

HOMES ASSOCIATION DECLARATION

THIS DECLARATION, made on this 8th day Of March, 1970, by CHARLES S. BORDNER and BILLIE K. BORDNER, husband and wife, and their successor, CHAS. S. BORDNER CONSTRUCTION COMPANY, a Missouri Corporation, the developers of a subdivision of land partially in the City of Raytown, partly in the City of Kansas City, and wholly in the County of Jackson, State of Missouri, known as WOODSON ESTATES, the aforementioned persons and corporation hereinafter referred to as the "Developer",

WITNESSETH: That

WHEREAS, Developer has subdivided an area of land known as and hereinafter referred to as WOODSON ESTATES, all as shown on the following described plats filed of record in the office of the Recorder of Deeds of Jackson County, Missouri, at Independence:

<u>Instrument No.</u>	<u>Description</u>	<u>Date Filed</u>	<u>Plat Book &amp; Page</u>
809937	Woodson Estates	April 15, 1963	Book 26, page 102
884513	Woodson Estates, 2nd plat	April 26, 1966	Book 29, page 12
I 36560	Woodson Estates, 3rd plat	April 9, 1969	Book 30, page 85
I 22014	Woodson Estates, 4th plat	August 28, 1968	Book 30, page 43
I 51704	Woodson Estates, 5th plat	December 4, 1969	Book 31, page 9

and;

WHEREAS, Developer is now developing said WOODSON ESTATES for residence purposes and it is its desire to continue the development of certain parts of said land and other land in this vicinity for said purposes, and for the creation and maintenance of a residential neighborhood possessive of features of more than ordinary value to a residential community.

NOW, THEREFORE, to provide the means necessary to achieve such purposes, Developer does hereby subject all of the lots shown on the aforesaid plats of WOODSON ESTATES, as hereinabove described, and which at the time of the execution of this Declaration are owned by Developer, individually or collectively, to the covenants, charges, and assessments set forth and contained in this Declaration.

Section 1. DEFINITION OF TERMS USED

The term "district" as used in this Declaration shall mean, unless and until extended as hereinafter provided, all of the lots shown on said plats of WOODSON ESTATES, which are individually or collectively owned by Developer, together with all other lots located within said subdivision which may be included in the district, at the election as hereinafter provided, of the respective owners of said lots to include their lots in the district and become a part of and subject to the terms of this agreement. If or when other land shall, in the manner hereinafter provided for, be added to that described above, then

the term "district" shall thereafter mean all land which shall from time to time be subjected to the terms of this agreement, including future modifications thereof.

The term "improved property" as used herein shall be deemed to mean a single tract, consisting of one or more contiguous lots or part thereof, under a single ownership and use and on which tract one single—family—residence or one two—family—residence (duplex), is erected or is in the process of erection.

The term "landlord property" as used herein shall be deemed to mean a single tract, consisting of one or more contiguous parcels of land or lots, or parts thereof, under a single ownership and use and on which tract one or more multiple—family—units (a single structure designed for residence for three or more families), is erected or is in the process of erection.

The term "vacant and unimproved property" shall mean any land within the district which is not "improved property" or "landlord property."

The term "public places" as used herein shall be deemed to mean all streets, intersections, medial strips, streams, parks, and other similar places, the use of which is dedicated to or set aside for the use of the general public.

The term "owners" as used herein shall mean those persons, partnerships, joint ventures or corporations who may from time to time own land within the district.

The term "private lanes" as used herein shall be deemed to mean all undedicated streets and ways which are public places as above defined.

The term "common areas" as used herein shall be deemed to mean all streams, lakes, ponds, parks, swimming pools, tennis courts, and all other similar recreational areas, the use of which is dedicated to or set aside for the general use of the owners (and the residents of improved or landlord property) within the district, subject to fees, rules and regulation promulgated by the Association, or which may, with appropriate consent, be used by the owners (and the residents of improved or landlord property) within the district.

## Section 2. CORPORATION TO BE FORMED BY ASSOCIATION

The owners and residents of landlord property and the owners and residents of improved property within the district shall be the members of an Association, which is hereby created and established, to be known as The Woodson Estates Homes Association (referred to herein as the "Association"). The Association shall be incorporated under Chapter 355 of the laws of the State of Missouri as a General Not For Profit Corporation. The Articles of Incorporation of said corporation shall contain in substance the following:

- a. The name of the corporation shall be: THE WOODSON ESTATES HOMES ASSOCIATION.
- b. The purposes for which the corporation is organized are hereinafter set forth in Section 4.
- c. The name and address of each incorporator and each director constituting the first board of directors shall be:

[Their names and addresses are shown on the original document.]

d. The address of the corporation, initial registered office and its initial registered agent at such address is: 11700 East 61st Terrace, Kansas City, Missouri 64133 and Charles S. Bordner.

e. Membership in the corporation shall be divided into two classes:

(i) Voting members shall be limited to the owners of improved property and landlord property within the boundaries of the district as it exists from time to time. In all cases where a vote or written consent or agreement is called for or permitted herein, each member who is an owner of improved property shall have one vote for each improved property as hereinbefore defined. In cases where a vote or written consent or agreement is called for or permitted herein; each member who is an owner of landlord property shall have one vote for each landlord property as hereinbefore defined. Voting may be in person or by proxy, provided, however, that no proxy may exceed 11 months in duration.

(ii) Non-voting members. An additional class of members shall be created known as non-voting members which shall be limited to those persons who reside within the district but who are not owners of improved property or landlord property within the district. Such members shall have no voting rights, and shall not have the right to participate in any meeting or proceeding of the Association.

Voting members and non-voting members shall each have an equal right to the enjoyment and use of the facilities located on the common areas that may be provided by the Association from time to time (subject to fees, rules and regulations promulgated by the Association) with the exception that voting members who do not reside within the district shall not be entitled to the enjoyment and use of the facilities located on the common areas.

Prior to the charter of the corporation, herein described, being granted, the unincorporated Association shall manage and control, as Trustee, all public places and improvements upon and to the land within the district except for the common areas, which are for the benefit and general use of all the owners, residents and general public within the district. After the granting of the charter of said corporation, the corporation shall then assume management and control, as Trustee, of all public places and improvements upon and to the land except for the common areas, which are for the benefit and general use of all the owners, residents and general public within the district. The corporation shall assume management and control over the common areas upon acquisition of title to the common areas as provided in Section 13 of this instrument.

### Section 3. LAND ENTITLED TO BENEFITS

No land and no persons residing thereon shall be entitled to any of the benefits, improvements or services provided by this Association unless the owner or owners thereof shall have subjected their land to the terms of this Declaration and to the assessments herein provided for; provided, however, that upon approval of two—thirds (2/3) of the Voting Members of the Association within the district as then constituted, the benefits, improvements or services provided by the Association may be extended to non—members or persons residing outside of the District.

#### Section 4. PURPOSES, POWERS AND DUTIES OF THE ASSOCIATION

The Association shall have the following purposes, powers and duties, which it may exercise and perform whenever in its discretion it may deem them necessary or desirable:

- a. To enforce, either in its own name or in the name of any owner within the district, any and all restrictions which have been or hereafter may be imposed upon any of the land in the district, either as originally placed thereon or as modified subsequently. This right placed thereon or as modified subsequently. This right of enforcement shall not serve to prevent such changes, releases, or modifications of restrictions or reservations being made by the parties having the right to do so under the terms of the deeds, declarations, contracts, or plats in which such restrictions and reservations are set forth. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for. Nothing herein contained shall be deemed or construed to prevent any owner having the contractual right to do so from enforcing in his own name any such restrictions.
- b. To manage and control as Trustee for its members all public improvements upon and to the land in the district, or improvements in public places or common areas, provided that such management and control of said improvements shall at all ' be subject to that had and exercised by any City, Township, County and State in which the land within the district is located.
- c. To furnish, operate and provide for the maintenance and improvement of any tennis courts, playgrounds, pedestrian ways, gateways, entrances, drinking fountain, streams, gardens, swimming pools, parks, and other such facilities and ornamental features, now existing or which may hereafter be erected or created in said district, in any public street or park, or on any land set aside for the general use of the members of the Association entitled to such use; and also to provide for the maintenance and improvement of common areas; and also to provide for the maintenance of natural water courses, within the district.
- d. To provide such lights as the Association may deem advisable on streets, lanes, parks, parking areas, pedestrian ways, gateways, entrances or other features, and in the public places and in common areas.
- e. To exercise control over such easements as it may acquire from time to time.
- f. To acquire and own the title to such real estate and personal property as may be reasonably necessary in order to carry out the purposes of the Association; to pay taxes on such real estate and personal property as may be owned by it; and to pay such taxes as may be assessed against the land in the common areas and public places within the district.
- g. To levy and collect the assessments which are provided for in this Declaration and to suspend membership rights, including the right to use recreational facilities of common areas, for non-payment of assessments, fees or for infraction published rules.
- h. To provide for the plowing or removal of snow from streets, sidewalks and the private lanes.
- i. To care for, protect and replant trees, shrubbery and grass on all private lanes in other public places.
- j. To mow, care for, and maintain parking places in front of vacant and other property and cut and remove weeds and grass from such parking areas, vacant property or other places; to pick up and remove therefrom loose material, trash and rubbish of all kinds, and to do any

- other things necessary or desirable in the judgment of the officers of said Association to keep such vacant and unimproved property neat in appearance and in good order.
- k. To provide in suitable locations, receptacles for the collection of rubbish, and for the disposal of such rubbish as it is collected, and for the collection and disposal of garbage.
  - l. To exercise such control over private lanes and streets as may be within its power and as it may deem necessary or desirable; subject at all times to such control of county or other proper officials as may have jurisdiction over streets.
  - m. To erect and maintain signs for marking of streets.
  - n. To provide means for emergency fire protection and to furnish the water and necessary equipment for same.
  - o. To reimburse the State, County or Township for expenses of furnishing emergency special police service for the district or to employ duly qualified peace officers for such purposes.
  - p. To construct, improve, and maintain common areas; to construct, improve, and maintain any swimming pools within common areas; to hire qualified personnel to manage and operate such pools; to make rules of conduct and regulations concerning the use of common areas, particularly swimming pools, decks, and patio facilities within such common areas; and to make such reasonable charges and initiation fee for the use of any swimming pool facilities as are necessary to so construct, maintain, improve, operate and manage such facilities, and to accumulate reserve for depreciation and major repairs and replacements to such swimming pool facilities.
  - q. To repair, oil, maintain, repave, and reconstruct lanes, paved streets or roads, pedestrian ways, and to clean lanes, streets, gutters and sidewalks, and pedestrian ways.
  - r. To have and exercise such other powers and rights conferred by the laws of the State of Missouri upon corporations organized under Chapter 355.

#### Section 5. METHOD OF PROVIDING GENERAL FUNDS

a. For the purposes of providing a general fund to enable the Association to exercise the powers, maintain the improvements and render the services herein provided for, all land within the boundaries of the district as now or hereafter constituted shall be subject to an annual assessment which may be levied by the Association from year to year and shall be paid to the Association annually in advance by the respective owners of the assessable land subject thereto. The Association may from year to year fix and determine the total amount required in its general fund and may levy and collect an annual assessment upon improved property not exceeding \$20.00 for each improved property within the district as now or hereafter established. Landlord property shall be assessed at the rate of \$5.00 per apartment unit but not less than \$25.00 for each separate multiple-family-unit on the landlord property.

b. The maximum annual assessment upon the property, within the boundaries of the district as aforesaid may be increased up to and by an amount not exceeding one hundred percent (100%) or twice the respective assessments which the Association may levy and collect from year to year (twice the \$20.00 maximum annual assessment for each improved property, and twice the rate of \$5.00 per apartment unit but not less than \$25.00 for each separate multiple-family-unit on landlord property), provided that at a meeting of the members specially called for that purpose, prior to the date on which such assessments are levied for the year for which such increase is proposed, a two-thirds majority of the members present at such meeting authorize

such an increase by an affirmative vote therefor; and provided, further, that the maximum annual assessment upon the property within the boundaries of the district may be increased up to and by an amount not exceeding two hundred percent (200 %) or thrice the said \$20.00 maximum annual assessments which may be levied and collected from year to year against the improved property, and thrice the rate of \$5.00 per apartment unit but not less than \$25.00 for each separate multiple-family-unit on landlord property, provided that at a meeting of the members specially called for that purpose, prior to the date on which the assessments are levied for the year for which such increase is proposed, three-fourths (3/4) majority of the members present at such meeting authorize such an increase by an affirmative vote therefor.

c. All vacant and unimproved and all land contained in public places and all land contained in common areas for the common use of the owners or residents of land within the district shall not be "assessable land". Provided further, all improved property so long as it is in the process of erection or is owned by a builder and held for resale or rental shall not be "assessable land" until such property is first occupied by an owner or renter.

d. Whenever the Board of Directors of the Association may deem it advisable to submit to the members a proposal for increasing the amount of annual assessment for a particular year over that of the immediately preceding year, it shall notify, in the manner hereinafter provided, the voting members of the Association of the time and place at which the meeting is to be held and the fact that an increase in the amount of the annual assessment is to be voted upon at such meeting. No increase in the amount of the annual assessment may be made for more than one (1) year at a time.

e. The first assessment shall be for the fiscal year beginning on May 1, 1970 and it shall be fixed and levied prior to May 1, 1970, and shall be payable on that date, and thereafter it shall be due and payable on May 1st of each year. The Board of Directors shall fix and levy the annual assessment subject to the limitations above. It will be the duty of the Association to notify all owners on or before that date, giving the amount of the assessment on each tract of land owned by them, and the date when such assessment is due. Failure of the Association to levy the assessment prior to May 1st of any year, for the next succeeding fiscal year beginning on May 1st, shall not invalidate any such assessment made for that particular year; nor shall failure to levy an assessment for any one year affect the right of the Association to do so for any subsequent year. When the assessment is made subsequent to May 1st of any year, then it shall become due and payable not later than thirty days from the date of levying the assessment. Prior to the first assessment herein above provided for, if the Board of Directors shall deem it necessary for the purpose of carrying out the terms of this Declaration, it shall have the right to make a partial assessment within the limits herein provided for and on a pro rata basis, for the period of time ending April 30, 1970. Thereafter all assessments shall be made annually as herein provided.

f. A written or printed notice, deposited in the United States Post Office, with postage thereon prepaid, and addressed to the respective owners at the last address listed with the Association, shall be deemed to be sufficient and proper notice for these purposes, or for any other purpose

of this Declaration where notices are required. Notices of meetings of the membership of the Association shall be mailed not less than ten (10) days in advance of said meetings.

Section 6. LIEN ON REAL ESTATE

a. The assessment shall become a lien on the real-estate against which it is levied as soon as it is due and payable as above set forth, provided, however, that such lien shall be subject, inferior and subordinated to the lien of any valid first deed of trust now existing or which may hereafter be placed on said real estate. In the event of the failure of any owner to pay the assessment on or before the first day of June of any year or if the assessment is made subsequent to May 1st of any year, within thirty (30) days from the date of assessment, then such assessment shall bear interest at the rate of eight (8%) percent per annum from the first day of May, of such year or from the date of said assessment, if made subsequent to May of such year, but if the assessment is paid before June 1st, or within thirty (30) days from the date of assessment if the assessment is made subsequent to May 1st for the fiscal year beginning May 1st, then no interest shall be charged.

b. On or after June 1st of each year, beginning June 1, 1970, or within thirty (30) days from the date of levying the assessment for the fiscal year during which and for which the assessment is levied, the assessment shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate in proceedings in any court in Jackson County, Missouri, having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of nonpayment of assessments in the office of the Recorder of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the owner or owners of the property described therein a fee of \$2.00, which fee is hereby declared to be a lien upon the real estate so described in said certificates, provided that such lien upon the real estate so described in said certificate, shall be inferior and subordinate to the lien of any valid first deed of trust now existing or which may hereafter be placed on said real estate. Such fee shall be collectible in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

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

Section 7. EXPENDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR

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

Association shall have no power to make a contract affecting the assessment of any future or subsequent year except for utilities. Anything herein to the contrary notwithstanding, the Association may, from time to time, borrow money for purposes of constructing or adding capital improvements to the swimming pool facilities in the common areas, and may enter into agreements providing that such sums may be repaid over a period of more than one year; provided, however, that any such indebtedness shall be repaid solely from such initiation fees and other charges as may be assessed for the use of such swimming pool facilities.

#### Section 8. ASSOCIATION TO NOTIFY MEMBERS OF ADDRESS

The Association shall notify all owners of land in the district as it may exist from time to time, insofar as the addresses of such owners are listed with said Association, of the official address of said Association, the place, time and purposes of the regular and special meetings of the Association, and the place where payments of assessments shall be made and other business in connection with said Association may be transacted, and in the case of any change of such address the Association shall notify all the owners of the land in the district, insofar as their addresses are listed with the Association, of the new address.

#### Section 9. TO OBSERVE ALL LAWS — CONFLICTS

Said Association shall at all times observe all State, County, City and other laws, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby. The Association shall have the right to make such reasonable rules and regulations, and provide such means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration, subject, however, to the limitations of its rights to contract as are herein provided for.

#### Section 10. AMENDMENT

By written consent of two—thirds (2/3) of the Voting Members of the Association within the district as then constituted, and written consent of the Developer, or their heirs, successors, and assigns, evidenced by a Declaration duly executed and acknowledged by such persons recorded in the office of the Recorder of Deeds of Jackson County, Missouri, this instrument may be modified and amended, provided, however, no right to exceed the maximum annual assessment herein provided for may be modified and amended. Provided further, that after Developer, or their heirs, assigns or successors no longer have any interest in property in the district, their written consent shall not be necessary to amend this instrument.

#### Section 11. HOW TERMINATED

This Declaration may be terminated, and all of the land now or hereafter affected may be released from all of the terms, provisions and obligations herein set forth and contained, by three—fourths (3/4) of the Voting Members of the Association by their executing and acknowledging an appropriate agreement or agreements and filing the same for record in the office of the Recorder of Deeds of Jackson County, Missouri.

Section 12. OTHER LANDS --- HOW THEY MAY BE ADDED

a. Persons other than Developer, who own land within said subdivision, may from time to time add such land to the district, provided that the land to be added to the district shall at that time be bound by all of the terms of this agreement and any future modifications thereof. Such persons shall execute and acknowledge an appropriate agreement and file same for record in the office of the Recorder of Deeds of Jackson County, Missouri.

b. The Developer and their heirs, successors and assigns, may, from time to time, add such land to the district, as is now or hereafter owned or approved by it for addition, provided that the land to be added to the district shall at the time be bound by all of the terms of this Declaration and any future modifications thereof. The Association may also unite or combine with any other association similarly organized, operating on a similar basis having jurisdiction of land lying wholly within Jackson County, Missouri.

Section 13. DEVELOPER TO DEED COMMON AREAS

From time to time, the Developer, their heirs and assigns may, upon written request of the Board of Directors of the Association pursuant to authority granted at a duly called meeting of said Board, convey any common area or areas to the Association by general warranty deed free and clear of all liens and encumbrances. No monetary consideration shall be paid to the Developer by the Association for such conveyances. The Association shall accept title to such common areas and shall construct, operate and maintain the recreational facilities on such areas in good conditions for the general use and enjoyment of all voting and non-voting members of the Association, residing within the district.

Section 14. COVENANTS RUNNING WITH THE LAND

All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding upon the Developer and such other owners, who, as provided herein, select to make their land a part of and subject to the terms of this agreement, and upon their successors, assigns and grantees, upon the effective date of this Declaration.

Section 15. WHEN DECLARATION BECOMES EFFECTIVE

This Declaration shall not be effective unless by April 22, 1970, not less than one hundred (100) additional lots in said subdivision of WOODSON ESTATES, as hereinabove described, owned by persons other than the Developer, have added their land to the district as provided by Paragraph 12 above.