

**AMENDMENT TO DECLARATION IN RE:  
CONDITIONS AND RESTRICTIONS OF  
THE SUBDIVISION KNOWN AS  
GRAELER PARK PLAT ONE (et al)**

THIS AMENDMENT is made this 3rd day of January, 2000, by the lot owners of Graeler Park Plat One Subdivision and shall be effective upon the date of recording in the records of the Recorder of Deeds of St. Louis County, Missouri.

WITNESSETH THAT:

WHEREAS, Graeler Park is a residential community created and existing pursuant to a certain instrument entitled "Declaration in Re: Conditions and Restrictions of the Subdivision Known as Graeler Park Plat One (et al.)" as recorded in Book 3791, Page 320, of the records of the Recorder of Deeds of St. Louis County, Missouri, as may be amended ("Declaration"); and

WHEREAS, Graeler Park is located on a certain tract of land situated in St. Louis County, Missouri, that was subdivided and subjected to the Declaration by virtue of Plat One of Graeler Park Subdivision, as recorded in Plat Book , Page , of the records of the Recorder of Deeds of St. Louis County, Missouri, as amended; and

WHEREAS, Section H-1 of the Declaration authorizes the Lot Owners to amend the Declaration by the consent of not less than a majority of the Lot Owners; and

WHEREAS, the Lot Owners desire and intend to amend the Declaration to create a community association, to provide for assessments for maintenance and operation of the Subdivision and the Graeler Park Swimming Pool, and to adopt other modifications in the best interests of the community as a whole, all as set forth hereinbelow.

NOW THEREFORE, the Lot Owners of Graeler Park Plat One Subdivision, pursuant to the authority to amend, do hereby amend the Declaration as follows:

A. A new Part D, Common Expense Assessments, Budget and Collections, is adopted to be inserted after Part C, to read as follows:

"PART D

"COMMON EXPENSE ASSESSMENTS, BUDGET AND COLLECTIONS

"D.1 Authority.

The Association, established as provided in Part F herein, shall annually determine and fix the sums necessary to provide for the common expenses of the Subdivision, as provided in Section D.2. Each Owner, regardless of the manner in which he acquired title to his Lot, including without limit purchase at a judicial sale, shall be liable for all assessments coming due while he is Owner of the Lot.

"D.2 Preparation and Adoption of Budget.

"(a) The Board shall prepare an annual budget, which shall provide a reasonable estimate of the expenses of the Subdivision, including maintenance, operation, administration, insurance, and reserves for contingencies and for future repairs and replacements, for common ground of the Subdivision and the Graeler Park Swimming Pool, for the forthcoming year. An annual assessment shall be imposed against all Lots equally. The initial amount of the annual assessment shall be Sixty-Six Dollars (\$66.00), which may be increased by five percent (5%) or less by the Board. In the event any proposed increase in the annual assessment exceeds five percent (5 %) over the previous year, the Board shall prepare and deliver a summary of such proposed annual budget to the Owners and set a date for a meeting of the Owners to consider ratification. Unless at the meeting a majority of all the Owners entitled to vote reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

"(b) The Board may include capital improvement projects in the annual budget or propose a special assessment(s) for such projects; provided, however, that any such project (or multiple projects in the aggregate) exceeding a total of \$5,000.00 shall be approved by at least sixty percent (60%) of all the Owners by written ballot or at a meeting called for such purpose.

"(c) Any expense for services provided by the Association for the benefit of an individual Lot or group of Lots at the request of the Owner or group of

Owners, and beyond the Association's duties expressed herein or assumed, shall be assessed against the Lot or group of Lots benefitting from such service.

"D.3 Certificate of Payment. The Board, upon written request, shall furnish to an Owner a statement in recordable form setting out the amount of unpaid assessments against the Lot. The statement must be furnished within ten (10) business days after receipt of request and is binding on the Association, the Board and each Owner.

"D.4 Payment Schedule. All general assessments shall be due and payable annually; the Board may require a periodic payment schedule, but not more frequently than quarterly. Any special assessment shall be due as determined by the Board, but not less than thirty (30) days after notice is given to the Owners.

"D.5 Accounting and Shortages. Following the end of each fiscal year, the Board shall furnish to all Owners an itemized accounting of all income and expenses of the preceding calendar year. At the discretion of the Board, any surplus funds of the Association remaining after payment of or provision for common expenses, including prepayment of reserves, shall be paid or credited to the Owners.

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"D.6 Personal Liability of Owners. The Owner at the time an assessment or portion thereof imposed against the Owner is due shall be personally liable for same, together with such charges as may be imposed pursuant to Section D.8. If the annual assessment is payable in installments, the full amount of the assessment may be accelerated. Personal liability for said assessment shall not pass to a successor in title unless he agrees to assume the obligation.

"D.7 No Waiver of Liability. The liability for an assessment shall be an independent and affirmative covenant and may not be avoided by a waiver of the use or enjoyment of the common ground or services, or by abandonment of the Lot against which the assessment was made, or by reliance upon assertion of any claim against the Board, Association or another Owner, or against any third party.

"D.8 Interest and Late Fees. Assessments and installments thereof, and fines, shall bear interest from the due date until paid, at the rate of twelve percent

(12%) per annum, or such other reasonable rate adopted by Resolution of the Board not exceeding the legal limit. If an Owner fails to pay any assessment or installment thereof, for thirty (30) days from the date due, the Board shall charge a late fee in the sum of ten Dollars (\$10.00) or such other reasonable amount which the Board may adopt. The Board shall be entitled to recover all of its reasonable processing and administrative costs, recording fees, expenses for title search, attorneys fees, court costs and paralegal expenses. The interest shall be calculated as simple interest and not be compounded and shall not be charged against late fees.

#### "D.9 Lien for Assessments.

"(a) In addition to each Owner's personal liability, the Association has a lien on a Lot for any assessment levied against the Lot or fine imposed against its Owner from the time the assessment (or installment thereof) or fine becomes due.

"(b) The lien is prior to all other liens and encumbrances on a Lot except: (1) a first security interest on the Lot recorded before the date on which the assessment sought to be enforced became delinquent, and (2) liens for real estate taxes and other governmental assessments or charges against the Lot. The lien is not subject to the provisions of Section 513.475 Mo. Rev. Stat. (homestead exemption).

"(c) The Board shall perfect the lien by filing a notice thereof in the official records of the Office of Recorder of Deeds, St. Louis County, Missouri.

"(d) The lien is extinguished unless the proceedings to enforce the lien are instituted within three years after the full amount of the assessment becomes due; provided that if an Owner of a Lot subject to a lien files a petition for relief under the Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

"(e) This Section does not prohibit any legal action to collect the debt or prohibit the Association from taking a deed in lieu of foreclosure.

"(f) A judgment or decree in any action brought under this Section shall include any charges imposed or expenses incurred under Section D.8.

"(g) A judgment or decree in any action brought under this Section is enforceable by execution of the judgment.

"(h) The Association's lien may be foreclosed by publication in like manner as a power of sale under Chapter 443, Mo. Rev. Stat.

"(i) In the case of foreclosure, the Board shall give reasonable notice of its action to each holder of a security interest in a Lot whose interest would be affected.

"(j) Any payments received by the Association in discharge of an Owner's obligation shall be applied first to costs and expenses described in Section D.8, then to the oldest balance due."

B. A new Part E is adopted, to read as follows:

"PART E

"COMMUNITY ASSOCIATION

"There shall be a homeowners' association which shall be organized as set forth herein for the purpose of carrying out and exercising the powers, duties and responsibilities contained in this Declaration.

"E.1 The name of the association shall be "Graeler Park Community Association ("Association").

"E.2 The Association shall be organized as a Missouri nonprofit corporation under Chapter 355, Mo. Rev. Stat.

"E.3 The members of the Association shall include all Owners, and their legal successors in interest, who shall be members by virtue of their ownership of a Lot in the Subdivision.

"E.4 Each member shall be entitled to one (1) vote per Lot owned, provided he is a member in good standing, i.e., is current in the payment of all assessments due.

"E.5 The Association shall meet at least annually, in the month of June, to elect a Board of Directors which shall act on behalf of the Association in all matters except such matters as reserved exclusively for the Owners. Directors must be resident Owners who are members in good

standing of the Association. The Board shall consists of three (3) Directors, who shall serve staggered, three (3) year terms, beginning with the first election occurring after the Effective Date of this instrument.

"E.6 The Board shall elect, from among the Directors, a President, Secretary and Treasurer, who shall each serve a term of one (1) year.

"E.7 The Association shall assume all responsibilities of the Architectural Control Committee as set forth in this Declaration, and said Committee shall cease to exist."

C. A new Part F is added, to read as follows:

"PART F  
"AMENDMENTS

"F.1 General. This Declaration, including the Plat, may be amended only by vote or agreement of the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated. No such amendment shall reduce or modify the obligation of the Association with respect to maintenance or the power to levy assessments therefor, or to eliminate the requirement that there be an Association and Board unless adequate substitution is made.

"F.2 Limitation of Challenges. No procedural challenge to the validity of an amendment adopted by the Association pursuant to Section F. 1 may be brought more than one (1) year after the amendment is recorded; otherwise, such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of this Declaration.

"F.3 Recordation of Amendments. Each amendment to this Declaration shall be recorded in St. Louis County and the amendment is effective upon recording.

"F.4 Execution of Amendments. Each amendment must be executed, certified and recorded on behalf of the Association by the President and Secretary."

D. Part H is deleted in its entirety, and a new Part H adopted in lieu thereof,

to read as follows:

"PART H  
"GENERAL

"H.1 Term. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with the land and bind the Property and the current and future Owners thereof, until the Property is terminated or sold, or taken by eminent domain.

"H.2 Enforcement. The Association or any Owner may enforce the covenants and restrictions contained in this Declaration by proceedings at law or in equity against any person or persons violating or attempting to violate any of said covenants and restrictions to abate the violation and/or to recover damages. The prevailing party shall be entitled to recover its costs and reasonable attorney's fees.

"H.3 Severability. Invalidation of any one of the covenants and restrictions contained in this Declaration by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect."

E. Effective Date. This Amendment shall be effective upon its approval by the requisite percentage of Owners, execution hereof by the authorized officers, and recordation in the records of the Recorder of Deeds of St. Louis County, Missouri, and shall be applicable to events and circumstances occurring after said Effective Date, except as may be otherwise expressly set forth hereinabove.

The Owners hereby authorize the President and Secretary of Graeler Park Community Association, on behalf of the Owners, to execute and record this instrument upon obtaining the requisite Owner approval.

IN WITNESS WHEREOF, the President and Secretary of Graeler Park hereby certify that at least a majority of the Lot Owners in Graeler Park Plat One Subdivision have signed this Amendment, which signatures are maintained as part of the Association's permanent records, and hereby execute this Amendment this 03 day of January, 2000.

GRAELER PARK COMMUNITY ASSOCIATION,  
on behalf of the Owners of GRAELER PARK PLAT ONE SUBDIVISION

By: John A. Schlereth Jr.  
President

[No Seal]

Attest: Cindy LaPlante  
Secretary