parts therefrom or junk of any kind or character whatever. No Owner, tenant, guest or other person shall store or keep upon any Lot, or in the street in front of or along side of any Lot, any commercial vehicle, or personal boat or other watercraft, motor home, trailer of any type, camper or other transportation devices of any kind. The term "store or keep" shall not include parking on or alongside a Lot which does not exceed 12 hours per occurrence and which parking is only occasional and infrequent as opposed to regular and repeating in nature. Also, an Owner or tenant may park his or her privately owned vehicles and devices in such Owner or Tenant's garage. No Owner, tenant or other person shall repair

or restore any vehicle of any kind upon any Lot or Common Areas, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. Notwithstanding any provision heretofore stated in these covenants and restrictions, the Architectural Control Committee shall have the power and authority from time to time to adopt additional rules regarding the parking and storage of vehicles.

Section 10. Garbage. Rubbish, trash, garbage or other waste shall be kept in sanitary containers, and shall not be stored, kept, deposited or left on any Lot or any other part of the Properties, except such garbage and rubbish which shall necessarily accumulate from the last garbage and rubbish collection. All such sanitary containers shall be of the type and size designated by the Architectural Control Committee and shall not be permitted to remain in public view except on days of collection. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and in accordance with law.

Section 11. Signs. No sign of any kind shall be maintained or displayed on any Lot except one sign of not more than one square foot in area, identifying the occupants of the dwelling, one sign or not more than 5 square feet in area advertising the property for sale or rent, and signs used by contractors during the construction of any improvement thereon.

Section 12. No Tanks Above Ground. Exposed above ground tanks will not be permitted for the storage of fuel or water or any other substance.

Section 13. TV Antenna. No outdoor television antenna or satellite dish may be erected or installed as long as cable television is available. Developer shall not be obligated to install cable television. If, due to technological improvements in the appearance of satellite dishes, antennas, etc., this section may be amended by a two-thirds vote of the Members.

Section 14. Underground Utility Lines. All residential utility service lines (including, without limitation, electricity, telephone, any and all types of radio and television lines, cables, etc.) to the lots shall be underground, provided, however, this restriction shall not be construed to prohibit the installation or construction of one or more central utility service relay towers in the event such is, in the Committee's sole discretion, deemed necessary.

Section 15. No Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood, disturb the peace and quiet thereof, or annoy any occupant of the neighboring property.

Section 16. Term. These covenants shall be binding upon all parties and all persons claiming through or under them for a period of twenty-five (25) years from the date these covenants are filed for record, after which time such covenants shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by owners representing a majority of the Lots has been filed for record agreeing to change such covenants in whole or in part.

Section 17. Binding Effect. Invalidation of these covenants by judgment or court order shall in no wise affect the other provisions, which shall remain in full force and effect.

ARTICLE IX

INSURANCE AND INDEMNIFICATION

Section 1. Common Area Insurance. The Board shall have the authority to and shall obtain insurance for the Common Areas and all improvements situated thereon, and for any other real or personal property of the Association, against loss or damage by fire and such other hazards as the Board may deem desirable to insure against, for the full insurable replacement cost of said Common Areas, improvements situated thereon and other real or personal property of the Association. The Board shall also have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and health of persons, and property damage, in such limits as the Board shall deem desirable, and workmen's compensation insurance and such other liability insurance as it may deem desirable, insuring the Association, its directors, officers, committee members, employees and agents from liability in connection with the Common Areas, improvements located thereon and other real and personal property of the Association, and insuring the fee owners of any land underlying any drainage retention or storage pond owned or used by the Association, and insuring the directors, officers and committee members of the Association from liability for good faith acts or omissions beyond the scope of their respective authorities. Such insurance coverage shall include cross liability claims of one (1) or more insured parties against other insured parties. Premiums for all such insurance shall be common expenses of the Association.

Section 2. Indemnification. The directors, officers and committee members of the Association shall not be liable to any Owner or any Member, or any person claiming by or through any such Owner or Member, for any act or omission to act in the performance of their duties, and the Association shall have the power to indemnify all such Directors, officers and committee members from all claims, demands, actions and proceedings, and any expense, in connection therewith, except if such Director, officer or committee members shall be adjudged in any such action

