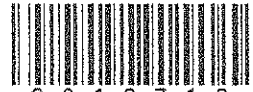


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REC FEE 48.00

GIS FEE 18.00

RHSP FEE 9.00

TOTAL: 75.00

PAGES: 17

JIM

JOSHUA A LANGFELDER  
SANGAMON COUNTY RECORDER

Prepared By: Attorney Abby Sgro  
Helper and Broom  
3430 Acer Grove Drive  
Springfield, IL 62711

Return to: Mike Harth  
Will pick up  
Extension 6868

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This Declaration of Covenants, Conditions, and Restrictions for HURSTBOURNE SUBDIVISION is made this 3rd day of October, 2019 by the HURSTBOURNE HOMEOWNER'S ASSOCIATION, hereinafter referred to as "Declarant."

### WITNESSTH:

WHEREAS Declarant is the Owner of the following described real property located in the Village of Chatham, Sangamon County, Illinois;

### HURSTBOURNE SUBDIVISION PLATS 1 THROUGH 7

A. WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said Subdivision and for the maintenance of common areas and to this end, desires to subject to the real property herein described to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof; and

B. WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

C. NOW, THEREFORE, Declarant hereby declares that the real property described herein is and shall be held, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the covenants, restrictions, easements, charges, and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

### ARTICLE I

#### DEFINITIONS

A. "Association"/"Declarant" means Hurstbourne Homeowners Association, Inc., an Illinois Not For-Profit Corporation, its successors and assigns.

B. "Common Area" means those land areas, designated on the recorded subdivision plats of the Property as "Common Areas," intended to be owned by the Association and devoted to the common use and enjoyment of the Owners of the Lots.

C. "Owner" means the person, or legal entity, or the combination thereof, including contract sellers, holding the record fee simple or perpetually renewable leasehold title to a Lot in the Property, as the Lot is now or may from time to time hereafter be created or established. If more than one person, or other legal entity or any combination thereof, holds the record title to any Lot, all of them shall be deemed a single record Owner and shall be a single member of the Association by virtue of their ownership of the Lot. The term "Owner" shall not mean any contract purchaser, or the Owner of any redeemable ground rent reversion issuing out of any Lot, nor shall it include any mortgages or other person or legal entity hold any interest in a Lot as security for the performance of an obligation.

D. "Property" means the real property referred to and described in Article II.

E. "Lot" means a portion of the property intended for the independent ownership and use as many be set out in this Declaration.

F. "Member" means every Owner who therefore is a member of the Association.

G. "Area of Common Responsibility" means the Common Areas together with those areas, if any, upon a Lot for which the maintenance, repair, or replacement of which is made the responsibility of the Association by the Declaration.

H. "Board" means the Board of Directors of the Association.

I. "Easement" means the easements shown on the plats of Hurstbourne Subdivision Plats 1 through 7.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS DECLARATION**

All of the land shown on the Plats referred to in Paragraph A of the Recitals to this Declaration (the "Existing Property") shall be held, transferred, sold, conveyed and occupied subject to the terms of this Declaration.

## **ARTICLE III**

### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

#### **Section 1**

Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of the Lot. An Owner may not decline membership in the Association nor may an Owner resign from membership: an Owner may have his voting rights suspended by the Board for any period in which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for failure to comply with all rules, regulations, and bylaws of the Association.

#### **Section 2**

Each member shall be entitled to one vote per Lot, for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.

## **ARTICLE IV**

### **COMMON AREA**

#### **Section 1**

The Common Areas conveyed to the Association shall be deemed property and facilities for the use, benefit, and enjoyment, in common, of each Owner. Except as otherwise permitted by the provisions of this Declaration, no structure or improvement of any kind shall be erected, placed or maintained on any Common Area except: 1) structures or improvements designed exclusively for community use, including, without limiting the generality of the foregoing, shelters, benches, chairs or other seating facilities,

fences, and walls, walkways, roadways, playground equipment, swimming pools and tennis courts, and 2) drainage, storm water and utility systems and structures. The Common Areas may be graded, and trees, shrubs or other plants may be placed and maintained thereon for the use, comfort, and enjoyment of the Owners, or the establishment, retention or preservation of the natural growth or topography of the Common Areas, or for aesthetic reasons. No portion of any Common Area may be used exclusively by any Owner for personal gardens, storage facilities or other private uses without the prior written approval of the Association.

Swales are specifically excluded from the definition of "common area." Swales are the responsibility of the homeowners.

#### Section 2

No noxious or offensive activity shall be carried on upon any Common Area nor shall anything be done thereon which will become an annoyance or nuisance to the neighborhood.

#### Section 3

The Association shall improve, develop, supervise, manage, operate, examine, inspect, care for, repair, replace, restore and maintain the Common Area as from time to time improved, together with any items of personal property placed or installed thereon, all at its own cost and expense.

#### Section 4

The right of each Owner to use the Common Areas shall be subject to the terms, conditions, and provisions as set forth in this Declaration and, to any rule or regulation now or hereafter adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Areas. All such terms, conditions, provisions, rules and regulations shall inure to the benefit of, and be enforceable by, the Association/Declarant, their respective successors and assigns, against any Owner, or any other person, violating or attempting to violate the same, whether by an action at law for damages or a suit in equity to enjoy a breach or violation, or to enforce performance of any term, condition, provision, rule or regulation. The Association/Declarant shall have the right to abate and remove any breach or violation by any Owner at the cost and expense of the Owner.

### **ARTICLE V**

#### **PROPERTY RIGHTS**

##### Section 1 - Title to the Common Area

The Declarant/Association is the owner of the Common Area(s) referred to herein.

##### Section 2 - Owners' Easements of Enjoyment

Every Owner, in common with all other Owners, shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area (including the Recreational Common Area), for acquiring additional Common Areas, or for constructing, repairing, or improving any facilities located thereon, and

to give as security for payment of any such loan a mortgage covering all or any portion of the Common Area;

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against mortgage default and/or foreclosures;

(c) The right of the Association to suspend the voting rights and rights to use the Recreational Common Area by an Owner for any period during which any assessment against such Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations;

(d) The right of the Association, if it so determines, to permit the use of the Common Area by non-members and to charge reasonable admission and other fees for the use either by Members or non-members of any Recreational Common Area situated upon or within the Common Area;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective unless such dedication or transfer has been approved by at least 66 2/3 percent of the votes of Members present or represented by proxy at a meeting duly called for such purpose;

(f) The right of the Association to limit the number of guests of Members using the Common Area.

### Section 3 - Declaration of Use

Any Owner may delegate, in accordance with the Bylaws and Covenants, his right of enjoyment to the Common Area and any facilities thereon, to such Owners' tenants or contract purchasers who reside on his Lot and to such other persons as may be permitted by the Association.

## **ARTICLE VI**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

#### Section 1 - Creation of the Lien and Personal Obligation of Assessments

Each Owner of any Lot in Hurstbourne Subdivision by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association (1) the hereinafter provided applicable annual assessments charges ("Regular Assessments") and (2) special assessments or charges for capital improvements ("Capital Assessments"), such Regular and Capital Assessments to be fixed, established and collected from time to time as hereinafter provided. The Regular and Capital Assessments, together with such interest thereon and costs of obligation thereof as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest thereon at the rate of one and one-half percent (1.5%) per month, or the maximum allowed by law, costs of collection and reasonable attorneys' fees, and shall also be the personal obligation of the person or entity who was the Owner of such property at the time when the Assessment fell due.

#### Section 2 - Purpose of Assessment

The Assessments levied by the Association shall be used exclusively for the following purposes; the promotion of the recreation, health, safety and welfare of the residents in the Properties; the payment of all costs relating to the maintenance and operation of the Association, the operation, improvement, maintenance, replacement and repair of the Common Area, including but not limited to, the maintenance, improvement and establishment of any piers, roads, walkways, parking areas, and any and all other facilities located or established from time to time carried on the Common Area or the facilities located thereon; and the improvement and maintenance of the Properties, services and facilities devoted to the promotion of the health, recreation, safety and welfare of the residents in the Properties. The foregoing shall not be deemed to be a representation by Declarant that any of the foregoing described improvements will be established within the Common Area by Declarant.

### Section 3 - Annual Assessment

(a) Until January 1 of the calendar year immediately following the date of commencement of Assessments as set forth in Section 7 hereof, the maximum Regular Assessment shall be One-Hundred Dollars (\$100.00) per Lot per year, whether improved or unimproved, adjusted in accordance with Section 7 of this Article.

(b) From and after January 1 of the calendar year immediately following the commencement of Assessments as set forth in Section 7 of this Article, the Board of Directors may increase maximum Regular Assessments each year by an amount not greater than ten percent (10%) of the maximum Regular Assessment for the immediately preceding year by a majority vote of a quorum of the Membership, which shall be twenty percent (20%) of the total number of voters, unless otherwise provided by law, voting in person or by proxy, at a meeting duly called for such purpose.

(c) Subject to the limitations of Section 3 of this Article, and for the periods therein specified, the Association may change the maximum and the basis of the Assessments fixed by Section 3 of this Article prospectively for any period provided that any such change shall have the assent of the quorum of voting Members of the Association, voting in person or by proxy, at a meeting duly called for such purpose.

(d) The Board of Directors shall fix the actual Regular Assessment at any amount not less than Fifty Dollars (\$50.00) per Lot, per year and not in excess of the maximum Regular Assessment for that said year, after consideration of (i) current maintenance requirements and costs; (ii) requirements for an adequate reserve fund for replacement of improvements on and to the Common Area, and (iii) future needs of the Association.

(e) An adequate reserve fund for the replacement of the improvements upon and for the care of the Common Area shall be established and funded by the Regular Assessments.

(f) Regular Assessments shall be payable monthly, quarterly, semi-annually or annually in advance, as determined from time to time by the Board of Directors of the Association at the time of initial filing. At the time of initial filing, regular assessments shall be due annually.

### Section 4 - Special Assessments for Capital Improvements

In addition to the Regular Assessments authorized by Section 3 of this Article, the Association may levy in any assessment year a Capital Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any capital improvements upon the Common Area, including the necessary fixtures and personal property related

thereto, provided that any such Capital Assessment shall first be approved by two-thirds (2/3) of the votes of Members, voting in person or by proxy, at a meeting duly called for this purpose.

#### Section 5 - Notice and Quorum for any Action Authorized Under Sections 3 and 4

Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 of this Article shall be sent to all Members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast twenty percent (20%) of all the votes of the membership shall constitute a quorum, unless otherwise provided by law. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall remain the same. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

#### Section 6 - Date of Commencement of Regular and Capital Assessments: Due Dates

The Regular Assessments provided for herein shall commence on the date designated by the Board of Directors or the Association as the "Assessed Commencement Date."

The first Regular Assessment shall be adjusted according to the number of months remaining in the Assessment year, which shall be the calendar year unless otherwise determined by the Board of Directors. The Board of Directors shall fix the amount of the Regular Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. The due date of any Capital Assessment authorized under Section 4 of this Article shall be fixed in the resolution authorizing such Assessment. Written notice of the Regular and any Capital Assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish to any Owner, any mortgagee, or any contract purchaser, a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

#### Section 7 - Effect of Non-Payment of Assessment: The Personal Obligation of the Owner, the Lien, Remedies of the Association

If an Assessment is not paid on the date when due (being the dates determined pursuant to Section 7 of this Article), then such Assessment shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot assessed which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such Assessments shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the Assessment is not paid within thirty (30) days after the due date therefore (the "delinquency date"), then the Assessment shall bear interest from the delinquency date at the rate of one and one-half percent (1.5%) per month, or the highest rate of interest allowed by applicable law, and the Association may bring an action at law against the Owner personally obligated to pay the same or at equity to foreclose the lien against the such Owner's Lots, and there shall be added to the amount of such

Assessment the cost of preparing and filing the complaint or bill in equity in such action, and, in the event of a judgment, shall include interest on the assessment as above provided and reasonable attorney's fee to be fixed by the Court, together with the cost of action. In addition to the aforesaid, the Board of Directors may charge a reasonable late payment fee on all delinquent Assessment accounts. No Owner may waive or otherwise escape liability of the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

#### Section 8 - Subordination of the Lien to Mortgagee

The lien of the Assessments provided for herein shall be subordinate to the lien of any bona fide first mortgage on a Lot. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien for all such Assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof. The term mortgage or mortgages shall include deed of trust or deeds of trust.

#### Section 9 - Exempt Property

The following property subject to this Declaration shall be exempt from the Assessments created therein: (a) all properties dedicated to and accepted by a local public authority; and (b) the Common Area. No land or improvements devoted to dwelling use shall be exempt from said Assessments.

### **ARTICLE VII**

#### **ARCHITECTURAL CONTROL AND APPROVED BUILDER**

##### Section 1 - Administration

Hurstbourne Subdivision Architectural Review Committee referred to herein and in the succeeding sections of this Declaration (the "ARC") shall have all the rights, powers and duties granted to it by the Board of Directors of the Association and by this Declaration. The ARC shall be composed of the following members: two (2) Directors and two (2) members of the Membership currently nor serving as Directors, each of whom shall act and serve for a term of two (2) years from the date hereof, and thereafter until his successor shall be duly appointed. At any time after the expiration of the aforesaid two (2) year period, the Board of Directors of the Association, upon a majority vote, shall appoint, by a duly executed instrument, new members to, or otherwise change the membership of, the ARC, so long as the ARC shall at all times be comprised of at least four (4) members. In the event of the death or resignation of any member of the ARC during the aforesaid two (2) year period, the Board of Directors shall appoint a successor by a duly executed instrument. All questions shall be decided by a majority of the members of the ARC, and such majority shall be necessary and sufficient to act in each instance and on all matters.

##### Section 2 - Architectural Review

No building, addition to a building, fence, wall, storage shed, tank, or other structure of any kind, nature or size, including any driveway, walkway and outside lighting, shall be commenced erected or maintained upon the Properties, nor shall any exterior addition to or change (including, but not limited to, change of



exterior house color) or alteration therein be made nor shall any work be commenced or performed (other than landscaping) which may result in a change of the exterior appearance of any of the above mentioned structures until the complete plans and specifications, in duplicate, showing the nature, color, kind, shape, dimensions, materials, floor plans, exterior plans and details, driveway plans, location and proposed topographical change, together with the estimated costs of such work and a designation of the party or parties to perform said work, have been submitted to, and approved in writing by, the ARC.

The ARC shall consider applications for approval of plans, specifications, etc., on the basis of conformity with this Declaration and shall be guided by the extent to which such proposal will insure conformity and harmony in exterior design and appearance with existing and proposed structures within Hurstbourne Subdivision. The ARC shall have the right to adopt and publish guidelines or policies with respect to all architectural requirements (and repeal or amend the same from time to time) which in the ARC's opinion are appropriate for Hurstbourne Subdivision.

The ARC shall have the right to refuse to approve any such plans or specifications, including grading and location plans, which are not suitable or desirable in its sole opinion, for aesthetic or other considerations. Written requests for approval, accompanied by the foregoing described plans and specifications or other specifications and information as may be required by the ARC from time to time shall be submitted to the ARC by registered or certified mail or in person in which case a written receipt shall be obtained. The ARC has the authority to hire a professional architect to review the plans and specifications. If ARC has to hire a professional to review plans and specifications, the Owner shall be required to pay the costs of such review in full within ten (10) days of receiving an invoice by regular U.S. mail.

In the event the ARC fails to approve or disapprove the plans and specifications within sixty (60) days after such plans and specifications and other information have been submitted to the ARC as required herein, approval will not be required, and this Article will be deemed to have been fully complied with.

Approval hereunder shall in no way be construed as passing judgment or making a determination with respect to the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed.

## **ARTICLE VIII**

### **USE RESTRICTIONS AND EASEMENTS**

#### **Section 1 - Use**

Except for those Lots designated otherwise on Exhibit A attached hereto, the Lots and Dwelling Units shall be used exclusively for private and residential purposes only. No building or structure of any kind whatsoever shall be erected, altered, converted, maintained or operated on any Lot except for one (1) Dwelling Unit for occupancy by not more than one (1) family, with only a garage for not more than four (4) and not less than two (2) non-commercial vehicles and a swimming pool (hereinafter defined) as accessory structures for the sole and exclusive use of the Owner or occupants of the Lot. The date of enactment of these Covenants shall be the effective date of this provision and shall not require any Owner to change his/her property pursuant to this provision if said construction was done prior to the effective date.

## Section 2 - Architectural Requirements

Each one-story Dwelling Unit shall contain not less than One Thousand Eight Hundred (1,800) square feet of habitable area, exclusive of basements, porches (open and screened), patios, terraces, decks, and garages. Each two-story Dwelling Unit shall contain not less than Two Thousand Two Hundred (2,200) square feet of habitable area, exclusive of basements, porches (open and screened), patios, terraces, decks, and garages. Each Dwelling Unit shall have a garage for not less than two (2) noncommercial vehicles. The date of enactment of these Covenants shall be the effective date of this provision and shall not require any Owner to change his/her property pursuant to this provision if said construction was done prior to the effective date.

All improvements shall be maintained in accordance with applicable building lines, setback and height provisions set forth in the Zoning Ordinance of the Village of Chatham, Illinois, except where more stringent requirements are imposed by the Record Plats, the deed of conveyance for a particular Lot or the ARC.

Each Lot Owner shall construct such sidewalk as may be required by ordinances of the Village of Chatham, Illinois, at such Owner's sole expense. Failure to conform with such requirement or ordinance shall vest Association with the right to do so and to file a lien and/or legal action for reimbursement therefor. Association shall expressly be entitled to pre-judgment interest and attorney's fees resulting from any such action.

## Section 3 - Signs

No signs of any nature shall be erected or maintained on any Lot except:

(a) Signs required by legal proceedings.

(b) Temporary signs, including for rent, for sale, sold signs or signs during construction of a residence or other improvement indicating the nature of the improvement and the persons or firm responsible therefor, which sign shall be consolidated into a single frame having not more than six (6) square feet of face area; such temporary signs to be removed within ten (10) days after rental or sale of the subject property or completion of the improvement. "Happy Birthday" or other congratulatory banners may be displayed for a period not to exceed five (5) days.

(c) Community or street identification signs which may be located on private property.

(d) Alarm and security monitoring signs.

(e) Signs in common areas or on private property advertising Hurstbourne sanctioned events and provided by the Association.

(f) "Super Reader" signs.

At no time shall an Owner have more than three (3) signs on his/her Lot at one time.

## Section 4 - Destruction

Should any residence or structure on any Lot be destroyed in whole or in part, it must be reconstructed or the debris therefrom removed from the site and the property restored to a neat and tightly condition within three (3) months, or the area shall be deemed to be both a public and private nuisance.

#### Section 5 - Appearance

All garbage and trash containers, incinerators, fuel tanks, mechanical swimming pool equipment, utility meters, air conditioning equipment, clotheslines and other similar outdoor maintenance, storage and service facilities shall be stored in or concealed by a solidly screened, enclosed or covered receptacle in order to conceal said maintenance, storage and service facilities from view from the roads and neighboring properties. Garbage and trash containers and fuel tanks need not be screened if located underground. The placement of all of the aforesaid items, whether located above or below ground, shall require the prior written approval of the ARC.

#### Section 6 - Temporary Structures

No structure of a temporary character, tent, trailer, mobile home, shack or other outbuilding, except as provided herein, shall be placed or permitted to remain on any Lot or Common Area at any time, except that temporary construction shelter may be erected and maintained during and used exclusively for construction of any approved work or improvement and such shelters shall not in any event be used for living quarters and shall be removed from the premises promptly upon completion of the approved work or improvement.

#### Section 7 - Vehicles

No motorized vehicles shall be operated within the Properties unless (i) licensed or (ii) used primarily for maintenance purposes (i.e., lawn mowers, tractors or snowplows). No snow mobiles, dune buggies, motorcycles or other similar vehicles shall be operated off the paved roads. The ARC has the right to establish and enforce such rules for operation of any type vehicle as it shall in its sole discretion see fit.

Commercial vehicles shall be allowed for the purposes of loading and/or unloading; however, said vehicles shall not be present for more than three (3) days without prior written consent from the Association.

Campers, recreational vehicles, commercial vehicles, trucks, horse trailers, travel trailers or utility trailers and similar vehicles may only be maintained on a Lot within an enclosed or screened area which renders such objects non-visible from the roads or neighboring properties. During construction of Dwelling Units, however, the Owners and builders may maintain commercial vehicles and trailers on the Lots for the purpose of construction, and for use as a field or sales office. Commercial vehicles, private passenger vehicles, trailers, buses, campers, tractors or trucks shall not be regularly parked or maintained upon any streets. No trailer, camper or mobile home of any kind shall be used on any Lot as a temporary or permanent dwelling.

No inoperable junk or junked cars or any motor vehicles other than private passenger vehicles, tractors or trucks in regular operation shall be permitted on the Properties of Hurstbourne Subdivision, and no commercial vehicles shall be left parked on any part of the Properties, including, without limitation, any street or Lot, longer than is necessary to perform the business function of such vehicle in the area; it being the express intention of this restriction to prevent the parking of commercial vehicles upon any part of the Properties for a time greater than that which is necessary to accomplish the aforesaid

business purposes. No automobile or vehicles of any kind and no boat or trailer of any kind shall be constructed, restored or repaired upon any Lot in such a manner that said construction, restoration or repair is visible from the roads or neighboring properties.

#### Section 8 - Boats

No un-garaged boat may be maintained and/or stored on any Lot, unless the ARC determines, in its sole discretion, that the storage of such un-garaged boat will not be detrimental to the overall character of Hurstbourne Subdivision.

#### Section 9 - Lighting

Any exterior lighting on structures and Lots shall be directed downward so that direct light rays shall not extend beyond the lot lines of the Lot on and for which they were installed.

#### Section 10 - Mailboxes

The size, type, style, composition, and location of mailboxes, newspaper containers, and like structures, if placed apart from the Dwelling Unit, must be approved in writing by the ARC. The owners shall comply with any directive of the United States Postal Service.

#### Section 11 - Noxious Activity

No noxious, dangerous or offensive thing, trade, business or activity shall be carried on upon any Lot or Common Area, nor shall anything be done or placed thereon which, in the sole opinion of the ARC, would cause embarrassment, discomfort, annoyance or a nuisance to any adjoining owner or to the community generally. There shall not be maintained on any lot or Common Area any plants or animals or devices or things of any kind, the normal activities or existence of which is in any way noxious, offensive, dangerous, unsightly, unpleasant or of a nature that would diminish or destroy the enjoyment of other property in the community by the Owners thereof.

#### Section 12 - Animals

No animals, livestock or poultry of any kind, including pigeons, shall be raised, bred, kept or maintained within Hurstbourne Subdivision except dogs, cats or any other household pets, not exceeding four (4) in the aggregate, may be kept or maintained on a Lot for non-commercial purposes only. All pets must be secured by leash or lead, or under the control of a responsible person and obedient to that person's command at any time they are permitted outside of a house, dwelling or enclosed area used for their maintenance and confinement.

#### Section 13 - Compost

Accumulated waste plant material may not be accumulated on a Lot except as part of an established compost pile which is maintained in such a manner as not to be visible from the roads and neighboring properties and not closer than fifty (50) feet from any neighboring residence or established outdoor living area of an existing or future residence.

#### Section 14 - Antennae

No exterior antennae, aerials, poles, towers, discs or similar structures of any type shall be erected on any Lot within Hurstbourne Subdivision without prior written approval of the ARC.

#### Section 15 - Outdoor Courts

No tennis, basketball or other outdoor courts or recreational game or sport facilities may be installed, constructed or maintained on any Lot without the prior written approval of the ARC.

#### Section 16 - Other Easements, Conditions, and Restrictions

Declarant reserves the right prior to the settlement of any Lot to file additional covenants, conditions and restrictions pertaining to use of the Lots and other conditions and restrictions relating thereto, provided such covenants, conditions and restrictions comply with the Village of Chatham Law.

#### Section 17 - Right of Association to Remove or Correct Violation of this Article

The Association or its duly authorized agents, officers and employees may, in the interest of the general welfare of all the Owners of the Properties and after reasonable notice to the Owner, and without liability to the said Owner or occupant for trespass or otherwise, enter upon any Lot or the exterior of any Dwelling Unit at reasonable hours on any day for the purpose of removing or correcting any violations or breach of any attempted violation of any of the Covenants and Restrictions, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or the ARC. Any costs incurred by the Association or the ARC directly attributable to taking necessary corrective actions shall be the sole personal responsibility of the Owner and shall also become a lien against such Owner's Lot until satisfied.

#### Section 18 - Easements

The Properties herein described shall be subject to all easements and restrictions of record.

### **ARTICLE VIII-A**

#### **MAINTENANCE**

##### Section 1 - Lot Maintenance

Owners shall, at all times, maintain their property and all appurtenances thereto in good repair and in a state of a neat appearance. Each Lot owner shall be responsible for the suitable appearance of his Lot including cutting grass, weeds and brush and removing trash and rubbish therefrom at all reasonable times and maintaining same in good condition and repair, in a manner that does not decrease the beauty, value, health or safety of the community as a whole or specific areas within the community. Owners shall remove and/or repair all moss, mold, peeling paint, and unmaintained landscape. All such maintenance shall be fixed within seven (7) days of written notice from the Association. Should any such Owner fail to maintain the appearance of his Lot in accordance with the aforesaid criteria and as determined solely by the Board of Directors of the Association, the said Association is hereby and herewith granted the right and privilege to enter upon such Owner's Lot for the purpose of maintaining the suitable appearance of such Owner's Lot (whether improved or un-improved), the cost of which is to

be borne by the Owner or Owners thereof pursuant to the same procedures and conditions as set forth in Section 4 of this Article.

Owners shall maintain the swales on their Lot. Such maintenance shall include, but is not limited to, the cleaning of leaves, branches and other items in the swale when such items are affecting the natural flow of water, any and all repairs and/or maintenance necessary for the swale to be maintained without cracks and to ensure the natural flow of water is not affected.

#### Section 2 - Exterior Maintenance

In addition to maintenance of the Common Areas, the Association may, at its option and upon agreement with the Owner, provide exterior maintenance to any Lot which is subject to assessment under Article V hereof, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements.

#### Section 3 - Assessment of Cost

The cost of such exterior maintenance shall be assessed against the Lot upon which such maintenance is performed and shall be added to and become part of the Regular Assessment to which such Lot is subject under Article V hereof and, as part of such Regular Assessment, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article III hereof. The Board of Directors of the Association, when establishing the Regular Assessment against each Lot for any assessment year as required under Article VI hereof, may add thereto the estimated cost of any exterior maintenance for the year but shall, thereafter, make such adjustment with the Owner as it necessary to reflect the actual cost thereof. The assessments of charges provided for hereunder shall not be considered for computation purposes as part of the maximum Regular Assessments under said Article VI.

#### Section 4 - Access at Reasonable Hours

For the sole purpose of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agent or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

### **ARTICLE IX**

#### **DRAINAGE PROVISIONS**

In addition to the foregoing, and notwithstanding anything herein contained to the contrary, the following provisions shall govern drainage within Hurstbourne Subdivision.

#### Section 1

No owner of any lot shall change or permit to be changed the contours and the grade line of any lot. The grade line and contour of any lot shall conform with that of surrounding property. No swale within any easement of any lot shall be altered or wholly or partially filled so as to interfere with or prohibit the free flow of surface water; however, if such swale shall be altered, it shall be restored at the expense of such lot owner of the lot where such alteration occurs.

#### Section 2

If the owner fails to restore any swale to the approved grade upon request of the Architectural Control Committee or Association, the Architectural Control Committee or Association shall make all necessary repairs and restorations to the swale as they determine in their sole discretion and may bill the lot owner for the cost of the repair. Should the lot owner fail to pay the bill within thirty (30) days, the Architectural Control Committee or Association may file a lien in the amount of such repair costs against the lot in the office of the Recorder of Deeds of Sangamon County, Illinois, and may foreclose such lien in the same manner as a lien for unpaid Association dues or expenses.

### Section 3

When required by the Architectural Control Committee, prior to activating any sump pump on any lot, the sump pump shall be connected to the existing storm or drainage pipe in the swale located within the easement area of each lot at the expense of the lot owner.

### Section 4

The Village of Chatham is an intended third party beneficiary of Sections 1 and 2 of this Article, in the event the Architectural Control Committee or Association does not take reasonable steps to enforce those Sections against a property owner within 45 days after the Village's written demand, the Village may in its sole discretion bring an appropriate action against the property owner or Association to compel compliance.

## **ARTICLE X**

### **GENERAL PROVISIONS**

#### Section 1 - Enforcement

The Association, or any Owner, or any First Mortgagee shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these Covenants and Restrictions set forth in this Declaration shall automatically be extended for successive periods of ten (10) years each unless the members entitled to cast not less than sixty-six percent (66%) of the total vote of the membership execute, acknowledge and record a document terminating the Covenants and restrictions of this Declaration. Except as hereinafter provided, this Declaration as from time to time amended, and the Covenants and Restrictions of this Declaration may be amended by a document executed, acknowledged and recorded by the members entitled to cast not less than sixty-six percent (66%) of the total votes of membership. In the event that any portion of the herein described Properties shall be financed by or shall be sought by Declarant or any successor or additional declarant to be financed by loans insured by the Veteran's Administration or Federal Housing Administration or in the event that any loans secured by a first mortgage on any "Lots" and/or "Dwelling Units" are purchased by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or a similar type of organization, as the case may be so long as such revision or modification complies with the laws of Sangamon County in effect at the time of such change. Prior to January 1, 1994, no amendment shall become effective until approved in writing by Declarant. Any instrument altering, amending, canceling, annulling or abrogating these Covenants and Restrictions,

in whole or in part, must be in writing, properly executed, acknowledge and recorded among the Land Records.

Owners who violate these Covenants and do not remedy such violation within seven (7) days of written notice from the Association shall be fined \$50.00 per day while they are in violation. The Association reserves the right to pursue collection of such fine in a court of law, and Owner shall be responsible for the court costs and attorney's fees incurred by the Association to pursue collection for such fine.

Section 2 - Approval

Notwithstanding any provision of this Declaration or of the Articles of Incorporation or Bylaws of the Association or Laws of Illinois expressly or impliedly to the contrary, neither the membership of the Association nor the Board of Directors of the Association shall, without the prior written approval of a majority of a quorum of the Members, be entitled to:

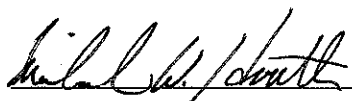
- (1) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the Common Area or improvements thereon which are owned, directly or indirectly, by the Association; provided, however, that the granting of easements for public purposes consistent with the intended use of the Common Area by the Association shall not be deemed to be a transfer within the meaning of this clause;
- (2) fail to maintain fire and extended coverage or insurance on normally insured Common Area improvements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);
- (3) use hazard insurance proceeds for losses to any Common Area improvements for other than the repair, replacement or reconstruction of such improvements.

Section 3 - Assignability

Declarant, its legal representative, successors and assigns, notwithstanding any other provision herein to the contrary, shall at all times have the unlimited right to fully or partially transfer, convey and assign its rights, title, power, and interest under this Declaration as Declarant, and its transferee, grantee or assignee shall take such rights subject to any and all obligations of a Declarant herein. Any such assignment shall be made by an instrument in writing, duly recorded among the Land Records and signed by the assignee for the purpose of evidencing acceptance of such rights, title, power, and interests.

IN WITNESS WHEREOF, Declarant has caused these presents to be executed and sealed on the date first above written.

**DECLARANT:**

 \_\_\_\_\_ Hurstbourne Homeowner's Association

By: Its President **MICHAEL W. HARTH**



Previously Recorded Declaration of Covenants, Conditions and Restrictions  
for Hurstbourne Subdivision in Chatham, Illinois

Plat 1 – 1993R26299

Plat 2 – 1994R06313

Plat 3 – 1995R01181

Plat 4 – 1996R42655

Plat 5 – 2000R35934

Plat 1, 2, 3, 4, 5 – 2002R13383

Plat 6 – 2004R26895

Plat 7 – 2015R16577