

Document Title: Amendment to the Declarations of Covenants, Conditions and Restrictions  
Document Date: OCTOBER, 11, 2007  
Grantor's Name: Newberry Home Owners Association Members  
Grantee's Name: Newberry Home Owners Association, Inc.  
Grantee's Statutory Address: P.O. Box 1554  
Lee's Summit, Missouri 64063  
Legal Description: See Exhibit "A"  
Reference Document Nos.: 1999I0018599, 1999I0070999, 2000I0010680, 2000I0023310

**AMENDMENT TO THE DECLARATIONS OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AMENDMENT TO THE DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Amendment"), is made and entered into on this 11<sup>th</sup> day of October, 2007 and is hereby executed by, and granted to, the NEWBERRY HOME OWNERS ASSOCIATION, INC. ("Grantee") whose statutory address is P.O. Box 1554, Lee's Summit, Missouri 64063. This Amendment is adopted by the approving signatures of the owners of not less than sixty percent (60%) of the members and owners of property, within the NEWBERRY HOME OWNERS ASSOCIATION, INC. ("Grantors"), pursuant to the requirements of Article X, Section 2 of the Declarations of Covenants, Conditions and Restrictions, dated March 5, 1999 and recorded on March 8, 1999 in the Office of the Director of Records for Jackson County, Missouri, at Independence ("Recorder's Office") as Document No. 1999I0018599 ("Declaration").

RECITALS

WHEREAS:

1. By the Declarations, the Chapel Oaks Development Company ("Declarant"), declared that it was the owner of certain real property ("Initial Property") described as:

Commencing at the Northwest corner of Section 16, Township 47 North, Range 31 West; thence along the North line thereof South 88 degrees 07 minutes 04 seconds East a distance of 25.00 feet; thence South 02 degrees 22 minutes 27 seconds West a distance of 20.00 feet to a point on the south right-of-way of Bailey Road as now established; thence along said right-of-way South 88 degrees 07 minutes 44 seconds East a distance of 655.00 feet to the Point of Beginning; thence continuing South 88 degrees 07 minutes 44 seconds East a distance of 1923.78 feet; thence South 2 degrees 19 minutes 52 seconds West a distance of 310.01 feet; thence South 88 degrees 07 minutes 44 seconds East a distance of 49.50 feet to a point on the East line of the Northwest Quarter of said section; thence along said East line South 2 degrees 19 minutes 52 seconds West a distance of 995.21 feet to a point on the South line of the North half of said Northwest Quarter; thence North 88 degrees 02 minutes 17 seconds West a distance of 2057.81 feet; thence North 1 degree 52 minutes 16 seconds East a distance of 1050.57 feet; thence South 88 degrees 07 minutes

44 seconds East a distance of 95.00 feet; thence North 1 degree 52 minutes 16 seconds East a distance of 251.34 feet to the Point of Beginning

and that the said Initial Property was thereafter subjected to certain covenants, reservations, restrictions, conditions and limitations as set forth therein.

2. By a document entitled Amendment to Declaration of Covenants, Conditions and Restrictions, dated July 14, 1999, and recorded on August 27, 1999 in the Recorder's Office as Document No. 1999I0070999 ("First Amendment") the Declarant, among other things, amended the Declaration, to remove portions of the Initial Property. The First Amendment thereafter subjected the real property ("Property") legally described on the Exhibit "A", attached hereto and incorporated by reference herein.

3. By a document entitled Amendment to Declaration of Covenants, Conditions and Restrictions, dated February 18, 2000, and recorded on February 24, 2000 in the Recorder's Office as Document No. 2000I0010680 ("Second Amendment") the Declarant made certain other amendments to the Declaration.

4. By a document entitled Amendment to Declarations of Covenants, Conditions and Restrictions, dated April 7, 2000, and recorded on April 12, 2000 in the Recorder's Office as Document No. 2000I0023310 ("Third Amendment") the Declarant made certain other amendments to the Declaration.

5. The Declarant also platted the Property into the following platted subdivisions (collectively referred to herein as the "Newberry Subdivision"):

- a. Newberry 1<sup>st</sup> Plat—recorded on February 26, 1999 in the Recorder's Office as Document No. 1999I0014913,
- b. Revised Newberry 1st Plat—recorded on May 3, 1999 in the Recorder's Office as Document No. 1999I0035737,
- c. Newberry 2<sup>nd</sup> Plat—recorded on September 17, 1999 in the Recorder's Office as Document No. 1999I0076018,
- d. Newberry 3rd Plat—recorded on October 18, 2001 in the Recorder's Office as Document No. 2001I0084709,
- e. Newberry 4<sup>th</sup> Plat—recorded on June 26, 2002 in the Recorder's Office as Document No. 2002I0053930,
- f. Newberry 5<sup>th</sup> Plat—recorded on March 20, 2003 in the Recorder's Office as Document No. 2003I0032952,
- g. Newberry 4<sup>th</sup> Plat—recorded on April 4, 2003 in the Recorder's Office as Document No. 2003I0040220, and

6. By a document entitled Amendment to the Declaration of Covenants, Conditions and Restrictions dated July 30, 2007, and recorded in the Recorder's Office on August 7, 2007 as Document No. 2007E0103757 ("Fourth Amendment"), the Grantee attempted to amend Article VIII, Section 22 of the Declarations. A copy of the recorded Fourth Amendment has been attached hereto, and is incorporated by reference herein as Exhibit "B".

7. The Recorder's Office notified the Grantee with concerns over the contents and subsequent indexing of the Fourth Amendment. A copy of the written notification from the Recorder's Office has been attached hereto, and is incorporated by reference herein as Exhibit "C".

8. This Amendment has been drafted in order to address the concerns raised by the Recorder's Office with the Fourth Amendment, and will be recorded to ensure the proper notification and indexing of the same.

9. Article X, Section 2 of the Declarations is entitled Term and Amendment, and provides as follows:

The provisions of this Declaration shall run with and bind the property for a term of twenty (20) years, commencing on the date hereof, after which period the provisions of this Declaration shall be automatically extended for successive terms of ten (10) years. The provisions of this Declaration may be amended during the initial twenty (20) year period by an instrument signed by owners of not less than sixty percent (60%) of all votes which may be cast by members, and following such initial twenty (20) year period, by an instrument signed by owners of not less than two-thirds (2/3) of all parcels or Living Units. Any such amendment shall be effective upon the date that such instrument shall be properly executed, acknowledged, and filed of record in the office of the Recorder of Deeds for Jackson County, Missouri.

10. By a ballot vote, initiated by the Board of Directors of the Grantee, on JANUARY 10, 2007, at a meeting duly called, and with a quorum of residents present, sixty percent of the Grantors approved a further amendment of the fencing provisions found in Article VIII, Section 22 of the Declaration. The amended language is provided below, within this Amendment. The approval vote for this Amendment is evidenced by the Certification of the Secretary, attached hereto as Exhibit "B" and incorporated by reference herein as if fully set forth.

AMENDMENT

NOW THEREFORE, the Declarations (as amended by the First Amendment, the Second Amendment and Third Amendment) shall hereby be amended and modified as follows:

1. Article VIII, Section 22. Fencing of the Declaration shall be deleted in its entirety and replaced with a new Article VIII, Section 22. Fencing provision to read as follows:

Section 22. Fencing. No fencing may be erected on a Multi-family residential lot except for privacy fences around patios or decks which shall be constructed on each parcel and for each Living Unit. On single family residential lots, a fence of wrought iron, wood, or other material acceptable to the Declarant (if then acting, and if not then acting, then by the Association) shall be permitted with a maximum height of six (6) feet.

The terms of this Amendment shall be effective as of the date of recording in the Recorder's Office, and all other provisions of the Declaration (as amended) shall remain in full force and effect, except as otherwise amended herein.

IN WITNESS WHEREOF, the undersigned being the current officers of the Grantee have set their hands and seals this 11<sup>th</sup> day of October, 2007.

NEWBERRY HOME OWNERS ASSOCIATION, INC.

By: Richard Horton  
Richard Horton, President

By: Zoel David Estes  
Dave Estes, Vice-President

By: Eric Allee  
Eric Allee, Treasurer

Corporate Seal

By: Janet M. Snook  
Janet Snook, Secretary

By: Anthony Lamonte  
Anthony Lamonte, ARB Chairman  
Lamonte

STATE OF MISSOURI )  
                          ) SS.  
COUNTY OF JACKSON )

On this 11<sup>th</sup> day of October, 2007, before me, Andrayana Getchell Notary Public, personally appeared Richard Horton, Dave Estes, Eric Allee, Janet Snook, Anthony Lamonte, to me known, or proven, to be the persons described in and who executed the foregoing Amendment, and acknowledged that they respectively executed the same as their free act and deed in their capacities as the current officers of the Grantee, the Newberry Home Owners Association, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year last above written.

Andrayana Getchell  
Notary Public

My Commission Expires:

September 19, 2009

ANDRAYANA GETCHELL  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Commission for Jackson County  
My Commission Expires Sep. 19, 2009  
Commission #05770795



**Exhibit "A"**  
**Legal Description of Property**

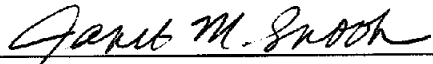
Commencing at the Northwest corner of Section 16, Township 47 North, Range 31 West; thence along the North line thereof South 88 degrees 07 minutes 04 seconds East a distance of 25.00 feet; thence South 02 degrees 22 minutes 27 seconds West a distance of 20.00 feet to a point on the South right-of-way of Bailey Road as now established; thence along said right-of-way South 88 degrees 07 minutes 44 seconds East a distance of 655.00 feet to the Point of Beginning; thence continuing South 88 degrees 07 minutes 44 seconds East a distance of 1923.78 feet; thence South 2 degrees 19 minutes 52 seconds West a distance of 310.01 feet; thence South 88 degrees 07 minutes 44 seconds East a distance of 49.50 feet to a point on the East line of the Northwest Quarter of said section; thence along said East line South 2 degrees 19 minutes 52 seconds West a distance of 995.21 feet to a point on the South line of the North half of said Northwest Quarter; thence North 88 degrees 02 minutes 17 seconds West a distance of 2057.81 feet; thence North 1 degree 52 minutes 16 seconds East a distance of 1050.57 feet; thence South 88 degrees 07 minutes 44 seconds East a distance of 95.00 feet; thence North 1 degree 52 minutes 16 seconds East a distance of 251.34 feet to the Point of Beginning, except that part thereof described as follows:

Commencing at the Northwest corner of Section 16, Township 47 North of the Baseline, Range 31 West of the Fifth Principal Meridian in Lee's Summit, Jackson County, Missouri; thence along the North line of said section South 88 degrees 07 minutes 44 seconds East a distance of 679.83 feet; thence South 1 degree 52 minutes 16 seconds West a distance of 20 feet to a point on the South right of way of Bailey Road as now established and Point of Beginning; thence along said right of way South 88 degrees 07 minutes 44 seconds East a distance of 510.00 feet; thence South 1 degree 52 minutes 16 seconds West a distance of 1302.87 feet to a point on the South line of the North half of the Northwest Quarter of said section; thence along said line North 88 degrees 02 minutes 17 seconds West a distance of 605.00 feet; thence North 1 degree 52 minutes 16 seconds East a distance of 1050.57 feet; thence South 88 degrees 07 minutes 44 seconds East a distance of 95.00 feet; thence North 1 degree 52 minutes 16 seconds East a distance of 251.34 feet to the Point of Beginning, containing 17.54 acres, more or less, subject to easements and restrictions of record.

**Exhibit "B"**  
Certification of Secretary  
Newberry Home Owners Association, Inc.

By my signature below, along with the corporate seal of the Newberry Home Owners Association, Inc. (the "Association"), I, Janet Snook, the duly elected Secretary of the Association, on the 10<sup>th</sup> day of October, 2007, do hereby certify that not less than sixty percent (60%) of the members of the Association did vote in favor of the amendment contemplated by, and incorporated into, the preceding Amendment to the Declaration of Covenants, Conditions and Restrictions dated March 8, 1999.

By my signature below, I also certify that Richard Horton, is the duly elected president of the Newberry Home Owners Association, Inc.

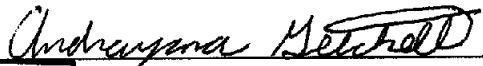
  
Janet Snook, Secretary  
Newberry Home Owners Association, Inc.

Corporate Seal:

STATE OF MISSOURI     )  
                                      ) SS.  
COUNTY OF JACKSON )

On this 10<sup>th</sup> day of October, 2007, before me appeared Janet Snook, to me personally known, who, being by me duly sworn, did attest that he/she is the Secretary of the Newberry Home Owners Association, Inc., and that the seal affixed in the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of the said corporation by authority delegated to him/her, and said affiant acknowledges said instrument to be the free act and deed of said corporation

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

  
ANDRAYANA GETCHELL Andrayana Getchell  
Notary Public  
STATE OF MISSOURI  
Commission for Jackson County  
My Commission Expires Sep. 19, 2009  
Commission #05770795     Printed Name

My Commission Expires:

19<sup>th</sup> September 2009