

## DECLARATION

The Homes Association Declaration establishes the Birchwood Hills Homes Association to maintain and protect property values in this area. At the time Birchwood Hills was planned, the area was not incorporated into Kansas City, Missouri, so the Declaration provides for services normally provided by the city. It places obligations and limitations on the Association to carry out the desires of the developers which is to perpetuate a quality residential area.

### HOMES ASSOCIATION DECLARATION

Dated: August 1, 1960

Book B5367, Page 330

THIS DECLARATION, made on the 27th day of December, 1960, by WELLS DEVELOPMENT COMPANY, a Missouri corporation, which corporation is the owner of all of the Lots numbered 2-50, inclusive, of BIRCHWOOD HILLS, a subdivision of land located in the South one-half(1 [2] of Section 34, Township 48, Range 33 , in Jackson County, Missouri, as shown on the plat of Birchwood Hills, recorded in the Office of the Recorder of Deeds of Jackson County, Missouri, on the 27th day of December, 1960, and appearing on Page 330 of Book B-5367.

WITNESSETH:

WHEREAS, Wells Development Company is now de eloping said Birchwood Hills for high-class residence purposes, and it is its desire to continue the development of certain p of such land and other land in this vicinity for such purposes; and for the creation and maintenance of a residence neighbor possessing features of more than ordinary value to a residence community; and

WHEREAS, in order to assist it and its grantees in p viding the necessary means to better able it and its grantees to bring this about, Wells Development Company does now and hereby subject all of the Lots shown on the aforesaid plat of Birchwood Hills to the following covenants, charges and assessments, subject to limitations hereinafter set forth.

Definition of Terms Used:

The term "District" as used in this Declaration shall mean, unless and until extended as hereinafter provided, all of the Lots shown on said plat of Birchwood Hills. I for when other land shall, in the manner hereinafter provided for, be added to that described above, then the term "District" shall thereafter mean all land which shall from time to time be subjected to the terms of this agreement, including any future modification thereof.

The term "improved property", as used herein, shall be deemed to mean a single tract under a single ownership and use and on which tract a residence has been erected or is in the process of erection or on which any other building is not in violation of the restrictions then of record thereon is erected or is in the process of erection thereon. Any such tract may consist of one or more contiguous lots or parts thereof. Any other land covered by this agreement shall be deemed to be vacant and unimproved.

The term "public places", as used herein, shall be deemed to mean all streets, streams and all parks at street intersections or elsewhere, and all similar places the use of which is dedicated to or set aside for the use of the general public, or for the general use of all of the owners within tile district, or which may, with appropriate consent, be used by all of the owners of the district.

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

Public Improvements Under Management of Company or Association:

The above described property shall be under the control and under the management for the purposes hereinafter set fonh of the Birchwood Homes Association, a corporation to be organized under the General Not For Profit Corporation Act of the State of Missouri, hereinafter referred to as the Association. The Association shall have the following powers and duties, whenever in the exercise of its discretion it may deem them necessary or advisable, provided that nothing herein contained shall be deemed to prevent any owner having the contractual right to do so from enforcing any building restrictions in his own name.

FIRST: To enforce, either in its own name or in the name of any owner within the district, any or all building restrictions which may have been heretofore or may hereafter be imposed upon any of the land in said district, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications of restrictions or reservations being made by the parties having the right to make such changes, releases or modifications as are permissible in the deeds, contracts or plats in which such restrictions and reservations are set forth, nor shall it serve to prevent the assignment of these rights by the proper parties wherever and whenever such rights of assignment exist. The expenses and costs of any such proceedings shall, however, be paid out of the general fund of the Association as herein provided for.

SECOND: To provide for the plowing and removal of snow from the streets.

THIRD: To care for, spray, trim and protect and replant frees on all streets and in other public places where trees have once been planted, except where otherwise provided for; to care for, protect and replant shrubbery and re-sow grass in the parks which are in the streets or in the parks set aside for the general use of the owners of the district, or to which such owners have access and the use thereof.

FOURTH: To mow, care for and maintain parkways in front of vacant and other property; to cut and remove weeds and grass from such parking or other places, and to cut and remove weeds and grass from other vacant property; to pick up and remove therefrom, loose material, trash and rubbish of all kinds, and to do any other things necessary or desirable in the judgment of the officers of said Association to keep such vacant and unimproved property neat in appearance and in good order.

FIFTH: To provide such lights as the Association may deem advisable on streets, parks, parkways, gateways, entrances or other features, and in other public or semi-public places.

SIXTH: To provide at suitable locations, receptacles for the collection of rubbish and for the disposal of such rubbish as is collected, and for the collection and disposal of garbage.

SEVENTH: To provide for the maintenance of tennis courts, playgrounds, gateways, entrances, drinking fountains, streams and other ornamental features now existing or which may hereafter be erected or created in said district in any public street or park, or on any land set aside for the general use of the owners in the district, or to which all of such owners have access and the use thereof; and also to provide for the maintenance of natural water courses within the district.

EIGHTH: To exercise such control over easements as it may acquire from time to time.

NINTH: To exercise such control over streets as may be within its powers and as it may deem necessary or desirable. To issue permits for plumbers or other parties to make, cut or excavate in streets when necessary for installation of utilities and to accept bonds or deposits for the repairing of such cuts. Said Trustee shall have the authority to prevent any excavation or cuts in streets without first requiring a reasonable deposit to insure the repair and future maintenance of such repairs. It being further understood that the Trustee may reserve the fill right to repave any cuts, or the right to repair any damages in its option, to any improvements in the streets, and pay the cost of the same out of the deposits made as above provided; subject at all times to such control of county or other proper officials as may have jurisdiction over the streets.

TENTH: To repair, oil, maintain, repave and reconstruct paved streets or roads, lanes and pedestrian ways, and to clean streets, gutters and sidewalks and pedestrian ways.

ELEVENTH: To erect and maintain signs for marking streets.

TWELFTH: To reimburse the State, County or Township for expense of furnishing police service for the district, or to employ duly qualified peace officers for such purposes.

THIRTEENTH: To acquire and own the title to such real estate as may be reasonably necessary to carry out the purposes of the Association, and to pay taxes on such real estate as may be so used by it, and such tax as may be assessed against land in public or semi-public places.

#### Land Entitled to Benefits:

No land shall be entitled to any of the benefits or improvements or services provided for by this Association unless the owners thereof shall have subjected their land to the terms of this agreement and to the assessments herein provide for.

#### Assessment for General Fund of Association:

Each respective lot hereinbefore described when, if and as conveyed by the Wells Development Com any, or sold by the Wells Development Company under contracts or agreements of purchase and sale shall thereafter be subject to an annual maintenance charge or assessment to be paid to the Birchwood Hills Homes Association, a nonprofit corporation organized and existing or to be organized and exist under the laws of the State-of Missouri, for the purpose of providing a general fund to enable to Homes Association to perform duties hereinafter set forth. The amount of such assessment shall e fixed annually by the said Homes Association, and shall be charged or assessed in equal proportions against each lot of the land described; provided, however, that said assessment shall in no event exceed the sum of Thirty Six Dollars (\$36.00) per lot for any one year. The first assessment shall be made for the year beginning January 1 , 1961 , and thereafter each assessment shall be made for each subsequent calendar year commencing on January 1st each year. Each yearly assessment shall be

due and payable on or before ninety (90) days after it has been fixed and levied, but in no event shall the due date thereof be prior to the first day of February. It shall be the duty of the Homes Association to notify' all owners of the fee simple title to the property above described, whose addresses are listed with the said Association, within thirty (30) days after said assessment' has been fixed and levied, giving the amount of the charge or assessment for said year, when due, and the amount due on each lot or parcel of land owned by each such owner. Failure of the Association to levy the assessment or charge for any one year shall not affect the right of said Association to do so for any subsequent year.

A written or printed notice thereof deposited in the United States Post Office with postage prepaid and addressed to the respective owners at the last address listed with the Homes Association shall be deemed to be sufficient and proper notice for this purpose or any other purpose of this Declaration, where notice is required.

#### Lien of Assessment; Interest; Delinquency

The assessment shall become a lien on the said real estate as soon as due and payable as above set forth, but said lien shall be inferior and subordinate to any valid first mortgage and Deed of Trust. In the event of failure of any of the owners to pay the assessment when due, then such assessment shall bear interest at the rate of eight percent (8%) per annum from the date when due until paid.

Ninety (90) days after the date any yearly assessment has been fixed and levied, the assessment if not paid shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate in proceedings in any court in the County of Jackson, State of Missouri, having jurisdiction of suits for the enforcement of such liens before the expiration thereof as hereinafter provided.

Such liens shall continue for a period of three (3) years from the date of delinquency and no longer, unless within such time suit shall have been instituted for the collection of the assessment, and a notice of action pending filed for record in the Recorder's Office of the County of Jackson, State of Missouri, in which case the lien shall continue until the termination of the suit, and until the sale of the property under execution of the judgment establishing same.

#### Collection of Assessments; Expenses; Limitations on Yearly Expenditure:

Said Homes Association shall collect all charges or assessments herein provided for, and shall pay all expenses in connection therewith and all other expenses incident to the conduct of the business of said Homes Association, provided, however, that the said Association shall at no time expend more money within any one year than the total amount of the charge or assessment for that particular year or any surplus which it may have on hand from previous charges or assessments, nor shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation. \*

#### Membership in Association; Effect of Conveyance:

Each owner by original purchase from the Wells Development Company, or its successors or assigns, of any lot or lots hereinabove described shall become a member of said Homes Association and shall continue to be a member thereof so long as it is the owner of any lot or lots in the tract of land hereinabove described. Upon transfer, conveyance, or sale by any owner of all his or her interest in said above-described tract, said owner's membership in said Homes Association shall thereupon cease and terminate. It is provided that each family owning lots in Birchwood Hills shall be entitled to one vote. Except as herein provided, the Homes Association shall be the sole judge of the qualifications of its members and of their right to participate in and vote at its meetings. The fact of nonparticipation in said Homes Association shall not serve in any way to release or relieve the lot or lots owned by said owner from the assessment herein provided for.

#### Notice of Address of Association; Time and Place of Meetings:

The Homes Association shall notify all owners of the lot or lots in the land above described, at the address of such owners as listed with the said Association, of the official address of said Homes Association, the time and place of regular meetings of the Association, and any other business of said Association.

#### Modification of Declaration:

By written consent of the owners of the fee simple title of two-thirds of all of the lots and blocks hereinabove described, the Homes Association may be given such additional powers as may be desired by said Association, or otherwise to amend or modify' this Declaration, provided however, that no right to change the maximum amount of the annual assessment or charge hereinabove provided for shall be given.

---

\* See Amendment

**Exercise of Powers of Association Prior to Incorporation:**

Prior to the actual organization or incorporation of the Homes Association contemplated by the terms of the Declaration, the Wells Development Company shall have the right at its option to perform the duties, assume the obligations, levy and collect the assessments and charges, and otherwise exercise the powers herein conferred upon the Homes Association in the same way and manner as though all of such powers and duties were herein given directly to the Wells Development Company.

**Conflict of Declaration and Law:**

Said Homes Association shall at all times observe all of the laws of the County of Jackson, State of Missouri, and the United States of America, and if at any time any of the provisions of this Declaration shall be found to be in conflict therewith, then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby.

**Rules and Regulations of Association; Employment of Agents:**

The Homes Association shall have the right to make such reasonable rules and regulations and provide such means and employ such agents as will enable it adequately and properly to carry out the provisions of this Declaration, subject to the limitations hereinabove and hereinafter set out.

**Addition of Other Property to Declaration of Association:**

The Wells Development Company may, from time to time, add such other property to this Declaration as is now or hereafter owned or approved for addition by it, provided that the property so added to this Declaration shall be situated in Birchwood Hills, a subdivision in the County of Jackson, State of Missouri, and said property shall, at the time of addition, be bound by all the terms and conditions of this Declaration and any future modifications thereof.

**Termination of Declaration; Release:**

This Declaration may be terminated and all of the land now or hereafter affected may be released from all of the terms and provisions thereof by the owners of the fee simple title of two-thirds of the property subject thereto at the time it is proposed to terminate this said Declaration, -executing and acknowledging an appropriate written agreement or agreements for that purpose, and filing the same in the Office of the County Clerk and Recorder of Deeds of the County of Jackson, State of Missouri.

**Binding Effect:**

All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall bind the Wells Development Company, its successors and assigns, and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the Wells Development Company, its successor in title, and with each of them to conform to and observe all the terms and conditions herein contained.

IN WITNESS WHEREOF, Wells Development Company, by authority of its Board of Directors, has caused this instrument to be executed by its president, and its corporate seal to be hereto affixed, attested by its Secretary, this 1 st day of August, 1960.

WELLS DEVELOPMENT COMPANY  
A Missouri Corporation

**AMENDMENT**

We, the undersigned, all being fee simple owners of property covered by the Declarations of the Birchwood Hills Homes Association, recorded at Book B5367 at Page 330 in the Office of Recorder of Deeds in Kansas City, Jackson County, Missouri, and pursuant to the said Declarations, hereby adopt the following amendment to the said Declarations, Page 7, Section entitled:

"Collection of Assessments; Expenses; Limitations on Yearly Expenditures:" is

amended to read as follows:

Said Homes Association shall collect all charges or assessments herein provided for, and shall pay all expenses in connection therewith and all other expenses incident to the conduct of the business of said Homes Association, provided, however, that the said Association shall at no time expend more money within any one year than the total amount of the charge or assessment for that particular year plus any surplus which it may have on hand from previous charges or assessments, nor shall said Association enter into any contract binding the assessment of any future year to pay for any such obligation, except that the Board of Directors shall be empowered to enter into a contract for the installation of electric street lights and metal poles with underground wiring, such contract to be for the expenditure of funds for a period not exceeding ten (10) years from the date of the signing thereof.

#### BY-LAWS

The Birchwood Hills Homes Association By-Laws govern the operation of the Homes Association, its officers and board members.

#### BY-LAWS OF BIRCHWOOD HILLS HOMES ASSOCIATION

#### ARTICLE }

#### NAME

The name of this association shall be the Birchwood Hills Homes Association.

#### ARTICLE 1 1

#### OBJECTIVES AND PURPOSES

The objectives and purposes of this Association are to improve and maintain high standards of appearance for the Birchwood Hills area as a residential community; to promote such matters as will create a friendly community atmosphere for our families and children; and to take such actions as will enhance the property values, provide for the security of its members, and make the area an enviable residential community.

#### ARTICLE 111

#### MEMBERSHIP

Section I. As defined in and subject to the original Declaration of Restrictions filed for record in the office of the Recorder of

Deeds of Jackson County, Missouri, in Book B5367, Page 320, and Homes Association Declaration having been recorded in Book B5367, Page 330 and modified by Declaration filed in Book B567, Page 38, and as further modified by any future declarations, each owner or owners by original purchase from the Wells Development Company, or its successors or assigns, of any lot or lots hereinabove described shall become a member thereof for the duration of ownership of any lot or lots in the tract of land hereinbefore described. Upon transfer, conveyance or sale of all of any owner's interest in said above described tract, said owner's membership in said Homes Association shall thereupon cease and terminate.

Section 2. Except as herein provided, the Homes Association shall be the sole judge of the qualifications of its members. The fact of non-participation in said Homes Association shall not serve in any way to release or relieve the lot or lots owned by said owner from the assessment herein provided for.

Section 3. In case the legal title to any lot or tract of land is held by one or more minors, then their natural or legal guardian shall be eligible to membership. If there is more than one such guardian, such guardians may, if they prefer,

designate in writing one of them as a member in the stead, and he shall thereupon become eligible to membership, subject to the approval of the Board of Directors.

Section 4. In case the legal title to any improved lot is held by a corporation, then the board of directors of such corporation, or its President, or its Vice-President may designate in writing one of its officers, members or employees as its member representative, who shall thereupon become eligible to membership, subject to the approval of the Board of Directors.

Section 5. No fees or charge shall be made for the privilege of membership beyond the charge of assessment as set forth in the Birchwood Hills Homes Association declaration as herein above described.

Section 6. The Secretary shall keep a correct list of all members and their last known addresses. All members shall notify the Secretary of any changes of address.

#### ARTICLE IV

##### OFFICERS AND DIRECTORS: THEIR DUTIES AND QUALIFICATIONS

Section 1. The corporate powers of the Association shall be vested in a board often (10) Directors, comprised of four (4) Officers and six (6) additional Directors. They shall be known as the "Board of Directors" and shall be elected by the membership of the Association as provided in Article V.

Section 2. All directors shall be residents of Birchwood Hills and shall at all times be members of this Association "in good standing". The term "in good standing" as applied to a member shall mean one who has paid his annual assessment for the current year within 90 days after the statement date and has no prior assessments outstanding on his property.

Section 3. The four Officers shall be as follows: President, Vice-President, Secretary and Treasurer, No two of these offices shall be held by the same person.

- A. The President shall preside at all meetings of the members and Directors; shall sign all instruments of writing to be executed by the Association, and as he may be directed by the Board of Directors; and he shall perform such other duties as may be conferred upon him by the Board of Directors. The President shall assign members of the

Board of Directors to serve as chairman, co-chairman or members of such special committees as the President may designate, including but not limited to the following: legal concerns, public works and parks, administration, public relations, women's activities, etc. He shall serve as an ex-officio member of all committees except the nominating committee. The immediate Past President of the Association shall serve as a member of the Board in an advisory capacity for a period of one year following his term(s) in office; however, he shall have no voting privilege unless he is entitled to such by virtue of election to another office or to a directorship.

- B. The duties of the Vice-President shall be to do and perform all the duties of the President in the absence or inability of the President.
- C. The duties of the Secretary shall be to keep a permanent record of all proceedings of each meeting of the Board of Directors and of the Association members, and to keep the officers of the Association informed of all proceedings whenever called upon; to call special meetings of the Board of Directors and of the Association members whenever requested by the President or the Vice-President or a majority of the Board of Directors, or by a petition signed by Association members pursuant to Article VI, Section •1; to keep a list of all members of the Association and their addresses; and to do and perform all other duties that usually and properly pertain to the office of Secretary. In the case of the failure, absence, inability or refusal •of the Secretary to perform his duty, the President may appoint someone to act in his stead until the next meeting of the Board of Directors, and in such event the Secretary shall turn over to his successor in office all papers, records, books and other property belonging to the Association.
- D. The duties of the Treasurer shall be to receive and deposit all monies belonging to the Association in such bank or banks as the Board of Directors may direct; to keep a complete and detailed account of all monies received and paid out; to make a financial report in writing at the "Annual Meeting"; and to make such a report at any meeting of the Board of Directors, whenever he may be requested to do so; to turn over to his successor in office all money, records, papers, and other property then on hand belonging to the Association; and to do and perform all other duties that usually and properly pertain to the office of Treasurer.

Section 4. The Board of Directors shall conduct, manage and control the property, affairs and business of the Association, and shall make all necessary rules and regulations for the guidance and management of the affairs and business of the Association not inconsistent with the Homes Association Declaration or the laws of the State of Missouri or the United States.

They shall formulate general plans for the year, prepare a budget and establish the assessment for the current year. Every effort shall be made to tender by U.S. Mail each member's statement of account by March. They shall cause to be kept a complete record of all their acts and proceedings for the members of the Association. At each "Annual Meeting", they shall present a complete detailed statement showing the assets, liabilities and general condition of the Association. They shall also cause to be kept a complete record of all the finances of the Association showing all receipts and expenditures, assets and liabilities, and they shall arrange for an annual independent audit of this record.

They shall employ and discharge at will all agents, servants and employees of the Association, prescribe their duties, fix their compensation, and in their discretion, may require of any of them a bond or other security for faithful performance of their duties and fidelity. They shall determine who shall sign and countersign all checks, drafts, and other papers and documents, except as otherwise provided for herein. They shall vote on all applications for membership as herein provided in Article III, Sections 2 and 3. They shall do and perform any other duties that may be prescribed for them by the members of this Association.

The Board of Directors may appoint such standing or special committees from the membership as they believe necessary or advisable to transact the business affairs of this Association or to implement its programs.

Section 5. No member of the Board of Directors shall profit directly or indirectly financially from the Association.

Section 6. In case of vacancy in an office or a directorship occurring between annual elections, the remaining members of the Board of Directors at a regular meeting or a special meeting shall elect another eligible member of the Association to fill the vacancy for the unexpired term as provided in Article V, Section I I, and until a successor shall be duly elected and qualified.

## ARTICLE V

### ELECTION OF OFFICERS AND MRECTORS: TERMS OF OFFICE

Section 1. A nominating committee consisting of three members, only one of whom may be a member of the current Board of Directors, shall be appointed by the President during the month of August. Only members in good standing may serve on the nominating committee, and they must have been members of the Association for at least one full year prior to appointment and must have attended an "Annual Meeting". This requirement shall be waived for 1972 and 1973. It shall be the duty of this committee to nominate candidates for Officers and Directors. The President shall not serve on the nominating committee.

Section 2. A candidate for office must be a member in "good standing" as defined in Article IV,. Section 2. A candidate for President must have served on the Board of Directors prior to his nomination, except that this provision shall be waived for the elections held in 1972 and 1973.

Section 3. The nominating committee shall report the slate of Officers and Directors to the Board of Directors by October, and submit the slate to the membership by mail at least ten (10) days prior to the meeting at which the election will take place.

Section 4. Election of Officers and Directors shall take place at the "Annual Meeting". Members shall be notified by mail of the date and place of the election at least ten days prior to the meeting,

Section 5. Additional nominations may be made from the floor at the "Annual Meeting" provided that the person nominated meets the qualifications outlined above in Section 2. The chair shall state these qualifications in full prior to receiving any nominations from the floor.

Section 6. Voting for Directors shall be by written ballot except when there is only one candidate for an office. In this event, the President may call for a voice vote. A majority of members voting shall elect. If there are three or more candidates and no candidate receives a majority of the votes, then there shall be a run-off election between the two candidates receiving the largest number of votes.

Section 7. Voting for Directors shall be by written ballot except when there is only one candidate for a directorship. In this event, the President may call for a voice vote, and a majority of members voting shall elect. If more than one directorship is to be filled, the members may vote for as many individual candidates as there are positions to be filled. A member shall not vote for any candidate more than once on any one ballot. If the number of candidates exceeds the number of directorships to be filled, those candidates receiving the highest pluralities of votes shall be considered elected.

Section 8. Officers shall be elected for a term of one year each, beginning January 1<sup>st</sup> following their election and/or until their successors are elected and qualified.

Section 9. Directors shall be elected for a term of two years each, beginning January 1<sup>st</sup> following their election and/or until their successors are elected. Three of the Directors shall be elected in even years and three shall be elected in odd year, except that at the 1972 election, three Directors shall be elected for terms of two years each and three Directors shall be elected for terms of one year each. At the 1972 election separate ballots shall be cast for each two sets of the Directors each.

Section 10. Newly elected Officers and Directors shall be permitted to attend the meetings of the Board of Directors as nonvoting members of the Board from the time of their election until they assume office. The newly-elected President is empowered to name committee chairmen immediately upon election to office.

Section 11. A vacancy occurring in office shall be filled by appointment by the Board of Directors for the remainder of a one year term of office, or until the "Annual Meeting" if the vacancy occurs during the first year of a two-year term of office. Voting for such vacancies shall be by separate ballot.

## ARTICLE VI

### ASSOCIATION MEETINGS

Section 1. The regular annual meeting of the members of the Association, herein called "Annual Meeting", shall be held within the last two (2) weeks in October or the first two (2) weeks in November of each year, and at such time and place

as may be fixed by the Board of Directors and set out in the notice of the meeting. A special meeting of the members of the

Association, herein called "Special Meeting", may be held at any time on call of the President, or majority of the Board of Directors, or by petition signed by one-third (1/3) of the voting members.

Section 2. The members of the Association shall be notified by an Officer by a printed or written notice mailed to the last known address of the members at least ten (10) days before the date of the "Annual Meeting", stating the time and place of the meeting. A "Special Meeting" may be called in like manner with five (5) days' notice, but any such notice shall designate the purpose of the meeting. In all such cases, the mailing of the notice shall be considered as the noticed required to be given, and such notice need only be given to the members appearing as such on the books of the Association.

Section 3. At the "Annual Meeting" or "Special Meeting", thirty (30) voting members shall constitute a quorum for the transaction of business. A majority of those voting shall be necessary to elect a Director, an Officer or transact any other business except that Directors may be elected by plurality as provided in Article V, Section 7.

## ARTICLE VII

### INFORMAL INFORMATION MEETINGS



Section 1. The Board of Directors shall meet informally at least once per year with any member or members of the Association for the sole purpose of receiving information, comments, questions and suggestions pertaining to the Association.

Section 2. The date, time and location of this informal meeting shall be announced to the general membership by mail at least ten (10) days prior to the meeting.

#### ARTICLE VIII

##### BOARD OF DIRECTORS MEETINGS

Section 1. Regular meetings of the Board of Directors shall be held at such time and place as the Board of Directors may designate. No notice of the regular meetings of the Board of Directors shall be required to be given. There shall be at least six such meetings per year.

Section 2. Special meetings of the Board of Directors may be called from time to time by the President or Officer acting as such, or by one-third (1/3) of the Directors. Notice of such meeting shall be made to each director at least two (2) days prior to the meeting.

Section 3. Six (6) directors shall constitute a quorum for the transaction of business at any meeting. A majority vote of those present shall be necessary to transact any business.

Section 4. Any director who is absent for four (4) consecutive regular meetings of the Board of Directors shall automatically cease to hold the Office of director and the office shall be declared vacant.

#### ARTICLE IX

##### VOTING

Section 1. All voting rights shall be vested exclusively in the owners of lot or lots or their duly accredited representatives as herein provided and they shall have the right to cast but one vote regardless of the number of square feet in said lot or lots.

Section 2. At all Association meetings, each voting member shall have the right to vote on each matter submitted to a vote of the members, either in person or by proxy duly executed in writing. Such proxy shall authorize its holder to vote on any and all matters before the meeting. The proxy can only be given to another member of the Association. It must be duly executed in writing and can be applicable only to one specific meeting. All proxies must be received by the Secretary no later than 48 hours before the "Annual Meeting" or 24 hours before a "Special Meeting". No member shall be permitted to vote more than one (1) proxy. The Secretary shall be the judge of the validity of the proxy.

Except as provided in Article V, Sections 6 and 7, all votes shall be by a show of hands unless objected to by any member at the meeting. In such an event, voting shall be by written ballot.

Section 3. Each member attending the "Annual Meeting" or a "Special Meeting" shall register his name and address. Each voting member and each proxy holder shall be provided a card which will identify him for the purpose of voting in person on all matters brought before that meeting.

Section 4. A special committee consisting of three members "in good standing" of the Association shall be appointed by the President five (5) days prior to the "Annual Meeting" or a "Special Meeting". This committee shall be responsible for registering members attending the meeting, issuing the voter and proxy-holder identification cards, distributing and collecting the ballots, tallying the votes, and reporting the results to the chair.

Section 5. Where a petition is signed, or ballot or vote cast by any one of the persons comprising a voting membership under this Article, it shall be assumed that the person so signing or voting did so with the authority of all the persons comprising that membership.

Section 6. At Board of Directors meetings, no Director shall be permitted to vote unless present at such meeting. All votes shall be by vocal and/or visual count.

## ARTICLE X

### EXPENDITURES AND ASSESSMENTS

Section 1. The Association shall not obligate itself at any time to spend more money than it has on deposit.

Section 2. The Association shall not enter into any contract binding the assessment of any future year to pay for any such obligation, except as the Board of Directors may be empowered by modification of the Homes Association Declaration.

## ARTICLE XI

### PARLIAMENTARY PROCEDURE

Section 1. The rules of procedure and conduct for all Association meetings and Board of Director meetings shall be in accordance with "Robert's Rules of Order Newly Revised" except as herein provided.

Section 2. The office of Parliamentarian may be filled by a member "in good standing" appointed by the President or the Board of Directors. The Parliamentarian shall serve as a non-voting member of the Board of Directors. He shall attend all formal meetings to judge on the procedures of such meetings.

## ARTICLE XII

### AMENDMENTS

Section 1. These by-laws may be altered, amended or added to at the "Annual Meeting" or at a "Special Meeting" by a two thirds (2/3) majority vote of the members voting; provided, however, that such alteration, addition or amendment not conflict with the Homes Association Declaration and Declaration of Restrictions referred to hereinbefore.

Section 2. The by-laws may be changed only at the "Annual Meeting" under the provisions of Section 3, below, or at a "Special Meeting" under the rules of Article VI whereby the proposed by-laws changes shall be listed as part or parts of the designated purpose of the meeting.

Section 3. A by-laws committee shall be selected annually by the Board of Directors to consider changes to these by-laws. Members should submit in writing any proposed by-laws changes to this committee by September 1 ± A copy of any proposed changes to these by-laws originated by this committee or individual members will be furnished to each member of the Association at least ten (10) days prior to the "Annual Meeting".

## RESTRICTIONS

The purpose of the Birchwood Hills Restrictions is to limit the use of property. It is a guide of limitations and protects homeowners from violations of certain practices which could result in lower property values and/or be offensive to others living in the area.

### BIRCHWOOD HILLS RESTRICTIONS

Birchwood Hills - Plat 1  
Declaration of Restrictions  
Filed: December 27, 1960  
Book B5367, Page 320

WHEREAS, Wells Development Co., a Missouri corporation is the owner of the following described property:  
Lots 1-56<sup>1</sup> inclusive of Birchwood Hills, a subdivision of land located in the South one-half (1/2) of Section 34, Township 48, Range 33, in Jackson County, Missouri, as shown on the plat of Birchwood Hills.

WHEREAS, said Wells Development Co. now desires to place restrictions on said property for the use and benefit of itself and future grantees;

NOW, THEREFORE, in consideration of the premises, Wells Development Co., a Missouri corporation, for itself and for its successors and assigns and for its future grantees hereby agrees that all of the lots shown on the above described plat of Birchwood Hills are hereby restricted as to their use in the manner hereinafter set forth.

#### A. AREA OF APPLICATION

A-1 The residential area covenants in the subsequent Section B in their entirety shall apply to Lots 2-50 inclusive, Birchwood Hills.

A-2 The business area covenants in Part D shall apply to all of Lot 1, Birchwood Hills, except the parcel of land more particularly described in A-3 hereafter.

A-3 The park area covenants shall apply to that part of Lot 1<sup>1</sup>, Birchwood Hills, described as follows: "Beginning at the Northeast corner of Lot 17, Birchwood Hills, thence East 100.67 feet more or less to the Southeast corner of said Lot 17 thence North 140 feet to point of beginning. "

A-4 Lots 51 through 56<sup>1</sup> inclusive, Birchwood Hills, may be used for church or school purposes, and if not used for such church or school purpose, said lots will be used for residential purposes and subject to restrictions set out in Section B hereafter.

A-5 Wells Development Co., a Missouri corporation, may from time to time, add such other property to this declaration as is now or hereafter owned or approved for addition by it, provided that the property so added to this declaration shall be situated in Birchwood Hills, and said property shall, at the time of

Modification of Homes Association Declaration. Dated January 30, 1961. Filed January 30, 1961, Book B5367, Page 38, No. B368173.

WHEREAS, it was not the intention of Wells Development Co. that Lots 1, 51, 52, 53, 54, 55 and 56 as shown on said plat be subject to the terms and conditions of said Homes Association Declaration but said lots were inadvertently subjected thereto through an error of the scrivener, and

WHEREAS, it is now the desire of Wells Development Co. that said Lots I, 51, 52, 53, 54, 55 and 56 as shown on said plat be fully released from the terms and provisions of said Homes Association Declaration;

NOW, THEREFORE, in consideration of the premises, Wells Development Co., as the owner of all of the lots shown on said plat, does by these presents release and forever discharge said Lots I, 51, 52, 53, 54, 55 and 56 from the terms and conditions of said Homes Association declaration filed under Document No. B365064 as aforesaid so that said lots shall be free and clear of the terms and provisions of said Homes Association Declaration the same as if said lots had never been made subject thereto.

addition, be bound by all of the terms and conditions of this declaration and any future modification thereof.<sup>2</sup>

## B. RESIDENTIAL AREA COVENANTS

B-1 No lot shall be used, improved or occupied for other than residential purposes except as set out in Section A, above. Any residence erected or maintained on any of the lots hereby restricted shall be designated for occupancy by a single family. No building shall be erected, placed, permitted on any of the lots hereby restricted having more than two stories in height, provided, however, that a residence more than two stories in height may be erected thereon with the consent in writing of the Architectural Control Committee, but in any event, not to exceed two and one-half stories.

B-2 No building shall be erected or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been submitted and approved by the Architectural Control Committee as to the quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. Approval shall be as provided in part E on any. new roof, approval will be either wood shingle GAF Timberline or equivalent shingles approved color is weathered wood tone.

B-3 The ground floor area of one story dwellings must have an enclosed floor area of not less than 1,915 square feet; split-level homes must have a total enclosed floor area of not less than 1,915 square feet; one and one-half story homes must have an enclosed floor area on the first floor of not less than 1,350 square feet; two story homes must have an enclosed floor area on the first floor of not less than 950 square feet.

### B-4 Building Location

- (a) No dwelling may be erected on the land herein described except upon a plot of ground having an area of not less than 7,700 square feet and with a street frontage of not less than 70 feet.
- (b) No part of any dwelling including porches and garages shall be erected or maintained nearer than 7 feet to the side property lines on which same is erected, except that cornices, spouting's, chimneys and purely ornamental projections may extend two feet nearer said property line.
- (c) No dwelling shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. However, the Architectural

Control

Lots 234  
to 240,  
inclusive

2 Plat 2

Lots 66, 68, 69

Lots 70, 71, 76, 79

Lots 135 to 147, inclusive

Lots 155  
to  
233, inclusive  
Filed  
April 17,  
1962

Plat 3

Lots 148 to 154 inclusive

Filed March 27, 1963

Plat 4

Lots 276 to 285, inclusive Lots 298 to 304, inclusive

Lots 241 to 275, inclusive  
Lots 285 to 297, inclusive Plats 5 and

6

Filed February 10, 1967

Amended November, 1972

Refiled December 30, 1988

Lots 305 to 344, inclusive

Filed October 5, 1963

Plat 2 mle East 100.67 feet of the North 140 feet of Lot

1 Lots 57 to 65, inclusive Lots 67, 73, 74, 75, 77, 78

Lots 80 to 86, inclusive

Lot 89 to 134, inclusive

Committee may, by recording a properly drawn instrument, permit erection up to two (2) feet nearer, but in no event shall a building be located on any lot nearer than twenty-eight (28) feet to the front lot line, or nearer than twenty-three (23) feet to any side street line.

- (d) The main body of any residence, including attached garages, attached greenhouses, ells and porches, enclosed or unenclosed, but exclusive of all other projections set forth above in subsection (b), erected or maintained on any of the lots hereby restricted, or any part or parts thereof, as shown on the above described plat of Birchwood Hills, shall not occupy more than 80 percent of the width of the lot on which the residence is erected. Upon application and with written consent, the Architectural Control Committee may approve variance as to the restriction up to a maximum of five percent (5%).

#### B-5 Easements

Easements for installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear five feet of each lot. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility company is responsible.

#### B-6 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.

#### B-7 Temporary Structures

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

#### B-8 Signs

No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

#### B-9 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.

#### B-10 Oil Tanks Prohibited

No tank for the storage of fuel may be maintained above the surface of the ground without the consent in writing of the Architectural Control Committee.

#### B-11 Sewage Disposal

No individual sewage disposal system shall be permitted on any lot, and each dwelling shall be provided with indoor sanitary facilities connected to public sewage disposal system.

#### B-12 Protective Screening

Protective screening areas are established as shown on the recorded plat, including an acceptable screening planting and chain link fencing within minimum easement of 15 feet along north and west boundary of Lot 1 and also screened planting easement along rear lines of Lots 20 through 28.

#### B-13 Fence Restriction

No fence any kind or description shall be erected on any lots hereby. restricted until the location, height and material to be used have been approved in writing by the Architectural Control Committee. In the event the Architectural Control Committee does not indicate its approval or disapproval in writing within thirty (30) days after such request has been made. such thereafter shall be deemed to have been

3 Except Plats 2, 3, 4, 5 and 6 modified to read seventy-five percent (75%) g22E2-E4 but in no case shall any fence be erected higher than six feet (6'), nor erected nearer the street than the front of the dwelling facing the street.

#### B-14 Outbuildings Prohibited

No outbuilding may be erected on any of the lots hereby restricted without the written consent or the Architectural Control Committee.

### c. PARK AREA COVENANTS

C-1 area may be used for a park, ornamental entry, ingress and egress road for the business area or for such purposes as are set out in Section B hereinbefore mentioned, it being specifically covenanted that no trade or business of any kind shall be conducted upon said property or any part thereof.

### D. BUSINESS AREA COVENANTS

D-1 No manufacturing or industrial type businesses may be established in the business area and all businesses proposed for said area shall be of retail and service type only and subject to the zoning authorized by legally constituted zoning authority for such.

D-2 No business building shall be erected which has not been approved by the Architectural Control Committee and all such buildings must be in harmony of external design with existing structures.

### E. ARCHITECTURAL CONTROL COMMITTEE

E-1 The Architectural Control Committee is composed of Quinton R. Wells, Ralph W. Wells, Jr., and John R. Wells, all of 4115 Birchwood Drive, Kansas City, Missouri. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any members of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to the covenant.

E-2 The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

F. GENERAL PROVISIONS

F-1 Duration of Restrictions

Each of the restrictions above set forth shall continue and be binding upon Wells Development Co. and upon its successors and assigns until January 1, 1990, and shall automatically be continued thereafter for successive periods of 10 years, provided, however, that the owners of the fee simple title to more than fifty percent (50%) of the front feet of all the improved lots hereby specifically restricted, and set forth in this statement may release all of the land hereby restricted from any one or more of the restrictions set forth on January 1, 1990, or at the end of any successive 10 year period thereafter, by executing and acknowledging an appropriate agreement or agreements in writing for such purposes, and filing the same for record in the office of the Recorder of Deeds, Jackson County, Missouri, prior to January 1, 1990, or to the expiration of any successive ten (10) year period after 1990.

F-2 Right to Enforce

The restrictions herein set forth shall run with the land and bind the present owner, its successors and assigns, and all parties claiming by or through, or under it shall be taken to hold, agree and covenant with owner of said lots, its successors and assigns, and with each of them to conform to and observe set restrictions as to the use of said lots hereby restricted, and the construction of improvements thereon, but no restrictions herein set forth shall be personally binding on any corporation, person or persons except in respect of breach committed during its, his or their seizing of title to said land, and the owner or owners of any of the above lots hereby restricted shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the restrictions above set forth, in addition to ordinary legal actions for damages, and failure of Wells Development Co., or the owner, or owners of any other lot or lots hereby restricted, to enforce any of the restrictions herein set forth at the time of its violation, shall in no event be deemed to be a waiver of the right to do so thereafter. Wells Development Co. may, by appropriate agreement, assign or convey to any person or corporation all the rights, reservations 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 those rights, or any one or more of them at any time or times, in the same way and manner as

directly reserved by them or it in this instrument.

F-3 Severability

Invalidation of any one of these covenants by judgment of court shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Wells Development Co. has by authority of its Board of Directors caused this instrument to be executed by its President and its corporate seal to be affixed this 1<sup>st</sup> day of August, 1960.

HOMES ASSOCIATION DECLARATION

Book B5367, Page 330

AMENDMENT

We, the undersigned, all being fee simple owners of property covered by the Declarations of the Birchwood Hills Homes Association, recorded at Book B5367 at Page 330 in the Office of Recorder of Deeds in Kansas City, Jackson County, Missouri, and pursuant to the said Declarations, hereby adopt the following amendment to the said Declarations, Page 4, Section entitled:

Lien of Assessment; interest; Delinquency

In the event of failure of any of the owners to pay the assessment when due, then such assessment shall bear interest at the rate of eight percent (8%) per annum from the date when due until paid.

This amended to read as follows :

In the event of failure of any of the owners to pay the assessment when due, then such assessment shall bear a penalty as voted by the membership at the Annual Meeting on November 9, 2006, from the date when due until paid .

The penalty for late payment will be assessed as follows :

One (1) year late: \$ 20.00 Four (4) years late: . \$120.00 Two (2) years late: \$ 40.00 Five (5) or more \$140.00 Three (3) years late: \$ 60.00  
All penalties will be cumulative.

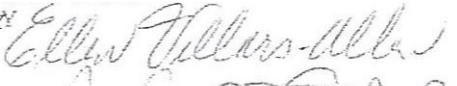
BIRCHWOOD HILLS HOMES ASSOCIATION

BOARD OF DIRECTORS

  
HAROLD HENRY

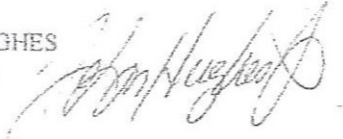
JAMES LD HENRY ADAMS

ELLEN A VILLARS-ALLEN

SECRETARY 

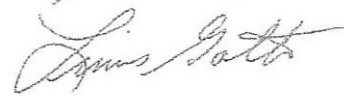
ACOSTA   
MEMBER


JO-ANNE DOUGHTY   
MEMBER

HUGHES   
MEMBER

PRESIDENT VICE-PRESIDENT

OLD IS   
SENT



RA BLAIR   
MEMBER

GREGG   
MEMBER

JAY   
MEMBER



AREL ACOSTA  
MEMBER

LINUS GOTH  
TREASURER  
BARBARA BLAIR  
MEMBER

MEMBER

BRUCE GREGG  
MEMBER

JOHN HUGHES  
MEMBER

CRAIG LAY  
MEMBER

## **BIRCHWOOD HILLS RESTRICTION MODIFICATIONS**

### **Adopted and approved November 17, 2014**

Since 1962 Birchwood Hills has been considered the premier residential sub-division in south Kansas City.

The purpose of the Birchwood Hills Restrictions is to limit the use of property. It is a guide of limitations meant to protect homeowners from violations of certain practices which could result in lower property values and / or be offensive to others living in the area. These restrictions will help to protect your property values .

THE 318 RULE: There are 318 homes in Birchwood. We ask that when you consider a modification to your home, let the home and landscape deteriorate or park a junk car or trailer in the drive consider what it would be like if 318 of your neighbors did the same. Each and every resident has a responsibility to each and

every one of our neighbors to maintain their property and help to protect the value of all of our homes.

#### **RESIDENTIAL AREA (SINGLE FAMILY) (CITY) 88-305-12**

No lot shall be used, improved or occupied for other than residential purposes. Any residence erected or maintained on any of the lots shall be designated for occupancy by a single family.

#### **SINGLE FAMILY LODGING AND BOARD (CITY)**

The furnishing of lodging or board for not more than one individual or two individuals who are related to each other by blood or marriage. No display or sign shall be used to advertise such use. The lodger or boarder must live in common with the family, sharing a common entrance, kitchen facilities, and living areas. However, in no case shall more than five unrelated individuals reside within the dwelling.

#### **SINGLE FAMILY HOUSING VS. DUPLEX (CITY)**

Anytime a single-family dwelling unit has multiple "entrances, kitchen facilities, and living areas" and is being used as a multi-family dwelling it can then be considered a duplex. Inspectors from the Development Compliance Branch will make a site visit upon receiving a complaint of such use and make the determination if that is actually the case. If it is determined that a single-family dwelling is being used as a duplex then a notice of violation is issued and the property owner has the option of bringing it into compliance failing which a citation is issued.

#### **BUILDING LOCATION (CITY)**

No part of any dwelling including porches, pads and garages shall be erected or maintained nearer to side property line than a distance equal to of the front width of the property. EXÆVIPLE: FRONT PROPERTY IS 75 FT. WIDE. SIDE SETBACK WOULD

## **DRIVEWAYS (CITY)**

The width of the driveway at the property line shall not exceed the width of the garages to which the driveway leads, but in no case shall width of said driveway exceed 22 feet. All driveways will be of concrete construction.

## **DRIVEWAYS AND PARKING RESTRICTIONS (CITY)**

Off street parking areas may be used solely for the temporary parking licensed motor vehicles in operating condition. Boats, trailers and recreational vehicles with maximum length of 16 ft. and maximum height of 5 ft. must be parked in enclosed building or in garage. These units can be stored in back yard on concrete pad if screened from neighbors view with 6 ft. wood fence or landscape screening . No recreation vehicles , motor homes , 5<sup>th</sup> wheel campers, travel trailers, box trailers will be parked in back or side yards. No cars or trucks will be parked in side or back yard.

## **MOTOR VEHICLE / TRAILER RESTRICTIONS (CITY)**

Recreational vehicles may be parked on the paved driveway between street and house on only two occurrences in any calendar month, with each occurrence no longer than 48 hours in duration to facilitate loading and unloading of said vehicles. Any vehicle, or trailer parked on a driveway can be no closer to then 11 feet to the near edge of the curb or to the near edge of the pavement when no curb is present and not less than two feet from the near edge of the sidewalk surface when a sidewalk is present.

## **ARCHITECTURAL PLANS (CITY)**

No building shall be altered on any lot until the construction plans and specifications of the structure have been submitted and approved by the Architectural Control Committee as to the quality of workmanship and materials, harmony of external design with existing structures .

## **ROOFS**

New or replacement roof material will be of either wood shingle type or GAF Timberline or equivalent shingles using the color Weathered Wood.

## **EASEMENTS (CITY)**

Easements for installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear five feet of each lot . Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the drainage channels in the easements . The easement area of each lot and all improvements in it shall be maintained by the owner of the lot.

## **NUISANCES (CITY)**

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighbors or neighborhood.

## **SIGNS**

No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or for rent, or signs used by builder to advertise the property during a construction period.

**FENCE RESTRICTIONS (CITY)**

No fence of any kind or description shall be erected on any lots until the location, height and material to be used have been approved in writing by the Architectural Control Committee. Fence will not be allowed to be constructed nearer to the front than the front corner of the house facing the street. Fence will be no more than 6 feet in height

**UNSIGHTLY PROJECTIONS**

No air conditioning apparatus, television or radio antenna, satellite dish, solar panels, basketball goals or any unsightly projections shall be attached or affixed to the front of any dwelling. Any such projections to be attached to the rear or sides of any residence shall not be installed until receipt of prior written consent.

**OUTBUILDINGS**

No structure of a temporary character, basement, tent, shack, garage, storage shed, or other outbuilding, other than the attached house itself, shall be erected on any tract, or used for residential purposes, either temporarily or permanently . Gazebos, cabanas and outside shelters for barbecue grills, as well a covered decks and patios, may be approved by written consent of the Architectural Control Committee. .

**OUTBUILDING (STORAGE)**

Resident must submit to Architectural Control Committee detailed plans for building. Plans must contain dimension and bill of materials to be used. Metal sheds are not acceptable. Maximum size of building will be 10 ft. by 10 ft. and must be built on a 4 inch concrete pad. Material must be same as house and be painted and roofed same as the house. Permission must also be obtained by the adjoining neighbors granting their approval of the outbuilding. Must be approved by written consent of the Architectural Control Committee .

**AWNINGS, DECK OR PATIO COVERINGS**

Any window or door awnings, lattices of coverings, clothes lines, stove pipes, exhaust flues, chimneys or any other additions, modifications, alterations or improvements to the grounds or exterior portions of any dwelling shall be prohibited unless prior written consent is obtained.

**MISCELLANEOUS RESTRICTIONS**

Fuel storage tanks are prohibited.  
Above ground swimming pools and above ground hot tubs are prohibited unless completely screened and approved in writing.

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
BIRCHWOOD HILLS HOMES ASSOCIATION**

(Procedures Relating to Assessments and Delinquent Payments)

WHEREAS, the Birchwood Hills Homes Association Declaration creates an assessment obligation for the owners of homes in the Birchwood Hills subdivision (hereinafter the "Association"), which is a continuing lien on the home and a personal obligation of each owner; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of said assessments because the Association's well being relies on the timely payment of assessments and other allowable charges; and

WHEREAS, the Board of Directors desires to establish these procedures in conformity with the Declaration, the Bylaws and as otherwise provided by law.

NOW, THEREFORE, LET IT BE RESOLVED THAT the Board of Directors, on behalf of the Association, duly adopts the following assessment and collection procedures:

1. **ASSESSMENTS**: Each owners annual assessment is due on the first day of January. Notices, documents and all correspondence relating to assessments shall be mailed to the address which appears on the books of the Association. It is each owner's responsibility to inform the Association's managing agent of any address change.

2. **DELINQUENCY**: An owner's account is delinquent if an assessment is not paid in full on February 28. .

3. **LATE FEES INSUFFICIENT FUNDS FEES AND INTEREST**: A delinquent account will be assessed a late fee of \$5 each month that the account remains delinquent. A delinquent account shall bear interest on the unpaid balance from the due date, until paid, at the rate of eight percent per annum. In addition, a \$50 returned check charge and any related bank charges will be assessed against the account of the unit owner responsible for payment if the payment is returned for insufficient funds.

4. **LATE NOTICES**: If full payment of an assessment is not received within 30 days after the due date, the Association will send a delinquency notice to the owner by first class mail requesting immediate payment, advising the owner of the late fee and advising that interest has begun to accrue on the unpaid balance. Late notice will be sent monthly.

5. **LEGAL ACTION AND COSTS OF COLLECTION**: If an account remains delinquent, the Association may retain an attorney to proceed with further legal action, including, but not limited to, filing a lawsuit or foreclosing on the owner's property, or both, against the owner in order to collect the owner's past due assessments, late fees, interest, costs of collection and attorney fees. All costs of collection, including attorney's fees, shall be assessed against the delinquent owner.

6. **INTENT TO CREATE LIEN**: If an account is delinquent, the Association may cause to be recorded a Notice of Lien against the affected home.

The Notice of Lien will inform the public of the amount of the outstanding balance, including past due assessments, late fees, interest, costs of collection and reasonable attorney fees. The Notice of Lien will conform with the requirements of all applicable laws. The owner will be assessed the necessary costs for preparing and recording this Notice.

7. **PAYMENTS CREDITED**: Payments received from an owner will be credited to the outstanding balance in the following order:

- a. Court costs, attorney fees and other costs of collection.
- b. Late fees or accrued interest, as applicable.

c. Annual assessments.

Once an account becomes delinquent, payment from the delinquent owner will not be accepted unless it is made by certified or cashier's check or by money order.

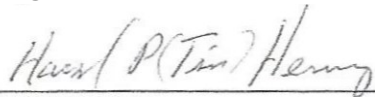
8. PARTIAL PAYMENTS: In the event an owner attempts to make a payment of less than all monies due and owing the Association after collection proceedings have commenced, the Association's attorney or designated collection agent will send a letter by first class mail to the owner advising the owner that his or her account remains delinquent as to all remaining monies owed to the . Association. The Association's retention of the partial payment does not constitute a waiver of the Board's authority to foreclose on the owner's property to take action against the owner to collect the outstanding balance.

9. VOTING RIGHTS: An owner's voting rights shall be suspended for the period during which an assessment against its unit remains unpaid and delinquent.

This Resolution supersedes and replaces all prior delinquency and collection policies.

Adopted November 16, 2015 at the annual meeting of Birchwood Hills Homes Association.

**Signed November 18, 2015.**



\_\_\_\_\_  
President - Board of Directors

\_\_\_\_\_  
Secretary

