

**DECLARATION OF RESTRICTIONS, COVENANTS AND
CONDITIONS
OF
PRAIRIE VIEW HEIGHTS EIGHTH ADDITION
AND ANY SUBSEQUENTLY PLATTED ADDITIONS
OF PRAIRIE VIEW HEIGHTS**

This Declaration of Restrictions, Covenants and Conditions for PRAIRIE VIEW HEIGHTS EIGHTH ADDITION, made, on the date hereinafter set forth, by SCHELL DEVELOPMENT CO., L.L.C., a Missouri Limited Liability Company, hereinafter often "Developer",

WITNESSETH:

WHEREAS, on the ____ day of _____, _____, Developer was the owner of record of the following described real property consisting of _____ acres, more or less, hereinafter called PRAIRIE VIEW HEIGHTS EIGHTH ADDITION, or the Property:

See attached description, and

WHEREAS, Developer is the designated legal successor and assignee of Larry E. Schell and Mary Ann Schell, husband and wife, who have previously caused to be recorded in Book 2235 at Page 554 in the Office of the Recorder of Deeds of Greene County, Missouri a "Declaration of Restrictions, Covenants and Conditions of Prairie View Heights Fourth Addition and Any Subsequently Platted Additions of Prairie View Heights", and

WHEREAS, Developer is the designated legal successor and assignee of Mary Ann Schell, individually and as surviving spouse of Larry E. Schell, who has previously caused to be recorded in Book 2448 at Page 2297 in the Office of the Recorder of Deeds of Greene County, Missouri a "Declaration of Restrictions, Covenants and Conditions of Prairie View Heights Fifth Addition", and

WHEREAS, Developer has designated Keltner Enterprises, Inc. as its designated legal successor for purposes of developing Prairie View Heights Seventh Addition, and Keltner Enterprises, Inc. is in the process of platting and preparing appropriate restrictions and covenants for Prairie View Heights Seventh Addition; and

WHEREAS, said Declarations therein provided that said "any subsequently platted additions to PRAIRIE VIEW HEIGHTS shall be subject to the restrictions, covenants and conditions, easements and

charges" contained therein and that same "shall run with the land and be binding on all present and future owners, and shall inure to the benefit of each owner of the land included in PRAIRIE VIEW HEIGHTS FOURTH ADDITION and to any subsequently platted additions to PRAIRIE VIEW HEIGHTS" and

WHEREAS, Developer desires that said restrictions, covenants and conditions, easements and charges shall apply to PRAIRIE VIEW HEIGHTS EIGHTH ADDITION except as amended herein and desires to amend some of said restrictions and further desires to restate said restrictions as amended in full as applied to PRAIRIE VIEW HEIGHTS EIGHTH ADDITION and to any subsequently platted additions to PRAIRIE VIEW HEIGHTS, and

WHEREAS, Developer desires to provide for the development of PRAIRIE VIEW HEIGHTS EIGHTH ADDITION and subsequently platted additions to PRAIRIE VIEW HEIGHTS with open areas, recreational facilities, detached single family homes, and to provide for the maintenance, improvement and administration of the PRAIRIE VIEW HEIGHTS community and the preservation of the values and amenities of PRAIRIE VIEW HEIGHTS; and

WHEREAS, the final plat of PRAIRIE VIEW HEIGHTS EIGHTH ADDITION has been approved by Greene County and will be recorded in the near future; and

WHEREAS, subsequent additions to PRAIRIE VIEW HEIGHTS will be final platted in future phases; and

WHEREAS, the PVH HOME OWNERS ASSOCIATION, INC. was duly incorporated under the laws of the State of Missouri as a not-for profit corporation for the general purposes of managing the PRAIRIE VIEW HEIGHTS properties and facilities; administering and enforcing the covenants and restrictions; and collecting and disbursing the assessments as provided for in the Declaration of Restrictions, Covenants and Conditions of PRAIRIE VIEW HEIGHTS FOURTH ADDITION and any subsequent additions to PRAIRIE VIEW HEIGHTS (including this EIGHTH ADDITION);

NOW THEREFORE, Developer does hereby declare that PRAIRIE VIEW HEIGHTS EIGHTH ADDITION Subdivision and any subsequently platted additions to PRAIRIE VIEW HEIGHTS shall be subject to the restrictions, covenants and conditions, easements and charges hereinafter set forth, which shall run with the land and be binding on all present and future owners, and shall inure to the benefit of each owner of the land

included in PRAIRIE VIEW HEIGHTS EIGHTH ADDITION and to any subsequently plated additions to PRAIRIE VIEW HEIGHTS.

ARTICLE I DEFINITIONS

Section 1: As used in this Declaration of Restrictions, Covenants and Conditions:

- (a) "Association" shall mean and refer to PVH HOME OWNERS ASSOCIATION, INC., its successors and assigns.
- (b) "Common Area" shall mean all real property owned by the Association or designated or shown as community area, common area or as open, detention or drainage area on the PRAIRIE VIEW HEIGHTS EIGHTH ADDITION final plat, as recorded, including any amendments or additions thereto, which shall include but not be limited to the landscape portion of any street, medians, traffic islands or landscaped areas within any public or private street within the subdivision, any private streets, entry roads, curb and gutter, sidewalks, gates and other improvements within the area which would have been public right-of-way if the streets were public.
- (c) "Developer" shall mean SCHELL DEVELOPMENT CO., L.L.C., a Missouri Limited Liability Company, its successors and assigns and any entity designated by SCHELL DEVELOPMENT as a Developer or successor.
- (d) "Declaration" shall mean the PRAIRIE VIEW HEIGHTS EIGHTH ADDITION Restrictions, Covenants and Conditions and all other provisions set forth in this entire Document, as the same may from time to time be amended or modified.
- (e) "Property" or "Properties" shall mean and refer to the _____ acres set forth above, and referred to as PRAIRIE VIEW HEIGHTS EIGHTH ADDITION and any subsequently platted additions to PRAIRIE VIEW HEIGHTS final platted by Developer and developed in conjunction with PRAIRIE VIEW HEIGHTS upon filing either an amendment with the Greene County Recorder of Deeds or a subsequent plat which states the legal

description of the additional real estate to be included in the property.

- (f) "Owner(s)" shall mean the record owner, whether one or more persons or entities, of a fee or undivided interest in any lot. The foregoing does not include any persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise in this Declaration the term "Owner" shall not include a lessee or tenant.
- (g) "Single Family Residence" shall mean structure containing one dwelling only and occupied by not more than one family.
- (h) "Lot" shall mean any parcel of real property designated as a Lot on any recorded Subdivision Plat within PRAIRIE VIEW HEIGHTS EIGHTH ADDITION or any subsequent additions to PRAIRIE VIEW HEIGHTS, with the exception of the Common Area.
- (i) "Subdivision Plat" shall mean a recorded plat covering any or all of the Property referred to in this Declaration.
- (j) "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation of no greater than the elevation of the base of the object being viewed.
- (k) "Board" shall mean the Board of Directors of the Association.
- (l) "Corner Lot" shall mean any lot which abuts, other than at it's rear line, upon more than one street.
- (m) "PRAIRIE VIEW HEIGHTS" shall mean the property as set forth above.
- (n) "Rules" shall mean and refer to those rules and regulations as passed and promulgated by the Association, or the Board acting on behalf thereof, under the authority granted by this Declaration, or the Articles of Incorporation or By-Laws of the Association.

**ARTICLE II
PROPERTY RIGHTS**

Section 1. Owner Easements 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; the right of the Association to limit the number of guests of Members; the right of the Association to limit the Common Areas which may be used by guests or Members; the right of the Association to impose conditions under which Common Areas may be used by Members and/or their guests;
- (b) The right of the Association to suspend any Owner's voting rights and the right to use the recreational facilities for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed ninety (90) days for any infraction of the Declaration, any Supplementary Declarations thereto, By-Laws of the Association or any Rules which may be imposed by the Association.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any governmental association, authority or public or private utility for such purposes, provided however, Greene County provides written consent to such dedication, conveyance or transfer or the City of Springfield in the event the subdivision has been annexed into the City of Springfield.
- (d) The right of the Association to promulgate and enforce the rules and regulations in connection with the Properties described herein or any additions thereto.

**ARTICLE III
PROPERTY SUBJECT TO THE PRAIRIE VIEW HEIGHTS
RESTRICTIONS**

Section 1. General Declaration Creating PRAIRIE VIEW

HEIGHTS. The Developer will develop PRAIRIE VIEW HEIGHTS in phases, by subdivision into various lots. The Developer may supplement or modify this Declaration with such additional covenants, conditions, and restrictions as may be appropriate. The Developer's sale and conveyance of Lots is subject to this Declaration, as modified and amended. The Developer hereby declares that all of the real property within PRAIRIE VIEW HEIGHTS is and shall be held, conveyed, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration, as amended or modified, is in furtherance of a general plan for the subdivision, improvement and sale of said real property and is established for the purpose of enhancing the value, desirability and attractiveness of said real property and part thereof. All of this Declaration shall run with all of the real property within PRAIRIE VIEW HEIGHTS for all purposes and shall be binding upon and inure to the benefit of the Developer, the Association, and all Owners and their successors in interest.

**ARTICLE IV
THE PVH HOME OWNERS ASSOCIATION, INC.**

Section 1: Organizations.

- (a) **The Association.** The Association is a nonprofit corporation organized and existing under the General Not-for-Profit Corporation Act of the State of Missouri, charged with the duties and invested with the powers prescribed by law and set forth in its Articles of Incorporation, By-Laws, and this Declaration. Neither the Articles nor By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.
- (b) **Board of Directors and Officers.** The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles and By-Laws.

Section 2. Powers and Duties of the Association. The Association shall have such rights, powers and duties as set forth in the Articles and By-Laws.

Section 3. Rules. By a majority vote of the board, the Association may, from time to time and subject to the provisions of the

Declaration, adopt, amend and repeal rules and regulations governing the use of any Common Area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner, provided, however that such Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or By-Laws. A copy of such Rules as they may from time to time be adopted, amended or repealed shall be made available to each Owner, at said Owner's request. Upon promulgation, said Rules shall have the same force and effect as if they were set forth and were part of the Declaration.

Section 4. Personal Liability. No Member of the Board of Directors, or any Committee of the Association, or any officers of the Association shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, or any other representative or employee of the Association, or the Architectural Committee, or any other Committee, or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted without willful or intentional misconduct.

Section 5. Responsibility for Common Areas. Association shall have the responsibility for maintaining the Common Areas and shall be responsible for payment of any taxes and insurance on the Common Areas.

Section 6. Liability of Association for Vehicles. Neither the Association nor the Board shall assume any liability of any kind or nature with respect to any vehicles moving within or parked upon any portion of the Common Areas. Any person operating or parking any vehicles within the boundaries of the Common Areas shall do so entirely at such Person's risk and shall indemnify and hold both the Association and the Board harmless from and against any and all claims, demands, actions, causes of action and proceedings arising out of the presence of any such vehicle within the boundaries of the Common Areas.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner, either of a fee or undivided interest or a lot, which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an

obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 2. Members shall have no rights to manage the business affairs of the Association. The management of the Association is vested entirely in the Board of Directors as set forth in the Articles of Incorporation and By-Laws.

ARTICLE VI COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Developer for each Lot owner within PRAIRIE VIEW HEIGHTS hereby covenants and each Owner of any Lot, 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 fees, shall to the full extent permitted by law, 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 and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of all such property on the effective date of the assessments. The personal obligation for delinquent assessments shall not pass to his successors in title, but, nevertheless, the lien arising by reason of such assessment shall continue to be a charge and lien upon the land as above provided.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the general benefit, recreation, health, safety and welfare of the residents in PRAIRIE VIEW HEIGHTS FOURTH ADDITION and the subsequently platted Additions to PRAIRIE VIEW HEIGHTS. Such purposes shall include, but shall not be limited to and the Association's rights and powers shall include (in addition to the rights and powers set forth in this Declaration and in the Association's Articles of Incorporation and By-Laws) provision for the improvement, construction, repair, maintenance, care, upkeep and management of the Common Areas and the improvements and facilities thereon, and further, shall include the payment of any taxes and assessments, if any, which may be assessed and levied upon any property owner by the Association, together with all other costs and expenses related to the management and maintenance of the Common Areas.

Nothing contained herein shall limit the Association's rights and powers granted in this Article or granted elsewhere in this Declaration and the Articles of Incorporation and By-Laws of the Association.

Section 3. Annual Assessment.

- (a) The initial annual assessment shall be for 2001 and shall be _____ and No/100 Dollars (\$____) per member. The Developer shall not be considered a member for purposes of assessment, and shall pay no assessments.
- (b) After 2001 the maximum annual assessment may be increased each year without a vote of the Members not more than ten percent (10%) above the maximum assessment established for the previous year except that in the event the annual assessment is not sufficient to pay for the maintenance, taxes and insurance on the Common Area, an additional annual assessment will be made solely for the purpose of paying for the maintenance, taxes and insurance on the Common Area.

Section 4. Special Assessment for Capital Improvements.

In addition to the annual assessments in Section 3 above, the Association may levy, in any assessment year, a special assessment. The purpose of the special assessment shall be for a capital improvement in the Common Area, or provided in whole or in part, for the cost of any reconstruction, repair or replacement of a capital improvement in the Common Area, including fixtures and personal property related thereto. The maximum special assessment shall be Five Hundred and No/100 (\$500) Dollars for year, per member. Any special assessment shall require an affirmative vote of a majority of the members.

Section 5. Date of Commencement of Annual Assessments.

The annual assessments for each Lot provided for herein shall commence on January 1, 2002 and thereafter shall commence on the date of the first conveyance of said Lot by the Developer to an Owner. The first annual assessment for each Lot shall be prorated based on the date it is sold by the Developer. Written notice of the annual assessment shall be sent to every Owner.

Section 6. Effect of Nonpayment of Assessments; Remedies of the Association.

Each member shall be deemed to covenant and agree to pay to the Association the assessments provided for herein and each agrees to the enforcement of the assessments in the

manner herein specified. In the event the Association employs and attorney or attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of the Declaration, each Owner agrees to pay reasonable attorney fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. In the event of a default in payment of any such assessment when due, the assessment shall be deemed delinquent and shall bear interest at the rate of 18% per annum and in addition to any other remedies herein or law provided, the Association may enforce each such obligation in any manner provided by law or in equity, or without any limitation by the foregoing, by either or both of the following procedures.

- (a) **Enforcement by Suit.** The Board may cause a suit at law to be commenced and maintained in the name of the Association against any Owner to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of the delinquency, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent owner.

- (b) **Enforcement by Lien.** There is, to the full extent permitted by law, hereby created a claim of lien, with power of sale, on each and every lot within PRAIRIE VIEW HEIGHTS to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots under these Restrictions, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of delinquency, an administration fee of One Hundred Dollars (\$100) to the Association, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time within thirty (30) days after the occurrence of any default in the payment of any such assessment, the Association or any authorized representative, may, but shall not be required to make a written demand for payment to the defaulting Owner, on behalf of the Association. Said demand shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim or lien. If such

delinquency is not paid within ten (10) days after delivery of such demand, or even without such a written demand being made, the Association may elect to file such a claim or lien on behalf of the Association against the Lot of the defaulting Owner. Such a claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

- (a) The name of the delinquent Owner (as shown on the Association records);
- (b) The legal description or street address of the lot against which claim of lien is made;
- (c) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, the One Hundred Dollars (\$100) administration fee, collection costs, and reasonable attorneys' fees;
- (d) That the claim of lien is made by the Association pursuant to the PRAIRIE VIEW HEIGHTS Restrictions; and
- (e) That a lien is claimed against said Lot in an amount equal to the amount stated.

Upon (1) recordation of a duly executed original or copy of such a claim or lien, and (2) mailing of a copy thereof to said Owner, the lien claimed thereon shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real property taxes on any lot, assessments on any lot in favor of any municipal or other governmental assessing unit, and liens which are hereinafter specifically described in Section 7. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust, with a power of sale, as set forth by the laws of the State of Missouri, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of the Members. The Association may acquire, hold, lease, mortgage, and convey any such Lot. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be

allowed to the Association to the extent permitted by law. Each Owner, by becoming an Owner in PRAIRIE VIEW HEIGHTS hereby expressly waives any objection to the enforcement and foreclosure of this lien in this matter.

Section 7. **Subordination of the Lien to Mortgages.** The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII ARCHITECTURAL CONTROL

Section 1. **Review by Committee.** No structure, residence, accessory building, tennis court, swimming pool, fence, mailbox, driveway, wall, lot drainage works, awning, exterior area lighting or other improvements shall be constructed or maintained upon any Lot and no addition or change to the exterior of a structure shall be undertaken, unless complete plans, specification and plot plans thereof showing the exterior design, height, building material and color scheme thereof, the location of the structure on the Lot plotted horizontally and vertically, the location of driveways and fencing, shall be submitted to and approved in writing by the Architectural Committee. A copy of such plans, specifications and plot plans as finally approved, shall be kept by the Architectural Committee. All fees and expenses incurred by the Architectural Committee, shall be paid by the applicant.

Section 2. **Duties.** The Architectural Committee shall have the right in its sole discretion to refuse to approve any plans and specifications which are not suitable or desirable for aesthetic or other reasons and in passing upon such plans and specifications and without any limitations of the foregoing, it shall have the right to take into consideration the suitability of the proposed building, structure or other improvement or landscaping, in light of Developer's plans for PRAIRIE VIEW HEIGHTS as a residential development of architectural design and location in relation to surrounding structures and topography and the effect of the improvements as planned on the outlook from adjacent or neighboring lots. No changes or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee.

Section 3. Procedures.

- (b) The Architectural Committee shall approve or disapprove all plans and request within thirty (30) days after receipt by the Committee of all necessary information. In the event the Architectural Committee fails to take any action within thirty (30) days after a request and all necessary information has been submitted, approval shall be presumed and this Article shall be deemed to have been fully complied with.
- (c) The Architectural Committee shall maintain written records of all applications submitted to it and of all actions taken. Plans, specifications, and other records and minutes of Committee actions shall be kept by the Committee for at least one (1) year.
- (d) A majority vote of the Architectural Committee shall be necessary for approval of any request.

Section 4. Members of Committee.

- (a) The Architectural Committee shall consist of three (3) Members appointed by the Board of Directors of the Association. Members of the Committee are not required to be Owners.

Section 5. Non-liability for Approval of Plans. Plans and specifications shall be reviewed by the Architectural Committee as to style, exterior design, appearance and location and shall not be reviewed for engineering or structural design or for compliance with zoning and building ordinances. By approving such plans and specifications, neither the Architectural Committee, the members thereof, the Association, the Board nor the Developer assume any liability or responsibility therefor or for any defect in any structure constructed from such plans and specifications. Neither the Architectural Committee, any member thereof, the Association, the Board nor the Developer or their agents shall be liable to any Owner, prospective Owner, or other person for any damage, loss or injury suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction performance of any work, whether or not pursuant to approved plans, drawings and specifications, or (c) the development, or manner of development, of any property within PRAIRIE VIEW HEIGHTS provided however that such action, with the actual knowledge possessed, was taken without willful or intentional misconduct. Approval of plans

and specifications by the Architectural Committee is not and shall not be deemed to be a representation or

warranty that said plans or specifications comply with applicable governmental ordinances and building codes.

Section 6. Inspection. Any member of the Architectural Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time enter upon any Lot in order to inspect improvements constructed or being constructed on such Lot to ascertain that such improvements have been or are being built in compliance with the approved plans and specifications.

ARTICLE VIII USE AND BUILDING RESTRICTIONS

Section 1. The following restrictions are imposed upon each residential lot for the benefit of all Owners and the Developer.

Section 2. Single-Family Residential Use. All Lots shall be used, improved and devoted exclusively as a one-family dwelling and no gainful occupation, profession, trade or other nonresidential use shall be conducted on any such Lot. Nothing herein shall be deemed to prevent the leasing of any such dwelling from time to time, by the Owner thereof, subject to all of the provisions of the Declaration.

Section 3. Animals and Birdhouses.

A. Animals. No animals, fowl or livestock other than a maximum of four generally recognized house pets on any lot shall be allowed on or maintained on any property within PRAIRIE VIEW HEIGHTS and then only if they are kept solely as domestic pets and not for commercial purposes. The total body weight of all of the pets maintained on any lot shall not exceed 150 pounds (e.g., it shall be a violation of this provision to maintain two 80 pound dogs). No more than two pets shall be of the same species (e.g., no more than two of such animals shall be dogs). No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. Any animal making noise which may be heard beyond the confines of any lot after written complaint to the lot's Owner by any adjoining lot Owner, the Board or the Developer shall be automatically deemed to be a nuisance. No doghouse, structure, or pen for the care, housing or confinement of any animal shall be constructed or maintained unless it is in a fenced rear yard, and is approved under

Article VII. Upon the written request of any Owner or the Developer, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purpose of this paragraph, a particular animal is a generally recognized house pet, or a nuisance. Any decision rendered by the Board shall be enforceable as other restrictions contained herein. Pets shall not be allowed loose or unsupervised on any part of the Properties and walking of pets shall be on a leash and allowed only on such portions of the Properties as the Board may prescribe by its Rules and Regulations.

B. Birdhouses. No more than 3 birdhouses shall be located on any Lot. No more than 1 birdhouse containing more than 1 entrance/exit (that is, bird "doorway") shall be located on any Lot. No multi-entrance/exit birdhouse shall have more than 16 entrance/exits. No birdhouse shall be attached to or located within 6 feet of any fence. No birdhouse shall be located within 6 feet of any property line. Birdhouses shall only be located in the fenced rear yard of a Lot. Upon the written request of any Owner or the Developer, the Board shall conclusively determine, in its sole and absolute discretion, whether, a particular birdhouse may continue to be maintained in PRAIRIE VIEW HEIGHTS."

Section 4. Antenna and Satellite Dishes. No antenna, satellite dish or other device for the transmission or reception of electronic signals shall be erected, used or maintained outdoors on any Lot unless approved by the Architectural Committee.

Section 5. Improvements and Alterations. No building, fence, wall, residence or other structure shall be commenced, erected, improved or structurally altered, without the prior written approval of the Architectural Committee. The exterior surface of a single-family structure shall not be painted (other than painting with the same color of paint as previously existed) or changed in any manner without the prior written approval of the Architectural Committee (See Article VII).

Section 6. Temporary Occupancy. No trailer, incomplete building, tent, shack or garage and no temporary building or structure of any kind shall be used at any time for a residence on any property within PRAIRIE VIEW HEIGHTS. Temporary buildings or structures used during the construction of a dwelling on any such property shall be subject to the rules of the Board and shall be removed immediately after the completion of construction.

Section 7. Motor Vehicles and Trailers.

- (b) No mobile or motor home, trailer of any kind, truck larger than ½ ton, camper, boat, or permanent tent or similar structure shall be parked, kept, maintained or repaired upon any property of street (public or private) within PRAIRIE VIEW HEIGHTS between the hours of 12 midnight and 5:00 a.m. in such a manner as will be visible from neighboring property; nor shall any motor vehicle of any kind be constructed, reconstructed or repaired on any public or private property within PRAIRIE VIEW HEIGHTS, provided however, that the provisions of this paragraph shall not apply to emergency vehicle repairs, or temporary construction shelters or storage facilities approved by the Architectural Committee and used exclusively in connection with the construction of any improvement.
- (c) Any motor vehicle which is, in the sole discretion of the Board, unsightly or not in keeping with motor vehicles owned by PRAIRIE VIEW HEIGHTS residents, or is a service vehicle or pick up truck with a camper top or similar top shall be parked in the garage overnight, and shall not be parked in PRAIRIE VIEW HEIGHTS between the hours of 12 midnight and 5:00 a.m. in such a manner as will be visible from neighboring property.

Section 8. Motor Vehicles - Excessive Noise. If the Board determines that any motor vehicle is creating loud or annoying noises by virtue of its operation within PRAIRIE VIEW HEIGHTS, such determination shall be conclusive and final that the operation upon notice by the Board to the Owner or operator thereof, shall be prohibited within PRAIRIE VIEW HEIGHTS.

Section 9. Landscaping and Lawns.

- (a) **Completion.** Each Owner shall complete the landscaping required by the Architectural Committee prior to occupying the premises, unless the Architectural Committee shall approve a delay based on weather

conditions.

- (b) **By Owner.** Each Owner of a Lot within PRAIRIE VIEW HEIGHTS shall keep all shrubs, trees, grass and plantings including the area located between the boundary line of his property and the street on which such Owner's property abuts, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. In the event that any Owner fails to maintain his lawn, landscaping or plantings as provided herein, the Association, or its agents, may enter upon said Lot and may do so, and the Owner shall reimburse the Association for its costs, upon demand. The Association may enforce collection of same in the same manner as if such costs were an assessment and shall have all powers and rights to so collect as set forth in Article VI, Section 6, above.

- (c) **By the Association.** The Association and its agents shall have the right, at any time, to plant, replace, maintain, and cultivate shrubs, trees, grass and plantings on the Common Area and on any easements of record over an Owner's Lot. The Association or its authorized agents shall not be liable for trespass, for so doing.

Section 10. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any lot within PRAIRIE VIEW HEIGHTS, and no odors shall be permitted to arise therefrom so as to render any such Lot or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. The Board in its sole discretion shall have the right to determine the existence of any such nuisance and for the purposes of this Declaration such determination shall be conclusive.

Section 11. Repair of Buildings. No building, structure or fence upon any Lot within PRAIRIE VIEW HEIGHTS shall be permitted to

fall into disrepair, and each building, structure or fence shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 12. Trash Containers and Collection. No garbage or trash shall be placed or kept on any property within PRAIRIE VIEW HEIGHTS except in covered containers of a standard type approved by the Association. The Association shall select a company for weekly trash disposal service for PRAIRIE VIEW HEIGHTS. All residents of PRAIRIE VIEW HEIGHTS shall be required to use this company and no other trash disposal service shall be permitted. In no event shall such containers be maintained so as to be visible from Neighboring Property except to make same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot and no burning in the open will be permitted.

Section 13. Clothes Drying Facilities. Outside clothes lines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot within PRAIRIE VIEW HEIGHTS unless they are erected, placed or maintained exclusively within an area not visible from Neighboring Property.

Section 14. Encroachments. No tree, shrub or planting of any kind on any Lot within PRAIRIE VIEW HEIGHTS shall be allowed to overhang or otherwise encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of eight (8) feet, without the prior approval of the Architectural Committee.

Section 15. Machinery and Equipment. No machinery or equipment of any kind shall be placed, parked, operated or maintained upon or adjacent to any Lot within PRAIRIE VIEW HEIGHTS except that:

- (a) An Owner (or guest, invitee, licensee, tenant, lessee, family member, agent or employee thereof) may use such machinery or equipment as is usual and customary in connection with the use and maintenance of that Owner's Lot or the improvements thereon.

- (b) A builder or contractor constructing improvements for an Owner may use such machinery or equipment as is usual and customary in connection with the construction of improvements on an owner's Lot, provided that such machinery or equipment is actively being use by the builder or contractor and is stored or placed in an area approved by the Architectural Committee, and that no trucks of any kind or nature shall be kept, parked or placed upon any Lot or street (public or private) within PRAIRIE VIEW HEIGHTS between the hours of 12:00 midnight and 5:00 a.m. unless permission to the contrary is temporarily granted by the Architectural Committee; and

- (c) The Developer or the Association may park, place, operate or maintain such machinery and equipment as may be required for the operation and maintenance of the Common Area.

Section 16. Restriction on Further Subdivision. No Lot within PRAIRIE VIEW HEIGHTS shall be further subdivided by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by an Owner, without the prior written approval of the Developer. This provision shall not, in any way, limit Developer from subdividing any property owned by Developer. Such newly created parcel thereafter shall be considered as one Lot.

Section 17. Signs. No sign of any kind shall be displayed to the public view of any Lot except as follows and subject to the approval of the Architectural Committee:

- (a) One sign of not more than five (5) square feet, advertising the property for sale or rent;

- (b) Signs used by a builder to advertise the property during the construction and sales period;

- (c) Signs of such shape, size and locations as Developer deems necessary for security control and to advertise

PRAIRIE VIEW HEIGHTS;

- (d) One sign, not to exceed one (1) square foot in size which may contain the name or names of the Owner or Owners and/or the dwelling unit number; and
- (e) Signs of such shape, size and location as the Architectural Committee may approve.

Section 18. Dwelling Size. The Architectural Committee shall exercise its best judgment to see that all structures, as to size, conform to and harmonize with the existing surroundings and structures.

Section 19. Building Location.

- (a) No building shall be located nearer to any lot line than the minimum set back line shown on the recorded plat of PRAIRIE VIEW HEIGHTS SIXTH ADDITION or its subsequently recorded additions.
- (b) The building location (horizontal and vertical) must be approved by the Architectural Committee.

Section 20. Fences.

- (a) Fences are not encouraged but properly constructed and installed fences may be approved for construction by the Architectural Committee upon submission of plans and specifications. Fences shall be of the design, materials and specifications determined by the Architectural Committee.
- (b) Chain link fences are not permitted, except for the tennis courts in the Common Area.
- (c) Privacy fences may not exceed seventy-two (72) inches in height.
- (d) No fence or hedge shall be permitted between the front wall of the structure and the adjoining street or across the front yard.

Section 21. Sales and Construction Office. Notwithstanding anything herein, Developer and its agents may establish temporary sales and/or construction offices and model homes, in PRAIRIE VIEW HEIGHTS and may permit builders and realtors to establish the same. Any such office shall be removed upon the completion of the subdivision. Developer and its agents shall have the right to use the Common Area in conjunction with the sales and promotion of lots and houses in PRAIRIE VIEW HEIGHTS.

Section 22. Easements. Easements are reserved as shown upon the recorded plat of PRAIRIE VIEW HEIGHTS EIGHTH ADDITION and any subsequently platted additions to PRAIRIE VIEW HEIGHTS.

Section 23. Soil Removal. Soil may not be removed from the subdivision without the consent of the Developer.

Section 24. Garage Doors. The doors of all garages shall be kept closed at all times except when necessary for ingress and egress. The doors of all garages shall be installed with electric or battery powered opening and closing devices.

Section 25. Basketball Goals and Other Sporting Devices and Paraphernalia. No basketball goals shall be attached to the front or side of any dwelling or garage, nor erected, maintained, stored or located in any front yard or side yard on any lot. Basketball goals and other sporting devices and paraphernalia (e.g., volleyball nets, badminton nets, trampolines, soccer goals, batting cages, etc.) may only be maintained, stored or located outside in the fenced rear yard of a lot and shall not be visible from the front curb of any lot or adjoining lot. The Board shall have the authority to prohibit, in particular instances, the maintenance of particular sporting devices or paraphernalia of any lot in PRAIRIE VIEW HEIGHTS. Upon the written request of any Owner or the Developer, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purpose of this paragraph particular sporting device(s) or paraphernalia may continue to be maintained in PRAIRIE VIEW HEIGHTS. The Board may also prescribe rules and regulations regarding their maintenance and use."

Section 26. Outside Lighting. Spotlights, floodlights or similar type high intensity lighting shall be designed, located and constructed so

as to eliminate or significantly reduce glare on adjoining residences and the Architectural Committee may direct that they be redesigned or eliminated if they determine that it is advisable. Other types of low intensity lighting which do not disturb the Owners or other occupants of the properties may be allowed.

Section 27. **Roofs.** All roofs shall have an exterior surface which shall be approved by the Architectural Committee, in its sole discretion.

Section 28. **Completion.** A structure shall be completed within a reasonable time after commencement of construction. In the event of fire, windstorm or other damage, a structure shall be repaired, remodeled, rebuilt or completely removed within a reasonable time.

Section 29. **Common Area.** Although Builders are also Owners, the recreational facilities in the Common Area are not for Builder's use or their family's use, unless they live in PRAIRIE VIEW HEIGHTS.

Section 30. **Remedies.** In the event that an Owner (or guest, invitee, licensee, tenant, lessee, family member, builder, contractor, subcontractor, agent or employee thereof), shall violate or permit to be violated, any of the provisions set forth in this Article, the Board shall cause to be delivered to said Owner a written Notice of Violation. Said Notice of Violation shall set forth the nature of the alleged violation and shall request that the violation be voluntarily terminated or remedied within a reasonable time from the mailing date of said Notice.

If after a reasonable time has elapsed from the date of said Notice, the violation has not been voluntarily terminated by the Owner, the Association shall have the authority to pursue and effect any and all procedures which may be calculated as reasonably necessary to remove and/or terminate the cause of said violation. This authority shall include, but shall not be limited to, the power to employ laborers to enter upon the premises of said Owner for the purpose of removing and/or terminating the cause of said violation. If, by virtue of the exercise of the authority granted herein, the Board shall incur expenses in connection with the process of removing and/or terminating said violation, the Association may enforce collection of same in the same manner as if such costs were an assessment and shall have all powers and rights to so collect as set forth in Article VI, Section 6, above.

For the purposes of administering this Section, this determination of whether a violation has been, or is being, committed and the determination of what time period constitutes a "reasonable time" allowable for voluntary termination of the same, shall be made by the Association after taking into consideration the facts and circumstances surrounding the particular violative situation, condition, or occurrence.

Section 31. Exception for Lots 18 and 19. The provisions of Article VIII shall not apply to Lots 18 and 19 of Prairie View Heights Eighth Addition until such time as all those structures which currently exist on said lots have been removed and residential building permits have been issued pertaining to said lots.

ARTICLE IX CARE OF COMMON AREA

Section 1. Maintenance by Association. The Board of the Association may, at any time, as to any Common Area owned, leased or otherwise controlled by it, take the following actions without any approval of the Owners being required:

- (a) Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such place;
- (b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk, driveway or parking area;
- (c) Maintain and replace injured or diseased trees, shrubs, annuals, perennials, ground cover or other vegetation within any common area, traffic island, median or other landscaped area within any right-of-way of any public or private street located within the subdivision to the extent that the Board deems necessary or desirable for the conservation of water and soil and for aesthetic purposes, and to the extent that the Greene County Highway Department deems necessary to maintain public safety. The Board of the Association shall be the sole judge as to the appropriate maintenance of all

grounds within any common area, except any landscaped or planted areas within the right-of-way of any public or private street. Landscaping in road right-of-ways within the subdivision shall be maintained to the satisfaction of the Greene County Highway Department. In the event the landscaping within any right-of-way shall not be maintained by the Association to the satisfaction of the Greene County Highway Department, the County shall provide the Home Owners Association with written notification of any deficiencies. Whereupon the Association shall have thirty (30) days to correct any deficiencies. In the event the Association fails to correct any deficiencies in landscaping as delineated by the Greene County Highway Department, within thirty (30) days of the receipt of notice, then in that event the County may either: "(1) have the landscaping maintenance performed and the Homeowners Association shall be billed for the cost of said landscaping, or (2) the County may remove the landscaping, median or landscaped area within any right-of-way in said subdivision.

- (d) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof.
- (e) Do all such other and further acts which the Board deems necessary to preserve and protect the property and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of all grounds within the Common Area.

Section 2. Damage or Destruction of Common Area by Owners. In the event any Common Area, willfully or maliciously, is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner does hereby authorize the Association to repair said damaged area and the Association at its option shall so repair said damaged area. The cost for such repairs shall be paid by said Owner, upon demand, to the Association and

Association may enforce collection of same in the same manner as if such costs were an assessment and shall have all powers and rights to so collect as set forth in Article VI, Section 6, above.

ARTICLE X GENERAL PROVISIONS

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

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

Section 3. **Amendment.**

- (a) The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless otherwise amended as herein provided.
- (b) This Declaration may be amended in whole or in part at any time within seven (7) years from the date of recordation of same by an instrument in writing executed by Developer, its successors or assigns.
- (c) This Declaration may be amended at the end of the above mentioned seven year period and at any time thereafter by an instrument in writing executed by the Association, with the approval of a majority of the votes of the Board of Directors."
- (d) Any amendment of the Declaration pursuant to the provisions of Article X, Section 3(b) or (c) hereinabove,

which would change any obligation to maintain any common area, storm water detention facilities, drainage area, or any landscaping within the right-of-way of any public or private street of the final plat of Prairie View Heights Sixth Addition shall require the written approval of Greene County, Missouri or the City of Springfield, Missouri, if Prairie View Heights Sixth Addition is subsequently annexed into the City of Springfield, before it shall become effective. No amendment shall become effective until it is recorded in the Recorder of Deeds Office of Greene County, Missouri.

- (e) No amendment shall be made to dissolve the Association without the consent of Greene County, Missouri.

Section 4. Violations and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be Nuisance and may be enjoined or abated, whether or not the Relief sought is for negative or affirmative action, by Developer, the Association or any Owner or Owners of Lots within PRAIRIE VIEW HEIGHTS. However, any other provision to the contrary notwithstanding, only Developer, the Association, the Board of Directors or the duly authorized agents of any of them, may enforce by self-help any of the provisions of these Restrictions.

Section 5. Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within PRAIRIE VIEW HEIGHTS is hereby declared to be a violation of these Restrictions and subject to any or all of the enforcement procedures set forth in these Restrictions.

Section 6. Remedies Cumulative. Each remedy provided by these Restrictions is cumulative and not exclusive.

Section 7. Delivery of Notices and Documents. Any written notice or other documents relating to or required by these Restrictions may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered the day after a copy of same has been deposited in the United States mail, postage prepaid, addresses as follows:

- (a) If to the Association or the Architectural Committee, to the Registered Agent at his registered office: Currently Mary Ann Schell, 3406 W. Sexton Street, Springfield, Missouri 65810-1022.
- (b) If to an Owner of Builder, to the address of any Lot within PRAIRIE VIEW HEIGHTS, owner, in whole or in part, by him or to any other address last furnished by an Owner to the Association.
- (c) If to Developer, to Schell Development Co., L.L.C., c/o Mary Ann Schell at 3406 W. Sexton Street, Springfield, Missouri 65810-1022.

Provided; however, that any such address may be changed at any time by the party concerned by furnishing a written notice of change of address to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

Section 8. The Declaration. By acceptance of a deed or by acquiring any ownership interest in any of the real property, included within this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, to the covenants, conditions, rules and regulations, now or hereafter imposed by this Declaration and any amendments thereto. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the real property covered thereby.

ARTICLE XI

Section 1. Subdivision Changes. The Developer feels that it is important for PRAIRIE VIEW HEIGHTS to change to meet the public demand for housing.

The Developer expects that to ensure the success of PRAIRIE VIEW HEIGHTS, it will be necessary and desirable to modify the plat.

All Owners are hereby notified that changes may be made in the

final plat approved by Greene County.

IN WITNESS WHEREOF, the undersigned SCHELL DEVELOPMENT CO., L.L.C. has caused this instrument to be executed on this ____ day of February, 2003.

SCHELL DEVELOPMENT CO., L.L.C.

BY _____

Mary Ann Schell, Operating Manager

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this ____ day of February, 2003 before me personally appeared **MARY ANN SCHELL**, to me personally known, who being duly sworn did say that she is the Operating Manager of **SCHELL DEVELOPMENT CO., L.L.C** and that the said instrument was signed and sealed in behalf of said **SCHELL DEVELOPMENT CO., L.L.C** and the said **MARY ANN SCHELL**, acknowledges said instrument to be the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Springfield, the day and year first above written.

Notary Public