

HILLTOP VILLAGES COMMUNITY ASSOCIATION, INC,

Consent of Directors  
To Action Without A Meeting  
In Lieu Of A Special Meeting

January 10, 1980

The undersigned, being all the Directors of Hilltop Villages Community Association, Inc., a general not-for-profit corporation organized and existing under the laws of the State of Missouri, do hereby take the following actions without a meeting, as set forth in the following resolutions, as if taken at a special meeting of the Directors of said not-for-profit corporation:

Resolved, that the By-laws of the corporation are hereby amended by deleting and revoking the same in their entirety and substituting in lieu thereof the Restated By-laws, a copy of which are to be inserted in the minute book of this corporation immediately following these resolutions.

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Robert F. Gorman

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Michael J. Gorman

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Daniel Schweizer

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Milton C. Goldenberg

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Earl A. Fey

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John F. Brouder

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Gordon Lewis

RESTATED BY-LAWS OF  
HILLTOP VILLAGES COMMUNITY ASSOCIATION, INC.

The undersigned being all of the members of the Board of Directors of Hilltop Villages Community Association, Inc., do hereby revise the By-laws of said Corporation, as heretofore adopted, by revoking same in their entirety and substituting in lieu thereof the following By-laws which shall hereafter be the By-laws governing the activities of Hilltop Villages Community Association, Inc., to-wit:

ARTICLE I

**NAME AND LOCATION:** The name of the corporation is Hilltop Villages Community Association, Inc., hereafter referred to as the "Association." The principal office of the corporation shall be located at 470 North Kirkwood Road, Kirkwood, Missouri, 63122, but meetings of members and directors may be held at such places within the State of Missouri, County of St. Louis, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Hilltop Villages Community Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declarations of Covenants, Conditions, and Restrictions, and such additions thereto as may be hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of Properties, with the exception of the common areas and streets.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Developer" shall mean and refer to U.P.S. Service Corporation, a Missouri corporation, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Developer for purpose of development.

Section 7. "Declarations" shall mean and refer to the Declarations of Covenants, Conditions, and Restrictions applicable to the Properties recorded in the office of the Recorder of Deeds, St. Louis, County, Missouri.

Section 8. “Member” shall mean and refer to those persons entitled to membership as provided in the Declarations.

Section 9. “Parcel” shall mean and refer to (i) a lot, or (ii) a lot and a fractional portion of an adjoining lot owned by the same party or entity or (iii) a condominium unit located within the Properties.

### ARTICLE III

#### MEETING OF THE MEMBERS

Section 1. Annual Meetings. The annual meeting of the members shall be held within one year from the date of adoption of these Restated By-laws, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of eight o’clock, P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. Annual meetings shall be held within the City of Eureka, Missouri, at a location sufficient to accommodate all members of the Association who wish to attend.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (¼) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each annual and special meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member’s address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declarations, or these By-laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his parcel.

Section 6. Budget Hearings. At least once each calendar year, at the annual meeting or at a special meeting of the members of the Association, the Board of Directors shall present their proposed budget for the following year to the members of the Association. Members shall at such time have an opportunity to voice their opinion concerning such proposed budget, said procedure to be conducted by normal parliamentary procedure. The Board of Directors shall adopt the budget for the Association and make annual assessments after the budget hearing set forth in this section has been complied with.

## ARTICLE IV

### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of seven directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect two directors for a term of one year, two directors for a term of two years and three directors for a term of three years; and at each annual meeting thereafter the members shall elect directors to fill all vacancies for a term of three years.

Section 3. Removal. In the event of death, resignation or legal incapacitation of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. Provided, however, that in the event of the death, resignation or legal incapacitation of a member of the Board of Directors who is an individual lot or parcel owner in Hilltop Villages, his successor shall be selected at a special meeting of the Association and the developer (Class B member) shall not be entitled to vote thereon. No Director shall be subject to removal from the Board of Directors without the majority vote of both Class A and Class B members, at a special meeting of the Association held for such purpose.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting, which they could take at a meeting by obtaining the written approval of all directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE V

### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declarations. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### MEETING OF DIRECTORS

Section 1.     Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2.     Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any three directors, after not less than three- (3) days notice to each director.

Section 3.     Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by the majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1.     Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infractions thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for the infraction of published rules, and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from 3 consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2.     Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the declarations, to

- (1) fix the amount of the annual assessment against each Parcel at least 15 days in advance of each annual assessment period (after conducting the annual budget meeting, as set forth in Article III, Section 6 of these By-laws);
- (2) send written notice of each assessment to every Owner subject thereto at least 15 days in advance of each annual assessment period; and
- (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (d) issue, or to cause an appropriate officer to issue, upon demand by the person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association.
- (f) cause all officers or employees having a fiscal responsibility to be bonded, as it may deem appropriate.
- (g) cause the common areas to be maintained.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4. Special Appointment. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

- (a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments and may sign checks and promissory notes.

Vice President

- (b) The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

- (c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their address, and shall perform such other duties as required by the Board.

Treasurer

- (d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disperse such funds as directed by resolution of the Board of Directors; may sign checks and promissory notes of the Association; keep proper books of accounts; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX

COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, The Articles of Incorporation and the By-laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declarations, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. 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 nine (9) percent per annum, and 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 waiver or otherwise escape liability for the assessments provided for the herein by nonuse of the common area or abandonment of his lot or parcel.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words, Hilltop Villages Community Association, Inc.

ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy

Section 2. In the case of any conflict between the Articles of Incorporation and these By-laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.



ARTICLE XIV

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year.

IN WITNESS WHEREOF, we being all of the directors of Hilltop Villages Community Association, Inc., have hereunto set our hands this 10<sup>th</sup> day of January, 1980.

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John F. Brouder

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Michael J. Gorman

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Dan Schweizer

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Milton C. Goldenberg

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Robert F. Gorman

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Earl A. Fey

\_\_\_\_\_  
Gordon Lewis

State of Missouri )  
                          ) SS.  
County of St. Louis)

On this 10<sup>th</sup> day of January, 1980, before me personally appeared John F. Brouder, Dan Schweizer, Robert F. Gorman, Michael J. Gorman, Milton C. Goldenberg, Earl A. Fey, and Gordon Lewis

AMENDED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

HILLTOP VILLAGES

This Amended Declaration is hereby made and entered into this 3<sup>rd</sup> day of April 1978.

WITNESSETH:

WHEREAS, The Kelly-Fischer Company, a Missouri corporation executed a document entitled "Declaration of Covenants" dated March 23, 1973 and recorded at Book 6654 page 2136 of St. Louis County, Missouri Records, setting forth certain covenants, conditions, and restrictions relating to certain property in the City of Eureka, St. Louis County, Missouri then owned by the Kelly-Fischer Company as more fully described in said document; and

WHEREAS, The Kelley-Fischer Company executed a document entitled "Amendment of Declaration of Covenants for Hilltop Villages" dated July 19, 1973 and recorded at Book 6679 page 599 of the St. Louis County, Missouri Records, amending the "Declarations of Covenants" recorded at Book 6654 page 2136 of the St. Louis County, Missouri Records: and

WHEREAS, the document recorded at Book 6654 page 2136 of the St. Louis County, Missouri Records (as amended by document recorded at Book 6679 page 599 of the St. Louis County, Missouri Records) is subject to amendment by a document in writing filed for record in the Office of the Recorder of Deeds of St. Louis County, Missouri executed by three-fourths of the owners of all the lots which are subject to said covenants, conditions, and restrictions; and

WHEREAS, there has heretofore been established by recorded subdivision/condominium plats a total of 202 lots and 32 condominium units within the property described in said Declaration of Covenants recorded at Book 6654 page 2136 of St. Louis County, Missouri records (as amended); and

WHEREAS, the undersigned parties are presently the owners of more than three-fourths of the lots which have been established within the property described in said Declaration of Covenants recorded at Book 6654 page 2136 (as amended); and

WHEREAS, the undersigned parties desire to amend the aforesaid documents recorded at Book 6654 page 2136 and Book 6679 page 599 of the St. Louis County, Missouri Records by revoking the covenants, conditions and restrictions set forth in said documents in their entirety and substituting in lieu thereof the restated covenants, conditions and restrictions hereinafter set forth, for the mutual benefit of all of the present and future owners of lots contained within the area described in said Declaration of Covenants recorded at Book 6654 page 2136 of the St. Louis County, Missouri Records.

NOW, THEREFORE, the undersigned parties hereby declare that all covenants, conditions and restrictions contained in the documents recorded at Book 6654 page 2136 and Book 6670 page 599 of the St. Louis County, Missouri Records are hereby revoked and annulled in their entirety and that hereinafter all of the property described in Article I below 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, and which shall run with, the real property described in Article I below, and which shall be binding upon all parties having any rights, title and interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The restated covenants, conditions and restrictions for the real property described in Article I below (hereinafter referred to collectively as “Hilltop Villages”) and all parcels therein are as follows:

## ARTICLE I

### Property Subject to This Declaration

The real property which is, and shall be held, sold and conveyed subject to the assessments, restrictions, covenants and conditions set forth below is located in the City of Eureka, St. Louis County, State of Missouri and described as follows (all references to Plat Book and Page hereinafter set forth shall refer to Plat Book and Page references in the Office of the Recorder of Deeds of St. Louis County, Missouri):

(a) Plat No. 1, Village of Muir, Hilltop Villages, according to the plat thereof recorded in Plat Book 146 pages 32 and 33, as amended by the following documents: Amendment No. 1 to record plat titled “Hilltop Villages Plat 1” recorded at Plat Book 148 page 81; Amendment No. 2 to record plat titled “Plat No. 1, Village of Muir, Hilltop Villages” recorded at Plat Book 151 page 92; Amendment No. 3 to record plat titled “Plat 1, Village of Muir, Hilltop Villages” recorded at Plat Book 152 page 74; Amendment No. 4 to record plat titled at Plat Book 163 page 76; containing a total of 32 lots.

(b) Plat No. 2, Edward Village, Hilltop Villages, according to the plat thereof recorded at Plat Book 151 pages 68 and 69; containing 32 lots.

(c) Plat No. 3, Village of Shaw, Hilltop Villages, according to the plat thereof recorded at plat Book 151 pages 70 and 71; as amended by document titled Amendment No. 1 to Plat 3, Village of Shaw, Hilltop Villages, recorded at Plat Book 158 pages 48 and 49, containing 22 lots.

(d) Plat No. 4, a portion of City Park, Hilltop Villages, according to the plat thereof recorded at Plat Book 151 page 67.

(e) Plat No. 5, Beard Village, Hilltop Villages, according to the plat thereof recorded at Plat Book 154 pages 21 through 30; as amended by document titled Amendment No. 1 to Plat 5, Beard Village, Hilltop Villages, recorded at Plat Book 163 pages 10 through 12; containing a total of 32 condominium units.

(f) Plat No. 6, Edward Park, Hilltop Villages, a private commons, according to the plat thereof recorded at Plat Book 155 page 83.

(g) Plat No. 7, Village of Walden, Hilltop Villages, according to the plat thereof recorded at Plat Book 155 page 84; containing 32 lots.

(h) Plat No. 8, Village of Walden, Hilltop Villages, according to the plat thereof recorded at Plat Book 155 page 93; containing 37 lots.

(i) Plat No. 9, Village of Shaw, Hilltop Villages, according to the plat thereof recorded at Plat Book 161 page 5; containing 12 lots.

(j) Plat No. 10, Edward Village, Hilltop Villages, according to the plat thereof recorded at Plat Book 161 page 6; containing 14 lots.

(k) Plat no. 14, Village of Muir, Hilltop Villages, according to the plat thereof recorded at Plat Book 169 page 14; containing 30 lots.

(l) Such additional land within the area described in Ordinance 325 of the City of Eureka, Missouri dated March 21, 1972, as amended by Ordinance 356 of the City of Eureka, Missouri dated June 5, 1973, as may be annexed by the developer upon the recording of a subdivision plat in the Office of the Recorder of Deeds of St Louis County, Missouri, reciting thereon that said additional land shall be subject to the easements, restrictions, covenants and conditions contained in the declaration. Such additional land may be brought within the terms and coverage of this declaration within then (10) years from the date of this instrument without the consent of it owners in Hilltop Villages or of the Hilltop Villages Community Association, Inc., provided that such land so annexed is developed in accordance with the Community Unit Plan referred to and approved by the aforescribed ordinances of the City of Eureka, Missouri.

## ARTICLE II

### Definitions

Section 1: “Developer” shall mean and refer to U.P.S. Service Corporation, a Missouri corporation, its successors and assigns, if such successors or assigns should acquire one or more undeveloped parcels from developer for purpose of development.

Section 2: “Association” shall mean and refer to Hilltop Villages Community association, Inc., a Missouri not-for-profit corporation, its successors and assigns.

Section 3: “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any parcel within the Properties, excluding, however, those having such fee simple title interest merely as security for the performance of an obligation.

Section 4: “Properties” shall mean and refer to all of the real property described in Article 1 of this declaration.

Section 5: “Common Area” shall mean and refer to all real property (including the improvements thereon and thereto) owned by the Association for the common use and enjoyment of the owners. The common area owned by the Association upon the execution of this instrument is those areas designated as “common ground”, “private common”, “horse trails” and “bridle paths” on the recorded plats in hilltop Villages, as designated in paragraphs (a) through (k) of Article I of this declaration.

Section 6: “Lot” shall mean and refer to any plot of land shown as a separate unit on a recorded plat in Hilltop Villages, with the exception of common areas and street.

Section 7: “Parcel” shall refer to (i) a lot, or (ii) a lot and a fractional portion of an adjoining lot owned by the same party or entity, or (iii) a condominium unit, located within the Properties.

### ARTICLE III

#### Property Rights

Section 1; Owners’ Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area,

(b) the right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment against his Parcel remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

(d) The right of the Association to delegate, or grant all or part of the Common Area to a utility or an individual lot or parcel owner for easement purposes only.

Section 2: Delegation of use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

#### ARTICLE IV

##### Membership and Voting Rights

Section 1: Every owner of a parcel which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Parcel which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Developer, and shall be entitled to one vote for each parcel owned. When more than one person holds an interest in any Parcel, all such persons shall be members. The vote for such parcel shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Parcel.

Class B. The Class B members shall be the Developer and shall be entitled to three (3) votes for each parcel owned. The Class B membership shall cease and be converted to Class A membership on the date which is six years from the date of recording of this document.

#### ARTICLE V

##### Covenant for Maintenance Assessments

Section 1: Creation of the Lien and Personal Obligation of Assessments. The Developer, for each Parcel owned within the Properties, hereby covenants, and each Owner of any parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, 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 established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, 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 interest, costs, reasonable attorney's 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 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common area

and those streets within the Properties which are not subject to the maintenance by a public or governmental body.

Section 3. Maximum Annual Assessment. Until January 1, 1979, the maximum annual assessment shall be One Hundred Twenty-Five Dollars (\$125.00) per Parcel.

(a) From and after January 1, 1979, the maximum annual assessment may be increased each year above the maximum assessments for the previous year, without a vote of the membership, by a percentage equal to percentage increase in the Consumer Price Index (as herein after defined) during the immediately preceding year. For such purposes the Consumer Price Index (published by the U.S. Department of Labor Statistics, department of Labor) for the United States, city average for urban wage earners and clerical workers, shall be used. The percentage increase shall be determined by calculating the percentage increase for December of the year immediately preceding the year for which the assessment is to apply over the December index for the prior year. For example, for the calendar year 19080, the percentage increase in maximum assessment shall be the percentage increase in the December 1979 Consumer Price Index, as above defined, over the December 1978 Consumer Price Index.

(b) From and after January 1, 1979 , the maximum annual assessment may be increased above the Consumer Price Index percentage set forth above by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

(d) The Board of Directors shall have the right to allocate up to 10% of each annual assessment to a special reserve account, to be disbursed by the Board of Directors for extraordinary maintenance of capital improvements in the common areas, such as nut not limited to, tennis courts, swimming pool, club house and roads.

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 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 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 each class of members who are voting in person or in proxy at a meeting duly called for his 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 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty-seven percent (67%) of all the votes of each

class of membership shall constitute a quorum. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all parcels and may be collected on an annual or semi-annual basis.

Section 7. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall be applicable to all Parcels in existence on January 1 of the assessment year and shall commence as to all Parcels on the first day of January, 1978. The Board of Directors shall fix the amount of the annual assessment against each Parcel at least fifteen (15) 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 Board of Directors shall have the right to establish due dates for collection of assessments on an annual or semi-annual basis. If semi-annual collections are to be made, the due dates for same shall be January 1, and July of such year. 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 specific Parcel have been paid. A property 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 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of Nine percent (9%) 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. 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 Parcel.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust. Sale or transfer of any Parcel shall not affect the assessment lien. However, the sale or transfer of any parcel pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relive such Parcel from the liability for any assessments thereafter becoming due or form the lien thereof.

Section 10. The Board of Directors shall have the right to appoint an agency for collection of assessments and pay reasonable fee for such services.

## ARTICLE VI

### Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height,



materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## ARTICLE VII

### General Provision

Section 1; Enforcement. The association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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 Amended Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by 75% vote of the members of the Association, and thereafter by an instrument signed by not less than 75% of the Parcel Owners. Any instrument must be recorded.

## ARTICLE VIII

### Specific Restrictions on the Use of Lots

All Owners of Parcels within the properties, their grantees, lessees, heirs, successors and assigns shall be subject to the following restrictions in the use of their Lot:

- (a) No Person may dwell in or occupy or live in a temporary building, trailer or tent, garage, or outbuilding.
- (b) No pigeons, poultry, cattle, hogs, rabbits, or other animals (except dogs, cats, other household pets, nor exceeding a total of three) may be kept in or on any parcel.

(c) No Parcel owner shall park or permit the parking of any unlicensed or unoperative motor vehicle, or any boat, camper, truck, or trailer, except a pickup truck or van on any Parcel in the Properties, except on such portion or in such fashion as may be authorized by the Board of Directors of the Association.

(d) No person may use any Parcel or any building or structure located on the Parcel for any purpose prohibited by law or ordinance, or for the commission or maintenance of any nuisance.

(e) No residence, building or any portion of any Parcel shall be used as a boarding house, nursing home, rooming house or clubhouse (other than a clubhouse or similar facility operated by the association), nor shall any building or any Parcel or a part thereof be devoted to any manufacturing, industrial or commercial activity.

(f) No Parcel shall be resubdivided, nor shall a fractional part of any parcel be sold or leased without the consent of the Board of Directors of the Hilltop Villages Community Association, Inc.

(g) No trash, rubbish or garbage receptacle or can shall be placed on the premises outside of building except the day upon which the regularly scheduled collection of same are to take place.

(h) No motor vehicle shall be displayed as being for sale.

(i) No sign, advertisement or billboard may be erected or maintained on any Parcel, except not more than one sign per lot, and not exceeding five square feet in size, advertising the property on which same is located for sale or lease. This provision shall not, however, be applicable to Developer's sales or promotional activities.

(j) No lumber, metals or bulk materials shall be kept, stored, or allowed to accumulate on any Parcel except for building materials required during the course of construction of any approved structure.

IN WITNESS WHEREOF, the undersigned parties, being the present owners of more than three-fourths of the Parcels governed by this Agreement, have hereunto set their hands and seals as of the day and year first above written.

U.P.S. Service Corporation  
(Developer)

By \_\_\_\_\_  
Robert F. Gorman,  
President

State of Missouri    )  
                                  )  
County of St. Louis )

On the 17<sup>th</sup> day of October, 1979, before me appeared ROBERT F. GORMAN, to me personally known who, being by me duly sworn, did say that he is the President of U.P.S. Service Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors, and said Robert F. Gorman acknowledged said instrument to be the free act and deed of said corporation.

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

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Notary Public, Phillip J. Paster