

## DECLARATION OF RESTRICTIONS FOR CHURCHILL PARK SUBDIVISION

Michael S. Hadden ("Subdivider"), being the owner of CHURCHILL PARK SUBDIVISION ("Subdivision" or "Churchill Park"), a Subdivision situated in the Township of Medina, County of Peoria, in the State of Illinois, and Michael S. Hadden ("Developer"), as per Plat filed for record in the Office of the Recorder of Deeds of Peoria County, Illinois, in Plat Book 6 at Page 69, as Document No. 97-17017 on June 10, 1997, hereby subjects each lot or part thereof in Churchill Park to the following covenants, easements, reservations, stipulations, conditions, and restrictions:

### I. RECITALS

All persons and parties in interest who now hold or shall hereafter acquire any interest in any lot or part thereof in Churchill Park Subdivision and their successors and assigns, shall be taken to agree and covenant with the other owners or parties in interest thereof, and their successors and assigns, to conform to and observe the covenants, easements, reservations, stipulations, conditions and restrictions set forth herein.

### II. CONSTRUCTION AND USE REQUIREMENTS

A. Residential Use. All lots in Churchill Park shall be used for single-family residential purposes only and not for any commercial, manufacturing, professional, religious, fraternal or other purpose. There shall only be one (1) private, single-family dwelling ("residence") per lot. No other type of dwelling shall be permitted. No dwelling shall be occupied by any religious or secular group, or other than by a single family that is related by blood, marriage or adoption or such other relationship that is acceptable to the Developer or his successor in interest.

B. Construction Requirements. The construction of residences on lots in the Subdivision shall be governed by the following specifications:

1. Setback Lines. The exterior walls of any building, garage, enclosed porch, swimming pool or other outbuilding shall not be erected or maintained closer to the front lot line than the setback lines shown on the plat of the Subdivision. Larger setbacks may be required by applicable zoning regulations.

2. Footage Requirements.

a. Ranch Style. As to residences of one level, the first floor living area shall have a total living area (exclusive of garage and basement) of not less than 1,200 square feet.

b. Multi-level. Residences of more than one level shall have a total living area of not less than 300 square feet on the main level (exclusive of garage) and not less than 1,600 square feet total (exclusive of garage and basement).

3. Permitted Exteriors. No wall board, aluminum siding, sheet metal, tar paper, or roofing paper shall be used for any exterior wall covering or roofs. Aluminum may be used for gutters and downspouts, soffit and fascia boards. Stone, brick, wood, vinyl and stucco style materials shall be permitted exteriors provided such materials are of suitable quality, grade and coloration so as to conform and harmonize with other improvements in the Subdivision.

4. Garages. Each residence constructed on a lot in the subdivision shall contain an attached, enclosed garage adequate to store (as a minimum) two standard-sized passenger vehicles or (as a maximum) three standard-sized passenger vehicles. Any such garage shall be in conformity with the attached residence as to exterior, architecture and location.

5. Excavation. Any and all materials excavated from any lot in the Subdivision shall NOT be removed from the Subdivision unless prior written permission is granted by the Developer.

6. Swimming Pools. All swimming pools must be enclosed by fencing approved by the Developer and shall, in all respects, comply with applicable ordinances and building codes. 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. Only in-ground pools shall be permitted; above-ground pools shall not be permitted, except the

Developer may approve hot tubs, spas or the like at his sole discretion on a case-by-case basis upon submission of suitable plans.

7. Sidewalks. Sidewalks must be installed by and at the expense of the lot owner upon the earlier of:

- a. Six months after completion of construction of a residence on the lot,
- b. When required by governmental authority, OR
- c. Within two years of completion of construction of residences on eighty percent (80%) of the lots constituting the Subdivision. Details as to sidewalk size, placement, and materials are to be supplied by the Developer, with all sidewalks to be conforming with other sidewalks in the Subdivision.

8. Developer Approval. No building, outbuilding, tower, satellite dish, or swimming pool shall be erected, placed, or altered on any lot in the Subdivision until the building plans, specifications and site plans of said improvements have been submitted to and approved by the Developer. The Developer, as part of the approval process, shall evaluate the proposed improvements 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. A minimum of two (2) copies of all building plans, specifications, site plans, and landscaping plans shall be submitted before commencement of any construction on any lot. One copy of said building plans, specifications, and site plans shall be retained by the Developer. The Developer, at Developer's option, may require that samples of all exterior materials be submitted for examination prior to approval. If the Developer fails to give written approval or disapproval to such plans and specifications within forty-five (45) days after same have been received by the Developer, the plans and specifications shall be deemed approved. All improvements shall be constructed in strict conformity with approved plans and specifications. Any changes during construction of the size or exterior of the building, either as to materials or colors, must be approved in writing by the Developer prior to continuation of construction.

C. Height Restriction. No building, structure, improvement, fixture or appurtenance shall exceed three (3) stories in height within twenty (20) feet of the front door of residence located on the lot (or to be located on the lot), as measured from the surface at ground level at the front door of the residence.

D. Tree Removal. No tree in excess of six (6) inches in diameter, measured three (3) feet above the base, shall be destroyed or removed without the consent of the Developer.

E. Enclosures and Fences. No enclosure or fence shall be constructed, erected or installed on any lot without the prior written permission of the Developer.

F. Animals and Animal Pens or Kennels. No animal pens, kennels or dog houses shall be constructed, erected or maintained without the prior written approval of the Developer. No animals other than domesticated house pets shall be kept or maintained within Churchill Park. However, this provision shall not be deemed to permit the keeping of pigeons, pot-bellied pigs, domestic fowl or farm animals.

G. Driveway Requirements. All driveways must have a surface composed of concrete, blacktop or such other material as may be approved by the Developer. Where any curb is removed for the purpose of making a driveway entrance or exit, the curb and gutter must be removed as far away from the driveway entrance or exit as the nearest contraction or expansion joint, and then replaced so as to ensure a smoothly joining entrance. The owner of the lot (and his successors and assigns) shall be liable for any damage to the street, curb and other subdivision improvements, to the extent that such damage is caused by the lot owner, an agent of the lot owner, any person with whom the lot owner has entered into a contractual relationship or by any agent or subcontractor thereof. Developer and Subdivider shall have a lien against the owner's lot for the amount of any such damages that are not paid by the owner within thirty (30) days of written notice requesting payment of such damages. Such lien may be perfected by recording a Notice of Lien in the Office of the Recorder of Deeds of Peoria County, Illinois. Such lien may be foreclosed as in mortgage foreclosure actions.

H. Lamp Post Requirements. In conjunction with each residence, each owner shall install and maintain in proper working condition at all times, a free-standing gas or electric lamp post of a design approved or provided by the Developer. The Developer has adopted uniform lamp post design requirements. The location of each lamp post shall be five (5) feet from the right of way and the property line unless the Developer designates another location that is uniform throughout Churchill Park.

I. Clotheslines. No clotheslines, posts, or other permanent fixtures for hanging clothes outside shall be constructed, erected, installed or maintained.

J. Signs or Billboards. No signs or billboards shall be constructed, erected or installed by the purchaser of any lot (or by his successors or assigns) or by any agent or general contractor thereof (whether on a separate structure or on a building) EXCEPT one sign of not more than twelve (12) square feet advertising the property for sale or rent

OR signs used by the general contractor to advertise the property during construction. Placement of such signs shall be restricted to the front of each lot and shall be limited to not more than two (2) signs per lot. Any breach of this paragraph shall be considered a material breach and entitle Developer to injunction relief.

**K. Temporary Living Quarters.** No buildings, mobile homes, house trailers or the like shall be moved to Churchill Park. No garage or temporary residence of any kind shall be used as living quarters or permitted on any lot.

**L. Government Requirements.** No building or other structure of any kind shall be located on any lot in violation of any applicable requirement of any unit of government having jurisdiction of such matters.

**M. Beginning/Completion of Construction.** Each purchaser of a lot (or his successors or assigns) must commence construction of a residence within three (3) years after the date the lot was first conveyed by the Subdivider. The lot owner must complete construction of the residence within one (1) year thereafter.

In the event such construction is not commenced on a timely basis with the approval of the Developer, the Subdivider or Developer, or both, shall have the absolute right (at their option) to purchase the lot by payment to the lot owner (and to any other persons claiming an interest in the property) an amount in cash equal to the actual purchase price actually paid to the Subdivider at about the time the lot was conveyed by the Subdivider to the first purchaser.

In the event such construction is properly commenced on a timely basis, but is not completed within one (1) year thereafter, the Subdivider or Developer, or both, shall have the absolute right (at their option) to purchase the lot (and the partially-completed residence thereon) for a price to be paid to the lot owner (and to any other persons claiming an interest in the property) to be computed as follows:

1. Actual purchase price actually paid to the Subdivider at about the time the lot was conveyed by the Subdivider to the first purchaser, PLUS
2. Ninety percent (90%) of the cash fair market value of the partially-completed residence thereon. If an agreement cannot be reached as to the cash fair market value of the partially-completed residence, such value shall be determined through arbitration by:
  - a. An arbitrator to be appointed by the lot owner,
  - b. An arbitrator to be appointed by the Subdivider and (if necessary to reach a decision)
  - c. A third arbitrator to be appointed by the first two arbitrators. The decision of any two of such arbitrators shall be binding upon the lot owner, any other persons claiming an interest in the property, the Subdivider and the Developer.

**N. Unightly Materials and Goods.** No refuse, garbage, ashes, waste, debris or any offensive substance or material shall be kept or allowed to remain in Churchill Park Subdivision except temporarily in suitable containers. Garbage or trash containers must be of plastic material covered by a permanent lid and completely recessed in the ground or otherwise concealed from view. Vehicles (including recreational vehicles, boats and trailers, but excluding passenger cars in good working order) shall be garaged when not in use and shall be totally concealed from view. Except as necessarily incidental to construction, during construction no new or used construction materials or supplies, junk, machinery or the like shall be kept or allowed to remain on the premises within Churchill Park, except inside approved buildings or structures. During construction of a residence, the lot owner or general contractor shall have on the lot itself a commercial, heavy steel trash receptacle or truck of a size that is sufficient to permit storage of all debris generated during construction.

**O. Lot Maintenance.** Every lot owner shall use due diligence in maintaining his property in excellent condition including a lawn and landscaping that is nicely manicured. The lot owner shall keep all weeds cut. In the event a lot presents a nuisance or an unattractive appearance because of accumulated debris, weeds or grasses, the Developer shall attempt to notify the owner of said lot in writing of the objectionable condition of the lot. Said notice to be mailed by certified mail (if more current information is not available) to the address listed with the Peoria County Supervisor of Assessments for the mailing of tax bills for said lot. If the condition of said lot is not adequately improved within ten (10) days of the mailing of such notice, the Developer may undertake any such reasonable acts as may be necessary to improve the condition of the lot. Any charges sustained by the Developer may be charged to the lot owner and, at the option of the Developer, may constitute and be recorded as a lien against said lot. Such lien may be enforced against the owner's property as permitted by law. Such lien must be recorded within two years of the time the debt was incurred. Attorneys fees and court costs shall be recoverable for enforcement of such a lien.

If a lot owner desires to retain a portion of a lot in a natural state, the lot owner shall first request and obtain the written approval of the Developer, who may condition approval of the request on the submission of a plan by the lot owner which:

1. Calls for the lot owner to perform periodic tasks on the portion of the lot to be kept in a natural state, such as a requirement that underbrush and weeds be removed periodically;
2. Calls for the lot owner to maintain a nicely manicured lawn or landscaped area within the right of way or in proximity to sidewalks; and
3. Approves the request for a period of five (5) years, at the end of which time written approval would once again need to be sought and obtained from the Developer by the lot owner. If a lot owner seeks approval of a request in connection with the expiration of such a five-year period, during consideration of whether or not to grant the request the Developer may consider (among other things) the aesthetic qualities of the portion of the lot retained in a natural state during the previously-approved five-year period, together with whether the lot owner has complied during the previously-approved five-year period with any conditions imposed by the Developer regarding the maintenance of nicely manicured lawns or landscaped areas or regarding the performance of periodic tasks. The approval for periods subsequent to any five-year period approved hereunder may be based on the same conditions or on different conditions than the conditions prevailing during the initial five-year period.

**P. Storage of Vehicles.** 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 are enclosed or concealed from view within a garage on the owners property. This provision (to the extent permitted by law) shall also apply to those parts of the subdivision dedicated as public roadways.

**Q. Easements.** Easements for public utility installation and maintenance are reserved as shown on the recorded plat. Said utilities shall be permitted access to the indicated easements for the purpose of serving individual lots, Churchill Park Subdivision and adjoining property with standard public utilities including, without limitation, electric, gas, water, sewer, television cable and telephone service. No permanent buildings, structures, or significant foliage shall be placed on said easements; but the easements may be used for gardens, shrubs, landscaping, and other purposes that do not interfere with the maintenance or use of the easements. Should it become necessary for any public utility to access any easement, Subdivider and Developer are not responsible for replacing any gardens, shrubs, landscaping, grass, etc., within the easement which may be moved or destroyed by said utility company. The Subdivider and Developer assume no liability for any damage to private property located within the easements.

### III. ORGANIZATION OF CHURCHILL PARK HOMEOWNERS' ASSOCIATION

**1. Organization.** A homeowners' association known as the Churchill Park Homeowners' Association, may be organized by the Developer at his sole discretion by recording a written Declaration signed by the Subdivider and the Developer. The property subject to the jurisdiction of the Churchill Park Homeowners' Association shall include each lot (or part thereof) in Churchill Park Subdivision and any other real estate added, annexed or conveyed thereto, in the Churchill Park Homeowners' Association, except for lots specifically exempted by the Developer in the recorded Declaration.

**2. Voting.** For the purpose of voting at any meeting of the Churchill Park Homeowners' Association, each lot shall entitle the owner or owners thereof to two (2) votes. Any decision of the Association shall be by majority vote except with respect to alteration, amendment or rescission of these covenants, conditions, and restrictions otherwise provided for by Paragraph IV, Subparagraph H: Amendment of Covenants. Any owner or owners may designate in writing any other person as a proxy to vote at any meeting of the Churchill Park Homeowners' Association.

**3. Trustees.** The Churchill Park Homeowners' Association shall be managed by three (3) Trustees, each of whom shall be an owner of a lot in the Subdivision and shall serve for a term of one (1) year or until his successor is duly elected. At the first meeting of the Trustees, and within ten (10) days after their election, such Trustees shall elect from within 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 Churchill Park Homeowners' Association, and as may be directed by a majority vote of the members thereof.

4. **Meetings.** The Trustee may call special meetings of the Churchill Park Homeowners' Association by giving ten (10) days prior written notice to Churchill Park Homeowners' Association members. Such notices to members must be either personally served or mailed to the last known residence of the member. Annual meetings of the Churchill Park Homeowners' Association (when formed) shall be held at such time as may be designated by the current Trustees. The Churchill Park Homeowners' Association may adopt such by-laws as they from time to time deem necessary or advisable which are not otherwise inconsistent with these provisions.

5. **Powers and Duties.** When organized, the Churchill Park Homeowners' Association shall have the following powers and duties; provided, however, that nothing hereinafter contained shall be deemed to prevent any owner from enforcing any restrictions or covenants in his own name:

a. **Election of Trustees.** To elect Trustees and delegate powers and duties thereto, and to undertake all powers and rights of Developer and Subdivider except those reserved by Developer and Subdivider in the written Declaration which organized the Churchill Park Homeowners' Association.

b. **General Fund.** To provide for a general fund to enable the Churchill Park Homeowners' Association to perform its duties and to maintain the Subdivision.

c. **Enforcement.** To enforce in the name of the Churchill Park Homeowners' Association or in the name of any owner within the Subdivision, any and all covenants, easements, reservations, stipulations, conditions and restrictions which have been imposed upon lots in the Subdivision, unless otherwise reserved by Developer and Subdivider.

d. **Common Area Maintenance.** To care for, spray, trim, protect and plant trees and shrubs on streets and other public places and to sow or re-sow grass and otherwise maintain any common areas of the Subdivision.

e. **Lighting.** To provide for such lights and replacements, repair or improvement thereof as the Churchill Park Homeowners' Association may deem advisable on streets, public places, gateways and semi-public places not otherwise provided for.

6. **Limitation of Churchill Park Homeowners' Association and Trustees.** At no time shall the rights and powers of the Churchill Park Homeowners' Association or Churchill Park Homeowners' Association Trustees replace or overrule the decisions, determinations or guidelines established or handed down by the Subdivider or the Developer in relation to the approval or disapproval of Plans and Specifications, or any other matter.

7. **General Fund.** For the purpose of providing a general fund to enable the Churchill Park Homeowners' Association to perform their duties and to maintain the improvements provided herein, all land within the boundaries of the Churchill Park Subdivision shall be subject to improvement and maintenance assessments. These assessments are to be paid to the Churchill Park Homeowners' Association annually, in advance, by the respective owners of the land subject to such assessment. Such assessment for general services shall not exceed the sum of Sixty and no/100 Dollars (\$60.00) per year, adjusted from the date of these restrictions for the rate of inflation or deflation, per lot as laid out in the plat as recorded in the Recorder's Office. However, special assessments (if necessary in addition to the assessment for general purposes) may be approved or levied to cover the cost of necessary repairs, maintenance or replacement, including but not limited to replacement or repair of such lights or lighting as may be necessary. Such special assessments shall be made and levied on a uniform and proportional basis on all land in the Churchill Park Subdivision.

8. **Records and Assessments.** The Trustees of the Churchill Park Homeowners' Association shall maintain complete records of all assessments levied and the payments on account thereof and such records shall be open for inspection by any member of the Churchill Park Homeowners' Association or any person designated by a member of the Churchill Park Homeowners' Association. Assessments may be levied annually and shall be payable within thirty (30) days after the meeting at which said assessment is levied. The Trustees shall personally serve upon or mail a notice to the owner of each lot (or part thereof) to his or her last known address, stating the amount of assessment due on such lot (or the part thereof) and the date and place where it shall be paid. Assessments for general and special purposes and services shall become liens on real estate as soon as due and payable, as herein set forth. If the assessment is not paid in full within thirty (30) days from the due date, such assessments shall bear interest at the rate of ten percent (10%) per annum from the due date thereof and the payment of both principle and interest may be enforced as a lien on such real estate in any court in Peoria County having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Churchill Park Homeowners' Association to bring suit to enforce liens as soon as they become delinquent. Such liens shall continue for a period of one year from the date of delinquency but no longer unless within such time suit shall have been instituted for the collection of the assessment, in which case the lien shall be valid until the assessment is paid.

#### IV. GENERAL CONDITIONS

- A. Covenants To Run With The Land.** The within protective covenants, reservations, stipulations, conditions, restrictions and easements, including the benefits and burdens thereof, are to run with the land and shall be binding on all parties acquiring any interest in such property or lots covered hereby, and on their successors and assigns, and on any one else claiming under them, until the same shall be amended, altered or rescinded as provided herein.
- B. Annexation.** All lot owners shall, through ownership of lots in Churchill Park, be conclusively deemed to have consented and agreed to be bound by all terms and conditions contained in an Annexation Agreement with the City of Peoria recorded as Document No. 96-37191 in the office of the Peoria County Recorder of Deeds, which agreement includes all of Churchill Park property. All lot owners shall also be conclusively deemed to have consented to annexation into the Greater Peoria Sanitary District and agree to be bound by the applicable rate structure of the Greater Peoria Sanitary District, as from time to time amended.
- C. Sign Easements.** Developer hereby establishes a permanent, non-exclusive easement over the southeast corner of Lot 2 and over the southwest corner of Lot 60 to permit the construction, use and maintenance of subdivision signs for Churchill Park Subdivision. These signs shall be maintained by the Churchill Park Homeowners' Association.
- D. Application To Purchaser At Judicial Or Foreclosure Sale.** Should any mortgage or deed of trust be foreclosed on any lot covered by this Declaration, or if any title be obtained at any judicial sale, sheriff's sale, U.S. Marshall's sale, or the like, and the title acquired as a result thereof, the resulting title holder (and the successors and assigns thereof) shall be subject to and bound by all covenants, reservations, stipulations, conditions, restrictions and easements set forth in this Declaration.
- E. Undue Hardship.** In the event that compliance with any of the provisions hereof, in the opinion of the Subdivider, Developer, or Churchill Park Homeowners' Association (as the case may be) causes undue hardship on any owner of any lot or lots, then in that event, a special written permission may be given by the Subdivider, Developer, or Churchill Park Homeowners' Association (as the case may be) to alter in such case the requirements of the provisions of this Declaration as to such lot or lots in the pertinent respects. If such special written permission is granted, it shall have the effect of waiver of the pertinent restrictions as to the lot or lots mentioned in the special written permission. Such special written permission or waiver shall in no way affect this Declaration or its effectiveness as to any other lot or lots, nor shall it affect this Declaration or its effectiveness as to the lot or lots mentioned in the special permission other than in the pertinent respects.
- F. Sole Authority of Developer.** The Developer shall be the sole judge of any question regarding compliance with any of the within covenants, easements, reservations, stipulations, conditions and restrictions set forth herein.
- G. Invalidity of Covenants.** Invalidity of any of these covenants, easements, reservations, stipulations, conditions and restrictions by judgment or court action shall in no way affect any of the other provisions which shall remain in full force and effect.
- H. Amendment of Covenants.** These covenants, easements, reservations, stipulations, conditions and restrictions may be altered, amended or rescinded by a Declaration in writing signed by the Subdivider, Developer and owners of ALL lots in Churchill Park Subdivision. Any such signed, written Declaration shall be filed and recorded in the Office of the Peoria County Recorder of Deeds, Peoria County, Illinois, and shall not be binding until so recorded.
- I. Assignment of Rights.** Subdivider or Developer (or both of them) may by written instrument assign and convey to any other person, firm or corporation, all of the rights, privileges, powers and immunities set forth herein or herein reserved. Any such assignee may likewise assign same, as may the assignee's assignee, and so on.
- J. Violation of Covenants.** If any party (or his successors or assigns) shall violate or attempt to violate any of the covenants, easements, reservations, stipulations, conditions or restrictions herein, any lot owner, Developer, Subdivider or the Churchill Park Homeowners' Association shall have the right to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate same. The party or parties bringing suit may seek damages, injunctive relief, declaratory relief or any combination thereof. In any action by the Developer, Subdivider or the Churchill Park Homeowners' Association against a lot owner or lot owners, if the Developer, Subdivider or Churchill Park Homeowners' Association substantially prevails, it shall be entitled to recover from the defendants its reasonable attorneys' fees and costs. It shall not be necessary in any such action by the

Developer, Subdivider or Churchill Park Homeowners' Association to name as parties all persons having a legal or equitable interest in a lot.

**K. Choice of Law.** The laws of the State of Illinois shall govern the validity, interpretation and administration of this Declaration.

**L. Agreement In Absence of Signature.** By accepting a deed or other form of conveyance or transfer of any legal or equitable interest in the property, or by accepting an interest in the property by operation of law or judgment, the person accepting the instrument or interest in property (together with his successors and assigns) shall be deemed to have agreed to the provisions of this Declaration, without regard to whether such person has signed the instrument of transfer or conveyance or any other writing agreeing to be so bound.

IN WITNESS WHEREOF, the Subdivider and Developer have caused this Declaration of Restrictions on Churchill Park Subdivision to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Michael S. Hadden  
Subdivider and Developer

STATE OF ILLINOIS    )  
                              ) SS.  
COUNTY OF PEORIA    )

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that Michael S. Hadden, personally known to me to be the person whose name is subscribed to the foregoing Declaration of Restrictions, appeared before me this day in person and acknowledged that he signed, sealed and delivered the foregoing instrument as his free and voluntary act.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Notary Public