

SOUTH BARRINGTON LAKES ASSOCIATION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this \_\_\_\_\_ day of \_\_\_\_\_, 1997, by 111 E. CHESTNUT CORPORATION, as Illinois Corporation (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant is the title holder of that certain real property situated in the Village of South Barrington, Cook County, Illinois, more particularly described as (TS-71-126 inclusive and out lots 2 and 3 in) South Barrington Lakes Unit Two, being a subdivision of part of Section 27, Township 42 North, Range 9, East of the Third Principal Meridian, according to the plot thereof recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 25, 1978 as document number 24-599-768 filed in the Office of the Registrar of Titles as Document LR 304-1883 (Stage Two); and

WHEREAS, Declarant is the title holder of that certain real property situated in the Village of South Barrington, Cook County, Illinois, more particularly described as (TS-21-179 inclusive and out lots 4 and 5 in) South Barrington Lakes Unit Three, being a subdivision of part of Section 27, Township 42 North, Range 9, East of the Third Principal Meridian, according to the plot thereof recorded in the Office of the Recorder of Deeds of Cook County on August 25, 1978 as document number 24-599-769 filed in the Office of the Registrar of Titles as Document LR 304-1884 (Stage Three); and

WHEREAS, Stage Two consists of residential lots to be conveyed to individuals some of who will be purchasing residential units constructed thereon, and certain open areas for common use by all Lot owners, being Out Lots Two and Three (Common Area in Stage Two); and

WHEREAS, Stage Three consists of residential lots to be conveyed to individuals, some of which will be purchasing residential units constructed thereon and certain open areas for common use by all Lot owners, being Out Lots Four and Five (Common Area in Stage Three); and

WHEREAS, Stages Two and Three are a portion of a tract of land consisting of approximately 440 acres (the "Development Area"), which is more particularly described on Exhibit "A" attached hereto, and title to which is held by Declarant, and the Declarant may subdivide additional portions of the Development Area and submit the same in stages to the provisions of this Declaration, provided such annexations are done in accordance with the terms hereof; and

WHEREAS, Declarant intends to convey the Common Areas to an Illinois not-for-profit corporation known as South Barrington Lakes Association (“Association” herein); and

WHEREAS, Declarant intends to develop the Development Area; and

WHEREAS, Declarant intends to subject Stages Two and Three to the covenants, conditions and restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Association; and

WHEREAS, Declarant intends to subject some or all of the remainder of the Development Area to those covenants, conditions and restrictions hereinafter set forth or such other covenants, conditions and restrictions as may be set forth in supplements to this Declaration, as hereinafter more fully provided; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities the subject development to create the Association for the purpose of maintaining the Common Areas and any improvements thereon, and for administering and enforcing the covenants, conditions and restrictions, and for collecting and disbursing the assessments and charges hereinafter created.

NOW, THEREFORE, Declarant hereby declares that Stages Two and Three shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens which are for the purpose of protecting the value and desirability of, and which shall run with, the property submitted thereto and be binding on and inure to the benefit all of parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns.

## ARTICLE I

### Definitions

Section 1: “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation. Declarant shall, as long as it owns Lots, be an Owner.

Section2: “Association” shall mean and refer to South Barrington Lakes Association, a not-for profit Corporation under the General Not-For-Profit Corporation Act of the State of Illinois, its successors and assigns. Said corporation shall be the governing body for all of the Owners with respect to the administration, maintenance, repair and replacement of the portions of the Property as provided by this Declaration and the by-laws; and said corporation shall be the legal representative for all matters and

claims relating directly or indirectly to the Common Areas or matters of common interest to all Owners. A copy of the by-laws of the Association is attached hereto and made a part hereof as Exhibit "B" and by reference incorporated herein as if fully set forth.

Each Owner shall automatically become and be a member of the Association so long as he continues as an Owner. Upon the termination of the interest of an Owner, his membership shall thereupon automatically terminate and transfer and inure to the new Owner succeeding him in interest.

Section 3: "Property" shall mean and refer to Stages Two and Three and each and every other portion of the Development Area which is annexed into the subject development in accordance with the terms hereof.

Section 4: "Common Areas" shall mean all real property and improvements, whether now constructed or to be constructed, the legal title to which is owned or hereafter owned by the Association and intended for the use and benefit of the Owners.

Section 5: "Lot" shall mean and refer to the plots of land so shown and designated upon any recorded subdivision plat of the Property with the exception of the Common Areas.

Section 6: "Declarant" shall mean and refer to 111 E. Chestnut Corporation, and Illinois corporation, its successors and assigns who are designated as such in writing by Declarant and who consent in writing to assume the duties and obligations connected therewith.

Section 7: "Declaration" shall mean the within instrument together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if an, to the within instrument as may be from time to time adopted pursuant to the terms hereof. The within declaration may be referred to in any other document as South Barrington Lakes Association Declaration of Covenants, Conditions and Restrictions.

Section 8: "HUD" shall mean the Department of Housing and Urban Development and shall include the Federal Housing Administration. "VA" shall mean the Veterans Administration.

Provisions are hereinafter set fourth which require, in certain circumstances, the consent or approval of HUD or the VA. Such provisions have been incorporated to meet the requirements of said agencies in the event mortgage financing assistance from either or both of the said agencies is sought by the Declarant or an Owner. Each such provision shall be applicable and effective only with respect to whichever of the said agencies (if either) has conditionally committed to insure or guarantee mortgages or provide mortgage financing with respect to any Lots, and then only with respect to such Lots covered by such commitment or financing.

## ARTICLE II

### Property Rights

Section 1: Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas and the entire lake area adjoining each of the park sites approximately as shown on Exhibit "A", provided that such lake area becomes a part of the Property, and a right and easement of ingress and egress to and from said Common Areas and lake areas through said Common Areas, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

The right of the Association to establish and publish rules and regulations governing the use and enjoyment of the Common Areas and/or other facilities affecting the welfare of Association members.

The right of the Association, in accordance with its Articles and by-laws and subject to the provisions of Article IX, Section I-I hereof, to borrow money for the purpose of improving the Common Areas and facilities, and, in aid thereof, to mortgage said properties.

The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

The right of the Association, subject to the provisions of Article IX, Section II hereof, to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded agreeing to such dedication or transfer.

The duly designated officials and employees of the Village of South Barrington and of other governmental bodies having jurisdiction over the Property, shall have and easement to enter upon, on, and over the Property and the Common Areas for the purposes of maintaining the storm water drainage system and enforcing the applicable health ordinances, rules and regulations of the said Village and governmental bodies, and to correct or eliminate nuisances or violations resulting from the failure to exercise maintenance responsibilities by either an Owner or the Association.

All easements herein described are easements appurtenant, running with the land; they

shall at all times inure to the benefit of and be binding upon the undersigned, all of its grantees, and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

Anything hereinabove to the contrary notwithstanding, the easements in and to any lake shall be confined and restricted to that portion of the lake which is submerged, and will not include the shores, except for the shore area contained in a park.

Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, restrictions and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgages, or trustees of said parcels as fully and completely as if those easements, restrictions and covenants were fully related and set forth in their entirety in said documents.

Section 2: Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas to the members of his family or contract purchasers who reside on his property, and their respective guests and invitees.

Section 3: Title to the Common Areas. The Declarant hereby covenants, for itself, its successors and assigns, that it will convey to the Association fee simple title to the Common Areas which are located in Stages Two and Three and are described more particularly in the preamble to this Declaration, subject to covenants, conditions, and restrictions of record, public zoning laws, current real estate taxes, if any, which shall be prorated among the parties, utility easements granted or to be granted for sewer, water, gas, electricity, or telephone and any other necessary utilities and public street dedications. When additions to the Common areas are made by reason of additional real estate coming under this Declaration, such additional Common Areas shall be conveyed to the Association in fee simple title prior to the conveyance of the first Lot within the additional property. Said fee simple title shall be free and clear of all encumbrances and liens other than those afore described.

### ARTICLE III

#### Membership and Voting Rights

Section 1: Every Owner which is subject to assessment in whole or in part shall automatically be a member of the Association and shall remain such so long as he remains an Owner of a Lot subject hereto. Declarant shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

Class A - Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one

person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B – The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned, provided however that the Declarant shall be entitled to only one vote per lot and no greater than 49% of the total number of votes outstanding on the happening of either of the following events, whichever occurs earlier:

When 30% of the Lots have been sold by the Declarant to other Owners; or

Three years after the date the first Lot is sold by the Declarant to another Owner.

## ARTICLE IV

### Covenants for Maintenance Assessments

Section 1: Creation of the Lien and Personal Obligation for Assessments. Each Owner of a lot (except as otherwise specifically provided by the provisions of Article IV, Section 7 hereof), by acceptance of a deed therefore or otherwise, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association for each Lot owned (or to a mortgage company or other collection agency designated by the Association): (1) annual assessments or charges, to be paid in equal monthly installments due on the first day of each month of each year (hereinafter called “Monthly Payment Dates”) or in such other installments as the Board of Directors of the Association shall elect and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments thus collected by the Association shall constitute the maintenance fund of the Association. The annual and special assessments, together with such interest thereon and costs of collection thereof, including but not limited to reasonable attorneys’ fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, including but not limited to reasonable attorneys’ fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the said assessment fell due.

Section 2: Purpose of Assessments. Each Owner shall pay to the Association assessments representing his proportionate share of the expenses of maintenance, repair, replacements, administration and operation of the Common Areas. Said expenses hereinabove referred to shall be known as “Common Expenses”. The assessments levied by the Association shall be used to pay Common Expenses. Assessments shall be used exclusively to promote the recreation, health, safety, morals and welfare of the residents on the Property and for the improvement, repair, upkeep, taxes on and maintenance of the

Common Areas and the lakes located on the two park sites, approximately as shown on Exhibit "A", provided such lakes become part of the Property, all of which are within the purposes of the Association as provided by this Declaration. To the extent, if at all, that any assessments for any fiscal year are not expended by the Association, any such savings shall be applied by the Association in reduction of its budget and the annual assessments to the Owners for the following year, except with respect to amounts held by the Association as reserves which shall be deemed to be held by the Association in trust for the members for the uses and purposes for which such reserves have been established. Any interest of any Owner in and to such reserve funds shall be deemed appurtenant to such Owner's membership and shall automatically transfer and inure to such Owner's successor in interest.

Section 3: Computation of Assessments. Payments of assessments shall be in such amounts and at such times as provided below.

Until January 1, 1979, the maximum annual assessment shall be One Hundred Twenty-Five Dollars (\$125.00) per Lot.

On or before November 1 and on or before each November 1 thereafter, the Board of Directors shall estimate the total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies, relating to maintenance of the Common Areas, and such other items as provided for herein and in the by-laws of the Association, which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for a reserve for contingencies and replacements, and shall on or before December 1 of each year, notify each Owner in writing as to the amount of such estimated, with reasonable itemization thereof. Such annual budget shall also take into account any estimated net available cash income for the year from the operation or use of the Common Areas. All obligations of the Owners hereunder, including, but not limited to the Common Expenses, for assessments, special assessments or other levies by the Association pursuant to this Declaration or the by-laws of the Association, shall be determined by multiplying the amount of such assessment, special assessment or levy by a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which is the number of Lots subjected from time to time to the terms and conditions of this Declaration, subject however, to the provisions of Article IV, Section 7 hereof. On or before January 1 of the ensuing year, and on the first day of every month thereafter, each Owner shall be obligated to pay the Board of Directors or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before the date of the annual meeting of each calendar year, the Board of Directors shall supply all Owners with an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or under the actual expenditures plus reserves. In any given year, any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited equally to each Owner by applying any such excess, as the Board of Directors sees fit, to expenses and/or reserves for the subsequent year.

If said estimated cash requirement proves inadequate, for any reason, to defray the operating expenses and costs during any given year, then the Board of Directors shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessments accordingly. The Board of Directors shall serve notice of such further or adjusted assessment on all Owners by a statement on writing giving the amount and reasons therefore, and such further or adjusted assessment shall become effective with the next monthly maintenance payment which is due more than thirty (30) days after the delivery or mailing of such notice. Any increase in the annual assessment in excess of five percent (5%) of the approved assessment must be approved by two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purpose.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes, construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessments in excess of a total of Five Thousand and No/100 Dollars (\$5,000.00) in any assessment year shall have the assent of Two thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for the purpose. Any such assessment shall be levied equally against each Owner.

The Board of Directors shall establish and maintain reasonable reserves for contingencies and replacements as it shall deem necessary, and any extraordinary expenditure not included in the estimated cash requirements shall be first charged against such reserves in the year of such expenditure. If such reserves are depleted or, in the opinion of the Board of Directors, significantly reduced, then any supplemental budget, or the next regular estimated cash requirements shall provide for the re-establishment of such reserves as the Board shall deem reasonably appropriate.

The failure or delay of the Board of Directors to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs, necessary reserves or adjusted assessments, as herein provided, whenever the same shall be determined, and in the absence of any annual estimated or adjusted estimate, the Owner shall continue to pay the monthly charge as the then existing monthly charge at the then existing monthly rate established for the previous period until notice of the monthly maintenance payment which is due more than thirty (30) days after such new annual or adjusted estimate shall have been mailed or delivered.

The Board of Directors shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing the maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.



No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot. Except as otherwise provided elsewhere herein, an Owner on the first day of the month shall personally be liable for the one-twelfth (1/12) of the annual assessment payable in such month; and the Owner as of the date of any levy of a special assessment shall be personally liable for such assessment.

Section 4: Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence for Lots within Stages (One and Three respectively) on the first day of the month following the conveyance of the Common Areas therein to the Association, and as to the Lots within a portion of the Development Area subsequently annexed hereto, on the first day of the month following the conveyance of the Common Areas therein to the Association. The first annual assessment of One Hundred Twenty-Five Dollars (\$125.00) per Lot shall be adjusted according to the number of months remaining in the calendar year after the date of such conveyance. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 5: Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at an annual rate equal to the lesser of the maximum allowed by law and eight percent (8%), and the Association may bring an action at law against the Lot and interest costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment.

Section 6: Subordination of the Lien to Mortgage. The lien of the assessment provided for herein shall be subordinate to the lien of any bona fide first mortgage (or equivalent security interest) on a Lot recorded prior to the date upon which such assessment became due and a decree of foreclosure under such mortgage or any proceeding or conveyance in lieu of foreclosure thereof, shall extinguish the lien of all such assessments 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.

Section 7: Exempt and Partially Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority and properties granted to or used by a utility company and (b) the Common Areas.

## ARTICLE V

### Architectural Control

No dwelling house or accessory building shall be erected on any Lot and no alteration costing more than \$250.00 shall be made to any dwelling, until and unless the plans and specifications for the same, showing the nature, shape, size, architectural design, materials, location, approximate cost and proposed landscaping thereof, shall have been first submitted to and approved in writing by a committee consisting of one member of the Board of Trustees of the Village of South Barrington, Illinois, and a registered architect selected by the Village Board of Trustees and the Association, and one representative of the Association. In the event of death or resignation of the Trustee member of said committee, a successor shall be designated by the Board of Trustees; in the event of the death or resignation of the architect member, a successor shall be designated by the Board and the association; and in the event of the death or resignation of the representative of the Association, a successor shall be designated by the Association. Plan submittal shall be in two stages. Preliminary plans indicating exterior design, plan arrangement and room sizes shall be submitted initially. Following approval of preliminary plans, construction working drawings and specifications shall be submitted for final approval. A fee will be paid by the applicant for the plan review. Said fee will be established by the Village Board of Trustees and will be on an hourly basis at the prevailing rate at the time. The reviewing committee shall have thirty (30) days from the date of the transmission of architectural plans to either approve or disapprove of the same. Failure to act upon said plans within said thirty (30) day period shall be equivalent to the approval thereof.

## ARTICLE VI

### Exterior Maintenance

The Association shall maintain and keep in repair the Common Areas, including any improvements thereon, and the lake areas located on the two park sites shown on Exhibit "A", provided such lakes become part of the Property, and the costs thereof shall be part of the Common Expenses. In addition thereto, the Association shall plant, maintain, repair and replace, as necessary, landscaping improvements (including, but not limited to grass, shrubs, plants, trees, sprinkler pipes and heads, piers, diving ramps, docks, and plant supports) on the Common Areas.

Each Owner shall be responsible for the maintenance, repair and replacement of his Lot and the improvements thereon and, in the case of a Lot adjoining a lake area located on a park site shown on Exhibit "A", up to the meandering water line of such Lot, including any stone shoreline edging to be provided by Declarant. All other lakes and retention

areas located on the Property (those not within the Common Areas) shall be maintained by the Owners of Lots on which such lakes and areas are located. Said lakes and retention areas shall remain and shall not be filled or otherwise altered by the Owners in any way which would adversely affect the functioning of such areas as retention or detention areas. To the extent, if at all, that any Owner shall fail to perform the maintenance of his own Lot which is required by the foregoing, at reasonable times and in a reasonable manner the Association may, but shall not be required to, perform such maintenance or repair and, in such event, the cost thereof shall be added to such Owner's annual assessment and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to the collection of the same as are herein provided with respect to annual assessments.

## ARTICLE VII

### External Control

Section 1: Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 2: Development Activity. Notwithstanding any other provision herein, any owner, including the Declarant, shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and the construction and sale of single-family residential units on the Property.

Section 3: Temporary Structures. No structure of a temporary character, including, without limiting the generality thereof, trailer, basement, tent, shack, garage, barn, or other out building, shall be used on any Lot at any time as a residence either temporarily or permanently.

Section 4: Signs. No advertising sign or billboards of any kind shall be displayed to the public view on any Lot, except one professional sign of not more than one square foot, or signs used by a builder to advertise the Property during the construction and sales period, which signs shall be in compliance with the applicable ordinance of the Village of South Barrington.

Section 5: Campers and Recreational Vehicles. No campers, vans, pick-up trucks, recreational vehicles and other types of non-passenger vehicles and accessories may be kept on any Lot unless the same are fully enclosed within the garage located on such Lot.

Section 6: Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

Section 7: Garbage and Refuse Disposal. No Lot shall be used or maintained as a

dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 8: Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and in a line connecting them at points 25 feet from the intersection of the street property lines and in a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line imitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 9: Parking. No fuel driven vehicles may be driven or parked in the Common Areas, except in such part of the Common Areas, if any, specifically set aside for driving and/or parking.

Section 10: Manufacturing. No part of the Property, or any Lot, and no building erected or maintained on any part of the Property shall be used for manufacturing, industrial or business purposes.

Section 11: Building Standards. No building shall be erected or maintained on any Lot in the Property unless it is a dwelling house designed and equipped for occupancy as a private residence by a single family and containing a minimum net livable area of 2,200 square feet, and also costing not less than the 1967 base figure of \$43,000.00 (excluding well, septic system, driveway and landscaping) multiplied by the Bureau of Labor Statistics Price Index published immediately prior to the date of application for a building permit. (The Bureau of Labor Statistics Price Index as of January 1, 1977, was 1.733; therefore, the minimum cost of a dwelling house required as of that date was \$74,500.00). (\$116,000 app.)

Section 12: Septic Systems. No individual septic system or sewage disposal facility installed upon any Lot shall be installed with any of its components less than fifty (50) feet from the share line or bank of any lake, stream or other body of water. All Lots shall support septic systems in conformity with the ordinances, rules and regulations of the Village of South Barrington, Illinois pertaining to septic systems, subject to the right to utilize soil substitute methods as provided in the Annexation Agreement dated March 27, 1977, between the Village of Sough Barrington and Declarant, and all septic systems shall be approved by the appropriate agency or division of the Village of South Barrington.

Section 13: Detached Buildings. No detached accessory buildings, including, but not limited to, detached garages and storage building, shall be erected, placed or constructed

upon any Lot.

Section 14: Fences. No fence, wall or hedge, building or obstruction shall be erected or maintained within fifty (50) feet of any brook, stream or lake. No fence, wall or hedge shall be allowed forward of a Lot's front building line or within the established side yard of any Lot.

Section 15: Utilities. All electric service, telephone service and other utilities shall be supplied by underground service and no poles shall be permitted.

Section 16: Motors. No motor shall be used on any boat or canoe or other craft on any lakes or ponds, unless it be an electric motor operated without disturbance to the residents of the Property.

Section 17: Sea-walls. No metal, concrete, wood or other material shall be used for sea-walls except as herein provided.

Section 18: Shoreline Edging. Declarant will provide a stone (3" or larger) shoreline edging as directed by the Village of South Barrington Building Department, to be maintained as hereinabove provided.

Section 19: Piers. Piers, diving ramps and docks shall be limited in size to 5'0" from shoreline into a lake and no more than 25'0" in length measured along the shoreline.

Section 20: Garages. All houses shall have attached garages, which garages shall each be for at least three cars and shall not have any doors which directly face the front yard of the house.

## ARTICLE VIII

### Easements

The Common Areas will be subject to utility easements in favor of any applicable governmental agency and/or public utility company for sewer, water, gas, electricity, telephone and any other necessary utilities. If such utilities are not installed or easements not described for same prior to conveyance of the Common Areas, the Association may grant same later.

## ARTICLE IX

### General Provisions

Section 1: Insurance. The Board of Directors shall have the authority to and shall

obtain insurance for the improvements in or upon the Common Areas against loss or damage by fire and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost thereof. The Board of Directors shall also have the authority to and shall obtain comprehensive public liability insurance, in such limits as it shall deem desirable, and workman's compensation insurance and other liability insurance as it may deem desirable, insuring the Association, Board of Directors, manager, managing agent and, with respect to the lake areas located on the two park sites shown on Exhibit "A", provided the same became part of the Property insuring the Owners of Lots adjoining said lake areas, from liability in connection with said lake areas. The premiums for all insurance purchased pursuant to the provisions of this Section shall be Common Expenses and shall be paid at least thirty (30) days prior to the expiration date of any policy. Except as hereinabove provided, each Owner shall be responsible for obtaining fire and casualty and other types of insurance as such Owner shall deem necessary on his own Lot and the contents of his own Lot, and the contents of his own Lot, and his additions and improvements thereof, as well as his personal liability. If a mortgage upon any Lot shall at any time be offered for purchase by Federal Home Loan Mortgage Corporation (FHLMC) or Federal National Mortgage Association (FNMA) and either of the said agencies shall impose other and higher insurance requirements as a condition to the purchase of said mortgage, the Association shall comply with the insurance requirements so established.

**Section 2: Management.** The Association, through its Board of Directors, shall have the power to employ a manager (managing agent), an independent contractor, or such other employees as it deems necessary, and to prescribe their duties and fix their compensation, and/or enter into a management agreement with a professional management company for the purpose of managing the Association. Any agreement entered into by the Association with a management company shall be for a period of not more than one (1) year, renewable by agreement of the parties for successive periods of not more than one (1) year each, and shall provide for the Association's right to cancel said agreement for cause upon the Association's written thirty (30) day notice to the management company of its intent to do so.

**Section 3: Encroachments.** If the improvements on any Lot shall actually encroach upon any portions of the Common Areas or upon any portion of any other Lot, as the Common Areas and Lots are shown by a plat of subdivision, there shall be deemed to be mutual easements in favor of the respective Owners involved to the extent of such encroachments so long as the same shall exist.

**Section 4: Remedies.** In the event of any default by any Owner under the provisions of the Declaration, by-laws or rules and regulations of the Association, the Association and the Board of Directors shall have each and all of the rights and remedies which may be provided for in this Declaration, the by-laws and said rules and regulations and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction,

or specific performance, or for judgment for Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law but, with reference to any Lots financed by FHA insured loans, not in excess of the maximum rate on FHA loans at the time of delinquency, from the due date until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the Common Expenses (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot or located elsewhere on the Common Areas. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board of Directors.

All of the provisions in this instrument, and those in the Articles of Incorporation and by-laws of the Association are mutually enforceable by and among the members of the Association. Any member who feels that a provision is being violated may petition the Association to investigate the situation. Should the Association determine that this allegation is true and that corrective action should be taken, then the Association shall take whatever action is necessary to end the violation. Should the Association deem the allegation of violation as unworthy of action, or fail to investigate the alleged violation within thirty (30) days of notice, then the complaining member can prosecute his claim in whatever legal manner is best suited to the situation.

Section 5: Land Trusts. In the event title to any Lot should be conveyed to a land title-holding trust, under which all powers of management, operation and control of the premises remain vested in the trust beneficiary or beneficiaries, then the trust estate under such trust, and the beneficiaries thereunder, from time to time, shall be liable for payment of any obligation, lien or indebtedness chargeable or created under this Declaration against such Lot. No claim shall be made against any such title-holding trustee personally for payment of any claim, lien, or obligation hereby created, and the trustee shall be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers or beneficial interest in the title to such real estate.

Nothing in this Section 5 shall be deemed to alter or diminish the rights or remedies of the Association under Article IV Section 5 relating to the failure to pay maintenance assessments as such rights or remedies apply to the trust estate under such trust and the beneficiaries thereunder.

Section 6: Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is

recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless seventy-five percent (75%) of the votes outstanding shall have voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial twenty-year period or any extension thereof, which termination shall be by written instrument signed by seventy-five percent (75%) of the Owners and properly recorded in Cook County, Illinois. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners and by the Declarant if the Class B membership has not theretofore terminated, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. Any amendment must be recorded. Notwithstanding any provisions hereof to the contrary, the Declarant may, at its sole discretion and without consent being required of anyone, modify, amend, or repeal this Declaration at any time prior to the closing of the sale of the first Lot, provided said amendment, modification, or repeal is in writing and properly recorded in Cook County, Illinois. Declarant further reserves, prior to the closing of the sale of all of the Property, all rights which may be necessary to deal with the Property, including the right to vacate, amend, or modify the plat of subdivision. Further, nothing contained in this Section shall have application to nor require consent for the Declarant's recording any Supplementary Declaration pursuant to the provisions of Section 10 of this Article relative to the annexation of additional properties.

Section 7: Notices. Notices provided for in the Declaration or by-laws shall be in writing and shall be addressed to the Association or to any Owner at its/his respective address. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgement of the receipt thereof.

Section 8: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 9: Rights and Obligations. The provisions of this Declaration and the by-laws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgages. By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the Lot whatsoever, the person to whom such Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the by-laws, whether or not mention thereof is made in said deed.

Section 10: Annexation of Additional Property.

The Declarant may, at its sole discretion, and in stages, from time to time within three (3) years from the date of the recordation of this Declaration in the Office of the Recorder of Deeds of Cook County, Illinois, add to the Property additional portions of the



Development area and may convey to the Association, as additional common area, any portion thereof. Any such addition may be accomplished by the Declarant without the assent of Class A members. If applicable, however, such addition shall be subject to the prior consent in writing of the Federal Housing Administration and/or the Veterans Administration. No such property, however, shall be deemed subject to any or all of the provisions of this Declaration as from time to time amended and supplemented, or to the Articles of Incorporation, by-laws, and rules and regulations of the Association as from time to time amended, until added in the following manner:

Such additional shall be made by properly filing of record in Cook County, Illinois, a Supplementary Declaration of Covenants, Conditions and Restrictions (hereinafter called "Supplementary Declaration"). Each such Supplementary Declaration shall specifically describe the real estate affected and may contain such additions to and modification of these covenants, conditions and restrictions as may be necessary to reflect the different character of such additional properties, and shall affect those additional properties.

Subsequent to three (3) years after the recordation of the within Declaration as aforesaid, any addition of property to the Property shall require the assent of two-thirds (2/3) of the Class A members at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. At the time of approval by the membership of any addition, the members shall also approve a Supplementary Declaration to be properly recorded in Cook County, Illinois upon said approval being first obtained. Each Supplementary Declaration shall be in the same form and content as provided for Supplementary Declarations in subparagraph (a) of this Section 10. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum.

Upon the recording of a Supplementary Declaration referred to in both subparagraphs (a) and (b) above, the property so added and described in the recorded Supplementary Declaration shall be deemed a part of the Property, subject to this Declaration as from time to time amended, modified and supplemented, and to the Articles of Incorporation, by-laws, and rules and regulations of the Association as from time to time amended.

Nothing herein or in the Articles of Incorporation, by-laws or rules and regulations of the Association shall bind Declarant to add real estate to the Association as afore described or to complete the development of any additional stages. Further, none of the development area, excepting Stages (two thru ?) is subject to this Declaration until the filing of a Supplementary Declaration as hereinabove provided.

Section 11: Miscellaneous Provisions. Any provision of the within Declaration or of the by-laws to the contrary notwithstanding, the following provisions shall control:

FHA/VA Approval. If any prospective Owner applies for FHA or VA mortgage financing and receives a commitment therefore (and provided that the within provision is applicable in accordance with the foregoing provisions of Article 1, Section 8 hereof), the

following actions will required approval of the Federal Housing Administration and the Veterans Administration as applicable: Addition of properties, dedication of Common Areas, and amendment of this Declaration.

The following actions will require notice to all institutional holders of first mortgage liens: (1) abandonment or termination of the Association; (2) material amendment to the Declaration, by-laws or Articles of Incorporation; and (3) termination by the Association of professional management and assumption of self-management by the Association.

Upon the request of any first mortgagee of a dwelling on a Lot, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under the within Declaration or the by-laws or Association rules or regulations which is not cured within thirty (30) days. Any first mortgagee of a dwelling who comes into possession of the said dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged dwelling which accrued prior to the time such holder comes into possession of the dwelling.

Unless at least seventy-five percent (75%) of the first mortgages (based upon one vote for each mortgage) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

by act or omission seed to abandon, partition, subdivide, encumber, sell or transfer the Common Areas or any portion thereof or interest therein;

(The granting of easements for public utilities or other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause.)

change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner by the Association;  
by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of the dwelling or maintenance of the dwellings or Lots;

fail to maintain fire and extended coverage insurance on insurable property comprising a part of the Common Areas on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs);

use hazard insurance proceeds for losses to any improvements comprising a part of the Common Areas for other than the repair, replacement or construction of such improvements.

If a mortgage on an individual dwelling is then held by either Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC),

notwithstanding the approval of other mortgagees, each of the foregoing acts as set forth in subparagraphs (d) (i) through (d) (v) above shall require the approval of whichever or the said FNMA or FHLMC is a mortgagee.

Each first mortgagee of a dwelling on a Lot shall have the right to examine the books and records of the Association during normal business hours. The first mortgages may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas or any portion thereof, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such property, and first mortgages making such payments shall be owed immediate reimbursement therefore from the Association. The Association shall have the authority to enter into an agreement reflecting the provisions of the within subsection in such form as may reasonably be required by such mortgages, and in the absence of any such agreement, the provisions of the within subsection shall be deemed to be the agreement of the Association and binding upon it in favor of all such mortgages.

Institutional holders of first mortgages shall, in addition, upon request have the right: (1) to receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association; and (2) to receive written notice of all meetings of the Association and to designate a representative to attend all such meetings. Any right given by an Owner to any third person to purchase a Lot before it is offered for sale or sold to any other person (commonly known as a right of first refusal) shall not be binding upon or enforceable against any institutional holder of a first mortgage acquiring such Lot pursuant to the exercise of remedies provided for in the mortgage.

In the event of: (1) damage or destruction of any Common Area or facilities, the cost of repair of which exceeds Ten Thousand and NO/100 Dollars (\$10,000.00); or (2) the Common Areas or facilities becoming the subject of any condemnation or eminent domain proceeding, the Association shall give timely written notice of same to all institutional holders of first mortgage liens.

Nor provision of the within Declaration or of the by-laws or Articles of Incorporation of the Association, or any similar instrument pertaining to the property or the dwellings thereon shall be deemed to give any Owner or any other party priority over any rights of bona fide first mortgagees of dwellings pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas or any portion thereof or interest therein.

There shall be included in each annual assessment levied by the Association an amount sufficient to establish an adequate reserve fund for the replacement of the improvements comprising a part of the Common Areas.

All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of Articles and Sections are for convenience only, and neither limit nor

amplify the provisions of the Declaration unless specified reference is made to such Articles, Sections or subdivisions of another document or instrument.

Section 12: Headings. The heading contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 13: Conflicts. In the event of any conflict between this Declaration and the by-laws or Articles of Incorporation, this Declaration shall control.

Section 14: Purpose. The purpose of the filing of this Declaration is to allow the Declarant to develop the Development Area and sell Lots and homes therein to persons who will become Owners, so that they may live in a community protected by and with the protections afforded hereby. The filing of this Declaration and the subjecting of various properties hereto shall not be construed in any way to and shall never prohibit or inhibit the Declarant from conveying lots, homes or improvements within the property to third parties free and clear of any covenants, conditions or restrictions except for those contained herein.

Section 15: Control of the Association. Notwithstanding any provision contained herein or in the Articles of Incorporation or the by-laws to the contrary, at such time as, in accordance with Article III, Section 2 hereof, the Declarant is no longer entitled to greater than 49% of the total number of votes outstanding, then the control of the Declarant over (i) the amendment process provided in Article IX, Section 6 hereof, and in the by-laws, (ii) the composition of the membership of the Board of Directors of the Association and (iii) architectural control as provided in Article V hereof hereof and in the by-laws, shall immediately divest and be ended (except as provided below). At such time, the terms of the Directors of the Association and of the members of architectural control committee shall automatically expire. Thirty (30) days prior to such divestiture of control, the Association shall conduct an election at which new Directors will be elected, whose terms will commence simultaneously with such divestiture of control. Further, within such thirty (30) day period, the Association will appoint new members of the architectural control committee, whose terms will likewise commence simultaneously with such divestiture of control.

(Section 16: "Recorded". Hereunder shall also refer to registered, where appropriate.)

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of the day and year first above written.

111 E. CHESTNUT CORPORATION,  
an Illinois corporation

ATTEST:

By \_\_\_\_\_  
Harry J. Leonhardt  
Its Agent and Attorney-in-fact.

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William N. Hart  
Its Agent and Attorney-in-fact.

This Instrument Prepared By:

Raymond Smerge  
4600 Republic National Bank Tower  
Dallas, Texas