

DECLARATION OF COVENANTS AND RESTRICTIONS FOR TALL GRASS

This Declaration is made this 29th day of December, 1998, by MAF DEVELOPMENTS, INC. (hereinafter "MAF"), an Illinois Corporation, hereinafter referred to as "Covenantor".

WITNESSETH:

WHEREAS, the Covenantor is the Owner of the real property legally described on **Exhibit A** which is being developed as a residential community consisting of single family detached dwellings, single family attached dwellings, an aquatic center, parks and open spaces;

WHEREAS, MAF, desires to preserve the values and amenities, in said community by subjecting the property owned by it and described herein to the covenants, restrictions, easements, charges, and liens, hereinafter set forth, each and all of which is and are for the benefit of said property; and

WHEREAS, as each unit of the Development Tract is subdivided, said unit shall be subjected to the covenants, restrictions, conditions, reservations, easements, charges, and liens as delineated in this Declaration through an amendment to this Declaration; and

WHEREAS, MAF has deemed it desirable, for the efficient preservation of the values and amenities, in said community, to create an agency to which should be delegated and assigned the powers of administering and enforcing the covenants, restrictions, easements, charges, and liens as delineated in this Declaration.

NOW THEREFORE, MAF, declares that the real property described in Article I is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens (hereinafter referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I PROPERTY SUBJECT TO THIS DECLARATION

Section 1. REAL PROPERTY. The real property described on **Exhibit A** attached hereto shall be subject to this Declaration.

Section 2. ADDITIONAL PROPERTY. The Covenantor may subject any other property to this Declaration. The Covenantor may take such action at any time and shall be solely at its discretion.

In order to subject additional property to this Declaration, the Covenantor shall execute and record a supplementary declaration which shall indicate the action being taken and which shall contain a legal description of the property which is the subject of the supplementary declaration.

Upon execution and recordation of a supplementary declaration, the property covered

therein shall be subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration. Said covenants, restrictions, easements, charges, and liens shall run with and bind the property covered by the supplementary declaration and shall inure to the benefit of and be the personal obligation of the owner of said property in the same manner and to the same extent and with the same force and effect as this Declaration. Every person or entity who is a record owner of said property shall be a member of the Tall Grass Homeowners Association on the same terms and subject to the same qualification and limitations as those members under the provisions of this declaration. In all respects, all of the provisions of this Declaration shall apply to the property covered in any supplementary declaration and to the owners thereof with equal meaning and of like force and effect.

ARTICLE II **GENERAL PURPOSES**

The purpose of this Declaration is to provide for a residential community of the highest quality and character for the benefit and convenience of the residents of TALL GRASS.

ARTICLE III HOMEOWNERS **ASSOCIATION**

Section 1. CREATION. Prior to the date of the first conveyance of a lot in TALL GRASS, the Covenantor shall cause to be incorporated under the laws of the State of Illinois a not-for-profit corporation to be named the Tall Grass Homeowners Association or any name similar thereto.

Section 2. RESPONSIBILITY. The Homeowners Association shall be the governing body for all the owners of lots in TALL GRASS, and shall be responsible for the operation, maintenance, and repair of the property entrusted to the care of the Homeowners Association as hereinafter specified. It shall exercise all powers necessary to fulfill its obligation as delineated in this Declaration, its articles, and its by-laws.

Section 3. MEMBERSHIP. Every person or entity who is a record owner of a lot or dwelling unit in TALL GRASS shall be a member of the Homeowners Association irrespective of the inclusion, exclusion, the incorporation by reference, or any specific expression or lack thereof to that effect in the deed or other documents or conveyance. Membership is appurtenant to and shall not be separate from ownership of a lot or dwelling unit. Thus, membership shall automatically terminate upon the sale, transfer or other disposition by a member of his ownership of a lot or dwelling unit in TALL GRASS at which time the new owner shall automatically become a member of the Homeowners Association.

If more than one person or entity is the record owner of a lot or dwelling unit in TALL GRASS, all such persons or entities shall be members.

If any owner shall lease his residence, such lease shall be in writing and shall provide that the lease shall be subject to all of the terms, conditions and restrictions of this Declaration and the applicable by-law, and any breach thereof shall constitute a default under such lease by lessee. The owner shall remain bound by all obligations set forth in this Declaration. Only the occupant of the leased premises shall be entitled to the use of the Association's facilities, including the use of the

Tall Grass Aquatic Center.

Each member of the Homeowners Association shall be bound by and shall observe the terms and provisions of this Declaration, the articles of incorporation, and by-laws of the Homeowners Association, and the rules and regulations promulgated from time to time by the Homeowners Association or its Board of Directors.

Any person or entity who holds an interest in a lot or dwelling unit in TALL GRASS merely as a security for the performance of an obligation or any person in possession of a lot under a contract to purchase, shall not be a member of the Homeowners Association.

Any person or entity who is exempt from assessment, pursuant to Article IV, Section 11, except the Covenantor, shall not be entitled to the use of the Association's facilities, including the Tall Grass Aquatic Center.

Section 4. VOTING RIGHTS. The Homeowners Association shall have two classes of voting membership:

- (a) Class A: Class A members shall be all record owners of lots or dwelling units in TALL GRASS with the exception of the Covenantor, MAF.
- (b) Class B: Class B members shall be the Covenantor, MAF.

Class A members shall be entitled to one vote for each lot or dwelling unit owned. If more than one member is the record owner of a lot or dwelling unit in TALL GRASS, then the vote for that lot or dwelling unit shall be executed as those members among themselves determine. In no event shall more than one vote be cast with respect to any such lot or dwelling unit.

The Class B member shall be entitled to three votes for each lot or dwelling unit owned. Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs first:

- (a) when the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership; or
- (b) whenever the Class B member elects to do so.

Section 5. POWERS AND DUTIES OF THE HOMEOWNERS ASSOCIATION.

The Homeowners Association shall be responsible for the operation, maintenance, and repair of all property for which it has responsibility, including but not limited to the subdivision entrance monuments, landscaping located in right-of-ways, easements, or any outlots in TALL GRASS and shall further be responsible for the maintenance and care of the detention and retention basins including the contiguous and associated areas in or around the basin that may become the property or responsibility of the Homeowners Association. The Homeowners Association will be responsible for any fencing located on property conveyed to it or for which it is given responsibility, located in TALL GRASS, including any subsequent units. The fence installed in the landscape easements along perimeter streets is the responsibility of the Homeowners Association. The Homeowners Association shall mow, care for, remove rubbish, water, and plant grass, shrubs, trees, and/or flowers

in and upon said right-of-ways, outlots and easements. However, with regard to the perimeter landscape easements, only the portion of the easement on the right-of-way side of the fence will be maintained by the Homeowners Association. The Homeowners Association shall also maintain, repair, clean and replace said subdivision entrance monuments, and any electrical systems and sprinkling systems for said areas. The Homeowners Association shall control, manage, regulate, and maintain the Aquatic Center including but not limited to all its electrical and mechanical systems as well as the maintenance of the parking lot and surrounding landscaping.

The Homeowners Association shall have the right to suspend both the voting rights and use of the Aquatic Center of any member for any period during which any assessment levied by the Homeowners Association against the member's lot remains unpaid.

Section 6. MEETINGS. The initial meeting of the voting members shall be held upon ten days written notice given by the Covenantor. No meetings will be held prior to the initial meeting, unless the meeting is requested by the Covenantor. Such written notice may be given at any time after at least fifty percent of the homes in TALL GRASS are occupied but must not be given later than thirty days after eighty-five percent of the lots are sold and occupied. Thereafter, there shall be an annual meeting of the voting members as provided in the Homeowners Association by-laws.

Special meetings of the voting members may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the voting members, or for any other reasonable purpose.

Said meetings may be called by the president, the Board of Director, or the voting members having, in the aggregate, not less than twenty-five percent of the total votes of the Homeowners Association. Special meetings shall be held as provided in the Homeowners Association by-laws.

The presence in person or by proxy at any meeting of the voting members having twenty five percent (25%) of the total votes shall constitute a quorum. Unless otherwise expressly provided herein or required by the General Not-for-Profit Corporation Act, the articles of incorporation of the Homeowners Association, or the by-laws of the Homeowners Association, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting.

Section 7. BOARD OF DIRECTORS. The affairs of the Homeowners Association shall be managed by a Board of Directors. The Board of Directors shall be appointed by the Covenantor until the Association is turned over to the homeowners. At the initial meeting of the voting members, a Board of Directors shall be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. The by-laws of the Homeowners Association shall set forth the general powers of the Board, the number, tenure, and qualification of directors, their term of office, manner of election and removal, and method of operation of the Board.

The voting members having at least sixty-six percent of the total votes may from time to time increase or decrease such number of persons on the Board or may increase the term of office of the Board members, provided that such number shall be not less than three and that the terms of at least one-third of the persons on the Board shall expire annually.

Members of the Board shall receive no compensation for their services unless expressly allowed by the Board at the direction of the voting members having sixty-six percent of the total votes.

The Board shall elect from among its members the following officers:

- (a) A president who shall preside over both its meetings and those of the voting members and who shall be the chief executive officer of the Board.
- (b) One or more vice-presidents who shall assume the duties of the president if the president is unable to fulfill his or her duties.
- (c) A secretary who shall keep the minutes of all meetings of the Board and of the voting members and who shall perform all duties incident to the office of secretary.
- (d) A treasurer who shall keep the financial records and books of account.

The Board may elect such other officers as it deems necessary. The officers shall exercise their functions according to the by-laws of the Homeowners Association.

The members of the Board and the officers thereof shall not be liable to the Homeowners Association for any mistake of judgment, acts, or omissions made in good faith and in a manner he or she reasonably believed to be in or at least not opposed to, the best interests of the Homeowners Association. The Homeowners Association shall indemnify and hold harmless the members of the Board and the officers thereof against all contractual liability to others arising out of contracts made by them in their capacity as board members of the Homeowners Association.

In the event of any disagreement between any members of the Homeowners Association relating to the use or operation of the common property or any question or interpretation or application of the provisions of this Declaration of the by-laws of the Homeowners Association, the determination thereof by the Board shall be final and binding on each and all such members of the Homeowners Association.

Section 8. ACQUISITION OF INSURANCE COVERAGE. The Board of Directors shall obtain insurance coverage for any recreation facilities and common areas to cover against loss or damage by fire or other hazards. The insurance shall be for the full insurable value (based upon current replacement cost) of the common areas and the insurance premiums shall be a common expense. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance policies shall be payable to, the TALL GRASS Homeowners Association. The insurance coverage shall, if possible, provide that the insurance as to the interest of the Homeowners Association shall not be invalidated by an act or neglect of any owners.

The coverage shall contain an endorsement to the effect that said coverage shall not be terminated for non-payment of premiums without at least thirty days prior written notice to the Homeowners Association. The insurance policies shall contain waivers or subrogation with respect to the Board, its employees, and agents, owners, members of their household and mortgagees, and, if available, shall contain a replacement clause endorsement.

The Board shall also obtain comprehensive public liability insurance including liability for injuries or death to persons, and property damage, in such limits as it shall deem desirable, and workman's compensation insurance, and other liability insurance as it may deem desirable, insuring each owner, the Homeowners Association, its officers, members of the Board, the Covenantor, and their respective employees and agents, if any, from liability in connection with any recreation facilities and/or the common areas and insuring the officers of the Property Homeowners and members of the Board from liability for good faith actions. The premium for such insurance shall be a common expense.

Section 9. TALL GRASS AQUATIC AND RECREATIONAL CENTER.

Covenantor shall have the right to provide membership in the Tall Grass Aquatic Center to persons not residing in TALL GRASS at the sole discretion of the Covenantor. This right shall remain in full force and effect until the initial resident Board of Directors assumes the management responsibilities of the Homeowners Association from Covenantor.

**ARTICLE IV
MAINTENANCE ASSESSMENTS
FOR TALL GRASS**

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Covenantor, for each lot or dwelling unit owned by it in TALL GRASS hereby covenants that each owner of a lot in TALL GRASS by acceptance of deed or other document of conveyance therefore, whether or not it shall be so expressed in any deed or other document of conveyance, shall be deemed to covenant and agree to pay the Homeowners Association regular assessments or charges and special assessments for capital improvements as provided herein. Such assessments shall be fixed, established and collected from time to time as hereafter provided. The regular and special assessments together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and a continuing lien upon the lot or dwelling unit against which such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and a continuing lien upon the lot or dwelling unit against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the owner of such lot at the time when the assessment fell due.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Homeowners Association shall be used for the purpose of promoting the recreation, health, safety, and welfare of the residents of TALL GRASS and in particular for the operation, maintenance, and repair of any recreation facilities, Aquatic Center, common areas, subdivision entrance monuments, landscape berms, fences, and landscaping of detention and retention areas, and for the costs of insurance.

Sections. BASIS OF REGULAR ASSESSMENTS. Until the year beginning January 1, 2000, the regular assessment shall be \$150.00 annually per lot or dwelling unit. From and after January 1, 2000, the regular assessment may be increased or decreased by a vote of the Board of Directors of the Homeowners Association, as hereinafter provided, for the next succeeding year and at the end of that year for each succeeding year. However, beginning with the year in which the Aquatic Center is completed, the regular assessment will be increased based on a projected budget but initially no higher than \$500.00 annually, and from and after the initial year the Aquatic Center

opens, the regular assessment may be increased or decreased by a vote of the Board of Directors of the Homeowners Association, as hereinafter provided, for the next succeeding year and at the end of that year for each succeeding year. The aforementioned assessment shall be due and payable annually on January 1st.

The Board of Directors of the Homeowners Association may, at any time, after consideration of current maintenance costs and future needs of the Homeowners Associations, fix the actual assessment for any year at an amount lesser than that previously set for that year.

The Board of Directors, through proper board action, may collect from the initial occupant of a home in TALL GRASS a one time charge of \$75.00 to be deposited in the Homeowners Association's operating reserve account.

The owners of the single family attached dwelling units may be subject to a separate independent assessment. The regular and/or special assessment may be applied on a prorata basis for the single family attached dwelling units.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the regular assessments authorized by Section 3 hereof, the Homeowners Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstructing, unexpected repair, replacement of the subdivision entrance monuments, any recreational facilities, landscaping, or the Aquatic Center, provided that any such assessment shall have the consent of sixty-six percent of all members of the Board of Directors.

Section 5. CHANGE IN BASIS OF REGULAR ASSESSMENTS. Subject to the limitation of Section 3 hereof, and for the periods therein specified, the Homeowners Association may change the maximum and basis of the regular assessments fixed by Section 3 hereof prospectively for any such annual period provided that any such change shall have the assent of two-thirds of the vote of the members of the Board of Directors, at a meeting duly called for this purpose.

Section 6. QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4 AND 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be the presence in person at the meeting of the Board of Directions, that number of directors having sixty-six percent of the total votes that could be cast by the Board. If the required quorum is not forthcoming at any meeting, another meeting may be called, and the required quorum at any such subsequent meeting shall be the same number, provided that no such subsequent meeting shall be held more than sixty days following the preceding meeting.

Section 7. DATE OF COMMENCEMENT OF REGULAR ASSESSMENTS. The regular assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Homeowners Association to be the date of commencement.

Section 8. DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Homeowners Association shall fix the date of commencement and the amount of the assessment against each lot or dwelling unit for each assessment period at least thirty days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable

thereto which shall be kept in the office of the Homeowners Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Homeowners Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Homeowners Association setting forth whether said assessments has been paid. Such certificate shall be conclusive of payment of any assessment therein stated to have been paid.

Section 9. **EFFECT OF NON-PAYMENT OF AN ASSESSMENT.** If the assessments are not paid on the date when due (being the date specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection including reasonable attorney's fees thereof as hereinafter provided, thereupon become a continuing lien on the property and an equitable charge running with the land touching and concerning it, which shall bind upon property in the hands of the then owner, his heirs, devisees, personal representatives, assigns, successors, and grantees and the limitation of the enforcement thereof shall coincide with the statutory limitation of the State of Illinois for the enforcement of oral agreements. There shall be a late payment penalty of \$50.00 if the assessments are not paid within 30 days after written notice is given to the occupant. This sum is in addition to the interest and cost of collection, as provided herein. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation to his successors in title unless expressly assumed by them. If title to a lot or dwelling unit is held by an Illinois Land Trust, the trustee shall not have any personal liability for the assessment, but all beneficiaries of the trust shall be jointly and severally so liable. In the event title to a lot is held by more than one owner, all owners shall be jointly and severally liable. The lien shall attach to rents due from parties in possession to the record owners, provided that it shall be subordinate to an Assignment of Rents held by a mortgagee, delivered in connection with a first mortgage loan to purchase the property.

If the assessment is not paid within thirty days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum or at the maximum rate of interest per annum, permitted by the usury laws of the State of Illinois and the Homeowners Association may bring an action at law against the owners personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment all the costs of preparing and filing the complaint and maintaining and concluding such action, including the cost of title reports, and in the event a personal judgment or decree of foreclosure is obtained, such judgment or decree shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the court together with all costs of the action. The venue for all actions at law shall be in Will County, Illinois. The persons in possession shall be authorized to accept summons for the owners of the lot or dwelling unit.

In the event that title to any lot or dwelling unit is held by or conveyed to a land trustee, the beneficiary or beneficiaries shall, upon the demand of the Homeowners Association, furnish a certified copy of the trust agreement.

Section 10. **SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein may for any reason be subordinated by the Homeowners Association by written document executed by its duly authorized officers and shall without any writing be

subordinate to the lien of any mortgage placed upon the properties subject to assessments for the purpose of purchasing the subject lot, lots or dwelling unit(s) provided, however, that such automatic subordination shall apply only to the assessments which arise subsequent to the lien of the mortgage or mortgages; and provided further that such subordination shall apply only to the assessments which have become due and payable prior to sale or transfer of such property pursuant to a decree of foreclosure, or any other proceedings in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The owners agree upon accepting title that the lien of the assessments shall be prior to the homestead rights of the owners since it runs with the land and is in existence before commencement of ownership interests.

Section 11. EXEMPT PROPERTY. The following property subject to this Declaration shall be exempt from the assessments, charges, and liens created herein:

- (a) all property to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) all property exempted from taxation by the laws of the State of Illinois, upon the terms and to the extent of such legal exemption;
- (c) all property or lots owned by the Covenantor;
- (d) all lots not then improved with a living unit for which an occupancy permit has been issued by the City of Naperville.

ARTICLE V **MAINTENANCE AND REPAIR**

Section 1. RESPONSIBILITY OF OWNER. Each owner of a lot or dwelling unit in TALL GRASS shall provide at his own expense, all of the maintenance, decorating, repairs, and replacement on his own lot or dwelling unit and keep same in good condition. In the event a lot owner fails to keep his lot or dwelling unit in good condition, the Homeowners Association shall do any work necessary to put the lot or dwelling unit in good condition. The Homeowners Association shall assess the owner of the lot or dwelling unit for the cost of the work and impose a lien in accordance with Article IV Section 9. The owners of the single family attached dwelling units may be subject to additional maintenance and/or association responsibilities.

Section 2. RESPONSIBILITY OF HOMEOWNERS ASSOCIATION. The Homeowners Association shall be responsible for the operation, maintenance, and repair of the subdivision entrance monuments and landscaping of entrances and cul-de-sac islands, recreational facilities, Aquatic Center, landscape easements and common areas in TALL GRASS.

Section 3. LIABILITY FOR DAMAGE TO ASSOCIATION OWNED PROPERTY AND SUBDIVISION ENTRANCE MONUMENTS AND LANDSCAPING. Each lot or dwelling unit owner in TALL GRASS shall be liable for the expense of any maintenance, repair or replacement of any association owned buildings, equipment, recreational facilities, and landscaping as well as the subdivision entrance monuments and landscaping in TALL GRASS rendered necessary by his act, neglect, or carelessness or by that of any member of his family or his guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of

insurance carried by the Homeowners Association. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

ARTICLE VI COVENANTOR'S RESERVED RIGHTS

Section 1. EASEMENTS. Notwithstanding any provisions contained herein to the contrary, all covenants, restrictions, easements, charges, and liens created under this Declaration shall be subject to easements of record on the date hereof and any easements which may hereafter be granted by the Covenantor.

The Covenantor shall have the right to designate and/or grant any and all easements which in its sole discretion are deemed necessary for the development of TALL GRASS. Said easements shall include but are not limited to easements over, above, or under any part of TALL GRASS which may be granted to either any public utility, any private utility, or any governmental body, for the installation of electrical service, telephone conduit lines, gas pipes, sewer pipes, water supply system, or a storm drainage system, including a storm detention or retention basin serving any lot.

Section 2. ARCHITECTURAL REVIEW. The Covenantor shall have the right to require architectural review by the Covenantor of all buildings and structures to be erected in TALL GRASS. *No metal (as defined herein) or stockade fences are permitted.* (See Article VII, Section 12, for fence restrictions and limitations.) Unacceptable metal fences are defined to be metal fences composed of wire mesh (or material commonly described as "cyclone"). Metal fences of other designs are subject to the approval of the covenantor and/or Homeowners Association when such fences present an ornamental appearance consistent with the integrity of TALL GRASS. No other buildings or structures, nor shall any exterior additions, changes, or alterations therein be made prior to written approval by the Covenantor. The right of architectural review shall remain with the Covenantor notwithstanding control of the Homeowners Association having been transferred to the initial board of directors. The Covenantor shall have the right to assign, designate, or relinquish this authority, in whole or part, to the Homeowners Association at any time. The owner of the lot shall submit the following information:

- (a) construction plans and specifications showing the nature, kind, shape, height, and materials of the building or structure;
- (b) a plat or survey showing the location on the lot of the building or structure as surveyed by any surveyor specified by the Covenantor; and

The Covenantor, shall have the right to reasonably refuse to approve any such construction it determines is not suitable or desirable for TALL GRASS based on aesthetic considerations or other factors.

All plans, specifications, and other information shall be filed in the office of MAF DEVELOPMENTS, INC., Naperville, Illinois, for approval or disapproval. A report in writing setting forth the decision of the Covenantor and the reason therefore shall thereafter be transmitted to the applicant by the Covenantor within fifteen days after the date of filing the plans, specifications, and other information by the applicant. In the event the Covenantor fails to approve or to disapprove such application within 15 days after the date of filing the plans, specifications, and other

information, its approval will not be required and this Section will be deemed to be complied with.

Section 3. GENERAL RIGHTS. The Covenantor shall have the right to execute all documents or undertake any actions affecting TALL GRASS which in its sole opinion are either desirable or necessary to fulfill or implement, either directly or indirectly, any of the rights granted or reserved to it in this Declaration.

**ARTICLE VII
COVENANTS AND RESTRICTIONS RELATING TO
TALL GRASS**

Section 1. No lots shall be used except for residential purposes. A trade, business, or commercial enterprise may be permitted or maintained on a lot, or a home occupation may be permitted, if the use of the home is such that the average person (passerby) is not aware of its existence. The home occupation or business use is to be subordinate and incidental to the residential use. No signs regarding the home occupation, business, trade, or commercial use are permitted.

Section 2. All single family detached dwelling units constructed in TALL GRASS Unit I shall provide at a minimum the following square footage of finished living quarters (specifically not including basement, garage, or patio areas):

LOTS 1-6 and LOTS 14-212

- A. one-story single family detached dwelling units 1600 square feet
- B. multi-story single family detached dwelling units 2600 square feet

Section 3. The exteriors of all single family detached dwelling units shall be constructed in conformance with the following:

- (a) All cedar, brick or any combination of brick and cedar is acceptable.
- (b) All EIFS (dryvit) (no combination with other materials) Soffit & Fascia of other approved material is acceptable.
- (c) Aluminum or Vinyl, providing at least the entire front elevation is Masonry, including returns but excluding bays, dormers and alcoves. Cantilevers and recessed walls above the first floor need not be masonry, as determined at the discretion of the Covenantor.
- (d) All fireplaces shall be masonry except EIFS (dryvit) homes may have EIFS (dryvit) fireplaces.
- (e) All other materials not noted as approved in this section must be presented to the Covenantor for approval.
- (f) All plans must be approved by the architectural committee.

- (g) Final grass shall be installed on all lots no later than nine (9) months from the date of the issuance of a temporary or final occupancy permit issued by the City of Naperville.

Section 4. No camping trailers, boats, tractors, trucks, motorcycles, mobile homes, or other vehicles of any type whatsoever are to be parked, stored, or left unattended, permanently or temporarily, on any of the lots or dwelling units, except in the garages on the lots or dwelling units; provided that the operable automobiles being used by the owners, occupants, and their invites of the lots or dwelling units may be parked on the owners' driveways and public streets as permitted by law.

Section 5. No bicycles, carriages, or other articles shall be stored or left visible on any lot or dwelling unit except when in use.

Section 6. No signs of any kind shall be displayed to the public view on any lot except (a) one sign of not more than three square feet advertising the property for sale or rent or such other dimension approved by the Homeowners Association, and (b) any and all signs used or approved by MAF, in connection with developing, marketing and the selling of lots in TALL GRASS.

Section 7. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. No dog kennels of any type shall be kept or maintained on any of the lots and no household pets of any type whatsoever shall be kept, maintained, or housed anywhere on any of the lots except inside the single family detached or attached dwelling unit.

Section 8. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon any of the lots, and no refuse pile or unsightly object shall be allowed to be placed or maintained on any of the lots. Trash, garbage, or other waste shall not be kept except in sanitary containers which must be properly maintained. No trash, garbage, or other waste containers shall be stored, kept, or maintained anywhere except within the single family detached or attached dwelling units or the garages on each of the lots, except on such days as such trash, garbage, or other waste material is to be collected and removed.

Section 9. No drilling or mining operations of any type whatsoever shall be permitted upon or in any of the lots, nor shall any wells, tanks, tunnels, excavations or shafts be permitted upon or in any of the lots. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any of the lots.

Section 10. No exterior television antennas, radio antennas, or lights of any type whatsoever shall be erected or installed and maintained, temporarily or permanently, except such antennas or lights which shall be erected or installed as approved by the Covenantor or the Homeowners Association. All television satellite dishes may not exceed one (1) meter (approximately 39 inches) in diameter. Satellite dishes may be installed in the rear yard of a dwelling unit if screened by landscaping and safely located. Satellite dishes attached to a dwelling unit should be located in the rear of the dwelling unit if at all possible. All satellite dishes must be located for minimal visibility from the street. All television satellite dishes and their location must be approved by the Covenantor or Homeowners Association prior to installation. All approvals shall be in writing.

Section 11. No above ground swimming pools shall be erected, placed, or maintained upon any of the lots. All inground pools must be approved by the Covenantor.

Section 12. Except for property owned and/or maintained by or on behalf of the Homeowner's Association, no cyclone or stockade fences shall be erected on any lot. All fences shall have a maximum height limitation of four feet except where required by local municipal ordinances to be higher. All fences must go through architectural approval and be approved by the Covenantor. The perimeter fence in the landscape easement which the Homeowners Association owns and/or maintains may exceed the four foot limitation. Covenantor may deny fencing that in its opinion is made of material which is not suitable or desirable for TALL GRASS based on aesthetic considerations or other factors.

Section 13. All structures to be erected, whether permanent or temporary, shall comply with all government regulations, including zoning and building codes and must be approved by the Covenantor. No sheds or storage structures will be approved.

Section 14. There shall be a private easement of ingress and egress for the benefit of the owners and occupants of the lots or single family attached dwelling units and their invites over that portion of the lots or single family attached dwelling units where designated on the recorded plat of subdivision for TALL GRASS.

Section 15. All easements created herein shall be subject to all public utility easements heretofore or hereafter granted.

ARTICLE VIII **AMENDMENTS**

Section 1. AMENDMENT. The provisions of this Declaration may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification or rescission, signed by owners having at least sixty-six percent of the total vote, and certified by the secretary of the Board of Directors, provided, however, that all lien holders of record have been notified either by personal service or mailing by certified mail of such change, modification, or rescission, and an affidavit by said secretary certifying to same as a part of such instrument.

Section 2. NOTICE OF AMENDMENT. The change, modification, or rescission, accomplished under the provisions of the preceding paragraph, shall be effective upon recordation of such instrument in the office of the Recorder of Deeds of Will County, Illinois.

Section 3. COVENANTOR AMENDMENT. The Covenantor shall have the right to execute all documents or undertake any actions affecting TALL GRASS which in its sole opinion are either desirable or necessary to fulfill or implement, either directly or indirectly, any of the rights granted or reserved to it in this Declaration.

The Covenantor shall have the right to amend this Declaration without complying with Article VIII, Section 1, of the Declaration. This right shall cease upon the election of the initial Board of Directors.

ARTICLE IX GENERAL PROVISIONS

Section 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the land so as to insure the owners of the lots or dwelling units in TALL GRASS full enjoyment and benefit of their property. They shall inure to the benefit of and be enforceable by the Homeowners Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty years from the date this Declaration is recorded, after which time these covenants shall be automatically extended for successive periods of ten years unless an instrument signed by the then owners of two-thirds of the lots and dwelling units has been recorded agreeing to change said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless made and recorded three years in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every lot owner at least ninety days in advance of any action taken.

Section 2. NOTICES. Any notice required to be sent to any lot or dwelling unit owner under the provisions of this Declaration shall be deemed to have been properly sent with mailed postpaid to the last known address of the person who appears as the lot owner or dwelling unit on the records of the Homeowners Association at the time of such mailing.

Section 3. RIGHTS AND OBLIGATIONS. Each grantee by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed or other conveyance, accepts the same subject to all covenants, restrictions, easements, charges, and liens, and the jurisdiction, rights, and powers created by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall inure to the benefit of such person in like manner as if he had been the original grantee under the deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the rights described in this Article or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees of such lot owners as fully and completely as though such rights were recited fully and set forth in their entirety in such documents.

Section 4. LIBERAL CONSTRUCTION. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a fine community.

Section 5. COVENANT TO ABIDE BY THIS DECLARATION. MAF covenants to abide by each and every covenant and restriction set forth herein and agrees that all conveyances shall be subject to this declaration as though each and every provision herein was set forth in each and every deed or document affecting title to its property.

Section 6. LOT OWNERSHIP IN TRUST. In the event title to any lot or dwelling unit is conveyed to a title holding trust, under the terms of which all powers of management, operation, and control of the lot and dwelling unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants, and undertakings chargeable or created under this Declaration against such lot or dwelling unit ownership. No claim shall be made against any such title holding trustee personally for payment of

any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the lot ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such lot ownership.

Section 7. ENFORCEMENT. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure by the Covenantor, the Homeowners Association, or any owner of a lot in TALL GRASS to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The prevailing party in any action brought to enforce the provisions of this Declaration, including litigation expenses, title reports and attorney's fees shall be paid by the person violating or attempting to violate any covenant or restriction and any judgment or decree shall provide for payment of these costs.

Section 8. SEVERABILITY. Invalidation of any one of these covenants, restrictions, judgment or Court Order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, MAF DEVELOPMENTS, INC. hereto has caused this Declaration to be executed by its legally authorized officers, whose signatures are hereunto subscribed and to affix its corporate seal on this 29th day of December, 1998.

MAF DEVELOPMENTS, INC., an
Illinois corporation

By:

By:

Bernice Ellis, Assistant Vice President

Attest:

Martha L. Vondra, Assistant Secretary

Prepared by:
Kevin M. Gensler
Dommermuth, Brestal, Cobine & West, Ltd.
123 Water Street
Naperville, IL 60540
(630) 355-5800

STATE OF ILLINOIS))SS.
)
COUNTY OF WILL

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that Bernice Ellis, personally known to be the Assistant Vice President of MAF DEVELOPMENTS, INC., an Illinois Corporation, and Martha L. Vondra, personally known to me to be the Assistant Secretary of said corporation, and personally known to me to be the same persons who names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledge that as such Assistant Vice President and Assistant Secretary, they signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 29th day of December, 1998.

Notary Public

My Commission Expires:

" O F F I C I A L S E A L "
SHIRLEY SANDERS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 12/19/99

EXHIBIT A

Lots 1-6 and 14-212, inclusive, and outlots A and B in Tall Grass of Naperville Unit I being a part of the Northwest Quarter of Section 9, Township 37 North, Range 9 East of the Third Principal Meridian, according to the plat thereof recorded December 9, 1998 as document No. R98-148435 in Will County, Illinois.

Lot 213 will be included in a future unit of Tall

Grass of Naperville.

The following lots are specifically excluded from

this Declaration of Covenants and Restrictions:

- (i) Outlot C**
- (ii) Outlot D**
- (iii) Outlot E**
- (iv) Outlot F**
- (v) Outlot G**