



Clinton Smith <clinton.smith@como.gov>

## Pepper Tree

Fred Carroz <fcarroz@ess-inc.com>  
To: Clinton Smith <clinton.smith@como.gov>

Tue, Sep 20, 2022 at 4:04 PM

We have had two attorneys review the attached Covenants and Restrictions and we have review as well. We believe the Covenants and Restrictions have expired, which voids and HOA standing in the community.

Thank you,  
Fred



### Frederick E. Carroz III, PLS

Vice President - Surveying

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#### 2 attachments

[717-628.pdf](#)  
156K

[482-729.pdf](#)  
2466K

# Boone County, Missouri

Filed for record on April 3 19 89 at 2:40 o'clock P M in Boone Co. Mo. 633  
Document No. 3518 recorded in Book 482 Page 422 Betty Johnson, Recorder of Deeds

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## SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS

This Supplemental Declaration of Covenants and Restrictions shall apply and shall affect the following described real property located in Columbia, Boone County, Missouri, to-wit:

Lot Nine (9) of Block Three (3) of PEPPER TREE ESTATES SUBDIVISION as shown by the plat in Plat Book 15 at Page 67 of the Boone County, Missouri, records; EXCEPT that portion of Lot 9 of PEPPER TREE ESTATES SUBDIVISION, Block 3 as shown by the survey recorded August 28, 1981, as document number 8833 in Book 487 at Page 164 of the records of Boone County, Missouri, and containing 0.14 acres, more or less.

The undersigned, Leland U. Pfefer and June Pfefer; Jerry D. Kennett and Leah Beth Kennett, Craig A. Van Matre and Laura J. Van Matre; and James R. Reynolds and Marilyn Reynolds upon their oaths and upon being duly sworn, do state, declare, affirm, and covenant as follows:

1. The undersigned are the present owners of the above-described real property. The undersigned also were the only shareholders of Pepper Tree Development Corporation, a Missouri Corporation which was completely liquidated during the month of December, 1987.

2. Prior to the sale of the above-described real property to any third party, the undersigned desire to and have agreed to record as covenants running with the land and affecting the above-described real property, the following additional covenants and restrictions. The following covenants and restrictions shall affect the above-described real property for a period of twenty (20) years and six (6) months from the date of the recordation hereof. Any lot owner of any lot in Pepper Tree Estates Subdivision may enforce the covenants contained herein by legal or equitable means. Any person acquiring title to the above-described real property subsequent to the date of the recordation of these covenants agrees that they have acquired title to the above-described property subject to the following covenants, terms, and conditions, to-wit:

a. The above-described real property shall remain subject to all of the terms, provisions, covenants, and restrictions as are contained in the Declaration of Covenants and Restriction recorded in Book 482 at Page 729 of the Records of Boone County, Missouri. However, in addition to said previously existing neighborhood covenants and restrictions, the above-described real property also shall be subject to these covenants and restrictions contained herein

b. The above-described property may not be subdivided further into smaller lots, but same shall remain one contiguous whole, and only one dwelling or residence shall be constructed thereon.

c. Any residential dwelling constructed on the above-described real property must contain no less than 3,200 square feet of living area, exclusive of open porches, garages, patios, and attic space. In other words, said residence must contain no less than 3,200 square feet of finished living area.

Nora Dietzel, Recorder of Deeds

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d. The exterior appearance, design, and structure of any residence constructed on the above-described real property, must be approved by the Architectural Committee referred to in the above-described previously existing neighborhood covenants. No residence shall be constructed, and the construction of any residence on the above-described real property shall not be commenced unless and until such architectural approval has been received from the Architectural Control Committee referred to in the above-described existing neighborhood covenants and restrictions.

3. The foregoing covenants shall remain covenants running with the land and any subsequent purchaser of the above-described real property shall be deemed to have consented to the terms and conditions of these supplemental covenants by virtue of having acquired title to the above-described property.

4. These covenants and restrictions shall expire on the date which is twenty (20) years, six (6) months from the date of the initial recordation hereof.

IN WITNESS WHEREOF, the undersigned owners of the above-described real property have executed these supplemental covenants and conditions on the dates hereafter indicated.

Leland U. Pfefer  
Leland U. Pfefer

June Pfefer  
June Pfefer

Jerry D. Kennett  
Jerry D. Kennett

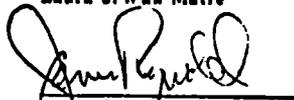
Leah Beth Kennett  
Leah Beth Kennett

Craig A. Van Matre  
Craig A. Van Matre

# Boone County, Missouri

## Unofficial Document

  
Laura J. Van Matre

  
James R. Reynolds

  
Marilyn Reynolds

State of Missouri )  
County of Boone )

On this 31st day of March, 1989, before me personally appeared Leland U. Pfefer and June Pfefer, husband and wife, to me known to be the persons described in and who executed the foregoing Supplemental Declaration of Covenants and Restrictions, and acknowledged that they executed the same as their free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in Missouri, the day and year first above written.



  
Teresa E. Wells, Notary Public

My commission expires: October 21, 1992.

State of Missouri )  
County of Boone )

On this 31st day of March, 1989, before me personally appeared Jerry D. Kennett and Leah Beth Kennett, husband and wife, to me known to be the persons described in and who executed the foregoing Supplemental Declaration of Covenants and Restrictions, and acknowledged that they executed the same as their free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in Missouri, the day and year first above written.

  
Teresa E. Wells, Notary Public

My commission expires: October 21, 1992.



Unofficial Document

State of Missouri )  
County of Boone )

On this 31<sup>st</sup> day of March, 1989, before me personally appeared Craig A. Van Matre and Laura J. Van Matre, husband and wife, to me known to be the persons described in and who executed the foregoing Supplemental Declaration of Covenants and Restrictions, and acknowledged that they executed the same as their free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in Missouri, the day and year first above written.



Teresa E. Wells  
Teresa E. Wells, Notary Public

My commission expires: October 21, 1992.

State of Colorado )  
County of Boulder )

On this 29<sup>th</sup> day of March, 1989, before me personally appeared James R. Reynolds and Marilyn Reynolds, husband and wife, to me known to be the persons described in and who executed the foregoing Supplemental Declaration of Covenants and Restrictions, and acknowledged that they executed the same as their free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at my office in Colorado, the day and year first above written.

Linda K. Mufford  
Notary Public

My commission expires: 10-25-92 1105 Spruce St.  
Boulder, CO

Linda K. Mufford



STATE OF MISSOURI  
COUNTY OF BOONE

I, the undersigned Recorder of Deeds for said county and state do hereby certify that the foregoing instrument of writing was filed for record in my office on the 3 day of April, 1989 at 3 o'clock and 40 minutes P M and is truly recorded in Book 717 Page 628.  
Witness my hand and official seal on the day and year aforesaid.

BETTIE JOHNSON, RECORDER OF DEEDS

by Laura Cochran, Deputy  
Laura Cochran

# Boone County, Missouri

Filed for record on June 17, 1981 at 10:31 A.M. in Boone Co. Mo.  
Document No. 6303 recorded in Book 182 page 127. Bettie Johnson, Recorder of Deeds.

## DECLARATION OF NEIGHBORHOOD COVENANTS, RESTRICTIONS, AND ASSESSMENTS WITH RESPECT TO PEPPER TREE ESTATES, BLOCKS II & III

This Declaration of Covenants and Restrictions made on this 26th day of June, 1981, by Allan W. Purdy and Vivian C. Purdy, husband and wife, of Columbia, Boone County, Missouri, Pepper Tree Development Corporation, a Missouri Corporation, and Pepper Tree Estates Homeowners Association, Inc., a Missouri not-for-profit corporation.

This Declaration is made in view of the following facts:

A. The above named parties will have varying ownership interests in the following described real property located in Columbia, Boone County, Missouri, to-wit:

Block II of Pepper Tree Estates Subdivision as shown by the Plat recorded in Plat Book 15 at Page 1 of the Boone County, Missouri records, and Block III of Pepper Tree Estates Subdivision as shown by the Plat recorded in Plat Book 15 at Page 65 of the Boone County, Missouri records.

B. The parties hereto are interested in seeing that the above described real property is developed in a reasonable and prudent manner, and in a way which will guarantee to all concerned the continued value of the above described property and the property immediately adjacent thereto.

C. The parties hereto desire to place certain covenants, restrictions, and conditions on the above described real property such that it will be developed in a manner consistent with the above expression of intention, which restrictions, covenants, conditions, and powers of assessments shall be and are hereby declared as covenants running with the land which will be binding upon the parties hereto as well as their successors in interest.

NOW, THEREFORE, the above named parties hereby declare that the real estate described above, and any improvements now or hereafter located thereon, shall be sold, conveyed, and occupied pursuant to the following restrictions, covenants, conditions, and assessments, which restrictions, covenants, conditions, and assessments shall be considered as covenants running with the land (whether or not same are mentioned in subsequent conveyances of any portion of the above described property), and shall be binding upon the parties hereto, and each of them, and each and all of their successors in interest or in title to all or any part of the real estate above described, to-wit:

1. **Definitions:** For the purposes of clarity, certain words, phrases, and terms used in this document are hereby defined as follows:

**Assessment:** The term "assessment" shall mean the pro rata portion of the expense of maintaining the properties owned by the Association in accordance with the by-laws of the Association which shall be borne by lot owners.

**Assessment Lien:** The term "assessment lien" shall be considered as the security interest or lien in favor of the Association empowering the Association to collect any assessment due from a lot owner through the forced sale of a lot and any residence or structures located thereon.

Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

**Association:** The term "Association" shall be considered as referring to Pepper Tree Estates Homeowners Association, Inc., a Missouri not-for-profit corporation and to all of the members of said Association.

**Association Property:** The term "Association property" shall mean any portion of the above described property separately owned by or leased by the Association for use by all members of the Association in accordance with the by-laws and regulations thereof.

**Declaration:** This instrument as same is recorded in the Office of the Recorder of Deeds of Boone County, Missouri.

**Developer:** The term "Developer" shall mean refer to Pepper Tree Development Corporation, a Missouri corporation, and to any person or persons to whom it shall assign all or part of its rights as a Developer under the terms of this Declaration. A conveyance by the Developer by Warranty Deed or otherwise shall not be deemed to be an assignment of any of its rights as a Developer. Such rights can only be assigned by an explicit assignment by the Developer, which specifically refers to the rights of the Developer as such under this Declaration.

**Family:** The term "family" as used herein shall refer to a group of individuals who are related by blood within the third degree of consanguinity such that the relationship which each member of the family bears to the other members shall be that of mother, father, sister, brother, husband, wife, grandmother, grandfather, niece, nephew, great-grandmother, great-grandfather, aunt, uncle, grandchild, son, daughter, or the spouse of any such person.

**Lot:** The term "lot" shall mean any lot shown by the above described plats of the real property.

**Lot Owner:** The term "lot owner" shall mean that the person, persons, entities, (including trusts, corporations, estates, or individuals) who either individually or collectively own the fee simple ownership of a lot.

**One Family Dwelling:** The term "one family dwelling" shall mean a detached building arranged and intended and designed for occupancy by one family, and for no other uses and purposes.

**Plat:** Either plat or any portion of any part of the above described real property.

**Real Property:** The term "real property" shall mean the real property described above in introductory Paragraph A of this Declaration.

**2. One Family Dwelling Purposes:** All of the real property subject to this declaration shall be used solely for single family detached residential dwelling purposes, and such other uses as are normally ancillary thereto, it being the intention of the parties hereto that the real property be developed in a detached residential type neighborhood such as is traditionally found in a zoning district of R-1. In addition, all of the lots of any plat shall be occupied by only a single one family dwelling, and shall be used only for one family dwelling purposes and for no other purposes. However, in the event the zoning ordinances of the City of Columbia, Missouri, permit a roomer or boarder, then a family may rent a portion of the residence to a boarder or renter who may not be a member of the family so long as the principal use of the residence is as a residence for a family.

**3. Minimum Size of Residential Buildings:** No residential building shall be permitted or constructed within a lot unless said building is a one family detached residential dwelling and is in compliance with the following minimum size requirements:

a. No one story, one family dwelling shall be permitted on any lot unless the ground floor of the main floor structure thereof, exclusive of open porches, patios and garages, shall be not less than Two Thousand (2,000) Square Feet;

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b. No two story, one family dwelling shall be permitted on any lot or shall be constructed thereon unless the ground floor area of the main floor structure thereof, exclusive of open porches, patios, and garages, shall be not less than One Thousand Five Hundred (1,500) Square Feet and the second floor shall not be less than Eight Hundred (800) square feet;

c. No tri-level, one family dwelling or four-level, one family dwelling shall be permitted on any lot or be constructed thereon unless such dwelling shall contain not less than Two Thousand Three Hundred (2,300) Square Feet on all levels, exclusive, of open porches, patios and garages, on all levels.

**4. Architectural Approval By the Developer:** No permanent dwelling structure or temporary structure may be erected on any lot until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer, or by an architectural committee composed of at least four (4) persons appointed by the Developer. In the event the Developer (or its designees) fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. While the Developer shall not unreasonably withhold its consent to said plans and specifications, the Developer may be guided in its determination by the design and location of the the proposed construction in relation to the other existing or planned structures in close proximity to said lot.

**5. Developer's Right to Approve Uses of Association Property:** The Developer reserves the right to approve any use of Association property for a period commencing with the recordation of these Declarations and ending seven (7) years thereafter. The Association shall submit to the Developer, in writing, any proposed change in the use of said Association property and the Developer shall have sixty (60) days from the date of said written submission to either approve or disapprove said plans. If the Developer does not respond within sixty (60) days of said submission, the approval of the Developer may be presumed. The Developer may assign this right of approval to other persons or entities. This right of approval or disapproval in the Developer shall not be construed as empowering the Developer to compel a particular use of any Association property other than a pre-existing use.

**6. Use Restrictions:** All lots and all one family residential dwellings located or constructed on any lot, and any structures or improvements located appurtenant thereto, shall be subject to the following provisions and restrictions:

a. **Roomers or Boarders:** Only one (1) roomer or boarder shall be permitted in addition to the family occupying a one family dwelling. A "roomer" or "boarder" shall be considered as such regardless whether that person is paying any rental in fact, or is being paid to occupy a residence, (such as a nurse's aide, nurse, housekeeper, etc.)

b. **Noxious or Offensive Activities:** No illegal, noxious, or offensive activities shall be carried on in any lot, nor shall anything be done thereon which may become an annoyance or nuisance to other residents of the real property or any portion or lots thereof.

c. **Temporary Structure:** No structure of a temporary character, such as a shack, tent, shed, locker, trailer, mobile home, or similar type structure shall be used or erected or visibly stored on any lot; provided, however, that this section shall not apply so as to interfere with the normal construction methods used in the erection or construction or development of any residence on any lot or any portion of the real property.

d. **Livestock, Poultry, and Pets:** No livestock, poultry, animals, or pets of any kind, shall be raised, bred or kept upon or in any portion of any lot except that dogs, cats, or other household pets may be kept, provided that they are not kept,

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bred, or maintained for any commercial purposes and that they are kept, at all times, under the lot owner's control and within the lot owned by the lot owner. No such pets shall be allowed to run loose on any portion of the real property other than the lot owner's lot and shall, at all times, be kept on a leash or similar restraint while off the lot owner's lot. The owner of a lot which has pets kept upon it shall bear all risks which result from the presence of pets, and the owner of any such pet shall hold the residents of lots within the above described real property harmless from any and all injuries which may be caused or occasioned by said pets. Accordingly, such owners of pets shall be absolutely responsible for adherence to these conditions and absolutely liable for any and all damage done by said pets, and due care in the absence of any negligence on the part of the owners of said pets shall not constitute a defense to any action brought by an injured resident of any other lot. No pets shall be permitted to disturb the peace of other residents of lots in any manner, including barking, making noise, or other activities or unpleasant odors. No pets shall be permitted in any manner, whatsoever, to create a nuisance or to otherwise interfere with the peaceful enjoyment by others of their lots or any improvements located thereon.

e. **Sewage System:** Any sewage system installed with respect to any residence or structure on any lots shall conform to the ordinances of the City of Columbia, Missouri. No individual sewage disposal system shall be permitted.

f. **Trash Storage and Disposal:** No part of any lot shall be maintained as a dumping ground for rubble, trash, garbage, or other waste. All trash, rubble, garbage and other waste or materials being thrown away or disposed of must be placed or contained in one or more trash cans or containers, which containers shall be fly tight, rodent proof, non-flammable, reasonably water proof, and shall be covered. Such cans or containers are to be stored in concealed locations on the lots, and may be placed in open locations only for a period of not in excess of eight (8) continuous hours in any week so as to facilitate collection by the City of Columbia.

g. **Parking:** Neither the owner nor the family or guests of a lot owner, nor any boarder or roomer shall park any motorized vehicle on any of the streets comprising a part of the subdivision of which the above described real property is a part for longer than five (5) continuous hours. All said vehicles shall be parked on a driveway immediately adjacent to the residence located on any lot or in a garage affixed to and forming a part of any residence located on a lot. In the event a motorized vehicle is temporarily stored on any street comprising a part of the subdivision upon which the above described property is a part, said vehicle shall be parked in such a manner so as to in no way impede or restrict the normal flow of traffic, or the access to any lot by any emergency vehicle, such as a firetruck or ambulance.

h. **Open Fires:** No open fire shall be permitted on the individual lots with the exception of outdoor grill type fires used for the preparation of food to be consumed by the residents (and their guests) of a lot.

i. **Storage Tanks:** No tank for the storage of fuel may be maintained on any lot above the ground surface of any lot.

j. **Automotive Repair or Other Mechanical Work on Vehicles:** No automotive repair equipment, rebuilding or other form of automotive or equipment manufacture, maintenance or repair (other than normal periodic vehicle maintenance by a lot owner on a vehicle owned by said lot owner), whether for hire, or otherwise, shall occur on any lot. No inoperable or infrequently used vehicles shall be stored on any lot except in a garage.

k. **Maintenance of Residences:** Each lot owner shall maintain his, her or their lot, and any single family dwelling and ancillary structures located on any lot, in a clean, neat, attractive, safe and well maintained condition, and in such a condition as enhances the attractiveness of the subdivision of which the lot is a part.

l. **Enforcement of Covenants:** The parties to this agreement, and any successor in interest or any owner of any lot comprising a portion of the above described real property shall have the right to enforce, by any proceeding at law or

# Boone County, Missouri

equity, any of the covenants, restrictions, or conditions imposed by the provisions of this Declaration. A failure by any of the original parties to this Declaration, or their said successors, or any such lot owner to enforce any of the covenants, conditions, or restrictions herein contained shall in no event be considered as a waiver of the right to so enforce same at a later time.

m. **Severability of Conditions:** Invalidation of any of the covenants, conditions, restrictions, or assessments authorized by this Declaration as the result of any judgment of any court or any court order shall in no way affect any other provision, and all such other provisions shall remain in full force and effect except as expressly declared to be invalid by a court of competent jurisdiction.

7. **Membership in the Association:** Every owner of a lot which has been conveyed by the Developer (or any successor in interest) to said owner shall automatically be a member of the Association, shall be subject to the jurisdiction of the Association, shall be subject to the assessments levied by the Association, and shall be entitled to all the rights and privileges of membership in the Association. Membership in the Association shall not be optional. A person or entity who holds a security interest or deed of trust lien with respect to a lot shall not be considered a member of the Association. Membership in the Association may not be partitioned or separated from ownership of a lot subject to the jurisdiction of the Association, and any covenant or agreement to the contrary shall be null and void. No lot owner shall execute any deed, lease, mortgage or other instrument affecting title to that owner's lot without including therein both the owner's interest in the lot and the owner's corresponding membership in the Association, it being the express intention of these covenants to prevent the severance of such combined ownership. Any deed conveying an interest in an owner's lot shall be considered as including and conveying that owner's interest in the Association even though the latter is not expressly mentioned.

8. **The Association:** Covenants with respect to the Association are as follows:

a. **Formation:** The Developer, upon the sale of one (1) or more lots, shall be caused to be incorporated a not-for-profit corporation under the laws of the State of Missouri to be known as the Pepper Tree Estates Homeowners Association, Inc., or a name similar thereto. Upon the formation of such Association, every involved owner then holding or thereafter acquiring an interest in a lot shall become a member in said Association. There shall be one (1) vote in said Association per lot in the development. In the event more than one (1) person or entity owns a lot, said persons or entities must determine how that lot's membership vote shall be cast, and in the absence in the of such agreement, no vote may be cast by said lot owner.

b. **The Articles of Incorporation and By-Laws:** The Association shall have the Articles of Incorporation and By-Laws as are attached hereto as "Exhibit A" and "Exhibit B" respectively. Such exhibits are incorporated herein by reference.

c. **Board of Directors of the Association:** The Board of Directors of the Association initially shall consist of five (5) directors. The Association shall be governed and administered by said Board of Directors, who shall be elected by the members of the Association, as provided in said articles and by-laws. The number of directors may be changed as provided in the by-laws.

d. **The Powers and Duties of the Association:** The Association shall provide for the cutting of grass on all Association property, for the maintenance of trees, shrubbery and the like on Association property, shall provide for the erection, maintenance, repair, and insurance of such improvements on Association property as the members of the Association shall approve, shall collect assessments, and shall arrange for and obtain such legal, accounting, and professional services as may be necessary to fully implement its purposes.

9. **Assessments:** The conditions with respect to assessments by the Association on lots shall be as follows:

a. **Creation of a Lien and Personal Obligation for Assessments:** Each owner of a lot upon acceptance of a deed therefor, whether or not expressly stated

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in said deed of other conveyances shall be considered as agreeing to pay the Association:

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- (1) Annual assessments or charges;
- (2) Special assessments for capital improvements and tax bills for improvements on real estate comprising Association property;
- (3) Portions of any insurance premiums required to insure Association property; and
- (4) Any other sums or assessments provided for in this Declaration with the approval of the members of the Association.

The annual and special assessments, together with such interest thereon and costs of collection as may be included, shall be a charge on the land and improvements on a lot and shall be a continuing lien against said lot and improvements against which said assessment is made. Each such assessment shall also be the joint and several personal obligation of the owner or owners of a lot at the time when the assessment became due. Such personal obligation shall not be assumed by an owner's successor in title unless expressly assumed by said successor.

**b. Purpose of Assessments:** The assessments levied by the Association shall be used exclusively by the Association to discharge its duties and obligations as provided for by this Declaration and for the purpose of promoting the recreation, health, safety and welfare of the lot owners and residents of the development, and in particular for the improvement and maintenance of the Association's property, and any improvements thereon. Any reasonably related obligation shall also be comprehended by this paragraph, which shall therefore include, by not be limited to, the payment of taxes and insurance, the payment of expenses related to repairs, maintenance, replacements, additions, equipment, materials, management and supervision expenses, etc.

**c. Maintenance Fund:** The annual assessments or charges and special assessments established and collected under the terms of this paragraph shall constitute a fund to be known as the "Association's Maintenance Fund."

**d. Uniform Rate of Assessment:** The assessment against each lot shall be identical to the assessment against each other lot owned by other owners unless said lot is owned by or leased to the Association. Any Association property shall not be considered as assessable for its portion of the Association's liability.

**e. Collection of Assessments:** Both annual and special assessments shall be due and payable in such installments, as the Association's Board of Directors shall determine, and may be collected on an annual, semi-annual, quarterly, or monthly basis.

**f. Quorum for any Action Authorized Under this Paragraph:** At the first meeting called for the purpose of levying an assessment, the presence at the meeting of the owners or holders of proxies entitled to cast fifty percent (50%) of the total votes of the Association shall constitute a quorum. If the required quorum is not present at such meeting, another meeting may be called, subject to the notice requirements contained in the articles of incorporation or by-laws of the Association, and the required quorum at any subsequent meeting shall be the same as prescribed in this paragraph. Any special assessment authorized by the members of the Association shall be approved by a vote of no less than fifty percent (50%) of all votes entitled to be cast at such meeting of the members of the Association.

**g. Effect of Non-Payment of Assessments; Remedies of the Association:** Any assessments which are not paid when due shall be considered as delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the then current maximum rate being charged by Columbia, Missouri banks to standard risk individual borrowers (but in no event less than ten percent (10%) per annum) and the Association may bring an action at law or in equity against the owner personally obligated to pay same, or may

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proceed instead to foreclose the lien against the property, together with interest, costs, and reasonable attorney's fees of any such action, which shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Association property or by abandonment of that owner's lot.

**h. Subordination of Assessment Lien to Deed of Trust Liens:** The lien of assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon any property subject to assessment; provided, however, that in the event of default in the payment of any obligation secured by such mortgage or deed of trust, such subordination shall apply only to the assessments or installments thereof which shall become due and payable prior to the sale of such property pursuant to the power of sale contained in such deed of trust, or prior to the conveyance to the mortgagee or holder of the deed of trust in lieu of foreclosure. Such sale or conveyance in lieu of foreclosure shall not release such property from liability for any assessments or installments thereof thereafter becoming due or from the lien of any subsequent assessments or installments thereof which thereafter become due.

**i. Exempt Property:** All property owned by or leased to the Association shall be exempt from the assessments created herein, and all property dedicated to the City of Columbia, Missouri, shall likewise be exempt.

**10. Property Rights in Association Property:** Every lot owner and their guests and invitees shall have a right of ingress and egress and an easement therefor, and an equal right to the enjoyment of and to any Association property and any facilities, improvements, and recreational facilities located thereon, and such easements shall appurtenant to and shall pass with the leasehold interest or title to every lot. Notwithstanding the foregoing, the Association shall have the right to promulgate such rules and regulations relating to the use of such recreational facilities or common areas as it may deem necessary, and to provide that all or a certain portion or portions of the Association's property shall be strictly governed thereby. Furthermore, the Association may determine to charge a reasonable admission or use fee for any recreational facility.

**11. General Provisions:** In addition to the foregoing, the following miscellaneous provisions shall apply:

**a. Amendment of Declaration:** The covenants, conditions, restrictions, easements, charges and liens contained in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot, or the Developer, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by not less than seventy-five percent (75%) of the then lot owners has been recorded, which instrument provides for amending or terminating this Declaration, in whole or in part. During the first twenty (20) year period of this Declaration, this Declaration may be amended in whole or in part only by an instrument signed by the owners of not less than eighty percent (80%) of the lots comprising the above described real property as well as by the Developer. All amendments to this Declaration shall be recorded at the office of the Recorder of Deeds of Boone County, Missouri.

**b. Notices:** Any notice required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears on the records of the Association as the owner of such lot at the time of said mailing. Notices to the Developer shall be mailed to:

Pepper Tree Development Corporation  
c/o Craig A. Van Matre  
1103 East Broadway, P. O. Box 1017  
Columbia, Missouri 65205

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## Unofficial Document

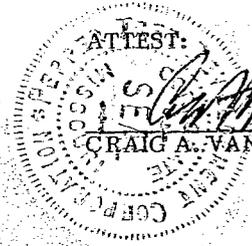
c. Language Variation: The use of pronouns in singular or plural in this Declaration shall be deemed to be changed as necessary to conform to actual facts.

d. Titles and Captions: The titles and captions of the various provisions of this Declaration are not a part of the covenants hereof, but are merely labels to assist in the locating of relevant paragraphs.

IN WITNESS WHEREOF, the parties to this Declaration have executed same this 26th day of June, 1981.

PEPPER TREE DEVELOPMENT CORPORATION, "Developer"

BY: Leland U. Pfeffer  
LELAND U. PFEFER, M.D., President

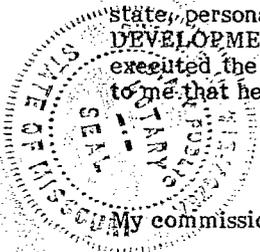


ATTEST:  
Craig A. Van Matre  
CRAIG A. VAN MATRE, Secretary

Allan W. Purdy  
ALLAN W. PURDY  
Vivian C. Purdy  
VIVIAN C. PURDY

STATE OF MISSOURI  
COUNTY OF BOONE

On this 26th day of June, 1981, before me, a Notary Public in and for said state, personally appeared LELAND U. PFEFER, M.D., President of PEPPER TREE DEVELOPMENT CORPORATION, "Developer", known to me to be the person who executed the foregoing Declaration on behalf of said corporation and acknowledged to me that he executed the same for the purposes therein stated.

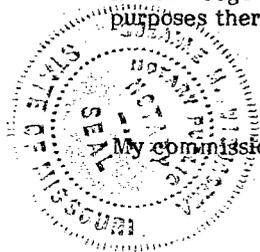


Suzanne M. Wiejaczka  
NOTARY PUBLIC Suzanne M. Wiejaczka

My commission expires: September 22, 1984.

STATE OF MISSOURI  
COUNTY OF BOONE

On this 26th day of June, 1981, before me, a Notary Public in and for said state, personally appeared ALLAN W. PURDY and VIVIAN C. PURDY, husband and wife, known to me to be the persons who executed the foregoing Declaration and acknowledged to me that they executed the same as their free act and deed for the purposes therein stated.



Suzanne M. Wiejaczka  
NOTARY PUBLIC Suzanne M. Wiejaczka

My commission expires: September 22, 1984.

# Boone County, Missouri

"EXHIBIT A"  
ARTICLES OF INCORPORATION  
**Unofficial Document**

## PEPPER TREE ESTATES HOMEOWNERS ASSOCIATION, INC.

The undersigned, by these Articles, associate themselves for the purpose of forming a corporation not-for-profit under Chapter 355 of the Missouri Statutes, and certify as follows:

### ARTICLE I

#### Name and Address

The name of the corporation shall be "Pepper Tree Estates Homeowners Association, Inc." For convenience, the corporation shall be referred to in this instrument as the "Association." The business address of the Association shall be 1103 East Broadway, Columbia, Missouri, 65201. Its initial registered agent at such address shall be Craig A. Van Matre.

### ARTICLE II

#### Purpose

- A. The purpose for which the Association is organized is to provide an entity for the operation of real property owned by or leased to the Association.
- B. The Association shall constitute the legal entity whereby lot owners in Pepper Tree Estates Subdivision development shall govern and administer the affairs pertaining to same.
- C. The Association shall make no distribution of income inconsistent with these Articles.

### ARTICLE III

#### Powers

The powers of the Association shall include and be governed by the following provisions:

- A. The Association shall have all of the common law and statutory powers of a Missouri corporation which is not-for-profit and which are not in conflict with the terms of these Articles.
- B. The Association shall have all the powers and duties set forth in Chapter 355 of the Missouri Statutes. The Association shall also have all of the powers granted to it by the Declaration of neighborhood restrictions and covenants of Pepper Tree Estates Subdivision, including the exhibits thereto, which exhibits include the By-laws of the Association; except that all of the powers hereby granted shall be limited as is specifically provided in said statutes, Declaration, and By-laws (as amended).
- C. All funds of and title to all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of said Declaration, these Articles of Incorporation, and the By-laws.
- D. The Association is also formed for the following purposes:
  - 1. To act as a homeowners association for lot owners in that development known or to be known as "Pepper Tree Estates" in Boone County, Missouri.
  - 2. To enforce those covenants, restrictions, and requirements as to the use and occupancy, and to assess, provide for, and collect those assessments, and to discharge those duties, functions, services and responsibilities all as provided for by the Declaration which relates to the Pepper Tree Estates Development in Boone County, Missouri.

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3. To provide for all of the maintenance services, repair services, and other services imposed upon the Association pursuant to the Declaration of Restrictions of the Pepper Tree Estates Development.

4. To establish rules and regulations for the government and administration of the Association property.

5. In no event shall this Association conduct or carry out an active business for profit, or in any manner engage in lobbying or political activities of any kind or nature whatsoever; nor shall the Association support political activities of any kind or nature whatsoever.

## ARTICLE IV

### **Members**

A. The members of the Association shall consist of all of the record owners of lots in Block II and III of Pepper Tree Estates Subdivision as shown by the Plats recorded in Plat Book 15, Page 1, and Plat Book 15, Page 65, of the Boone County, Missouri records, and in the event of the termination of the Association, shall consist of those persons who are members at the time of such termination, and their successors and assigns.

B. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his lot.

C. The owners of each lot shall be entitled to one (1) vote per lot owned as a member of the Association. The exact number of votes to be cast by owners of lots and the manner of exercising voting rights shall be determined by the By-laws of the Association, and the Declaration.

## ARTICLE V

### **Perpetual Existence**

The Association shall have perpetual existence.

## ARTICLE VI

### **Directors**

A. The affairs of the Association will be managed by a board consisting of the number of directors determined by the By-laws but not less than three (3) directors, and in the absence of such determination, shall consist of five (5) directors. A majority of the directors must authorize all actions of the Association.

B. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-laws.

C. The first election of directors shall not be held until after the Developer of the Development, or its successors or assigns, has closed the sales of at least fifteen (15) of the lots in the Development, or until it elects to terminate control of the Association, or until December 31, 1987, whichever occurs first. The directors named in these Articles of Incorporation of the Association shall serve until the first election of directors, and any vacancies in their number occurring before the election shall be filled by the remaining directors. Provided, however, in any election of directors held prior to December 31, 1987, so long as Developer is the owner of five (5) or more lots, the Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association, and provided further, that so long as Developer is the owner of at least one (1), but not more than five (5) lots, the Developer shall have the right to designate and select one of the persons who shall serve as a member of the Board of Directors of the Association. The Developer reserves the right to relinquish control over the membership of the Board of Directors at any time. Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board

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of Directors of the Association, the Developer shall also have the right to remove any such person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or persons to act and serve in a place of any director or directors so removed, for the remainder of the unexpired term of any director or directors so removed.

A director designated and selected by Developer need not be an owner of a lot in the Development.

E. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and qualified, or, until removed, are as follows:

Craig A. Van Matre  
1103 East Broadway  
Columbia, Missouri 65201

Jerry D. Kennett, M.D.  
200 Bingham Road  
Columbia, Missouri 65201

Leland U. Pfefer, M.D.  
2409 Bluff Boulevard  
Columbia, Missouri 65201

June Pfefer  
2409 Bluff Boulevard  
Columbia, Missouri 65201

James O. Reynolds, M.D.  
24 Bingham Road  
Columbia, Missouri 65201

## ARTICLE VII

### **Officers**

The affairs of the Association shall be administered by the officers designated in the By-laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

Leland U. Pfefer, President  
2409 Bluff Boulevard  
Columbia, Missouri 65201

Jerry D. Kennett, M.D., Vice President  
200 Bingham Road  
Columbia, Missouri 65201

Craig A. Van Matre, Secretary and Treasurer  
1103 East Broadway  
Columbia, Missouri 65201

## ARTICLE VIII

### **Indemnification**

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement

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of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when the director or officer is adjudged guilty of willful dereliction of duty or assistance in the performance of his duty; provided, that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such a settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

## ARTICLE IX

### **By-Laws**

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided by the By-Laws.

## ARTICLE X

### **Amendments**

Amendments to the Articles of Incorporation shall be composed and adopted in the following manner:

A. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

B. A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided:

1. Such approvals must be by not less than Sixty-six and two-thirds percent (66 2/3%) of the entire membership of the Board of Directors and not less than Seventy-five percent (75%) of the votes of the entire membership of the Association; or

2. If the proposed change to the Articles of Incorporation has received unanimous approval of the Board of Directors, then it shall require only a majority vote of the membership to be adopted; or

3. By not less than Eighty percent (80%) of the votes of the entire membership of the Association.

C. Provided, however, that no amendment shall make any changes in the qualification for membership nor the voting rights of members, nor any changes in Sections B and C of Article VI without approval in writing of all members and the joinder of the Developer or its successors or assigns. No amendment shall be made that is in conflict with the Laws of the State of Missouri or the Declaration of Pepper Tree Estates.

## ARTICLE XI

### **Incorporators**

The names and address of the incorporators of these Articles of Incorporation are as follows:

Craig A. Van Matre  
1103 East Broadway  
Columbia, Missouri 65201

Leland U. Pfefer, M.D.  
2409 Bluff Boulevard  
Columbia, Missouri 65201

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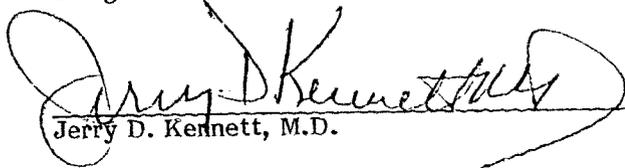
Jerry D. Kennett, M.D.  
200 Bingham Road  
Columbia, Missouri 65201

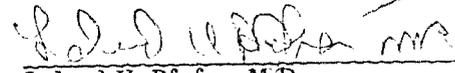
James O. Reynolds, M.D.  
24 Bingham Road  
Columbia, Missouri 65201

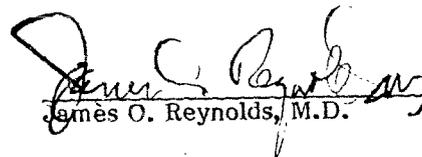
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IN WITNESS WHEREOF, the incorporators have hereunto affixed their signatures this 26<sup>th</sup> day of June, 1981.

  
\_\_\_\_\_  
Craig A. Van Matre

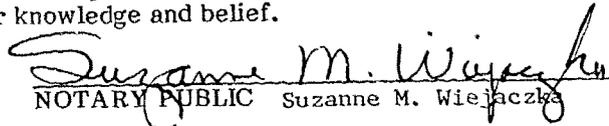
  
\_\_\_\_\_  
Jerry D. Kennett, M.D.

  
\_\_\_\_\_  
Leland U. Pfefer, M.D.

  
\_\_\_\_\_  
James O. Reynolds, M.D.

STATE OF MISSOURI  
COUNTY OF BOONE

I, Suzanne M. Wiejaczka, a Notary Public, do hereby certify that on the 26<sup>th</sup> day of June, 1981, personally appeared before me Craig A. Van Matre, Jerry D. Kennett, M.D., Leland U. Pfefer, M.D., and James O. Reynolds, M.D., who being by me first duly sworn, severally declared that they are the person who signed the foregoing document as incorporators and that the statements therein contained are true to the best of their knowledge and belief.

  
\_\_\_\_\_  
NOTARY PUBLIC Suzanne M. Wiejaczka

My commission expires: September 22, 1984.



Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

"EXHIBIT B"

BY-LAWS

**Unofficial Document**  
PEPPER TREE ESTATES HOMEOWNERS ASSOCIATION, INC.  
A Corporation Not For Profit Under  
The Laws of the State of Missouri

## ARTICLE I

### Identity

A. The following constitute the By-Laws of the Pepper Tree Estates Homeowners Association, Inc. (hereinafter called the "Association," in these By-Laws), a corporation not for profit under the laws of the State of Missouri. The Articles of Incorporation of the Association were filed in the office of the Secretary of State prior on June 30, 1981. The Association has been organized for the purpose of administering real property and improvements thereon located in Boone County, Missouri, as a part of Blocks II and III of Pepper Tree Estates Subdivision (hereinafter referred to as the "Development").

B. The office of the Association shall be at 1103 East Broadway, Columbia, Missouri, or at such other place as may be designated by the Board of Directors of the Association.

C. The seal of the corporation shall bear the name of the corporation, and the word "Missouri" and the words "corporation not for profit", an impression of which is as follows:

D. All words and phrases, as used herein, shall have the same definitions as attributed to them in the Declaration to which these By-Laws are attached.

## ARTICLE II

### Membership

Membership in this Association shall be limited to the owners of the lots in the above mentioned Development. Transfer of a lot's ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership shall be vested in the transferee.

## ARTICLE III

### Meeting of Members of Association and Voting Provisions

A. The annual members' meeting shall be held at the office of Craig A. Van Matre, P.C., 1103 East Broadway, Columbia, Missouri, at 10:00 a.m. Central Standard Time, on the 1st Saturday of October of each year for the purpose of electing directors and transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day that is not a legal holiday, and provided that the Board of Directors may in their discretion choose another date, time and place for the annual meeting so long as the date is set within the month of October, and proper notice is given as hereinafter specified.

B. Special membership meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast one-quarter (1/4) of the votes of the entire membership.

C. Notice of membership meetings stating the time and place and the objects for which the meeting is called shall be given by the President or Vice President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association, and shall be mailed not less than fifteen (15) days nor more than forty-five (45) days prior to the date of the

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meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

D. A quorum at the membership meetings shall consist of those entitled to cast a majority of the votes of the entire membership. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the members, except when approval by a greater number of members is required by the Declaration, the Articles of Incorporation or these By-Laws. The joinder of a member in the action of a meeting by signing or concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum.

## E. Voting.

1. In any meeting of members, the owner of a lot shall be entitled to cast one (1) vote for each lot owned.

2. If a lot is owned by one person, his right to vote shall be established by the record title to his lot. If a lot is owned by more than one person or is under lease, the person entitled to cast the vote for the lot shall be designated by a certificate signed by all of the record owners of the lot and filed with the Secretary of the Association. If a lot is owned by a corporation, the person entitled to cast the vote for the lot shall be designated by a certificate signed by the president or vice president and attested by the secretary or assistant secretary of the corporation and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the lot concerned. A certificate designating the person entitled to cast the vote of a lot may be revoked by any owner of a lot. If such a certificate is not on file with the Secretary of the Association for a lot owned by more than one person or by a corporation, the vote of the lot concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the lot, except if said lot is owned by a husband and wife. If a lot is jointly owned by a husband and wife, the following three provisions are applicable thereto:

a. They may, but they shall not be required to, designate a voting member.

b. If they do not designate a voting member, and if both are present at a meeting and are unable to concur in the decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting (As previously provided, the vote of a lot is not divisible).

c. Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the lot's vote, just as though he or she owned the lot individually and without establishing the concurrence of the absent person.

F. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary either before the appointed time of the meeting or any adjournment of the meeting, all as more particularly specified in Article XIII, infra.

G. If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

H. The order of business at the annual members' meetings and as far as practical at other members' meeting shall be:

1. Election of chairman of the meeting.
2. Calling of the roll and certifying of proxies.
3. Proof of notice of meeting or waiver of notice.

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## Unofficial Document

4. Reading and disposal of any unapproved minutes.
5. Reports of officers.
6. Reports of committees.
7. Election of inspectors of election.
8. Election of directors.
9. Unfinished business.
10. New business.
11. Adjournment.

I. **PROVISO.** Provided, however, that until the Developer has closed the sales of fifteen (15) of the lots of the Development or until the Developer elects to terminate its control of the Association, or until December 31, 1987, whichever first occurs, the proceedings of all meetings of members of the Association shall have no effect unless approved by the Board of Directors.

### ARTICLE IV

#### Directors

A. The Affairs of the Association shall be managed by a Board of Directors of not less than three (3) nor more than nine (9) Directors, the exact number to be determined at the time of election; provided, however, that until the time provided for in paragraph I above, the Developer shall determine the number of Directors (not to be less than five (5)) and shall appoint them.

B. Election of Directors shall be conducted in the following manner:

1. The first election of Directors shall be as provided for in the Articles of Incorporation.

2. Elections of Directors shall be held at the annual members' meeting.

3. A nominating committee of three (3) members shall be appointed by the Board of Directors not less than thirty (30) days prior to the annual members' meeting. The committee shall nominate one (1) person for each Director then serving, except as to directorships to be filled by appointment of Developer. Nominations for additional directorships, if created at the meeting, shall be made from the floor. Nominations, in addition to the committee nominations, may be made from the floor.

4. The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be cumulative voting as prescribed by §355.120 RSMo.

5. Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors, who shall select the person to fill the vacant seat(s).

6. Subject to the provisions of Paragraph "N" of this Article, any Director may be removed by concurrence of two-thirds (2/3) of the votes of the entire membership at a special meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

C. The term of each Director's service shall extend until the next annual meeting of the members, and subsequently, until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.

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D. The organization meeting of a newly elected Board of Directors shall be held within ten (10) days of their election, at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting will be necessary.

E. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the date named for such meeting by the Secretary of the Association.

F. Special meetings of the Directors may be called by the President and must be called by the secretary at the written request of one-half (1/2) of the Directors. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

G. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place of the meeting.

H. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Declaration, the Articles of Incorporation or these By-Laws.

I. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting was originally called may be transacted without further notice.

J. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a quorum.

K. The presiding officer of Directors' meetings shall be the chairman of the Board if such an officer has been elected; and if none, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

L. Any Director may resign at any time by sending a written notice of such resignation to the office of the Corporation, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary.

Commencing with the organizational meeting of a newly elected Board of Directors following the first annual meeting of the members of the Association, more than three (3) consecutive absences from regular meetings of the Board of Directors, unless excluded by resolution of the Board of Directors, shall automatically constitute a resignation effective when such resignation is accepted by the Board of Directors.

Commencing with the Directors elected at such first annual meeting of the membership, the transfer of title of his lot by a Director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors. No member shall continue to serve on the Board should he be more than thirty (30) days delinquent in the payment of an assessment, and said delinquency shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors.

M. The order of business at Directors' meetings shall be:

1. Calling of roll.
2. Proof of due notice of meeting.

# Boone County, Missouri

3. Reading and disposal of any unapproved minutes.

4. Reports of officers and committees.

5. Election of officers.

6. Unfinished business.

7. New business.

8. Adjournment.

## Unofficial Document

N. **PROVISO.** Provided, however, that until the Developer has closed the sales of fifteen (15) of the lots, or until December 31, 1987, or until Developer elects to terminate its control of the Association, whichever shall first occur, the first Directors of the Association shall serve, and in the event of vacancies the remaining Directors shall fill the vacancies, and if there are no remaining Directors the vacancies shall be filled by the Developer.

### ARTICLE V

#### **Powers and Duties of the Board of Directors**

The Board of Directors shall have powers and duties necessary for the administration of the Association, and may do all such acts and things as are directed to be exercised and done by the lot owners. These powers shall specifically include but shall not be limited to the following:

A. To exercise all powers specifically set forth in the Declaration, in these By-Laws, and the Articles of Incorporation, and all powers incidental thereto.

B. To make assessments, collect assessments, and use and expend the assessments to carry out the purposes and powers of the Association, subject to the provisions of the Declaration to which these By-Laws are attached.

C. To employ, dismiss and control the personnel necessary for the maintenance and operation of the Association properties, and of its areas and facilities, including the right and power to employ attorneys, accountants, contractors, other professionals, and laborers, as the need arises.

D. To make and amend regulations respecting the regulation and use of Association properties and facilities.

E. To contract for the management of the association properties and to delegate to such contractor all of the powers and duties of the Association except those which may be required by the Declaration to have the approval of the Board of Directors or membership of the Association.

F. To contract for the leasing of real property for use as Association property, subject to the provisions of the Declaration.

G. To further improve the Association property and facilities, which improvements may extend to real as well as personal property and include the right to purchase realty and items of furniture, furnishings, fixtures, and equipment for the foregoing and the right to acquire and enter into agreements, subject to the provisions of the Declaration and the Articles of Incorporation, and the By-Laws of this Association.

H. To enter into Agreements or execute such documents as are provided for in the Declaration.

I. To designate one or more committees which, to the extent provided in the resolution designating said committees, shall have the powers of the Board of Directors in the management of the business and affairs of the Association. Such committee shall consist of at least three (3) members of the association, one of whom shall be a director. The committee or committees shall have such name or names as

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may be determined from time to time by the Board of Directors, and said committee(s) shall keep regular minutes of their proceedings and report the same to the Board of Directors, as required. The foregoing powers shall be exercised by the Board of Directors or its contractor or employees, subject only to approval by lot owners when such is specifically required.

## ARTICLE VI

### Officers

A. The executive officers of the Association shall be a president, who shall be a director, a vice president, who shall be a director, and a secretary-treasurer, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the president shall not also be the secretary or an assistant secretary. The Board of Directors from time to time may appoint assistant secretaries and assistant treasurers, and such other officers as the Board deems necessary and may designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

B. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association. He shall sign all written contracts and perform all of the duties incident to his office and which may be delegated to him from time to time by the Board of Directors.

C. The Vice President, in the absence or disability of the President, shall exercise the powers and perform the duties of the President. He shall also assist the President generally and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

D. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix it to instruments requiring a seal when duly signed. He shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

E. The Treasurer shall have custody of all properties of the Association and he shall perform all of the duties incident to the office of treasurer to include, but not be limited to, the following:

1. He shall have custody of the Association's funds and securities and shall keep complete and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name of and to the credit of the Association, in such depositories as may be designated from time to time by the Board of Directors of the Association.

2. He shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors, at the regular meetings of the Board of Directors, or whenever they may require, an account of his transactions as treasurer and of the financial conditions of the Association.

3. He shall collect the assessments and shall promptly report the status of collections and all delinquencies of the Board of Directors.

4. He shall give status reports to potential transferees, on which reports the transferees may rely.

5. The Assistant Treasurer shall perform the duties of the Treasurer when the Treasurer is absent.

6. In the event professional management has been arranged for by the directors, the Treasurer (or assistant treasurer) may delegate the above responsibilities to said management firm; provided, however, that the responsibilities

# Boone County, Missouri

for the accuracy of all financial reports and disbursements shall remain the Treasurer's.

F. The compensation of all employees of the Association shall be fixed by the Directors. Directors' fees shall be determined only by the members but this shall not preclude the Board of Directors from employing a Director as an employee of the Association nor preclude the contracting with a Director for the management of the Association's properties.

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## ARTICLE VII

### **Fiscal Management**

The provisions for fiscal management for the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

A. The receipt and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall become expenses:

1. Current expenses shall include all receipts and expenditures within the year for which the budget is made, including a reasonable amount for contingencies in working funds, except expenditures chargeable to reserves, to additional improvements or to operations. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year.

2. Reserve for deferred maintenance shall include funds for maintenance items that occur less frequently than annually. Reserves for replacement shall include funds for repair or replacement required because of damage, depreciation or obsolescence.

3. Betterments shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the Association's property.

B. The Board of Directors shall adopt a budget for each calendar year that shall include the estimated funds required to defray the common expenses and to provide and maintain funds for the foregoing accounts and reserves according to good accounting practices as follows:

1. Current expenses, the amount for which shall not exceed One hundred twenty-five percent (125%) of the budget for this account for the prior year.

2. Reserve for deferred maintenance, the amount for which shall not exceed One hundred twenty-five percent (125%) of the budget for this account for the prior year.

3. Reserve for replacement, the amount for which shall not exceed One hundred twenty-five percent (125%) of the budget for this account for the prior year.

4. Betterments, which shall not include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the Common Elements, the amount for which shall not exceed one-twelfth (1/12th) of the budget for the prior year expended for a single item or purpose without approval of the members of the Association.

5. Provided, however, that the amount for each budgeted item may be increased over the foregoing limitations when approved by unit owners entitled to cast no less than the majority of the votes of the entire membership of the Association; and provided further, however, that until December 31, 1987, or until Developer has closed the sales of at least fifteen (15) lots or until the Developer elects to terminate its control of the Association, whichever shall occur first, the Board of Directors may omit from the budget all allowances for contingencies and reserves.

# Boone County, Missouri

6. Copies of the budget and proposed assessments shall be transmitted to all members at least fifteen (15) days prior to the first day of the fiscal year. If the budget is amended subsequently, a copy of the amended budget shall be furnished to each member.

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C. **Assessments.** Assessments against the lot owners for their share of the items of the budget shall be made for the calendar year or fiscal year, as the case may be, annually, in advance, on or before ten (10) days preceding the year for which the assessments are made. Assessments shall be payable in equal semi-annual installments in advance on the first day of February and first day of August of each calendar year; provided, however, that each lot owner shall, upon taking title, pay at closing the prorata assessment for the six (6) month period in which closing takes place, together with the assessment for the next succeeding period, in order to provide sufficient working capital to the Association. The Board of Directors of the Association shall have the option of imposing an alternative form of installment payment, to-wit: Payment of assessments on an annual, quarterly, or a monthly basis. The lot owner shall be given thirty (30) days advance notice of any change in the interval of installment payments. In the event the prescribed installments prove to be insufficient, the budget and assessments may be amended at any time by the Board of Directors if the accounts of the amended budget do not exceed the limitations for that year. Any account that does exceed such limitations shall be subject to the approval of the membership of the Association as previously required by these By-laws. The unpaid assessment for the remaining portion of the calendar or fiscal year for which the amended assessment is made shall be payable in quarterly installments divided among the number of installments remaining due under that year.

D. **Acceleration of Assessment Installments Upon Default.** If a lot owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice to the lot owner, and then the unpaid balance of the assessment shall become due upon the date in the notice, but not less than ten (10) days after delivery of the notice to the lot owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur. Interest on such accelerated assessments shall be charged at the rate provided for in the Declaration.

E. **Assessment for Emergencies.** Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expenses shall be made only after notice of a need for such is given to the lot owners concerned. After such notice and upon approval in writing by persons entitled to cast more than one-half (1/2) of the votes of the lot owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days notice in such manner as the Board of Directors of the Association may require in the notice of the assessment.

F. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

G. An audit of the accounts of the association shall be made annually by a certified public accountant or such other person as shall be designated by the Board of Directors and a copy of the audit report shall be furnished to each member not later than four (4) months following the year for which the audit is made.

H. Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association. The bonds shall be in an amount sufficient to equal the monies the individual handles or has control of by a signatory, or a bank account or other depository account.

## ARTICLE VIII

### **Parliamentary Rules**

Roberts Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration, Articles of Incorporation, or these By-laws.

Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

## ARTICLE IX

### Amendment to the By-laws

## Unofficial Document

A. Notice of the subject matter of a proposed amendment shall be included in the notice of any meetings at which a proposed amendment is considered.

B. A resolution adopting the proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment, may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

1. Not less than Seventy-five percent (75%) of the entire membership of the Board of Directors and by not less than Seventy-five percent (75%) of the votes of the entire membership of the Association; or

2. By not less than Eighty percent (80%) of the votes of the entire membership of the Association; or

3. Until the first election of Directors by all of the Directors.

C. Provided, however, that no amendment shall be made that is in conflict with the Articles of Incorporation or the Declaration. Furthermore, no amendment shall affect the control by the Developer of this Association until after December 31, 1987.

D. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and By-laws, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded in the public records of Boone County, Missouri.

## ARTICLE X

### Compliance and Default

A. In the event of a violation (other than the nonpayment of an assessment) by a lot owner of any of the provisions of the Declaration, of these By-laws, or of any properly enacted rule or regulation of the Association, the Association, by direction of its Board of Directors, may notify the lot owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of thirty (30) days from date of the notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional, inexcusable and material breach of the Declaration, of the By-laws, or of the pertinent rule or regulation, and the Association may then, at its option, have the following elections:

1. An action at law to recover for its consequent damages, on behalf of the Association or on behalf of the other lot owners;

2. An action in equity to enforce performance on the part of the lot owner;

or

3. An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Upon a finding by the court that the violation complained of is willful and deliberate, the lot owner so violating shall reimburse the Association for reasonable attorneys' fees and court costs incurred by it in bringing such action. Failure on the part of the Association to maintain such action at law or in equity within thirty (30) days from date of a written request for same, signed by a lot owner and sent to the Board of Directors, shall authorize any lot owner to bring an action in equity or suit at law on account of the violation. Any violations which are deemed by the Board of Directors to be a hazard to public health, may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the offending lot owner as a specific item, which shall be a lien against said lot with the same force and effect as if the charge were a part of the common expenses.

# Boone County, Missouri

B. All lot owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any lot or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance company of rights of subrogation. The expense for any maintenance, repair or replacement required, as provided in this Section, shall be charged to said lot owner as a specific item, which shall be a lien against said lot with the same force and effect as if the charge were an Association assessment.

C. In any proceeding arising because of an alleged default by a lot owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the court.

D. The failure of the Association or of a lot owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration, Articles of Incorporation, or these By-laws, shall not constitute a waiver of right of the Association or unit owner to enforce such right, provisions, covenant or condition of the future.

E. All rights, remedies, and privileges granted to the Association or lot owner, pursuant to any terms, provisions, covenants or conditions of the Declaration, Articles of Incorporation, or these By-laws, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by said documents or at law or in equity.

## ARTICLE XI

### **Liability Survives Termination of Membership**

The termination of membership in the Association shall not relieve or release any such former owner or member from any liability or obligation incurred under or in any way connected with the Association during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former owner and member arising out of, or in any way connected with, such ownership and membership, and the covenants and obligations incident thereto.

## ARTICLE XII

### **Limitation on Liability**

Notwithstanding the duty of the Association to maintain and repair parts of the Association property and to maintain and repair its facilities, the Association shall not be liable for injury or damage caused by a latent condition in the Association's property, nor for injury or damage caused by or to the members or by or to other owners or persons

## ARTICLE XIII

### **Proxies**

A lot owner (member) may designate another person as his proxy for the purpose of casting the vote possessed by said lot owner, but only for the specific meeting to which said proxy relates. All written proxies must be filed with the Secretary prior to the commencement of the pertinent meeting. No proxy shall be effective unless in writing and signed by the member or lot owner granting same.

## ARTICLE XIV

### **Rules and Regulations**

A. The Board of Directors may, from time to time, adopt or amend previously adopted administrative rules and regulations governing the details of the operation,

# Boone County, Missouri

use, and maintenance, management and control of the Association's properties, and any facilities or services made available to the lot owners. A copy of the Rules and Regulations adopted from time to time, as herein provided, shall, from time to time, be posted in a conspicuous place.

Unofficial Document

B. The use of any recreational facilities shall at all times be subject to such Rules and Regulations as are promulgated pursuant to these By-laws and the Declaration to which these By-laws are attached.

C. In the event of any conflict between the Rules and Regulations so adopted and from time to time amended, and the Declaration, Articles of Incorporation, and By-laws, the Declaration, Articles of Incorporation, or By-laws shall prevail. If any unrecorred conflict should exist or hereafter arise with respect to the interpretation of these By-laws and the Declaration to which these By-laws are attached, the provisions of said Declaration shall prevail.

The foregoing were adopted as the By-laws of Pepper Tree Estates Homeowners Association, Inc., a corporation not-for-profit under the laws of the State of Missouri, at the first meeting of the Board of Directors.

PEPPER TREE ESTATES HOMEOWNERS ASSOCIATION, INC., a corporation not-for-profit under the laws of the State of Missouri

By: [Signature]  
LELAND U. PFEFER, M.D., President



ATTEST:  
[Signature]  
CRAIG A. VAN MATRE, Secretary

[Signature]  
LELAND U. PFEFER, M.D.

[Signature]  
JUNE PFEFER

[Signature]  
JERRY D. KENNETT, M.D.

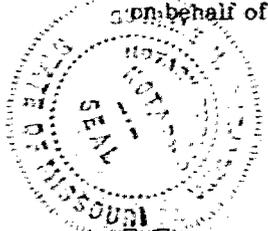
[Signature]  
CRAIG A. VAN MATRE

[Signature]  
JAMES O. REYNOLDS, M.D.

STATE OF MISSOURI  
COUNTY OF BOONE

The foregoing instrument was acknowledged before me this 26th day of June, 1981, by LELAND U. PFEFER, M.D., President of Pepper Tree Estates Homeowners Association, Inc., a corporation not-for-profit under the laws of the State of Missouri, on behalf of said corporation.

[Signature]  
NOTARY PUBLIC Suzanne M. Wiejaczka



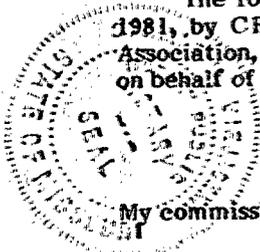
Nora Dietzel, Recorder of Deeds

# Boone County, Missouri

My commission expires: September 22, 1984

## STATE OF MISSOURI COUNTY OF BOONE Unofficial Document

The foregoing instrument was acknowledged before me this 26th day of June, 1981, by CRAIG A. VAN MATRE, Secretary of Pepper Tree Estates Homeowners Association, Inc., a corporation not-for-profit under the laws of the State of Missouri, on behalf of said corporation.

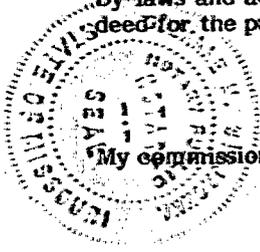


Suzanne M. Wiejaczka  
NOTARY PUBLIC Suzanne M. Wiejaczka

My commission expires: September 22, 1984

## STATE OF MISSOURI COUNTY OF BOONE

On this 26th day of June, 1981, before me, a Notary Public in and for said state, personally appeared LELAND U. PFEFER, M.D., JUNE PFEFER, JERRY D. KENNETT, M.D., CRAIG A. VAN MATRE, and JAMES O. REYNOLDS, M.D, being all of the Directors of Pepper Tree Estates Homeowners Association, Inc., a Missouri not-for-profit corporation, known to me to be the persons who executed the foregoing By-laws and acknowledged to me that they executed the same as their free act and deed for the purposes therein stated.



Suzanne M. Wiejaczka  
NOTARY PUBLIC Suzanne M. Wiejaczka

My commission expires: September 22, 1984

State of Missouri  
County of Boone | Sect.

I, the undersigned Recorder of Deeds for said County and State do hereby certify that the foregoing instrument of writing was filed for record in my office on the 29 day of June, 19 81 at 10 o'clock 21 minutes a M and is truly recorded in Book 482 Page 729

Witness my hand and official seal on the day and year aforesaid.

Bettie Johnson, Recorder  
by Helen Fitzgerald Deputy

HELEN FITZGERALD

