

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## THE COTTAGES AT WILDWOOD RANCH

### JOPLIN, MISSOURI

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION AND RESERVATION OF EASEMENTS FOR THE COTTAGES AT WILDWOOD RANCH is made on this \_\_\_30\_\_\_ day of \_\_\_November\_\_\_, 2009, by O SHAMROCK, LLC, a Limited Liability Company, owner of the real property described and hereinafter referred to as the "Declarant".

#### WITNESSETH:

WHEREAS, the Declarant intends to develop and sale certain residential lots, located in Newton County, State of Missouri, as part of a residential planned unit development to be known as THE COTTAGES at Wildwood Ranch; more particularly depicted on Exhibit A attached hereto and by this reference hereinafter referred to as the "Properties".

WHEREAS, for such reason aforesaid, the Declarant through its management has encouraged and participated in the organization of the **Cottages Home Owners Association (CHOA)**, hereinafter referred to as "Association", a nonprofit corporation, organized and existing under and by virtue of the laws of the State of Missouri, for the purpose to protect and maintain THE COTTAGES as a prime residential area of the highest possible quality, attractiveness, and value, with access to commercial facilities, green space and public areas of Wildwood Ranch not within the Lots and Common Areas, as defined below; and

WHEREAS, the Declarant desires to provide for the operation and maintenance of Home Owners lawns and Common Areas by the Association, as defined below;

NOW, THEREFORE, the Declarant hereby declares that all of the Lots and Common Areas, as defined below, shall be held, sold, and conveyed subject to the following easements, restrictions, stipulations, covenants, and conditions which are for the purpose of protecting and enhancing the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described Lots and Common Areas or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

### ARTICLE I

#### DEFINITIONS

- 1.) Association. "Association" shall mean and refer to as the **Cottages Home Owners Association**, a Missouri nonprofit corporation, its successors and assigns, operating as the owners' association for The Cottages at Wildwood Ranch.
- 2.) Owner. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a right of possession under Missouri law to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 3.) Properties. "Properties" shall mean and refer to that certain real property herein described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
- 4.) Common Areas. "Common Areas" shall mean and refer to any facility within the jurisdiction of the Association and for the common use and enjoyment of the Owners.

- 5.) Lot: "Lot" shall mean and refer to any numbered plot of land shown upon Exhibit A.
- 6.) Declarant. "Declarant" shall mean and refer to the developer, O SHAMROCK, LLC, a Limited Liability Company, its successors and assigns.
- 7.) Board. "Board" shall mean and refer to the Board of Directors of the Cottages Home Owners Association.
- 8.) Assessment "Assessment" means an annual assessment or a special assessment imposed by the Association
- 9.) Dwelling "Dwelling" means all of a Building situated upon a Lot designed and intended for use and occupancy as a single family residence. Each Dwelling shall be owned by the Owner or Owners of the Lot on which the Dwelling is situated subject to all of the terms, covenants, conditions, restrictions and easements of this Declaration.

## ARTICLE II

### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

- 1.) OWNER CLASSES: Each Owner of a Lot within the Association shall have membership in the Association. Membership shall be appurtenant to and may not be separated from the Lot.
- 2.) VOTING: Each Owner shall have voting rights as set forth herein. There shall be two classes of voting membership:
- (a) Class A: Class A Members are all Owners of Lots other than Declarant, while Declarant is a Class B Member. Class A Members will be entitled to one vote for each Lot owned. Where one or more persons or entities own a single Lot, as Members, they shall be entitled to decide among themselves who shall be entitled to cast the vote for said Lot. In no event shall more than one (1) vote be cast per Lot. In the event the owners are unable to agree as to who shall be entitled to cast the vote, no vote for that Lot shall be counted.
- (b) Class B: The Class B Member is the Declarant, which shall be entitled to 10 votes in all matters for each Lot owned by the Class B Member or its affiliates. Declarant may assign its Class B Membership. The Class B Membership will end and be converted to Class A Membership (i) when Declarant chooses to become a Class A Member, as evidenced by a written instrument to such effect, executed by Declarant and disseminated to all the Owners, or (ii) upon the sale of all the Lots by Declarant to third parties, or (iii) seven (7) years after the date the first lot is sold, as evidenced by a written instrument of such sale, whichever occurs first.
- 3.) THE BOARD: The affairs of the Association shall be conducted by the Board consisting of at least three (3) and not more than five (5) directors who shall elect or appoint a President, Vice-President, Treasurer, and Secretary in accordance with the Articles of Incorporation and the Bylaws as the same may be amended from time to time. The Board may also appoint various committees and appoint a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager. Willingness to serve shall be evidenced by submitting one's name in writing for consideration as a Board member.
- 3.1) The Board shall have all the powers, duties and responsibilities as are now or may hereafter be provided by this Declaration, the Articles of Incorporation and Bylaws of the Association, including, but not limited to, the following: (i) administration of the Association; (ii) preparing and administering an operational budget; (iii) establishing and administering an adequate reserve fund; (iv) collecting and enforcing the assessments and fees from the Owners; (v) accounting functions and maintaining records; (vi) promulgation and enforcement of rules and regulations; (vii) causing the Association Areas to be

maintained; (vii) entering into contracts, deeds, leases and/or other written instructions or documents and to authorize the execution and delivery thereof by the appropriate officers; (ix) opening bank accounts on behalf of the Association and to designate the signature therefore; (x) bringing, prosecuting and settling litigation for itself, the Association and The Cottages, a Wildwood Ranch Subdivision; (xi) owning, purchasing or leasing, holding and selling or otherwise disposing of, on behalf of the Owners, items of real and personal property(xii) purchasing and maintaining insurance; and (xii) all the other duties imposed upon the Board pursuant to this Declaration, including enforcement thereof.

### ARTICLE III

#### **COVENANT FOR ASSESSMENTS**

- 1.) **CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS:** The Declarant, for each Lot within the Properties, hereby covenants as provided for herein, and each Owner by acceptance of a deed therefore, 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; (2) special assessments for capital improvements as may be approved by the Board, as described herein; and (3) fees for optional services as listed in Exhibit B, if any, as may be amended from time to time (the "Optional Fees"). Annual assessments, special assessments, and Optional Fees, together with all interest, costs, and reasonable attorney's fees and expenses, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or fee is made. Each such assessment or fee, together with all interest, costs, and reasonable attorney's fees and expenses, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due or the fee was incurred. The personal obligation for delinquent assessments and fees shall not pass to an Owner's successors in title unless expressly assumed by the successors, although such obligation shall remain a lien against the Lot.
- 2.) **PURPOSE OF ASSESSMENTS:** The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties, to improve and maintain the Common Areas, to maintain architectural control, to maintain the condition and integrity of the environment in and around the Properties, and other purposes as may be approved by the Board in its reasonable discretion.
- 3.) **MAXIMUM ANNUAL ASSESSMENT:** The maximum annual assessment per Lot within the Properties shall be as set forth herein.
  - (a.) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be as set forth in the Fee Table in Exhibit B attached hereto and made a part hereof, which may be amended from time-to-time by the Board.
  - (b.) The Board shall fix the annual assessment at an amount appropriate to provide for the services expected by the Owners in the Association. Said amount shall not be less than the amount necessary to meet the expected financial needs of the Association.
- 4.) **SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS:** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair, or replacement of a capital improvement on the Common Areas.
- 5.) **NEGLIGENCE FEES AND OPTIONAL SERVICE FEES:** Negligence fees and optional service fees shall be as set forth in the Fee Table in Exhibit B, which may be amended from time-to-time by the Board. The Board may change these negligence and optional service fees at any time.
- 6.) **UNIFORM RATE OF ASSESSMENT:** Both annual and special assessments shall be fixed at a uniform rate for each Lot, as determined annually by the Board.

7.) DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATE: The annual assessments on a Lot as provided for herein shall commence upon the transfer or sale of the Lot from the Declarant. The Board shall fix the amount of the annual assessment against each Lot at least sixty (60) days in advance of each annual assessment period. Written notice of the assessment shall be sent to each Owner subject thereto. Assessments shall be billed as determined by the Board and the due dates for payment of same shall be established by the Board. Payments shall be set up as an auto draft at closing for each Owner.

8.) EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION: Assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum, with a minimum charge of \$25.00. The Association may bring an action of law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of the Lot.

## ARTICLE IV

### ARCHITECTURAL CONTROL

1.) ACKNOWLEDGEMENT. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of a Lot, acknowledges that, as the Association and the Owners of the Lots, the Association acting in its behalf and on behalf of the Owners has a substantial interest in ensuring that the development and design of The Cottages is uniformly developed and maintained. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Lot unless and until the Declarant, its successors and assigns or the Board has given its prior written approval for such activity in accordance with the procedures of this Article.

2.) ARCHITECTURAL APPROVAL: the Declarant shall have absolute and total design control over the Properties until lots are sold. Thereafter the Board shall be responsible for reviewing and approving improvements, construction, landscaping, or other submissions as required by the provisions of this Declaration.

3.) IMPROVEMENTS: No fence, structure, or other improvement shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, heights, materials, color, location, and details of the same shall have been submitted to the Declarant, its successors and assigns or the Board and received Board approval in writing as to harmony of external design and location in relation to surrounding structures and topography. Any live tree removal, landscaping, or gardening shall be deemed an improvement for purposes of this Article. In addition to the express provisions of this Declaration, the Board shall exercise its best judgment in reviewing proposed improvements and changes, as set forth herein, with the end purpose of maintaining the highest standards of residential living. The Board may from time to time promulgate and approve Architectural Standards and Construction Regulations, in addition to the stipulations set forth herein, and modify same, provided said Regulations and amendments shall apply only to units constructed subsequent to the adoption of said Regulations and amendments.

4.) TYPE OF LOTS: The Lots shall be used for single family residential or residential/lease purposes only and not for any commercial purpose, and no Lot shall be re-subdivided, but shall remain as depicted on Exhibit A.

5.) FLOORPLANS/ELEVATIONS: Floor plans/elevations details may be changed or amended by the Declarant from time-to-time. No changes may be made to finishes, color or theme details without the written approval of the Board or made by the Declarant.

6.) DWELLING BASICS FOR LOTS:

6.1) MINIMUM SQUARE FOOTAGE:

One Thousand (1000) square feet.

6.2) MAXIMUM SQUARE FOOTAGE:

Twenty-two hundred (2200) square feet

7.) BUILDING SETBACKS:

7.1) FRONT: No building, fence or portion thereof shall be located within Fifteen (15) feet of a front Lot line.

8.) PORCHES: No additions or modifications shall be made to the Front porch.

9.) ROOFS: All roofs will be of 30 year architectural shingles. No colors changes will be allowed, unless approved in writing by the Declarant, its successors and assigns or the Board. Notwithstanding any other provisions of this Declaration, this provision may not be amended.

10.) EXTERIOR FINISHES and PAINT: Cement Board sidings resembling wood, stone or brick shall be used on exterior of dwelling. Other finishes may be used only when approved in writing by the Declarant, its successors and assigns or the Board. Finishes shall be painted, and color selections must be approved in writing by the Board. Exterior color scheme shall be required to have Board approval prior to the commencement of any painting. No changes to any finishes may be made without the written approval of the Board. Notwithstanding any other provisions of this Declaration, this provision may not be amended.

11.) FENCES: Fences are discouraged but shall be allowed with Board approval for privacy and domestic pets. Plans for fencing must be submitted to Board and approved prior to construction, no exceptions allowed. No fences shall be placed forward of the front setback line established for exterior structural walls in this Article. No fences shall be more than six (6) feet in height. All Fencing shall be of the same design, style and material, preferably purchased from the same source as determined by Declarant. **All fenced in area becomes the responsibility of Lot Owner to maintain and does not release Lot Owner of annual assessments.**

12.) EXTERIOR DOORS: Finishes shall be painted and changes in color selections must be approved in writing by the Declarant or Board.

13.) LANDSCAPING: The preservation of existing trees and other site foliage shall be maintained to the extent practicable. A "planned natural look" emphasizing native plants and ground cover is strongly encouraged by the Association. Plant materials should be sized for relatively immediate effect. Additional Landscaping shall be required to have Board approval prior to the commencement of any planting.

## ARTICLE V

### BOARD REVIEW PROCESS

1.) SUBMITTAL OF PLANS: The owner of lot shall submit proposed plans to board for review for any change to the exterior structure or landscape. The plans submittal shall include, at a minimum: scope of work, time-line for completion, colors scheme and diagram/layout of proposed work.

2.) APPROVAL OF PLANS: The plans and specifications shall be reviewed by the Board within THIRTY (30) days of the submittal of a complete package. The outcome of the plan review may be "Approved", "Approved subject to revisions", or "Denied". In the event that the Board, or its designated review committee, fails to approve or

deny such plans and specifications within THIRTY (30) days after the complete package of plans and specifications has been submitted to it, approval shall not be required and this section shall be deemed to have been fully complied with.

## ARTICLE VI

### LOT USE RESTRICTIONS

- 1.) PROPERTY USE: The use of Lots and improvements thereon shall be subject to the restrictions set forth herein.
- 2.) COMMERCIAL AND BUSINESS USAGE: Lots and improvements thereon shall not be used for any commercial or business purposes, except that Owners may choose to have a home office in which their customers contact them electronically, and except that any Lot owned by Declarant, its successors or assigns, may be used for commercial and business purposes, including but not limited to a office, restaurant, bar or other facility serving members of the public who may use the common areas to access same.
- 3.) NUISANCE: Noxious or offensive trade or activity shall not be allowed on a Lot or on the Common Areas. Nothing shall be performed thereon which may be or may become an annoyance or nuisance to other Owners including, without limitation, noxious fumes, smoke, excessive or continuing loud noises, interference with radio or television reception, excessive draining of water, or other effluents onto any adjoining Lot or onto the Common Areas.
- 5.) PROPERTY APPEARANCE (STRUCTURE): Preventing the development of an unsightly, unclean, or un-kept condition of house or other structure that shall or may tend to substantially decrease the beauty of the Properties as a whole or the specific area shall be the responsibility of the Board on behalf of the Owner. Each house or other structure shall be maintained in a neat, clean, and well-kept condition by the Owner, and the Board and its agents shall be and hereby are, authorized and granted an easement to enter upon the Lot to accomplish said maintenance, the expense of which shall be recoverable by the Board as set forth in the Fee Table in Exhibit C, which may be amended from time-to-time by the Board. Said maintenance may encompass merely exterior and aesthetic items, or structural items, in the sole discretion of the Board.
- 6.) LOT MAINTENANCE (VEGETATION): Preventing the development of an unsightly, unclean, or un-kept condition of Lot vegetation that shall or may tend to substantially decrease the beauty of the Properties as a whole or the specific area shall be the responsibility of the Board on behalf of the Owner. The vegetation on each Lot shall be maintained in a neat, clean, and well-kept condition by the Board, (except areas fenced-in by Owners) and the Board and its agents shall be and hereby are, authorized and granted an easement to enter upon the Lot to accomplish said maintenance, the expense of which shall be recoverable by the Board as set forth in the Fee Table in Exhibit C, which may be amended from time-to-time by the Board.
- 7.) EXCAVATION: After construction is complete, excavation shall not be allowed, nor shall any hole of any kind be dug, unless approved in writing by the Board. Elevation or topography changes shall not be allowed on a Lot that may materially affect the surface grade or drainage on the Lot or an adjoining Lot or property. Nothing herein shall preclude filling on a Lot with Board approval as may be necessary or appropriate to protect improvements from flood.
- 8.) TEMPORARY BUILDINGS: Trailers, shacks, tents, or other temporary buildings shall not be constructed, either temporarily or permanently, except that a temporary construction office or tool shed may be maintained for construction purposes. Such temporary structures shall be removed within thirty (30) days after construction is completed.

- 9.) OUTBUILDINGS: Outbuildings shall not be constructed.
- 10.) TREE REMOVAL: Tree removal shall not be allowed unless approved in writing by the Board.
- 11.) PETS: Hoofed animals or exotic (non-indigenous) pets shall not be allowed on the Properties. Animals shall not be raised, bred, or kept for commercial purposes on the Properties. Birds shall not be kept on the Properties, unless caged. Cats shall be spayed or neutered and proof of such operation shall be provided to the Board prior to arrival on the Properties. Household pets shall be restrained within fenced areas or in cages. Owners shall promptly remove and properly dispose of all animal waste. An Owner shall not possess more than two (2) pets unless approved in writing by the Board.
- 12.) SIGNS: Advertising signs, billboards, or similar objects shall not be erected, placed or allowed to remain on the Properties, unless approved in writing by the Board. The Board shall be exempt from these sign provisions. Subject to review, the Board may allow one sign per Lot of not more than six (6) square feet in area advertising that the Lot is for sale or for rent. Such sign shall be displayed only at the front of each Lot facing the street.
- 13.) EXTERIOR COMMUNICATION DEVICES: Exterior television antennas, radio antennas, satellite dishes, or similar items shall not be erected, placed, or allowed to remain on the Properties, unless approved in writing by the Board. Board approval shall not be unreasonably withheld, granted that aesthetic concerns are adequately addressed.
- 14.) OUTDOOR GRILLS: Permanent outdoor grills shall be allowed only with Board approval.
- 15.) SPAS: Outdoor spas and swimming pools shall be allowed only with Board approval when on back porches or in ground on the rear of a Lot, and properly screened, as part of a site plan.
- 16.) GARDENS: Vegetable gardening shall be allowed only with Board approval, as part of a landscape plan.
- 17.) EXTERIOR LIGHTING: Exterior lighting shall be installed and maintained to provide illumination as is necessary only for the Lot on which it is installed.
- 18.) OUTDOOR APPLIANCES: No appliances shall be stored outdoors.
- 19.) CLOTHESLINES: No Clotheslines or drying yards shall be permitted on a Lot.
- 20.) FIRES: Open fires shall not be allowed on the Properties, unless a designated area is provided by the Declarant.
- 21.) RECREATIONAL: Play ground equipment and outdoor basketball goals shall not be allowed.
- 22.) HUNTING: The hunting or trapping of any animal or bird shall not be allowed on the Properties.
- 23.) COMMON AREAS: The common area shall be maintained by the Association as set forth in the Fee Table in Exhibit B, which may be amended from time-to-time by the Board. Plants shall not be removed from this area, unless approved in writing by the Board.
- 24.) VEHICLES: All vehicles must be stored inside garage. No commercial vehicles, machinery or equipment shall be parked, left or stored on any lot or street for more than an eight our period. Any personal trailer, bus, van, camper, recreational vehicle, boat, boat trailer or other mobile apparatus of any nature or kind whatsoever shall not be parked, left or stored on any lot. In no event shall there be any overnight parking of tractor-trailer units on any lot or on any street. Excessively noisy vehicles of any kind, all-terrain vehicles, trail-bikes, helicopters, aircraft or motorcycles shall not be used anywhere on the property.

- 25.) WATER POLLUTION: Sewage, litter, debris, or hazardous wastes shall not be placed, or be caused to be placed in the drainage ditches, streams or other water bodies. Septic tanks and/or drain field systems shall not be allowed.
- 26.) TRASH DISPOSAL: Lots shall not be used or maintained as a dumping ground for trash.
- 27.) UTILITY PROVISIONS: Each Lot shall be self-sufficient with respect to utility provisions. Wiring, cabling, piping, or other connections to utilities services shall be underground. Variances from this section shall not be allowed. Utility maintenance shall be the responsibility of each Owner.
- (a.) Electrical service will be provided by Empire District Electric and shall be the responsibility of each owner. Generators and other power supply sources may be used only in the event of power failure, providing that under no circumstances they become an annoyance or a nuisance to other Owners. Incendiary power sources shall not be allowed.
- (b.) Water service will be provided by Missouri American Water and shall be the responsibility of each Owner.
- (c.) Sewer will be provided by the City of Joplin and shall be the responsibility of each Owner. Each Lot owner will be responsible for contracting with local provider to have trash picked up weekly.
- (d.) Cable and internet service shall be the responsibility of each Owner. No Satellite dish's allowed without written approval of the Declarant or Board
- 28.) OTHER ON-SITE STORAGE: General items shall not be stored on lot. In the event of an Owner's failure to comply with the requirements of this section, following written notice thereof to such Owner of its intention, the Board shall be authorized to enter upon the Lot to achieve compliance, the expense of which shall then be recoverable by the Board as set forth in the Fee Table in Exhibit B, which may be amended from time-to-time by the Board.
- 29.) CONFLICT RESOLUTION: In the event of any conflict between the use restrictions set forth in this Article and any use restriction or regulation of any applicable governmental agency having jurisdiction over the Properties, the more stringent use restrictions shall control.

## ARTICLE VII

### GRANT AND RESERVATION OF EASEMENTS

Every Owner has the benefit of certain easements and the responsibility for others.

- 1.) Easements in Favor of Declarant and Association. Declarant reserves for itself, its successors and assigns, and for the Association, the following perpetual easements:
- (a) Utilities. Easements, for ingress, egress, installation, replacement, repair, and maintenance of all public and private utilities and conveniences, upon all Common Areas, and 10 feet in width along the front, rear, and 5 feet alongside each Lot line.
- (b) Security. A blanket easement throughout the Properties for any security services that may be provided by the Association.
- (c) Construction Easement. An exclusive easement is hereby reserved for the benefit of Declarant, its agents, employees, successors and assigns, for the purposes of construction on any Lot.

(d) Future Easements. Declarant reserves the right to impose further restrictions and to grant or dedicate easements on any Lot within the Property if same would enhance the value or desirability of the Properties.

(e) Drainage. A blanket easement throughout the Lots and Common Areas for the drainage of rain and other surface water into wet weather branches and nearby creek.

(f) Perpetual Access Easement. Declarant grants a perpetual access easement over Declarant's property to the Association. The exact location of the perpetual access easement to the Association may vary at the Declarant's discretion. The Association grants a perpetual access easement over the Common Areas to the Declarant, its successors and assigns.

## ARTICLE VIII

### USE OF COMMON AREAS AND RIGHTS THEREIN

1.) OFFICIAL DEVELOPMENT PLAN: The Common Areas shall refer to green space and trail ways as depicted on the Master Plan of the Development.

2.) OWNER'S EASEMENTS OF ENJOYMENT: Each Owner shall have a right and easement of enjoyment in and to the Common Areas that shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(a.) The right of the Declarant or the Association at any time to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions that it is obligated and permitted to perform, pursuant to this Declaration.

(b.) The right of the Declarant or the Association at any time to construct and maintain recreational facilities on, over, under, and above the Common Areas, for use by the Association and, with Board approval, for use by other persons.

(c.) The right of the Declarant or the Association to charge reasonable access and other fees for the use of any recreational facility situated on the Common Areas.

(d.) The right of the Declarant or the Association to construct and maintain storage and maintenance facilities on the Common Areas for use by the Association or the Declarant.

(e.) The right of the Declarant or the Association to dedicate, transfer, assign, or grant permission to use all or any part of the Common Areas by any governmental subdivision, public agency, authority, or public or private utility, for such purposes and subject to such conditions as may be agreed to.

3.) DELEGATION OF USE: An Owner may delegate, in accordance with and subject to the limitations of the rules and regulations promulgated by the Board from time-to-time, their right of enjoyment of the Common Areas to family members, guests, or renter/lessees using their Lot.

4.) COMMON AREAS DAMAGE: General maintenance of the Common Areas shall be the common expense of all of the Owners, as set forth in the Fee Table in Exhibit B, which may be amended from time-to-time by the Board. Damage to Common Areas by an Owner, members of their family, their agent, employee, invitee, licensee, or tenant, shall be the responsibility of the Owner. Repairs of such damage shall be made within thirty (30) days of the damage occurrence. Damaged areas shall be restored to substantially the same condition that they existed in prior to the damage. In the event of an Owner's failure to comply with the requirements of this section, following written notice thereof to such Owner of its intention, the Board shall be authorized to repair damage to Common

Areas to achieve compliance, the expense of which shall then be recoverable by the Board as set forth in the Fee Table in Exhibit B, which may be amended from time-to-time by the Board.

5.) **NUISANCE**: Noxious or offensive trade or activity by an Owner shall not be allowed on the Common Areas. Nothing shall be performed by an Owner thereon which may be or may become an annoyance or nuisance to other Owners.

## **ARTICLE IX**

### **INSURANCE**

Insurance protects the interests of the various Owners by ensuring that funds will be available for rebuilding after a casualty; this Article gives some flexibility to the Board to select insurance coverage that is reasonable for the conditions that exist at that time.

- 1.) **Review of Coverage**. The Board shall review the issue of insurance at least once every three (3) years.
- 2.) **Public Liability and Property Damage**. If available and reasonably priced, the Board may obtain public liability and property damage insurance in such limits as the Board may from time to time determine, insuring against any liability arising out of, or incident to, the activities of the Association as permitted by this Declaration. Whenever practicable, such insurance should be issued on a comprehensive liability basis and should contain a "severability of interest" endorsement that shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board, or other Owners. Such insurance should name Declarant or its assigns as an additional insured until 25 years after the date of this Declaration, if such option is available.
- 3.) **Director Liability Insurance**. The Board may obtain liability insurance insuring against personal loss for actions taken by members of the Board in the performance of their duties. Such insurance shall be of the type and amount determined by the Board in its discretion.
- 4.) **Other Insurance**. The Board may obtain and maintain worker's compensation insurance if and to the extent necessary to meet the requirements of law, and such other insurance as the Board may deem prudent.
- 5.) **Repair and Reconstruction after Casualty**. If casualty damages or destroys any of the Common Area improvements, the Board shall arrange for and supervise its prompt repair and restoration. The Board shall obtain funds for such reconstruction first from any insurance proceeds, then from any reserves for the repair and replacement of such improvements, and then from any Special Assessments that may be necessary after exhausting insurance and reserves.

## **ARTICLE X**

### **GENERAL PROVISIONS**

- 1.) **ENFORCEMENT**: The Declarant, Association, or an Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 2.) **SEVERABILITY**: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no manner affect any other provisions which shall remain in full force and effect.
- 3.) **AMENDMENT**: The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first

twenty-five (25) year period by an instrument signed by not less than ninety (90%) percent of the Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the Owners, except that the Estimated Initial Budget and Estimated Annual Budget shall be amended solely as approved by the Board from time-to-time.

4.) TITLE: Title to a Lot and house may be held or owned by any persons and any entity or entities and in any manner in which title to real property may be held or owned in the State of Missouri.

5.) INSEPARABILITY: Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Lot and house thereon shall be presumed to be a gift, devise, bequest, transfer, encumbrance, conveyance or other disposition, respectively, of the entire Lot, together with all other appurtenant rights created by law or by this Declaration.

6.) ACCESS TO LOTS AND COMMON AREAS FOR LAWN CARE, MAINTENANCE REPAIR, AND TREE REPLACEMENT: The Board, or its delegated representatives, or the Declarant or its assigns, shall have the irrevocable right to have access to a Lot, during reasonable hours, as deemed necessary for maintenance of lawn care, repair, or replacement, including tree removal, of each Lot, and of any Common Areas accessible there from. Damaged areas shall be restored to substantially the same condition that they existed in prior to the damage. Lawn Maintenance, repair, or replacement on each Lot and Common Areas shall be the common expense of all the Owners, as determined by the Board, provided, however, that if such damage is caused by a negligent or tortious act of an Owner, members of their family, their agent, employee, invitee, licensee, or tenant, then such Owner shall be responsible and liable for such damage.

7.) NOTICE: Any notice required to be sent to an Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post-paid, to both the last known address of the person who appears as the Owner on the records of the Association at the time of such mailing and the address of the Lot. It shall be the responsibility of Owners to keep the Secretary of the Association informed of current contact information.

8.) ANNEXATION OF ADDITIONAL PROPERTY: Additional property and Common Areas may be annexed to the Properties at the discretion of the Declarant or its assigns by an amendment to this Declaration or by a deed of any Common Areas to the Association. Annexation shall not require the vote of any Owner, and shall only require a favorable vote of the majority of the members of the Board.

9.) COSTS AND ATTORNEY'S FEES. The Association shall be entitled to recover all costs and reasonable attorney's fees and expenses from an Owner for the enforcement of any provision provided for herein.

DECLARANT'S RIGHT TO ASSIGN

The Declarant, by appropriate instrument, may assign or convey to any person, organization or corporation any or all of the rights, reservations, easements and privileges herein reserved by it, and upon such assignment or conveyance being made its assigns or grantees may at their option exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times, in the same way and manner as though directly reserved by them, or it in this instrument.

IN WITNESS WHEREOF, O Shamrock, LLC, has caused the foregoing basic Restrictions of The Cottages at Wildwood Ranch to the County of Newton, Joplin, Missouri, to be duly executed this \_\_\_\_\_ day of \_\_\_\_\_, 2009

By \_\_\_\_\_

\_\_\_\_\_

O SHAMROCK, L.L.C.



## EXHIBIT B– FEE TABLE

### INITIAL ANNUAL ASSESSMENT:

MAXIMUM Annual Assessment for 2009-2010 is \$600. Assessment fees are due and payable by the 1st. All fees will be set up as an **AUTO DRAFT** payable to the Association.

The Annual Assessment shall be adjusted yearly by the Board based on current costs of providing services as approved by the Board and current costs of paying any fees incurred by the Association.

The Annual Assessment covers lawn care of each lot and maintenance of common areas and includes mowing, leaf removal, weeding, litter and storm debris removal, and similar work in said areas.

The Annual Assessment may also cover the cost to maintain buildings or structures in common areas.

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### NEGLIGENCE FEES:

The following fees shall be assessed to the Lot requiring same (for the structure thereon or on which the damaging party is visiting or residing), in an amount equal to the actual cost thereof plus the percentage shown below:

1. Property Maintenance Fees (structure)	25%
2. Property Maintenance Fees (landscaping)	25%
3. Common Area Damages Fees	25%
4. On-Site Storage Fees	25%
5. Trash Disposal Fees	25%

(1) Property Maintenance fees (structure) shall apply to a Lot for each occurrence if the user of a Lot is on-premises but does not comply with the property maintenance requirements promulgated by the Board from time-to-time. Fees for property maintenance (structure) shall apply for each occurrence if the Owner is off-premises, but the property is left by any party in a condition so as to not comply with the property maintenance requirements promulgated by the Board from time-to-time.

(2) Property Maintenance fees (landscaping) shall apply to a Lot for each occurrence if the user of a Lot is on-premises but does not comply with the property maintenance requirements promulgated by the Board from time-to-time. Fees for property maintenance (landscaping) shall apply for each occurrence if the Owner is off-premises, but the property is left by any party in a condition so as to not comply with the property maintenance requirements promulgated by the Board from time-to-time.

(3) Common Areas Damage fees shall apply to a Lot when such damage is caused by a negligent, reckless or tortuous act of an Owner, or the Owner's family members, agents, employees, invitees, licensees, or tenants.

(4) Fees for inappropriate on-site storage shall apply to a Lot for each occurrence if the user of a Lot is on-premises but does not comply with the on-site storage restrictions promulgated by the Board from time-to-time, such that remedial action (i.e. removal, disposal, and/or storage at another location) is necessary. Fees for inappropriate on-site storage shall also apply for each occurrence if the Owner is off-premises, but the Lot is left

by any party in a condition so as to not comply with the on-site storage restrictions promulgated by the Board from time-to-time, such that remedial action (i.e. removal, disposal, and/or storage at another location) is necessary.

(5) Fees for inappropriate trash disposal shall apply to a Lot for each occurrence if the user of a Lot is on-premises but does not comply with the trash disposal restrictions promulgated by the Board from time-to-time, such that remedial action (i.e. removal, disposal, and/or storage at another location) is necessary. Fees for inappropriate trash disposal shall also apply for each occurrence if the Owner is off-premises, but the Lot is left by any party in a condition so as to not comply with the trash disposal restrictions promulgated by the Board from time-to-time, such that remedial action (i.e. removal, disposal, and/or storage at another location) is necessary.