

**THE FOUNTAINS AT RAINTREE LAKE  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made on 10th September, 2003, by Cumberland Properties, Inc., a Missouri corporation with a notice and mailing address of 500 SW Market, Lee's Summit, Missouri 64063 (the "Declarant").

**RECITALS**

A. Declarant owns the Villa Property in the City and Cass County, Missouri, which is more particularly described in Exhibit A to this Declaration.

B. The Villa Property is also subject to the Raintree Lake Covenants recorded on October 25, 1973, in Book 597 on Page 87, in the Cass County Recorder's Office, and on October 29, 1973, in Book I-478 on Page 989, in the Jackson County Recorder's Office, and shall be subject to all protective covenants, conditions, restrictions, reservations, easements, assessments, charges, liens as set forth therein.

C. Declarant contemplates the development of all of the Villa Property to be known as The Fountains at Raintree Lake as a residential planned development.

D. The development of the Villa Property will be as a planned residential development which shall consist of single-family villa units occupied by individuals or family units containing at least one person 55 years of age or older, together with related common facilities.

E. Declarant will convey the Villa Property to each successor Owner subject to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration.

F. Declarant imposes these covenants, conditions, restrictions, easements, assessments, charges and liens, as hereinafter set forth, for the benefit of Declarant, its successors and assigns and Owners and their successors and assigns as covenants running with the land, to protect, preserve and enhance the property value of the Villa Property.

NOW, THEREFORE, Declarant hereby makes this Declaration on the terms and conditions set forth herein below.

**DECLARATION**

**ARTICLE ONE**

**DEFINITIONS**

The following words, when used in this Declaration or any supplemental declaration, shall have the following meanings:

1. “Area of Common Responsibility” means the Common Area, together with any areas within or upon a Lot or Villa Unit, the maintenance, repair or replacement of which is the responsibility of the Association pursuant to the terms of this Declaration or as determined by the Board of Directors. Without limiting the generality of the foregoing sentence, Area of Common Responsibility shall include those areas set forth in subparagraph 2(a) of Article Seven of this Declaration.

2. “Association” means The Fountains at Raintree Lake Homeowners Association, a not-for-profit corporation to be formed by the Declarant pursuant to Chapter 355 of the Revised Statutes of Missouri, through Articles of Incorporation to be filed with the Missouri Secretary of State created to manage and govern the Common Area and Area of Common Responsibility.

3. “Board of Directors” shall be the elected governing body of the Association as provided by Chapter 355 of the Revised Statutes of Missouri pertaining to not-for-profit corporations.

4. “Builder” means any person or entity who purchases a portion of the Villa Property from the Declarant with the right, or subject to the obligation, to construct one or more Villa Units thereon. Declarant shall be deemed a Builder with respect to any Lot upon which Declarant undertakes the construction of a Villa Unit.

5. “City” means the City of Lee’s Summit, Cass County, Missouri.

6. “Class A Member” means each of those members of the Association designated as Owners.

7. “Class B Member” means the Declarant.

8. “Common Area” means all real property shown as common area on any final plat approved by the City, including all private roadways shown thereon, except the Lots.

9. “Declarant” means Cumberland Properties, Inc., a Missouri corporation, its successors and assigns.

10. “Housing Act” means the Fair Housing Act, 42 U.S.C.A., Section 3601, *et seq.*

11. “Lot” means any separately numbered tract upon the recorded subdivision plat.

12. “Member” means collectively each Class A Member and the Class B Member.

13. “Owner” means the record owner, whether one or more persons or entities, of the fee simple title to a Lot. The term “Owner” shall not mean any mortgagee unless and until such mortgagee has acquired fee simple title to such Lot pursuant to foreclosure or a proceeding in lieu of foreclosure.

14. “Raintree Lake Covenants” means that document recorded on October 25, 1973, in Book 597 on Page 87, in the Cass County Recorder’s Office, and on October 29, 1973, in Book I-478 on Page 989, in the Jackson County Recorder’s Office.

15. “Villa Property” means the real property, including any improvements now or hereafter constructed thereon, subjected to this Declaration. The Villa Property shall consist of that property described in Exhibit A, and such additions as may hereafter be incorporated to this Declaration by the filing of one or more supplemental declarations.

16. “Villa Unit” means one single-family residential villa unit, which shall be a detached single-family residential structure. The term Villa Unit includes the land upon which said Villa Unit is situated.

## ARTICLE TWO

### Annexations

1. Property. Declarant hereby declares that the Villa Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Villa Property. These easements, covenants, restrictions, conditions easements, assessments, charges and liens shall run with the Villa Property, shall be binding upon all parties having or acquiring any right, title or interest in the Villa Property and shall inure to the benefit of each and every Owner.

2. Annexations by Declarant. Declarant reserves the unilateral right to subject all or any portion of any adjacent property, and any improvements now or hereafter situated on such adjacent property, to all the terms and provisions of this Declaration by filing one or more supplementary declarations of covenants, conditions and restrictions in the office of the Recorder of Deeds for Cass or Jackson County, Missouri, as may be appropriate. Any such supplementary declaration shall not require the consent of Class A Members and Declarant shall be entitled to unilaterally file such supplementary declaration at any time prior to January 1, 2012. Any supplementary declaration shall be effective upon the filing of such supplementary declaration of record, unless otherwise provided therein. Said supplementary declaration may contain such additional covenants, conditions, restrictions and easements applicable solely to the annexed property as Declarant may determine to be necessary or desirable. In no event, however, shall such supplementary declaration modify or add to the covenants, conditions or restrictions established by this Declaration unless this Declaration is amended as required by Article Twelve.

3. Annexations by Membership. On or after January 1, 2012, or at such time as the Class B membership terminates, whichever occurs first, additional properties may be annexed by a vote of at least 67 percent of all votes cast by the Class A Members present at a meeting duly called for this purpose; written notice of which was sent to all Owners not less than 30 days nor more than 60 days in advance of the meeting.

This Article shall not be amended or repealed without the Declarant's prior written consent, so long as the Declarant is a Class B Member of the Association.

## ARTICLE THREE

### Association Membership

1. Membership and Voting Rights in the Association. The Association shall have two classes of voting memberships, Class A and Class B, as follows:

a. Every Owner shall be a Class A Member of the Association. Class A membership shall be appurtenant to and may not be separated from Lot ownership. Class A Members shall be entitled to one vote for each Lot which they own; provided, however, that when more than one person owns any Lot, all such persons shall be Class A Members but shall be entitled to cast only one vote for said Lot, in such manner as they may determine among themselves.

b. The Class B Member of the Association shall be the Declarant. The Class B Member shall be entitled to four votes for each Lot which it owns within the Villa Property.

2. Surrender of Class B Memberships. The Class B membership of Declarant shall terminate and be converted to Class A membership upon the happening of the first of the following events to occur:

a. Upon the sale of 95 percent of all the Lots planned to be developed within the Villa Property, as defined in this Declaration and expanded by any supplementary declaration; or

b. January 1, 2012; or

c. When in its sole discretion, the Declarant terminates Class B membership by delivery of written notice of such termination to the Association.

Upon the happening of event a, b or c, the Class B membership designation shall terminate and the Declarant shall be deemed a Class A Member and shall receive one Class A vote for every four Class B votes outstanding.

## ARTICLE FOUR

### Common Area and Facilities

1. Ownership. The Declarant shall own the Common Area and at such time as Declarant deems appropriate, shall transfer title to the Common Area to the Association, which conveyance of title shall be accepted by the Association.

2. Enjoyment. Each Owner shall have a right and easement of ingress to, egress from and, use and enjoyment of the Common Area, which shall be appurtenant to, inseparable from and shall pass with the title to each Lot. Each Owner may use the Common Area, subject to reasonable rules and regulations adopted by the Board of Directors, in accordance with the purpose for which they were intended, but without hindering or encroaching upon the lawful rights of other Owners.

3. Designation of Common Area. The Declarant is hereby granted the unilateral right to declare any part of the Villa Property as Common Area, so long as such action does not conflict with the terms of this Declaration, or any supplementary declaration filed in the office of the Recorder of Deeds for Cass County, Missouri.

## ARTICLE FIVE

### Assessments

#### 1. Obligation.

a. Each Owner, by acceptance of the deed for such Owner's Lot, regardless of whether it shall be so expressed in any such deed, hereby covenants and agrees, and shall be deemed to covenant and agree, to pay to the Association, or its nominee:

(1) Annual assessments.

(2) Special assessments for capital improvements or other purposes authorized by this Declaration.

(3) Specific assessments against an individual Owner's Lot.

2. Purpose of Annual Assessment. The annual assessment levied by the Association upon the Lots may be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners, including the maintenance of real or personal property. Without limiting the generality of the foregoing, such annual assessment charges may be used for, but are not necessarily limited to, the following purposes:

a. Routine repair, maintenance and care of all trees, shrubs, grass, berms, fences, utility lines and conduits, outdoor lighting equipment, exercise trails, putting greens, fences, ponds, streams, waterfalls, other watercourse related improvements, including, but not limited to, sprinkler systems, all other parts of the Common Area, and all costs of repair, maintenance and care of the Area of Common Responsibility, including, but not limited to snow removal from walks and driveways and trash collection.

b. Payment of taxes on land and improvements owned by the Association, if any.

c. Payment of management fees and other expenses (including necessary legal and accounting expenses) of the Association.

d. Creation of contingency and reasonable reserve funds, as determined from time to time by the Board of Directors.

e. Payment of insurance premiums for all insurance secured by the Board of Directors which is authorized by this Declaration.

f. Payment of the cost of maintaining on-site security for the entire Villa Property, but not interior security for individual Villa Units.

g. Payment of such other fees and charges as may be required or authorized by this Declaration or that the Board of Directors may from time to time determine necessary or desirable to meet the purposes and obligations of the Association, as stated in the Association's Articles of Incorporation, the Association's Bylaws, and in this Declaration.

Prior to January 1 of each calendar year, the Board of Directors shall prepare a budget for the following calendar year which shall contain the estimated costs of maintaining the Common Area and the Area of Common Responsibility and otherwise performing all of the obligations established under this Declaration. On the basis of this budget, the annual assessment for each Lot for the following calendar year shall be established by the Board of Directors.

3. Maximum Annual Assessment. Beginning January 1, 2004, the maximum annual assessment, as determined by the Board of Directors, shall be \$132.00 for each Lot not owned by Declarant.

a. From and after January 1, 2005, the maximum annual assessment for each such Lot may be increased effective January 1 of each year without a vote of the membership in conformance with the increase, if any, of the Consumer Price Index for All Urban Consumers for the U.S. City Average for All Items, 1982-84=100 ("CPI-U") as published by the Department of Labor, Washington, D.C., for the preceding month of July.

b. From and after January 1, 2005, the maximum annual assessment for each such Lot without regard to the CPI-U formula may be increased by the Members for the next succeeding year, and for each succeeding year thereafter, provided that any such change shall have 51 percent of the votes of each class of Members which are present and voting in person or voting by proxy at a meeting called for this purpose, written notice of which has been sent to all Members not less than 30 days nor more than 60 days in advance of the meeting, setting forth the purpose of the meeting.

c. No later than December 1 of each year, after consideration of the current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment for the following year at any amount not in excess of the maximum annual assessment.

4. Special Assessments. In addition to the annual assessment, the Board of Directors may, with prior approval of the Class B Member so long as there is a Class B Member, levy in any year a special assessment applicable to that year only, for the purpose of defraying in whole or in part any prior year's budget deficit or the cost of any construction, reconstruction, repairs or replacement of capital improvements completed by the Association. After the termination of the Class B membership, special assessments shall require an affirmative vote of 51 percent of the votes cast by Class A Members of the Association who are present and voting in person or voting by proxy at a special meeting duly called for the purpose of considering such special assessment. Notice of any such special meeting shall be given to each Member not less than 30 days and not more than 60 days prior to the date of such meeting and shall set forth the time, purpose and place

of such meeting. Such special assessment shall be due and payable at the time and in the manner authorized by the vote at the meeting at which such special assessment is approved.

5. Uniform Rates. The annual and special assessments shall be fixed at a uniform rate for all Lots.

6. Date of Commencement of Annual Assessment: Due Date. The annual assessment shall commence as to all Lots on January 1, 2004, or on the first day of the month following conveyance of a Lot or Lots to an Owner after January 1, 2004. Annual assessments shall be payable without demand or set-off, to the Association in twelve equal monthly installments, each of which shall be due on the first day of each calendar month in each year.

7. Duties of the Board of Directors with Respect to Annual Assessments.

a. Written notice of each year's annual assessment shall be given to each Owner by December 15 of the preceding year.

b. The Board of Directors shall give notice to any Owner who becomes subject to an annual assessment subsequent to January 1 of any year by acquiring a Lot and such Owner shall pay the annual assessment on a pro rata basis commencing on the date upon which the deed is conveying title to a Lot was delivered. Unless the Owner takes title to a Lot from the Declarant, however, the lien of the unpaid portion of an annual assessment shall attach to the Lot until the annual assessment is paid in full.

c. The Board of Directors shall, upon request, furnish to any Owner liable for any annual or special assessment, a certificate in writing, and in recordable form, setting forth whether all fees or charges have been paid to date. A reasonable charge may be requested by the Board of Directors for the issuance of such certificate. Such certificate may be recorded in the office of the Recorder of Deeds for Cass County, Missouri, and upon recording shall constitute conclusive evidence of the status of payment of any annual or special assessment for the period stated in the certificate.

8. Effect of Non-Payment of Assessments; Lien; Remedies; Maintenance and Enforcement of Lien by Declarant.

a. If any assessment or any part thereof is not paid when due, the unpaid amount of such assessment shall be deemed delinquent and shall thereupon be a continuing lien on the Lot against which the assessment was made. Such lien will take priority as of the date of recording this Declaration and will be superior to any other liens hereafter placed on said Lot; provided, however, that such lien is hereby subordinated to, and shall be inferior to, any valid first mortgage now existing or which may hereafter encumber said Lot. If any Owner fails to pay any assessment when due, the assessment will be delinquent and payment of principal, late charges, interest, costs of suit and reasonable attorneys' fees may be enforced as a lien on the Lot against which it is levied in proceedings in any court in Cass County, Missouri, having jurisdiction over suits for the enforcement of such liens. Additionally, the Association may proceed against any Owner or Owners which fail to pay any assessment when due and shall be entitled to seek all remedies available under law and in equity.

b. The Association must bring all suits to enforce the lien of assessments or otherwise collect unpaid assessments. The Association may, at its discretion, file certificates of nonpayment of assessments in the office of the Recorder of Deeds of Cass County, Missouri, whenever payment of any such assessment is delinquent. For each certificate so filed, the Association will be entitled to collect from the Owner, or Owners of the Lot against which the certificate is filed, a fee as established from time to time by the Association, which fee shall be secured by the lien. Said fee will be collectible in the same manner as the original assessment and will be in addition to any principal, late charges, interest, costs of suit and reasonable attorneys' fees due on such assessment. The Association may terminate or suspend any services provided to an Owner, Lot or Villa Unit if and so long as the Owner fails to pay any assessment.

c. All payments received shall be applied first to costs, then to late charges, if any, then to interest, if any, then to delinquent assessments, then to any unpaid installments of assessments in the order of their coming due, whether or not such installments are the subject matter of any actions to enforce a lien.

9. Exempt Property. All Villa Property dedicated to and accepted by any municipality or public utility for public use or purposes and, except as otherwise expressly provided in this Declaration, all Villa Property owned by the Declarant is wholly exempt from the assessments and liens created hereby.

10. Assessments Against Builders' Lots. Any Lot owned by a Builder (which includes the Declarant if Declarant is deemed to be a Builder pursuant to paragraph 4 of Article One hereof) shall be exempt from the assessments and liens created by this Declaration.

11. Specific Assessments. The Board of Directors shall have the right and power, but not the obligation, to levy specific assessments against individual Lots for the purpose of paying for any costs incurred by the Association as a result of the breach of the terms of this Declaration by an Owner or such Owner's agents, family members, guests, tenants, invitees or contractors or as a result of the negligence or willful misconduct of the Owner thereof or of such Owner's agents, family, guests, tenants, invitees or contractors or for such other purposes as are set forth in this declaration. Such specific assessments shall be due in accordance with such terms as may be established by the Board of Directors and shall be secured by a lien and enforceable by the Association as provided in this Article Five of this Declaration.

12. Easements. Any foreclosure of a lien securing an assessment shall not terminate any easement granted by the Declarant, whether pursuant to this Declaration or otherwise, and all such assessments shall be inferior and subordinate to such easements.

## ARTICLE SIX

### Insurance

The Board of Directors shall obtain and maintain, to the extent reasonably available at a reasonable cost, the following insurance:



1. Casualty Insurance. Casualty insurance naming the Association as insured for the benefit of the Owners in an amount equal to the full replacement value (i.e., 100 percent of "replacement cost" exclusive of land, foundation and excavation) of the exterior and structural portions of improvements located upon the Common Area and owned by the Association.

2. Liability Insurance. Public liability insurance, in such amounts and in such forms as may be considered appropriate by the Board of Directors, including but not limited to, water damage, legal liability, hired automobile, non-owned automobile, liability for property of others, and any and all other liability incident to the use of the Common Area, which policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or Owner.

3. Worker's Compensation. Worker's compensation insurance to the extent necessary to comply with any applicable law.

4. Fidelity Insurance. Fidelity insurance against dishonest acts on the part of directors, managers, trustees, employees or volunteers of the Association responsible for handling funds collected and held for the benefit of the Owners, naming the Association as insured.

5. Other Insurance. Such other policies of insurance the Board of Directors deems necessary or desirable.

## ARTICLE SEVEN

### Management, Maintenance, Repairs, Alterations and Improvements

1. Manager or Managing Agent. The management, repair, improvement, and alteration of all improvements constructed upon the Common Area, Areas of Common Responsibility and all other property as set forth hereinafter as the responsibility of the Association, shall be the responsibility of the Board of Directors. The Board of Directors may delegate all or any portion of its authority to a manager or managing agent. Such delegation shall be evidenced by a management contract which shall not exceed three years in duration and which shall set forth such duties and responsibilities as the Board of Directors may from time to time determine.

2. The Association's Responsibility.

a. The Association shall provide, from the proceeds of the assessments received pursuant to Article Five of this Declaration, routine repair, maintenance and care for the driveways, walks, ponds, putting greens, exercise trails and other watercourse related improvements and other exterior improvements and other recreational amenities located upon the Common Area, including fences and entranceways, and all trees, shrubs, grass and berms within the Common Area. The Association shall replace any tree or shrub within the Common Area if and when the need arises.

b. The frequency of and the materials to be used in the performance of all such routine repair, maintenance and care shall be in the sole discretion of the Board of Directors and shall not be subject to the control of any Owner. In the event that the need for

maintenance, care, repair, replacement, or extraordinary services to any Lot is caused by Owner modifications to the original design of a Lot, the addition of improvements by the Owner, or through the willful or negligent act of any Owner, or of such Owner's agents, family, guests, tenants, invitees or contractors, the cost of such maintenance, care, repair, replacement, or extraordinary services not covered by insurance shall be added to and become a specific assessment, in addition to the annual assessment to which such Owner's Lot is subject, and must be paid by or on behalf of said Owner within 30 days after written demand of payment is dispatched to the Owner from the Board of Directors, and shall be enforceable and secured by a lien as in the case of all other assessments.

c. The Association shall provide for snow removal from sidewalks, driveways and exercise paths as well as trash removal for all Lots.

d. The Association shall not be responsible for the repair or maintenance of any Villa Unit.

e. Each Lot and the Common Area will be serviced with underground sprinkling systems for the watering of lawns and grass areas.

3. The Owner's Responsibility. Each Owner shall maintain, repair and replace at such Owner's expense all portions of such Owner's Lot and Villa Unit which are not considered by the Association to be an Area of Common Responsibility, including but not limited to foundation plantings and garden landscaping, driveways or other concrete accessing, all exterior building surfaces of Owner's Villa Unit, all exterior doors, including garage doors, all window glass or plexiglass repair or replacement, all appliances, heating, plumbing, electrical, air conditioning, air conditioning compressor and related facilities, fixtures, or installations, and any portion of any utility services (including meters) located within the interior of such Owner's Villa Unit, and all interior improvements and fixtures which are appurtenant to each Villa Unit, including without limitation responsibility for all breakage, damage, malfunction, painting, repair and maintenance thereof. All fixtures and equipment installed within a Villa Unit, commencing at a point where the utility lines, pipes, wires, conduit or systems enter the exterior of the Villa Unit, shall be maintained and kept in repair by the Owner thereof except as otherwise provided in this Declaration.

4. The Declarant's Responsibility. The Declarant shall, at its own expense and to the extent required by law, maintain and care for all the undeveloped property and any Lots owned by the Declarant.

5. Improvements and Alterations. No Owner may paint or otherwise decorate or change the appearance of the exterior portion of such Owner's Villa Unit or the surrounding Lot without the prior written consent of the Architectural Review Board, as defined in Article Eight herein and approval of the Raintree Lake Property Owners Association Architectural Review Board, as provided in the Raintree Lake Covenants. If any violation of this provision is not remedied within 15 days after notice of such violation is sent to the Owner of the Lot upon which such violation exists, the Association shall have the right, through its agents and employees to take such legal action as may be necessary to force the removal or termination of such violation. The cost thereof (including legal and court costs incurred by the Association to enforce the provisions hereof) may be assessed against the Lot upon which such violation occurred as a specific assessment, and when so assessed, a statement for the amount thereof shall be rendered to the

Owner of such Lot, in all respects, and subject to the same provisions and limitations as provided in Article Five of this Declaration. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of any provision of this Declaration exists, and neither the Association nor any such agent, employee or committee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

## ARTICLE EIGHT

### Architectural Control

1. The Architectural Review Board. An Architectural Review Board (the “ARB”), consisting of three or more persons, shall be appointed by the Class B Member. At such time as the Class B membership shall cease to exist, the ARB shall be appointed by the Board of Directors.

2. Purpose. The ARB shall regulate the external design, appearance, use, location and maintenance of any Owner-occupied Lot and of improvements thereon in such a manner so as to preserve and enhance the value of all Lots within The Fountains and to maintain a harmonious relationship among the structures, the natural vegetation and the topography.

3. Conditions. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any property or the improvements located thereon from its natural or improved state existing on the date such property was first conveyed in fee by the Developer to an Owner shall be made or done without the prior approval of the ARB, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the ARB.

4. Procedures. In the event the ARB fails to approve, modify or disapprove in writing an application within 30 days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse ARB decision to the Board of Directors, which may reverse or modify such decision by a two-thirds vote of the directors.

## ARTICLE NINE

### Easements

1. Utility Easements. Declarant will install or cause to be installed lines, pipes, conduits, and other utility facilities, hereinafter referred to as “utility lines”, for the purpose of providing sewer, electricity, gas, water, and telephone services to the Lots, the Villa Units and the Common Area. To insure that such utility lines shall be installed, kept, maintained, restored, repaired and replaced, Declarant hereby reserves unto itself, and grants to the Association, an easement to install, keep, maintain, restore, repair, and replace any utility lines under and across the Villa Property.

2. Blanket Easement. Declarant hereby reserves unto itself and grants to the Association a blanket easement (the “Easement”) upon, across, over and under all of the Villa

Property, including the Lots except for that portion of the Villa Property upon which a Villa Unit structure exists, for ingress to and egress from, installment, operation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, telephone, television, electricity, gas, cable television and drainage facilities, together with the right to remove any obstruction that may be placed in such Easement area that would constitute interference with the use of such Easement or with the use, maintenance, operation or installation of such utilities or drainage facilities. The Declarant reserves the right to convey all or part of the Easement created herein to any public or private utility company or public entity in furtherance of the purposes described herein. Notwithstanding anything to the contrary contained in this paragraph, or in this Declaration, no sewer, electrical line, water line or other utilities may be installed or relocated upon the Villa Property until approved by the Declarant so long as the Declarant owns any real property within the boundaries of The Fountains, and thereafter by the Board of Directors. Neither Declarant nor any utility company or other authorized entity using the Easement created by this Declaration shall be liable for any damage to shrubbery, trees, flowers, grass, or other improvements located on the property covered by such Easement. Owners shall not be deemed to separately own pipes, wires, conduits or other services lines running through their property, which are utilized for, or serve, other Villa Units or the Common Area, but each Owner shall have an easement of ingress and egress to the aforesaid lines as shall be necessary for the use, maintenance and enjoyment of such Owner's Villa Unit, subject to such rules and regulations as may be established by the Board of Directors. No Owner may disconnect any utility line, and all Owners are prohibited from intentionally interrupting the utility services rendered to other Owners or the Common Area. All expenses incurred by the Association in reconnecting or repairing utility services as the result of the intentional disruption of such service by an Owner shall be assessed against and shall be immediately due from such Owner as a specific assessment, as defined in Article Five.

3. Easement for Ingress and Egress. Declarant hereby creates and reserves to itself, and hereby grants to the Association for the benefit of each Owner, an easement for ingress to and egress from each Villa Unit over and across all the Common Area.

4. Easement for the Association. Declarant hereby establishes and reserves to itself, and hereby grants to the Association, an easement over, under and across all of the Villa Property for the purposes of executing any of the powers, rights or duties granted to or imposed upon the Association by the terms of the Association's Articles of Incorporation, the Association's Bylaws, or this Declaration.

## ARTICLE TEN

### Age Restriction

1. Intention. It is the intention of the Declarant that the Villa Property will be an age-restricted community primarily for individuals age 55 or older.

2. Compliance. The Association will closely monitor compliance with the requirements of the Housing Act and, more specifically, the Association will ensure that the management and enforcement of this age restriction meets the criteria for exemptions ("Exemptions") to the Housing Act found presently in 42 U.S.C.A., Section 3607(b)(1).

3. Policies and Procedures. In order to ensure compliance with the Housing Act, the Association shall develop and adhere to policies and procedures to:

- a. ensure that at least 80 percent of the occupied Villa Units are occupied by at least one person who is age 55 or older; and
- b. clearly demonstrate that it is the Association's intent to comply with all necessary requirements to qualify as an age-restricted community under 42 U.S.C.A., Section 3607(b)(2)(C); and
- c. comply with the United States Department of Housing and Urban Development requirements found in 24 C.F.R. Section 100.305, and any amendments thereto, relating to verification of occupancy of each Villa Unit.

4. Forced Sale. If, for any reason, a Villa Unit fails to be occupied by at least one party who is 55 years of age or older, the Lot or Villa Unit shall be deemed a non-conforming unit ("Non-Conforming Villa Unit"). The Owner of any Non-Conforming Villa Unit shall have two options:

- a. sell the Villa Unit within nine months of written notice from the Board of Directors that the Villa Unit is a Non-Conforming Unit to an individual, or individuals, who will comply with the age requirements (the "Age Requirements") of paragraph 3(a) of this Article. If this option is chosen, the Non-Conforming Villa Unit must be continuously listed for sale until it is purchased by an individual complying with the Age Requirements; or
- b. file an appeal within 60 days of the written notice from the Board of Directors that the Villa Unit is a Non-Conforming Villa Unit with the Board of Directors for permission to occupy the Non-Conforming Villa Unit as an approved non-qualified person ("Non-Qualified Person"). Under no circumstances will the Board of Directors approve occupancy of a Lot or Villa Unit by a Non-Qualified Person if such occupancy would eliminate the Association from Exemptions under the Housing Act.

## ARTICLE ELEVEN

### Use Restrictions

1. Single-Family Residences. Each Villa Unit shall be used solely for a private residence of no more than one family unit, and shall be a minimum of 1,200 square feet. Villa Units may not be leased or occupied by persons who are not Owners or related to an Owner within four degrees of consanguinity.

2. Other Structures. No structure of a temporary character, and no trailer, vehicle, basement, tent, shack, playhouse, shed, garage, barn or other buildings shall be erected, used or maintained at any time upon any Lot or the Common Area without the prior written consent of the Architectural Review Board.

3. Signs. No signs of any type shall be hung or displayed either on the inside or the outside of any Villa Unit or otherwise so as to be seen from the exterior; provided, however, that temporary political signs and one “for sale” sign at any one time may be displayed by or on behalf of an Owner on such Owner's Lot solely in the area in front of such Owner's Villa Unit until the same is sold, all in accordance with the laws of the City.

4. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. All woodpiles shall be located or screened so as to be concealed from the view of neighboring Lots, streets, and adjacent property. No outdoor clothes dryers or lines, billboards, radio or television transmitting or receiving antennas, dishes (except dishes less than three feet in diameter shall be automatically permitted) or towers, exterior lighting, awnings, canopies, shutters, unsightly objects or nuisances shall be erected, affixed to, installed, placed or permitted on any Lot or upon any exterior wall, window, or roof of any Villa Unit without the prior written consent of the Board of Directors. No Owner shall permit his or her Lot or Villa Unit to become infested with wood boring or other insects or vermin. No yard ornamentation, building ornamentation, stepping stones or sidewalks shall be permitted on any Lot without the prior written consent of the Board of Directors.

5. Storage. No storage of any type shall be allowed at any time on any Lot except within each Owner's private enclosed Villa Unit, and nothing shall be stored in such manner as to be exposed to public view. No liquid fuel storage tank with a capacity in excess of two gallons may be maintained upon any Lot. Storage within a garage shall not be so great as to cause an Owner to not use such Owner's garage for the purpose of parking such Owner's vehicle.

6. Vehicle Repair. No major repair, rebuilding, or maintenance of any vehicle shall be permitted except within an Owner's private enclosed garage. No major repair, rebuilding, or maintenance of any vehicle shall be permitted in open parking areas or carports. This includes, but is not limited to: automobiles, trucks, campers, trailers and boats. No non-operable vehicle of any kind, or any vehicle without current license tags may be kept on any yard, driveway, or street in front of any Villa Unit at any time.

7. Animals Kept as Pets. No livestock, animals or poultry of any kind shall be kept on or in a Lot and Villa Unit, except not more than two household pets may be kept on or in a Lot and Villa Unit. All such animals must be confined at all times within the interior of the Villa Unit or on a leash under the direct supervision and control of the Owner. Owners shall prevent their animals from barking and from making loud or raucous noises to the disturbance of other Owners. The Board of Directors shall have the absolute power to prohibit an animal from being kept in a Villa Unit.

8. Garbage. All rubbish, trash or garbage or unsightly debris shall be kept so as not to be seen from the neighboring Lots and streets (except on collection days).

9. Adverse Acts. An Owner shall do no act nor any work that will impair the structural soundness or integrity of such Owner's or another Villa Unit or impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Villa Units or their Owners.

10. Vehicle Parking. Only one automobile may be parked on an Owner's driveway, except for automobiles, and trucks with a capacity not exceeding one-half ton of visitors temporarily parking thereon in accordance with rules and regulations promulgated by the Board of Directors. Trucks with a capacity not exceeding one-half ton, belonging to Owners, their families or tenants, shall be parked or stored within the Owner's garage. No vehicle shall be parked on any street except temporarily and in no event shall any vehicle be regularly parked continuously for more than 24 hours on any street. No vehicles shall be parked on streets or driveways so as to obstruct ingress and egress by Owners, their families, tenants, guests and invitees, except for the reasonable needs of emergency, construction, or service vehicles and then limited to as brief a time as possible. Except for the reasonable needs of emergency, construction, delivery or pickup, or service vehicles, no truck with a capacity exceeding one-half ton shall be permitted to park in the Villa Property except as provided hereinafter. No boat, camper, trailer, commercial truck, truck with a capacity exceeding one-half ton, mobile home, or self-propelled recreational vehicle of any type whatsoever may be parked, stored, or kept within the Villa Property, except for a period of time reasonably necessary for loading or unloading of personal property by an Owner. No person shall be allowed to cook or sleep in any vehicle or trailer at any time or for any reason whatsoever when such vehicle or trailer is located upon Villa Property.

11. Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Villa Property, except as installed by Declarant in connection with the initial construction of buildings or Villa Units or as approved by the Board of Directors. No chain link boundary fences shall be allowed upon any Lot.

12. Sound Devices. No speaker, horn, whistle, siren, bell or other sound device shall be located, installed or maintained upon any Lot or the exterior of any Villa Unit except for security purposes.

13. Building Projection. No building or any part thereof shall be nearer the street line than the building set back lines, without the prior consent of the Board of Directors.

14. Garages. All garages shall be attached to the Villa Unit or qualify as a basement garage.

15. Insurance Risks. Nothing shall be done or kept in on the Villa Property which will increase the rate of insurance payable by the Association or individual Owners without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept on or in such Owner's Lot or Villa Unit or the Common Area which will result in the cancellation of insurance on any Lot or Villa Unit or any of the Common Area, or which would be in violation of any law.

16. Exception From Use Restrictions. The foregoing covenants of this Declaration shall not apply to the activities of the Declarant or Association. The Declarant may maintain, while constructing and selling Villa Units such facilities as it in its sole discretion may deem necessary or convenient, including, but without limitation, offices, storage areas, model Villa Units and signs. The Declarant may also grant such rights to Builders in connection with and during the construction and selling of Villa Units by Builders.

17. Association's Standards. The Association, acting through its Board of Directors, shall have authority to make and enforce standards and use restrictions applicable to the Villa Property in addition to those contained herein, and to impose reasonable user fees for facilities, including, but not limited to, vehicle storage areas and parking facilities, if any.

18. Occupants. All provisions of this Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Villa Unit.

## ARTICLE TWELVE

### General Provisions

1. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the Villa Property, including any of the real property which becomes subject to this Declaration pursuant to Article Two hereof, and shall inure to the benefit of and be enforceable by the Association, or any Owner, for a term of 30 years after the recording date this Declaration, after which time said covenants shall be automatically extended for successive periods of 15 years unless Owners representing 67 percent of the votes held by Class A Members have signed and recorded an instrument abolishing or changing said covenants, conditions and restrictions in whole or in part; provided, however, that no such instrument shall be effective unless made and recorded six months in advance of its effective date; and provided, further, that no such change shall be effective on less than 30 days' prior notice to the Owners.

2. Amendment by Declarant. Until such time as the first Lot is conveyed to an Owner other than a Builder, Declarant, at its sole discretion, may abolish the covenants, conditions and restrictions of this Declaration or change them in whole or in part. In addition, so long as Declarant is a Class B Member of the Association, Declarant shall have the right, but not the obligation, to amend or modify the covenants, conditions and restrictions of this Declaration without providing notice to or obtaining the consent of any Class A Members of the Association to the extent Declarant, in its sole discretion, may deem necessary.

3. Amendment by Owners. Except as provided in paragraphs 1 and 2 of this Article, the covenants, conditions and restrictions of this Declaration may be abolished, amended, or changed in whole or in part only with the consent of Owners representing at least 67 percent of the votes held by Class A Members and the Class B Member of the Association, to be evidenced by a document in writing bearing each of their signatures.

4. Enforcement. The Association or any Owner may enforce these covenants, conditions and restrictions against the Association or any Owner by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or



restriction, either to restrain such violation or to recover damages or to enforce any lien created herein against the land; and failure by the Association or any Owner to enforce any covenant, condition or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

5. Severability. Invalidation of any of these covenants, conditions or restrictions by judgment or court order shall not affect in any way, the other provisions contained herein, which shall remain in full force and effect.

6. Notices. All notices required to be given hereunder shall be sent by certified mail, return receipt requested addressed to the Association at the address of its registered agent or such other address as may be filed of record by the Association in the Office of the Recorder of Deeds for Jackson County, Missouri; addressed to an Owner at the street address assigned to such Owner's Villa Unit by the City; and addressed to Declarant at 500 SW Market, Lee's Summit, Missouri 64063, Lee's Summit, Missouri; provided, however, that said notice may be delivered by any other means if actually received by the intended recipient.

7. Captions. Captions provided herein for Articles or paragraphs are inserted only for convenience and are not to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or paragraph to which they refer.

8. Limitation of Liability. The Association and Declarant shall not be liable for any failure of any services to be obtained by the Association or Declarant, or paid for out of the annual or special assessments levied upon Owners, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Area, or from any wire, pipe, drain, conduit, utility line or the like. The Association and Declarant shall not be liable to any Owner for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Area. No diminution or abatement of annual or special assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area, or from any action taken by the Association and Declarant in accordance with any of the provisions of this Declaration or with any law, ordinance, order, or directive of any municipal or other governmental or quasi-governmental authority. Neither the Association nor the Declarant nor any of their employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications including, without limiting the generality of the foregoing, ponds, and other water course related improvements, and Villa Units construction.

9. Successors of Declarant. Any and all rights, reservations, interests, privileges and powers of the Declarant hereunder may be assigned and transferred by the Declarant, with or without notice to the Association.

10. Conflicts. In the event provisions of this Declaration conflict with the provisions of the Raintree Lake Covenants, except as specifically stated otherwise in this Declaration, or in any amendments to this Declaration, this Declaration shall control the Villa Property.

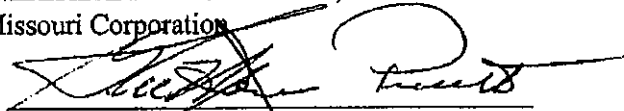
10. Miscellaneous Expenses. Whenever an Owner, such Owner's tenant or such Owner's mortgagee requests any information pursuant to the terms of this Declaration, all

reasonable expenses, incurred by the Association in providing such information will be paid by the party requesting same.

IN WITNESS WHEREOF, Cumberland Properties, being Declarant herein, has caused this instrument to be executed in its name and on its behalf by its Members duly authorized thereunto this 19<sup>th</sup> day of September, 2003.

CUMBERLAND PROPERTIES, INC  
A Missouri Corporation

By:

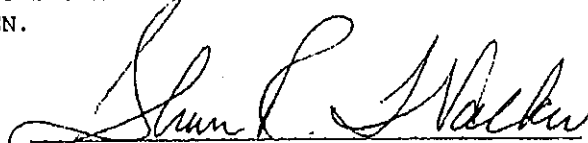
  
Glen Jones  
President, Cumberland Properties, Inc.

STATE OF MISSOURI  
COUNTY OF JACKSON

ON THIS 19TH DAY OF SEPTEMBER, 2003, before me, Sharon R. Walker,  
A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED  
GLEN JONES, PRESIDENT OF CUMBERLAND PROPERTIES, INC.

KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE WITHIN DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS IN BEHALF OF SAID CORPORATION  
AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES THEREIN  
STATED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL  
THE DAY AND YEAR LAST ABOVE WRITTEN.

  
NOTARY PUBLIC IN AND FOR SAID STATE

SHARON R. WALKER  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Jackson County  
My Commission Expires July 22, 2007

Exhibit A

Legal Description of the Villa Property

**PROPERTY DESCRIPTION:**

CONTAINING 1,146,002 SQ. FT. OR 26.3086 ACRES.

ALL THAT PART OF THE NORTHWEST 1/4 AND THAT PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 46, RANGE 31 IN LEE'S SUMMIT, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE N 02°-50'-59" E, ALONG THE WEST LINE OF SAID NORTHWEST 1/4, 1081.29 FEET; THENCE N 65°-17'-44" E, 209.38 FEET; THENCE NORTHERLY, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 225.00 FEET AND AN INITIAL TANGENT BEARING OF N 23°-26'-08" W, AN ARC DISTANCE OF 102.78 FEET; THENCE N 02°-44'-17" E, 158.40 FEET; THENCE NORTHEASTERLY, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 225.00 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, AN ARC DISTANCE OF 175.07 FEET; THENCE N 47°-19'-13" E, 22.18 FEET; THENCE NORTHERLY, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, AN ARC DISTANCE OF 23.58 FEET; THENCE N 47°-19'-13" E, 50.00 FEET; THENCE S 42°-40'-47" E, 86.53 FEET; THENCE N 47°-19'-13" E, 20.00 FEET; THENCE S 42°-40'-47" E, 278.01 FEET; THENCE S 87°-40'-47" E, 368.86 FEET; THENCE N 02°-19'-13" E, 60.00 FEET; THENCE S 87°-40'-47" E, 35.00 FEET TO THE WEST RIGHT-OF-WAY OF RAINTREE DRIVE; THENCE S 02°-19'-13" W, ALONG SAID LINE, 255.00 FEET; THENCE N 87°-40'-47" W, 35.00 FEET; THENCE N 02°-19'-13" E, PARALLEL WITH SAID RIGHT-OF-WAY LINE, 60.00 FEET; THENCE N 87°-40'-47" W, 367.01 FEET; THENCE S 47°-19'-13" W, 284.09 FEET; THENCE S 42°-40'-28" E, 78.51 FEET; THENCE S 44°-57'-23" W, 116.22 FEET; THENCE S 17°-41'-55" W, 78.15 FEET; THENCE S 02°-44'-17" W, 240.00 FEET; THENCE N 72°-39'-01" E, 128.64 FEET; THENCE N 81°-49'-55" E, 67.04 FEET; THENCE N 62°-46'-16" E, 145.44 FEET; THENCE S 87°-40'-47" E, 150.00 FEET; THENCE S 02°-19'-13" W, 8.85 FEET; THENCE S 87°-40'-47" E, 185.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF RAINTREE DRIVE; THENCE S 02°-19'-13" W, 47.35 FEET; THENCE SOUTHWESTERLY, ALONG SAID LINE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 854.51 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, AN ARC DISTANCE OF 677.10 FEET; THENCE S 47°-43'-13" W, CONTINUING ALONG SAID LINE, 845.00 FEET; THENCE SOUTHWESTERLY, CONTINUING ALONG SAID LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 286.97 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, AN ARC DISTANCE OF 223.38 FEET; THENCE N 87°-40'-47" W, CONTINUING ALONG SAID LINE AND ITS WESTERLY PROLONGATION, 55.32 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6; THENCE N 02°-36'-08" E, ALONG SAID LINE, SAID LINE ALSO BEING THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 1-T.46-R.32, 358.16 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 1; THENCE N 02°-50'-59" E, ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 1, 86.64 FEET TO THE POINT OF BEGINNING.

CERTIFICATE

State of Missouri }

County of Cass }

I, Sandra A. Gregory, Recorder of Deeds within and for the County of Cass, in the State of Missouri, aforesaid, do hereby certify that this document is a full, true and complete copy of the instrument dated the 11<sup>th</sup> day of Sept, 20 03 as instrument number 276320

In Book 2343 on page 159 as the same appears on file in my office

In Testimony Whereof, I hereunto set my hand and affix the seal of said office at Harrisonville, Missouri, this 18<sup>th</sup> day of September, A.D. 20 03.

Seal

Sandra A. Gregory  
Recorder of Deeds

By: [Signature]  
Deputy

5/2/04