

**ATTINGHAM PARK SUBDIVISION**  
**Declaration of Covenants and Restrictions**  
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*Lesley E. Hoston*  
RECORDER OF DEEDS

DECLARATIONS OF  
COVENANTS  
AND RESTRICTIONS  
53 LOTS  
Peoria County

This Document Prepared By:  
Happy Trails LLC  
P. O. Box 9248  
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**ATTINGHAM PARK**  
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this 14th day of November, 2006 by HAPPY TRAILS LLC, the owner and developer (hereinafter "Developer") of the real estate which is described below and which shall hereinafter be referred to as "the Subdivision";

Lots 1 through 29 and Lots 31 through 53 of Attingham Park, a subdivision of Section 25, Township 10 North, Range 7 East of the Fourth Principal Meridian, Peoria County, Illinois, according to the plat thereof recorded as Doc. No. 06-35112 on October 26, 2006 in Peoria County, Illinois. Tax ID Numbers for each lot are set forth on page 15.

The Subdivision together with all improvements now and hereinafter erected shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, privileges, and liens set forth which shall be binding upon all parties acquiring any title, right, or interest therein and which shall run with the land and inure to the benefit of Developer, all lot owners and their heirs, successors, and assigns, and the Association as provided herein. The subdivision includes lots 1 through 29 and lots 31 through 53.

## **I. RESTRICTIONS**

**1. APPLICATION OF RESTRICTIONS** All persons, corporations, trust or other entities that now hold or shall hereafter acquire any interest in any part of the Subdivision shall comply with the covenants, conditions, restrictions and stipulations contained herein as to the use of the Subdivision and the construction of residences and improvements therein, as hereinafter set forth.

**2. PROPERTY USE** The Subdivision and all lots therein shall be used only for single-family residences. No portion of the Subdivision, improved or unimproved, shall be used for any commercial, manufacturing, professional, religious, fraternal, or other business purposes, including, without limitation, the manufacturing and sale of intoxicants including those in-home business which would be permitted under the zoning ordinance in a single-family district.

**3. CONSTRUCTION REQUIREMENTS** Only one residence shall be permitted per lot, the construction of a residence on a lot in the Subdivision shall be governed by the following specifications:

a) **Setback Lines** The exterior walls of any building, garage, enclosed porch or swimming pool shall not be erected or maintained closer to the front lot line than the setback lines shown on the plat of the Subdivision. Front yard setback shall be 30 feet and rear yard setback shall be 25 feet. Side yard setback shall be 6 feet, with the following exception: plus one (+1) foot for every 2 feet the house exceeds 25 feet in height. Maximum height is 35 feet.

b) **Footage Requirements** No dwelling shall exceed 2 stories in height. No dwelling shall have less than the following minimum number of square feet of enclosed living space, exclusive of garage, porches and breezeways:

- i. Dwellings of one level - 2,400 square feet above ground.
- ii. Dwellings of multiple levels - 3,000 square feet above ground, the first floor area to be not less than 2,000 square feet.
- iii. Each home shall have a full basement or crawl space area.

c) **Certificate of Occupancy** No houses shall be occupied until a Certificate of Occupancy has been issued by the appropriate government authority.

d) **Permitted Exterior** Exterior construction shall be governed by the following specifications:

- i. No wallboard, sheet metal, tarpaper or roofing paper, shall be used for any exterior wall coverings or roofs. No aluminum siding shall be permitted but such exclusion shall not prohibit aluminum soffit, window or door trim.
- ii. No concrete block or poured concrete foundation or wall shall be exposed above grade so as to be visible.

- iii. Seventy percent (70%) of the total exterior wall area on all dwellings shall be faced with brick, stone, or materials having a comparable masonry appearance such as synthetic stucco. Fireplace enclosures shall not be included in computing the seventy percent (70%) masonry or comparable requirement. The computation of compliance with the seventy percent (70%) masonry or comparable requirement shall be at the sole discretion of the Developer following review and approval of building plans and specifications.
- iv. All fireplace chimney enclosures shall be constructed of brick, stone or comparable masonry appearing materials such as synthetic stucco so as to give the appearance of masonry construction. No fireplace shall cantilever out from foundation as fireplace foundation shall go to grade.
- v. Roof pitch shall be a minimum of 8/12 for all homes. A dwelling shall not exceed 35 feet in height. Roofing materials shall be architectural style shingles, shakes, slate or tile; color to be approved by the Developer. Standard 3-tab shingles shall not be allowed.

e) Garages Each residence construction on a lot in the Subdivision shall contain an attached enclosed garage adequate to store a minimum of two vehicles. The garage shall conform to the architecture, materials, and location of the attached residence.

f) Sewage Requirements All residences shall connect to sanitary and storm sewers.

g) Excavation All materials excavated from any lot in the Subdivision shall not be removed from the Subdivision, unless the Developer grants permission in writing.

h) Swimming Pools/Tennis Courts Swimming or wading pools or tennis courts may not be constructed without prior written approval by the Developer. No above ground pools shall be permitted. Any swimming pools that are constructed must be enclosed by fencing and shall, in all respects, comply with the Ordinances and Building Code of the City of Peoria, Illinois. All devices used in connection with the swimming pool, including the filter and circulating pump, shall be located inside the required fence and concealed from view in an approved storage shed or other enclosed building. Any enclosure or fence surrounding a swimming pool area or any courtyard shall be constructed of an aesthetically pleasing, ornamental, heavy metal such as painted wrought iron, and shall be approved prior to installation by the Developer.

i) Detached Structures No out buildings or other detached buildings, structures, improvements, or fixtures shall be constructed on any lot without prior written approval of the Developer. Basketball goals, backboards, and all other outdoor sporting or recreational equipment, whether temporary or permanent, may not be installed in the front or corner side yard, but must be installed in the side or back yards of the lot, but not in any rear yard adjacent to the lake.

j) Clothesline Restrictions No permanent or temporary clothesline or posts or other permanent or temporary appliances for hanging clothes outside shall be constructed or maintained, even temporarily.

k) Firewood Storage No more than two (2) face cords of firewood may be stored outside on a lot. No such firewood shall be stacked higher than four (4) feet. All such firewood shall be stacked in a neat and orderly fashion.

l) Driveways and Curb Cuts All driveways including, but without limitation, those leading from the street right of way line to the garage of a dwelling shall be concrete or such other material as is approved by the Developer. The radius of the return of the driveway shall be five feet or such other radius as is approved by the Developer. No fills or embankments within the Subdivision shall be made of materials other than earth, gravel, stone, or such other masonry materials as are approved by the Developer. The lot owner shall be responsible for payment of any damage to the street, curb, sidewalks, and other Subdivision improvements caused by the lot owner or agents or contractors of the lot owner.

m) Towers, Antennas, Satellite Dishes, and Solar Panels No towers or antennas shall be permitted in the Subdivision. Satellite dishes of twenty (20) inch radius may be installed if completely concealed from view from the neighbor's home. No solar panels shall be installed so as to be visible from the street, nor be raised above or extended beyond the surrounding surface of the structure, including the roof. Detached solar panels are not allowed.

n) Sidewalks Sidewalks must be installed by and at the expense of the lot owner upon completion of construction of a residence on the lot or on vacant lots: (1) when required by governmental authority or (2) within one year of completion of construction of residences on 80 percent of the lots constituting the Subdivision. Sidewalk size, placement, and materials must be in conformity with City standards.

o) Developer Approval No building, outbuilding or in-ground swimming pools shall be erected, placed or altered on any lot in the Subdivision unless the building plans, specifications and site plans showing location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the Subdivision and as to location of the building with respect to topography and finished ground elevation by the Developer or its designated representative. In the approval of all plans, the Developer or its designated representatives shall take into consideration preservation of the natural area of the lot and shall examine the proposed plans of the lot owner submitted for approval as they relate to conservation of the balance of the lot not occupied by the footprint of the residence proposed to be built. The Developer or its designated representatives may approve or disapprove the proposed conservation activities proposed by the lot owner and direct plans for the improvement of the site and appropriate action as it relates to conservation of the natural habitat. A minimum of two copies of all building and site plans shall be submitted to the Developer at least 30 days prior to the commencement of any proposed construction. The Developer shall review these plans along with samples of roof, brick and siding colors, and shall respond within 15 days in writing of its acceptance or rejection of the plans. The Developer shall have the right, in its sole discretion, to approve or disapprove any requests. When the Developer gives plan approval, the Developer shall stamp the submitted plans for construction with "Approved as Noted". Approval shall be binding on the Developer provided that the construction strictly complies with the plans and specifications submitted to the Developer. Developer's approval shall not, however, excuse the lot owner from the compliance with all applicable building and use restrictions, and the Developer shall not be liable for the approval of any plans and specifications which fail to comply with any building or use restriction. No action shall lie against the Developer for the Developer's failure to approve, or Developer's approval, of any plans and specifications. If the plans are rejected, the lot owner agrees to

refrain from any construction and shall submit new designs or drawings for approval. In the event the Developer fails to approve or disapprove any plans or specifications within thirty (30) days after such plans and specifications have been submitted to it or, in any event, if no suit to enjoin the construction in accordance with the plans and specifications has been commenced prior to the completion thereof, such approval shall not be required, and this covenant shall be deemed to have been fully complied with.

p) Site Development Grading of each building site and finished floor elevations of associated structures shall be completed such that water drainage around and away from the completed structure does not encroach on adjacent properties. The grading of each lot site shall be in conformance with approved engineering and grading plans of Developer.

On completion of construction of a dwelling, the lot owner, at lot owner's expense, shall install landscaping on the lot in accordance with plans approved by the Developer. Such landscaping shall include planting of at least five (5) trees with sodding of the front and side yards and seeding of the back yard no later than the first growing season following completion of the construction of the exterior of the dwelling.

q) Undue Hardship In the event that compliance with any of the construction specifications of this Paragraph 3 of this Declaration of Restrictions causes undue hardship on the owner of any lot, the Developer, in its sole discretion, may waive the requirement of strict compliance with those construction specifications that cause such undue hardship. The Developer shall take such action only upon written request by a lot owner, which request shall set forth the plans and specifications which allegedly cause the undue hardship and the nature and extent of the waiver sought by the lot owner. Any waiver granted by the Developer shall be in writing, and copies shall be made available to the owner of any lot in the Subdivision upon reasonable notice to the Developer. Any waiver shall have the effect of a waiver of the provision as contained in any of the construction specifications as to the specific lot so described in the waiver and shall in no way affect this Declaration of Restrictions or any amendment thereto with respect to any other lot or lots in the Subdivision.

#### **4. CONSTRUCTION REGULATIONS**

a) Temporary Structures No trailer, basement, tent, shack, garage, barn or other building shall be at any time used as a residence, temporarily or permanently, in the Subdivision. No home shall be occupied as a residence until the exterior of such residence is completed in accordance with the approved plans and the appropriate authority has issued a certificate of occupancy.

b) Model Homes The construction of speculative and/or model homes shall be permitted and/or approved only by the Developer.

c) Pre-manufactured Homes No pre-manufactured, prefabricated, or modular homes shall be erected or placed on any lot.

d) Maintenance of Lot Site During Construction During the course of construction, all materials and equipment shall be stored only on the lot on which construction is underway. Debris and waste shall be removed from the premises each week or be suitably covered. Lightweight debris shall be stored in containers to avoid blowing onto adjacent

lots. The intent of this covenant is to maintain and preserve a clean and neat appearance at all times.

e) Owner Responsibility for Contractors, Sub-Contractors During home construction, the lot owner shall be responsible for his contractor and sub-contractors. This area of responsibility will include all lots adjacent to the lot site, the streets, and common areas; and the owner shall keep debris, dirt, and construction materials off these areas. The owner will be given notice of any infraction and 48 hours to correct the problem. After that 48-hour period, if the problem still exists, the Developer, or the Attingham Park Homeowner's Association, when formed, shall have the right to repair or clean the area, and all costs will be borne by the lot owner.

**5. REPLATTING** No lot or lots as platted shall be divided so as to result in creating additional lots. However, the Developer shall be entitled at any time and from time to time to plat and/or re-plat all or any part of the Subdivision and to file and record Subdivision Restrictions and/or Amendments thereto with respect to any undeveloped portion or portions or additions to the Subdivision, including additional extensions or phases, of which, at the discretion of Developer, may become subject to this Declaration as though originally subject to the terms hereof.

**6. FOLIAGE REMOVAL** Trees in the Subdivision may not be removed nor the slope or other topography of any lot altered or changed except by the express written consent of the Developer, or, when organized, the Attingham Park Home Owner's Association. Nothing herein shall be deemed to prevent normal tree care and trimming of any trees on said lots. In preparation of the site for a home to be built, no tree in excess of six (6) inches in diameter and outside the building site shall be destroyed or removed without the consent of the Developer. If any such tree is removed without approval, the owner shall replace the tree with a similar tree.

**7. ROCK ISLAND TRAIL RESTRICTIONS** All lot owners that border the Rock Island Trail must not interfere with Illinois Department of Natural Resources' desire to keep the Rock Island Trail a natural habitat. No access other than the access designated is allowed. Under no conditions shall this property be disturbed. This includes, but is not limited to, the clearing of trees, brush, or any vegetation; placement of grass clippings; and erection of any type of barrier fencing or any other obstacles. Within these Covenants, there is a ten-foot (10') buffer zone along the back of each building lot that borders the Rock Island Trail. This area shall be shown the same respect as the Rock Island Trail.

**8. FUTURE DEVELOPMENT OF LAKE AND OUTLOTS C AND D**

a) Homeowners of Attingham Park Lots 1-29 and 31-53 will be allowed lake access from Outlot C for pole fishing and non-motorized boating upon annual payment of a User Fee, determined by Developer or Attingham Park Extension I Homeowner's Association, when formed.

b) The Developer shall promulgate lake rules and regulations. Upon the formation of the Attingham Park Extension I Homeowner's Association, only lot owners with a lake boundary shall be allowed to vote on changes or modifications to any lake rules and regulations.



**9. OFFENSIVE ACTIVITIES** No noxious or offensive trade or activity shall be carried on upon any lot or other part of the Subdivision, which may be or may become a nuisance, hazard or danger to the neighborhood.

**10. ANIMALS** No pets shall be kept in exterior pens or cages. Only common household pets shall be allowed. No commercial or barnyard type animals shall be allowed in the Subdivision.

**11. PROPERTY MAINTENANCE** All lot owners shall keep their property well maintained and in a presentable condition. In the event a property presents a nuisance or an unattractive appearance because of accumulated debris, weeds or grasses, the Developer shall notify the owner of said lot of the objectionable condition of the lot, in writing and mailed to the address listed with the Peoria County Supervisor of Assessments. If the condition of said lot is not corrected within thirty (30) days of the mailing of such notice, the Developer may undertake such reasonable acts as may be necessary, in Developer's sole discretion, to improve the condition of the lot. Any charges sustained by the Developer may be charged to the lot owner along with interest at ten (10%) percent per annum. This charge shall be a lien against the property until paid in full to the Developer. Developer shall have the right to bring an action for the collection thereof, and to foreclose such lien and to recover all charges and costs of the action including reasonable attorney fees.

**12. GARBAGE AND REFUSE DISPOSAL** No lot shall be used or maintained as a dumping ground for rubbish. All trash, garbage, or other waste shall be kept in sanitary containers, in a clean and sanitary condition, and concealed from view. Yard clippings or debris shall not be disposed of on lots or common areas.

**13. VEHICLE STORAGE** No passenger cars, recreational vehicles, trailers, vans, mobile homes, boats, or other objects of substantial size, whether operative or inoperative, may be parked or stored on a regular basis within the confines of the Subdivision unless same is enclosed and concealed from view within a garage on the lot owner's property. This provision, to the extent permitted by law, shall apply to those parts of the Subdivision dedicated as public roadways. No recreational vehicles such as snowmobiles, trail bikes, minibikes, go-carts, and ATV's shall be operated within the boundaries of the Subdivision.

**14. SUPPLY STORAGE** Except as necessarily incidental to construction of buildings and structures on lots, no new or used construction materials, supplies, unused machinery, or the like shall be kept or allowed to remain in the Subdivision unless stored and concealed inside the home or garage.

**15. EASEMENTS** Perpetual service easements reserved by the Developer and identified on the plat are primarily for public utility installation and maintenance. However, the Developer and Attingham Park Homeowner's Association, when formed, have the right to use these easements for irrigation, lighting, and maintenance of all common areas as necessary, including areas utilized but not owned by the Developer or Attingham Park Homeowner's Association.

**16. COMMENCEMENT AND COMPLETION OF CONSTRUCTION** The commencement and completion of residences on lots in the Subdivision shall be governed by the following specifications:

a) Commencement Any grantee and his successors, heirs, or assigns acquiring a lot from the Developer shall commence construction within eighteen (18) months from the date of conveyance. Construction shall be deemed commenced when the lot owner has obtained a building permit or dug a foundation.

b) Completion In the event such construction is not commenced, the Developer or its successor in interest hereunder as the case may be, shall have the absolute right, at its option, to repurchase the lot by repayment of the original purchase price in cash. In the event a dwelling, including all landscaping work, is commenced but not completed within two (2) years thereafter, the Developer or its successor in interest herein, shall have the absolute right, at its option, to repurchase such lot for the original purchase price, plus the fair market value of the partially completed dwelling thereon, less attorney fees and cost to the association or Developer. The Owner shall have the right to a reasonable extension of time due to delays caused by weather.

c) Arbitration If an agreement cannot be reached as to the fair market value thereof, the same shall be determined by arbitration by an arbitrator to be appointed by the lot owner, an arbitrator to be appointed by the Developer or its successor in interest hereunder and, if necessary, a third arbitrator to be appointed by the first two arbitrators, and the decision of the majority shall be binding upon lot owner and Developer. All arbitrators shall be licensed architects. Each party shall bear the expense of its own arbitrator and share equally in the expense of the third arbitrator, if appointed.

**17. SIGNAGE** No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any lots or homes except at such location and in such form as shall be approved by the Developer or Attingham Park Homeowner's Association, when formed. No approval shall be granted for more than one sign per lot or home, and no sign shall be larger than six (6) square feet. Temporary signs for the general contractor relating to new home construction may be permitted for up to two hundred eighty (280) days from commencement of construction, if approved by the Developer or Attingham Park Homeowner's Association, when formed.

**18. MAIL BOXES AND OUTDOOR LIGHTING** In conjunction with each dwelling, there shall be constructed, at the expense of the lot owner, a freestanding lamp post and mailbox of a design approved by the Developer, and the following provisions shall apply to such installations:

- a) The lamppost shall be installed at a location approved by the Developer. (\*\*Please note that Developer may, at the Developer's option, require the lot owners along the main boulevard of Attingham Park to install indirect lighting versus lamppost as part of the Developer's vision for streetscape along the main boulevard of Attingham Park, where sidewalks are required to be 10' from the street).
- b) The lamppost shall be fitted with an automatic illuminating device, which will illuminate the lamppost fixture at dusk.
- c) In the event that mail delivery is provided to the door of the dwellings in the Subdivision, freestanding mailboxes shall be removed by the lot owner within thirty (30) days after commencement of mail delivery to the door.
- d) The lot owner shall maintain the lamppost and mailbox in proper operating condition and in good repair at all times.

- e) In the event either the lamp post or mailbox is constructed in the public right-of-way, the lot owner shall hold harmless the City and County of Peoria, State of Illinois, from any damage occurring to either the lamppost or mailbox.

**19. FENCING** No enclosures, fences, or hedges shall be constructed or planted on any lot without the written permission of the Developer. At no time shall chain link or stockade privacy fences be allowed.

**20. AMENDMENT OF RESTRICTIONS** Until the Developer divests himself of all interest in all lots of the Subdivision, the Developer shall retain the right to modify or annul any of the Restrictions detailed herein by a written instrument to be recorded in the Office of the Recorder of Deeds, Peoria County, Illinois, provided, however, that no such annulment or modification shall significantly alter or impede the development of the Subdivision as contemplated herein. In furtherance of the foregoing, each deed, mortgage, trust deed, or other instrument affecting the lot shall be deemed an irrevocable power of attorney coupled with an interest in the Developer and a consent to the power of Developer to make, execute, and record amendments. This power shall terminate when the Developer no longer holds title to any lot. Upon the sale of all of the Developer's interest in the Subdivision, these Restrictions may be modified or amended by the affirmative vote of two-thirds (2/3) of the total lot owners in the Subdivision, with the collective owners of each lot to have one vote in regards to any such issue.

**21. ENFORCEMENT OF RESTRICTIONS** The Developer, the Association, and any lot owner in the Subdivision shall be entitled to prosecute, subject to the right to arbitrate pursuant to paragraph 29, in any proceeding any lot owner violating or attempting to violate any of the Restrictions and Covenants contained herein, to obtain injunctive relief to prevent said owner from committing or continuing said violation, and to recover damages for such violation including attorney's fees and costs. Failure to enforce the Covenants and Restrictions shall not be deemed a waiver of the right to enforce any other violation or subsequent violation.

**22. INVALIDATION OF RESTRICTIONS** Invalidation of any portion of these Restrictions by judgment or Court order shall not affect any remaining Restrictions, which shall remain in full force and effect and be constructed, as clearly as possible, with the original intent of the Developer.

**23. ASSIGNMENT BY DEVELOPER** The Developer shall have the right to sell, assign, transfer, or convey the rights of the Developer. Any such transfer shall be in writing and recorded in the Office of the Recorder of Deeds. The Developer may, from time to time, appoint a designated agent to act for the Developer, and shall, upon request, furnish satisfactory evidence concerning the appointment of said representative.

**24. CERTIFICATE OF COMPLIANCE** Upon the request of the owner of any lot, the Developer will issue a Certificate of Compliance stating that the building or buildings on said lot comply with these Restrictions.

**25. CONSTRUCTION APPROVAL BY LOT OWNERS** Once the Developer has sold its interest in the Subdivision or elected to form a Attingham Park Homeowner's Association, approval of future construction, as provided in Paragraph 3, shall be undertaken by a panel of five (5) lot owners which shall be selected by the vote of the lot owners in the Subdivision,

as well as the approval of the Developer, until one hundred (100%) percent of all lots have been approved for construction. The panel shall consist of those five (5) individuals obtaining the most votes at a meeting called for such purpose, with said meeting to be called at a reasonable time and place by notification in writing to all lot owners in the Subdivision. Tenure, duties, and responsibilities of said panel shall be determined by the majority vote of the lot owners.

**26. LIMITATION OF LIABILITY** In no event shall any action or inaction by the Developer in regards to its powers or duties expressed herein constitute or give rise to any liability against the Developer.

**27. TRANSFER AND CONVEYANCE** Upon formation of the Attingham Park Homeowner's Association, the Developer shall convey to the Association the ownership of the common areas by quit claim deed. Concurrently with this conveyance, all obligations, rights and duties of the Developer under this Declaration shall be transferred to the Association, it being the intention of the Developer in establishing this Declaration that upon said transfer, the Developer shall have no further rights and obligations under this Declaration (other than as an individual lot owner), and the Association shall have full power and authority to perform the duties and obligations provided for in this Declaration.

**28. COMMON AREA MAINTENANCE** Attingham Park Homeowner's Association, as set forth below, shall be responsible for: maintaining all stream buffer areas, common areas, and areas utilized by the Association including city owned boulevards, which include (but is not limited to) lighting, landscaping, signage, irrigation, etc., and utility costs pertaining thereto.

**29. ARBITRATION AT THE OPTION OF THE DEVELOPER OR ATTINGHAM PARK HOMEOWNER'S ASSOCIATION WHEN FORMED** Any controversy between lot owners or any claim by a lot owner against a Developer of the Attingham Park Homeowner's Association or another lot owner arising out of or relating to the Declaration, Bylaws, Restrictions, Covenants, and/or Rules and Regulations may, at the option of Developer or Attingham Park Homeowner's Association, be decided by arbitration with any retired Judge of the Tenth Judicial Circuit acting as arbitrator, and any Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

## **II. ATTINGHAM PARK HOMEOWNER'S ASSOCIATION**

**1. MEMBERSHIP IN ASSOCIATION** Upon its formation, all lot owners in the Subdivision shall become members of the Attingham Park Homeowner's Association (hereinafter referred to as the "Association"). Membership in the Association shall run with the land, and any conveyance of an interest of property in the Subdivision shall be deemed a conveyance of the associated membership in the Association.

**2. FORMATION OF THE ASSOCIATION** The Developer shall form an Association which shall provide for maintenance, operation, and snowplowing of the private streets and maintain the desired character of the Subdivision. The Association shall be formed upon the sale of all of the Developer's interest in the Subdivision, or earlier if the Developer so elects. Formation of the Association shall be evidenced by the recording of a written instrument in the office of the Peoria County Recorder of Deeds, Peoria County, Illinois by the Developer or its assignee. If Developer fails to form the Association as provided herein, then the Association may be formed by action of one or more of the owners, which Association shall conform to the requirements of this Declaration.

**3. ORGANIZATION AND OPERATION OF THE ASSOCIATION** Once formed, the Association may establish guidelines and by-laws for operation of and membership in the Association. The Association may elect to be organized and operated as a not-for-profit corporation.

**4. INITIAL MEETING AND ORGANIZATION OF ASSOCIATION** After the document is filed with the Peoria County Recorder of Deeds forming the Association, the party responsible for filing said document shall cause a notice detailing the date, time, and place of the initial meeting of the Association to be mailed by regular mail to all lot owners in the Subdivision at least thirty (30) days prior to the scheduled meeting. The meeting shall be held within sixty (60) days of recording of the document forming the Association with the Recorder of Deeds.

**5. VOTING RIGHTS** In regards to all Association matters, one vote may be cast by the collective owners of any lot in the Subdivision. Voting on Association matters may be done in person or by written proxy for specific issues, or general proxies provided same, on their face, expire within two (2) months of execution. The decision of the Association shall be by majority vote except with respect to alteration, amendment, or rescission of these covenants and restrictions which shall require a two-thirds (2/3) majority vote.

**6. ELECTION OF TRUSTEES** At the initial meeting of the Association, an election for Trustees of the Association shall be held. At such election, the collective owners of any lot

in the Subdivision may cast one vote for a Trustee. Those five (5) individuals receiving the highest total of votes shall be elected as Trustees of the Association. At the first meeting of

the Trustees, to be held within ten (10) days after their election, such Trustees shall elect from their number a President, Secretary, and a Treasurer, all of whom shall serve for one (1) year or until their successors are elected. The Secretary shall keep complete records of all actions and proceedings of the Trustees, and the Trustees are hereby authorized to act for and on behalf of the Attingham Park Homeowner's Association, and as may be directed by the members thereof. The Trustees shall have the following rights and duties:

a) To formulate a budget based on the estimated annual expense of the Association for the maintenance of common areas, insurance, and organization costs with a reasonable reserve.

b) To provide for a general fund to enable the Developer, or when organized, the Attingham Park Homeowner's Association, to perform the duties and to maintain the improvements provided herein. All land within the boundaries of Attingham Park shall be subject to improvement and maintenance assessments, to be paid to the Developer, or when organized, the Attingham Park Homeowner's Association annually, in advance, by the respective owners of the land subject to such assessment. Such assessment for general services shall be initially determined by the Developer.

c) To employ, on behalf of the Association, such maintenance or service personnel as may be required to provide services to the common areas of the Association, and such legal, accounting, or other professional services as may be required by the Association.

d) To formulate and propose by-laws and recommend amendments to those by-laws and other action to effect the initial organization to the Association.

e) To pay bills of the Association and to maintain accounts and books of record in accordance with standard accounting practices.

f) To enter into contracts to effectuate the purposes of this Declaration.

g) The Developer is exempt from assessment for a period of five (5) years from the date the Subdivision plat is recorded.

**7. PROVISIONS RELATING TO TRUSTEES** Unless and until the Association adopts new by-laws, each Trustee shall be elected for a period of one (1) year or until his successor is duly elected. The Trustees shall provide for at least an annual meeting of the Association to be held at a reasonable time and place, which meeting shall include the action of the new Trustees, with notice of said meeting to be made by delivering or mailing such notice, regular mail, to all lot owners or by conspicuously posting notice of said meeting for thirty (30) days in advance of the meeting in at least one (1) place in the Subdivision. Trustees shall not be entitled to receipt of compensation for professional advice provided to the Association.

**8. POWERS AND DUTIES OF THE ASSOCIATION** Until the election of the initial board, the right, title, powers, privileges, and duties imposed upon the Association and these by-laws shall exist in the Developer, who shall have the right to exercise such rights and duties

in its sole discretion. Once formed, the Association shall have the following powers and duties:

a) The Association shall specifically have the authority to bring suit to enforce compliance with any of the Restrictions pertaining to the Subdivision in its own name and on its own behalf.

b) Upon written grant or authority from the Developer, the Association shall be responsible for the approval of construction in the Subdivision in accordance with the Restrictions and issuance of Certificates of Compliance.

c) The Association shall be authorized to assess fees against the lot owners in the Subdivision for the operational costs of the Association as approved by the members.

d) The Association shall have the right and responsibility to procure insurance including but not limited to public liability insurance over the Common Areas.

e) The Association shall have the right to adopt reasonable rules and regulations concerning the use of lots within the Subdivision in accordance with this Declaration.

**9. ADOPTION OR AMENDMENT OF BY-LAWS** The Association may adopt or amend the by-laws of the Association upon the affirmative vote of two-thirds (2/3) of all lot owners in the Subdivision.

**10. ASSESSMENTS** The Association shall be empowered to assess each individual lot owner for said lot owner's proportionate share of the budget established by the Trustees. Assessments against each lot in the Subdivision shall be in equal amounts, irrespective of a lot's size. Any amount assessed against an individual lot plus interest at the rate of prime plus ten percent (10%) per annum which remains unpaid thirty (30) days after said assessment becomes due may, at the option of the Association, become a lien against the lot once notice of same is placed on record with the Peoria County Recorder of Deeds. In order to become a valid lien, said lien must be placed in record within two (2) years of the time said amount claimed became due, with the lien to expire seven (7) years after recording of same. Payment of said may be enforced by foreclosure of lien, and the Association may recover reasonable attorney's fees and court costs incurred in the recovery of amounts due.

**11. ROADWAYS** The roadways in the Subdivision shall be dedicated for public use.

**12. TERMS OF COVENANTS** The Covenants and Restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association, the owner of any lot, and respective legal representatives, heirs, successors and assigns, and the Developer for a term of twenty-five (25) years from the date this Declaration is recorded in the Office of Recorder of Deeds of Peoria County, Illinois, after which time said Covenants shall automatically be extended and be enforceable for successive periods of twenty-five (25) years. If, at any time, the Association shall deem it necessary to rerecord this Declaration or any part thereof in order to avoid expiration of any of the Covenants or provisions hereunder, it shall have the right to do so, and every lot owner shall be deemed

to agree to such rerecording, and it shall be binding on all owners with all force and effect as if such action were taken by each owner and the rerecording document executed and acknowledged by each of them.

IN WITNESS WHEREOF, the undersigned, HAPPY TRAILS LLC, has hereby placed its seal this 14 day of NOVEMBER, 2006.

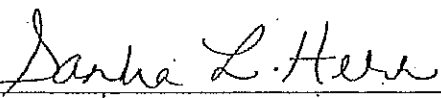
HAPPY TRAILS LLC

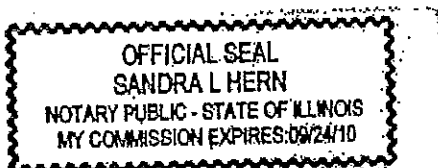
By:   
William Johnston  
Managing Partner

STATE OF ILLINOIS       )  
                                      )   SS  
COUNTY OF PEORIA     )

I, the undersigned, a Notary Public, certify that William Johnston personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated this 14 day of November, 2006.

  
Notary Public





**FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS  
AND RESTRICTIONS OF  
ATTINGHAM PARK  
Peoria County**

**This Document Prepared By:**  
**Michael J. Honegger, P.C.**  
**Attorney at Law**  
**P.O. Box 49**  
**Hanna City, IL 61536**

**After recording, mail to:**  
**Happy Trails LLC**  
**P.O. Box 9248**  
**Peoria, IL 61612**

06-39742  
FILED  
PEORIA COUNTY  
STATE OF ILLINOIS

06 DEC -8 15 1 54

*Bradley E. Horton*  
RECORDER OF DEEDS

3900

**FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS AND RESTRICTIONS OF  
ATTINGHAM PARK**

**THIS FIRST AMENDMENT** to the Declaration of Covenants and Restrictions of Attingham Park, made on this 30th day of November, 2006, by **HAPPY TRAILS LLC** ("Declarant") for the property described as follows:

Lots 1 through 29 and Lots 31 through 53 of Attingham Park, a subdivision of Section 25, Township 10 North, Range 7 East of the Fourth Principal Meridian, Peoria County, Illinois, according to the plat thereof recorded as Document No. 06-35112 on October 26, 2006, in Peoria County, Illinois;

See Parcel Identification Numbers attached as Exhibit A

**WITNESSETH:**

**WHEREAS**, Declarant, on the 14th day of November, 2006, executed the Declaration of Covenants and Restrictions ("Declaration") of Attingham Park, as recorded in the Office of the Recorder of Deeds of Peoria County, Illinois, as Document No. 06-37672;

**WHEREAS**, Declarant is desirous of amending the Declaration;

**NOW, THEREFORE**, Declarant declares that the Declaration of Covenants and Restrictions of Attingham Park, dated November 14, 2006, and recorded in the Office of the Recorder of Deeds of Peoria County, Illinois, as Document No. 06-37672 is hereby amended in the following respect:

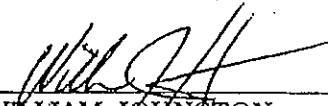
**SECTION I, PARAGRAPH 3a**, is hereby amended as follows:

a) Setback Lines The exterior walls of any building, garage, enclosed porch or swimming pool shall not be erected or maintain closer to the front lot line than the setback lines shown on the plat of the Subdivision. Front yard setback shall be 25 feet and rear yard setback shall be 25 feet. Side yard setback shall be 5 feet, with the following exception: plus one (+1) foot for every 2 feet the house exceeds 25 feet in height. Maximum height is 35 feet.

**IN WITNESS WHEREOF**, **HAPPY TRAILS LLC** has caused this Declaration to be executed as of the date first written above.

HAPPY TRAILS LLC

By:

  
WILLIAM JOHNSTON  
Managing Partner