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2006R-005458

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JEFFERSON COUNTY, MO

02/02/2006 11:45:59AM

MARLENE CASTLE  
RECORDER OF DEEDS

PAGES 11  
REC FEE: 54.00  
NS FEE:

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1. Title of Document: Amendment to Indenture of Trust  
and Restrictions for Meadow View
2. Date of Document: January 26, 2006
3. Grantor(s): The Jones Company Homes, L.L.C.
4. Grantees: Meadow View Homeowners Association
5. Statutory Mailing Address(es): 16640 Chesterfield Grove Road  
Chesterfield, Missouri 63005
6. Legal Description: Meadow View Subdivision as recorded in Plat Book  
193 page 13, Plat Book 193 page 16, Plat Book 196  
Page 19, Plat Book 196 Page 20 and Plat Book 200  
Page 21 of the Jefferson County Records

Note: The terms "Grantor" and "Grantee" as used in this Cover Page are for recording and indexing purposes only. The instrument itself refers to the parties by other designations.

such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3. Voting. Each Member shall have one equal vote for each Lot in which they hold the interest required under Section 2 above, except that there shall be only one vote per Lot. No vote shall be exercised for any property which is exempt from assessment under the Indenture.

4. Original Directors. The Board of Directors of the Association shall consist of three (3) Members. The original Directors shall be Susan DeWinter, Melody Kuehl and Dwayne Sutter, who, by their signatures hereto, consent to serve in such capacity until their successors are elected or appointed as hereinafter provided. Should any of said original Directors (or any successor appointed by First Party) resign other than as required by Section 5 of this Article IV, refuse to act, become disabled or die, First Party shall have the power to appoint, by duly written, recorded instrument, a successor Director who shall serve until his successor is elected by the Members in the manner hereinafter provided.

5. Election of Directors. Within ninety (90) days after the County has issued occupancy permits ("Permits") for ninety five percent (95%) of the Lots authorized to be developed in the Subdivision, Melody Kuehl, or her successor, shall resign, and a successor Director shall be elected by the Lot Owners. The Director so elected and Dwayne Sutter, or his successor, shall serve until thirty (30) days after the County has issued Permits for all Lots in the Subdivision, or at such earlier time as First Party may determine, whereupon the term of all Directors then serving hereunder shall expire, and the then Members shall elect three (3) successor Directors, one (1) of which shall be elected to serve for one (1) year, one (1) of which shall be elected to serve for two (2) years, and one (1) of which shall be elected to serve for three (3) years from the date of election (the first annual meeting of the Members to be held under Section 9 of this Article IV shall be held within one year from the date of such election). Thereafter, all Directors shall be elected for terms of three (3) years each.

6. Manner of Conducting Elections. (a) The elections for the first successor Director under Article IV, Section 5 of this Indenture shall be by mail. Notice of call for nominations shall be sent to all Owners, and all nominations received within thirty (30) days thereafter shall be compiled on an election ballot and mailed to all Owners, who shall have thirty (30) days thereafter to cast their votes and return their ballots to First Party. The person receiving the most votes shall be elected the successor Director; provided, however, if the person elected declines to serve, the person receiving the next highest number of votes shall be declared the Director unless he/she also declines to serve, in which event the position shall be given to the next highest vote recipient willing to accept the position. Any runoff election required by reason of a tie shall be conducted by mail in the aforesaid manner. For purposes hereof, nominations and ballots shall be deemed timely received if postmarked by the United States Postal Authority no later than midnight on such thirtieth (30th) day.

(b) Except as provided in Article IV, Sections 5 and 6(a) of this Indenture,, all elections shall be held at the annual meetings to be held pursuant to Section 10 hereof, and shall be

preceded by notice signed by the Directors then in office, or should there be no Directors, then by three (3) such Members, sent by mail to or personally served upon all Members at least ten (10) days before the date fixed for the meeting to be held for the purpose of electing Directors. The notice shall specify the time and place of meeting, which shall be in the County. At such meeting or at any adjournment thereof, the majority of the Members attending such meeting, in person or by proxy, shall have the power to elect such Directors, who shall thereupon serve until their successors have been duly appointed or elected and qualified. At such meeting, each Member, whether attending in person or by proxy, shall be entitled to one (1) vote, which, when the Member constitutes more than one person or entity, shall be cast as they among them shall determine; in no event shall more than one (1) vote be cast with respect to any Lot. The result of any election of Directors shall be certified by the persons elected as chairman and secretary at such meeting, and their certification shall be acknowledged and Recorded.

7. Qualification of Directors.

(a) Any Director elected hereunder shall be an Owner in the Subdivision, or an officer or agent of a corporate Owner, and if such Owner sells his or her Lot or resigns, refuses to act, becomes disabled or dies, the remaining Directors shall appoint an Owner to act as the successor for the unexpired term. Where the provisions of this instrument cannot be fulfilled by reason of unfilled vacancies among the Directors, the County Council or its successor may, upon petition of any concerned resident or Owner in the Subdivision, appoint one or more Directors to fill the vacancies until such time as Directors are elected or selected in the manner provided in this Indenture. Any person so appointed who is not an Owner within the Subdivision shall be allowed a reasonable fee for his/her services by the order of appointment, which fee shall be levied as a special assessment against the Lots and which fee shall not be subject to any limitations on special assessments contained in this Indenture or elsewhere.

(b) Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filled by the Members. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner. Nominations also may be permitted from the floor.

Nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairperson, who shall be a member of the Board, and three or more Members or representatives of Members. Members of the Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting to serve a term of one (1) year and until their successors are appointed, which such appointment shall be announced in the notice of each election.

The Nominating Committee may make as many nominations for election to the Board as it shall, in its discretion, determine.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

8. Election Procedures. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

9. Removal of Directors.

(a) Any Director elected by the Members may be removed, with or without cause, by the vote of a majority of the votes entitled to be cast for the election of such Director. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such Director.

(b) Any Director elected by the Members who has three (3) consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

(c) In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

(d) This Section shall not apply to Directors appointed by First Party, and First Party shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a Director appointed by or elected as a representative of First Party.

10. Annual Meetings. The first meeting of the Members of the Association shall be held within one year after the date of the election referenced in Article IV, Section 5 of this Indenture. Subsequent regular annual meetings shall be set by the Board so as to occur during the same quarter of the Association's fiscal year as that in which the first such election occurred on a date and at a time set by the Board.

11. Special Meetings. Special meetings of the Members may be called by the President, and shall be called by the President or Secretary if so directed by resolution of the Board or upon written request by twenty percent (20%) of the total Members of the Association.

12. Notice of Meetings.

(a) Written or printed notice stating the time and place of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at

such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting. In addition, in the case of a special meeting, the notice shall state the purpose or purposes for which the meeting is called; no business shall be transacted at a special meeting except as stated in the notice.

(b) If mailed, notice shall be deemed delivered when deposited with the United States Postal Service, postage prepaid, addressed to the Member at his or her address as it appears on the Association's records.

(c) Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting, and waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Attendance at a meeting by a Member shall be deemed a waiver of notice unless such Member attends for the limited and specific purpose of objecting to lack of proper notice.

13. Quorum.

(a) The presence of Members representing twenty-five percent (25%) of the total votes in the Association shall constitute a quorum at all Association meetings.

(b) If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. Notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

(c) Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

14. Voting and Proxies.

(a) The voting rights of the Members shall be as set forth in this Indenture. When a quorum is present at any duly called meeting, a majority of the votes cast shall decide any question brought before the meeting, unless the question is one which, by express provision of the Missouri Not-For-Profit Corporation Law (the "Act") or this Indenture, requires a different vote, in which case such express provision shall govern and control the decision of such question.

(b) Members may vote in person or by proxy. On any matter as to which a Member is entitled personally to cast the vote for his or her Lot, such vote may be cast in

person or by proxy, subject to the limitations of the Act relating to the use of general proxies and subject to any specific provision to the contrary in this Indenture.

(c) Every proxy shall be in writing specifying the Lot for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

(d) Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Lot for which it was given; (b) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

15. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association. Such consents shall be filed with the minutes of the Association, and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice summarizing the material features of the authorized action to all Members entitled to vote who did not give their written consent.

16. Indemnification of Officers, Directors and Others. Subject to the indemnification provisions in Chapter 355 of the Missouri Revised Statutes, as the same may be amended, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Missouri law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or

action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available."

B. To delete Article V, Section 6 of the Indenture, and to substitute the following, which shall henceforth be deemed Article V, Section 6 of the Indenture:

6. Enforcement. To prevent any infringement and to compel the performance of any restriction set out in this Indenture or established by law, and also any rules and regulations issued by the Directors governing the use of the Common Ground or any matters relating thereto. The power and authority herein granted to the Association is intended to be discretionary and not mandatory, and shall not restrict the right of any Owner to proceed in his own behalf. Without limiting the generality of the foregoing, the Board may impose sanctions for violation of this Indenture including, without limitation, the following:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot;

(ii) suspending an Owner's right to vote;

(iii) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(iv) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), or taking action to abate any violation of this Indenture in a non-emergency situation;

(v) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Lot in violation of this Indenture and to restore the Lot to its previous condition, and upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the Lot to substantially the same condition as previously existed and any such action shall not be deemed a trespass; and

(vi) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

All remedies set forth in this Indenture shall be cumulative of any remedies available at law or in equity. In any action to enforce this Indenture, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The decision to pursue enforcement in any particular case shall be left to the Board's discretion. A decision not to enforce shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may permit the County to enforce ordinances within the Property for the benefit of the Association and the Owners."

C. To amend Article IX, Section 9 of the Indenture to insert the following at the end thereof:

As used herein, "commercial vehicle" shall mean the following:

(i) A motor vehicle designed or regularly used for carrying freight and merchandise or more than eight (8) passengers;

(ii) A motor vehicle with lettering and/or other designs on it that clearly identify the vehicle as being used in, or to promote, any type of business;

(iii) A motor vehicle with equipment mounted on it (either temporarily or permanently) typically used to carry out a trade or business; and

(iv) An open bed truck carrying, in the bed in plain view, material that is typically used to carry out a trade or business."

D. To delete Article IX, Section 18 of the Indenture, and to substitute the following, which shall henceforth be deemed Article IX, Section 18 of the Indenture:

18. Fences. (a) No fencing or screening of any kind shall be erected or maintained on any Lot without the prior written consent of the Architectural Control Committee and unless in strict compliance with the following standards and requirements, to-wit:

(1) Other than on Lot 100 and as otherwise expressly permitted by the provisions of this Section 18, the maximum height for full perimeter fencing shall be forty-eight inches (48").

(2) Fencing shall only enclose the rear yards of any Lot. Rear yard fencing shall be full perimeter, and no fencing shall be erected or maintained on any Lot between the rear corner of the residence constructed upon such Lot and the street upon which such Lot fronts. Except under extraordinary circumstances (as defined below), fencing must start at the rear corners of the residence and must be within four inches (4") of the lot lines and lot corners. With respect to corner lots, fencing along the side or the rear yard facing the street shall not be placed any nearer to said street than four inches (4") of the building line limit established by the subdivision plat. For examples of permissible rear yard fencing, see Exhibit B attached to and made a part of this Indenture by reference.



As used in this, paragraph (2), the term “extraordinary circumstances” shall include the necessity to protect “green space,” avoiding the destruction of a tree canopy, a severe or extreme rear yard slope, or in certain instances determined by the Architectural Control Committee, the interference by utility structures. When an extraordinary circumstance exists, with prior written consent of the Architectural Control Committee, fencing may be set beyond four inches (4”) of the lot lines and lot corners; provided, however, prior to providing its consent, the Architectural Control Committee may, in its discretion, require the written approval of all adjoining Lot Owners for the fence variance. In those instances where written consent is given, the Lot Owner shall continue to maintain that portion of such Owner’s Lot that is located outside the fence, and the Owner’s failure to do so on more than three (3) occasions (as determined by the Board serving notice of such failure on the Owner) shall be considered revocation of the variance whereupon the fence shall be deemed in violation of this Indenture and removed or brought into strict compliance within sixty (60) days after receipt of notice from the Board.

(3) All fencing shall be of either cedar, redwood, vinyl, aluminum, steel or wrought iron materials. Under no circumstance will “chain link” fencing be considered acceptable, regardless of material composition or design. Examples of allowable fence styles are reflected on Exhibits C and D attached to and made a part of this Indenture by reference. Certain other materials or combinations of materials or designs may be approved on a case-by-case basis by the Architectural Control Committee, whose decision to allow or disallow any other material or design shall be final.

(4) Except for certain approved styles of vinyl or wrought iron fencing, fencing may be any picket width up to a maximum of six inches (6”), and regardless of picket width, the minimum open space between pickets shall be three inches. Request of reduction of minimum open space or maximum height requirements as stipulated herein due to Owners’ pet(s) shall not be cause for waiver of these requirements by the Architectural Control Committee.

(5) All picket fences shall be installed with the good siding facing out.

(6) All wood fences are to remain in their natural state and cannot be painted a color or stained.

(7) All fence posts shall be anchored in a base of concrete at least one foot (1’) six inches (6”) deep into the soil.

(8) Swimming pool fencing shall only be of wrought iron or aluminum and of the style appearing in Exhibit D hereto. Under no circumstances may swimming pool fencing exceed a height of forty-eight inches (48”). Swimming pool fencing may be erected either around the perimeter of the concrete or wood swimming pool apron or as a full perimeter fence.

(9) Six foot (6') privacy or "shadow box" fences shall only be allowed around attached patios and decks on the Lots, and may be constructed on the Common Ground by the Directors.


(10) Notwithstanding any provision hereof to the contrary, with the prior written consent of the Architectural Control Committee, a six foot (6') privacy fence may be placed along the border of a busy street or to screen an adjacent parcel of property not within the Subdivision. In such event, the fencing on all Lots bordering such area shall be of the same style, material and configuration.

(11) Within one (1) year following the erection of a fence, the Board may, in its sole discretion, require the Lot Owner to landscape along such fence, in which event landscaping may include vegetation such as rambling rose, multi-flora rose, evergreen shrubbery or such similar materials as may be approved by the Board."

E. Except as hereby amended, the Indenture shall remain in full force and effect, and shall be binding and enforceable in accordance with its terms as hereby amended.

IN WITNESS WHEREOF, Grantor has executed this Amendment in the County of St. Louis, State of Missouri, the day and year first above written.

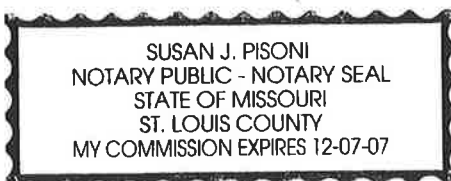
THE JONES COMPANY HOMES, L.L.C.,  
a Nevada limited liability company

BY:   
Kenneth Stricker  
ITS: Division President

STATE OF MISSOURI     )  
                                      ) SS  
COUNTY OF ST. LOUIS    )

On this 26<sup>th</sup> day of January, 2006, before me personally appeared Kenneth Stricker, Division President of The Jones Company Homes, L.L.C., a Nevada limited liability company, known to me to be the person who executed the foregoing in behalf of said limited liability company and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



  
Notary Public