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DECLARATION OF FILED FOR RECORD
20010093148 COVENANTS AND RESTRICTIONS
FOR 2001 JUN 27 PM 1 24
KENSINGTON SUBDIVISION SUE HODGES

CLERK AND RECORDER
BENTON COUNTY, ARK.

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Kensington, LLC, an Arkansas Limited Liability Company, is the owner of the hereinafter described lands lying in the City of Bentonville, Benton County, Arkansas, and proposes the development upon said lands, together with any additions thereto as hereinafter provided, of a residential subdivision to be named Kensington Subdivision, Bentonville, Arkansas; and

WHEREAS, Kensington, LLC, desires to provide for the construction of certain streets, utilities and residential improvements thereon and to provide for the preservation of the values in said subdivision by subjecting the initial phase of said lands herein described, together with any additional phases as may hereafter be added thereto as hereinafter provided, to the covenants, restrictions and easements hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof;

NOW, THEREFORE, Kensington, LLC, hereby declares that the real property hereinafter described in Section 1 of Article I hereof, and any additions thereto as may hereafter be made pursuant to Section 2 of Article I hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and easements hereinafter set forth:

ARTICLE I
PROPERTY SUBJECT

Section 1. Existing Property. The existing real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located and situated in the City of Bentonville, County of Benton, State of Arkansas, to-wit:

PART OF THE NW1/4 OF SECTION 27, TOWNSHIP 20 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, BENTON COUNTY ARKANSAS, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF THE NW1/4 OF SAID SECTION 27, BEING A FOUND PIPE AS SHOWN ON PLATS W-275, W-276, AND W-236, THENCE S 0°08'26" E 235.02 FEET TO AN TO AN IRON PIN, FOR THE POINT OF BEGINNING, THENCE S 0°08'26" E 29.00 FEET TO AN TO AN IRON PIN, THENCE S 0°26'39" E 195.05 FEET TO AN TO AN IRON PIN, THENCE S 0°16'11" E 211.23 FEET TO AN TO AN IRON PIN, THENCE S 89°43'50" W 140.00 FEET TO AN TO AN IRON PIN, THENCE S 70°21'52" W 53.00 FEET TO AN TO AN IRON PIN, THENCE S 89°43'50" W 54.70 FEET TO AN TO AN IRON PIN, THENCE S 49°47'54" W 276.04 FEET TO AN TO AN IRON PIN, THENCE N 89°38'30" W 54.76 FEET TO AN TO AN IRON PIN, THENCE N 0°21'30" E 123.58 FEET TO AN TO AN IRON PIN, THENCE N 29°23'46" W 53.46 FEET TO AN TO AN IRON PIN, THENCE N 89°38'30" W 38.47 FEET TO AN TO AN IRON PIN, THENCE N 0°21'30" E 120.00 FEET TO AN TO AN IRON PIN, THENCE N 89°38'30" W 425.00 FEET TO AN TO AN IRON PIN, THENCE N 0°21'30" E 120.00 FEET TO AN TO AN IRON PIN, THENCE N 89°38'30" W 405.00 FEET TO AN TO AN IRON PIN, THENCE N 0°21'30" E 129.50 FEET TO AN TO AN IRON PIN, THENCE ALONG A CURVE TO THE LEFT WITH A DELTA ANGLE OF 75°43'34" HAVING A RADIUS OF 25.00 FEET AND A ARC LENGTH OF 33.04 FEET, WITH A CHORD BEARING AND DISTANCE OF N 37°30'17" W 30.69 FEET, TO AN TO AN IRON PIN, THENCE N 75°22'04" W 6.14 FEET TO AN TO AN IRON PIN, THENCE ALONG A CURVE TO THE RIGHT WITH A DELTA ANGLE OF 21°21'09" HAVING A RADIUS OF 105.00 FEET AND A ARC LENGTH OF 39.13 FEET, WITH A CHORD BEARING AND DISTANCE OF N 64°41'30" W 38.90 FEET, TO AN TO AN IRON PIN, THENCE N 54°00'55" W 176.18 FEET TO AN TO AN IRON PIN ON THE EAST RIGHT OF WAY OF HIGHWAY 72, THENCE ALONG SAID RIGHT OF WAY, N 35°38'37" E 33.10 FEET TO AN TO A RIGHT OF WAY MONUMENT, THENCE 35°21'25" E 140.60 FEET TO AN TO A RIGHT OF WAY MONUMENT, THENCE N 37°04'07" E 54.30 FEET TO AN TO AN IRON PIN, THENCE S 89°38'31" E 155.29 FEET TO AN TO AN IRON PIN AT THE NW CORNER OF THE NE1/4 OF THE NW1/4 OF SECTION 27, THENCE S 89°38'31" E 1068.55 FEET TO AN TO AN IRON

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Copelin Land Surveying
10636 W. Hwy 72 #102
Bentonville AR.
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PIN, THENCE S 45°56'08" E 340.12 FEET TO AN TO THE POINT OF BEGINNING CONTAINING 19.85 ACRES MORE OR LESS AND SUBJECT TO ALL EASEMENTS OF RECORD OR OF FACT.

Section 2. Additions to Existing Property. Additional lands of Kensington, LLC, situated in the City of Bentonville, Benton County, Arkansas, as well as any other lands so situated and hereafter acquired by or authorized by Kensington, LLC, may become subject to this Declaration in the following manner:

(a) Kensington, LLC, its successors and assigns, shall have the right, but not the obligation, to bring additional properties within the plan of this Declaration in future stages of development regardless of whether said properties are presently owned by Kensington, LLC. Under no circumstances shall this Declaration or any Supplemental Declaration bind Kensington, LLC, its successors and assigns, to make the proposed additions or in anywise preclude Kensington, LLC, its successors and assigns, from conveying any lands not having been made subject to this Declaration free and clear of this Declaration or any Supplemental Declaration.

(b) The additions authorized hereunder shall be made by filing of record a Supplemental Declaration with respect to the additional property which shall extend the plan of this Declaration to such property and the Owners in such additions, including Kensington, LLC, shall immediately be subject to all provisions hereof.

(c) Such Supplemental Declarations, if any, may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties as are not inconsistent with the plan of this Declaration. In no event, however, shall such Supplemental Declarations revoke, modify or add to the covenants, conditions and restrictions established by this Declaration or any Supplemental Declaration with respect to the properties theretofore subjected hereto.

Section 3. Limitation on Additions. No one other than Kensington, LLC, its successors and assigns, shall have the right to subject additional lands to this Declaration unless Kensington, LLC, its successors and assigns, shall indicate in writing that such additional lands may be included hereunder.

Section 4. Reserved Properties. Any area upon a recorded plat under this Declaration or any Supplemental Declaration designated as "Reserved Properties" shall remain the sole and exclusive property of Kensington, LLC, its successors and assigns, and neither this Declaration or any Supplemental Declaration or the plats in connection with the same shall in anywise apply thereto unless at a later time same shall be included thereunder as provided in Article I, Section 2 hereof. Kensington, LLC its successors and assigns, shall have the right, but not the obligation, to transfer said "Reserved Properties" to the Kensington Property Owners Association, Inc. sometimes hereafter referred to as "POA" to be controlled by the Architectural Control Committee, as hereinafter setforth in Article II, Section 2 (b).

ARTICLE II
ARCHITECTURAL CONTROL COMMITTEE
AND
PROPERTY OWNERS ASSOCIATION

Section 1. The Architectural Control Committee. The Architectural Control Committee of Kensington Subdivision, hereinafter sometimes referred to as the "ACC", shall be composed of three (3) or more representatives appointed from time to time by the Board of Directors of Kensington, LLC. At any time after execution hereof, Kensington, LLC, may, by written and recorded instrument, waive its right of appointment of members of the ACC, in which event such members shall be replaced biannually by the Broad of Directors of the Property Owners Association, however, vacancies occurring between such elections shall be filled by majority vote of the remaining members of the ACC. The ACC shall make its

determinations by majority vote and the determination of the individual committee members shall be upon the exercise of the sole and absolute discretion of each such member.

Section 2. The ACC Functions. The ACC is herein established to exercise all powers and duties set forth therefor in this Declaration, any supplemental Declaration hereinafter filed, any rules and regulations hereinafter enacted by the Property Owners Association, as hereinafter set forth, or the ACC and all other lawful powers and duties deemed by the POA or the ACC as advisable or necessary to enforce this Declaration for Kensington Subdivision and to perform the following functions:

(a) Except as to the original construction of the infrastructure of the subdivision by Kensington, LLC, no building, mailbox, fence, wall or other structure shall be commenced, erected or maintained upon the subdivision or any Lot therein, nor shall any exterior addition, change or alteration be made thereto, until and unless the name and particulars of the proposed building contractor and the plans, specifications and plot plan showing the nature, kind, shape, height, materials and location of such proposed construction shall have been submitted to and approved in writing by the ACC as to the qualifications of such building contractor and as to the suitability of such construction with respect to harmony of external design, location in relation to surrounding structures and topography and compliance with this Declaration. In the event the ACC fails to approve or disapprove any such building contractor or the proposed design or location of such construction within forty-five (45) days after said plans and specifications have been properly submitted to it in accordance with any rules and regulations which may be adopted thereby, approval will not be required and this provision will be deemed to have been fully complied with, except to the extent such construction is in violation of this Declaration. A "building contractor" is defined for the purposes hereof to include, but is not limited to, any general contractor, building contractor, construction consultant, architect, engineer, design builder or the Owner, where such Owner acts as his own contractor, and the ACC will include, but not be limited to, the following criteria in making its determination as to the approval or disapproval of such building contractor: experience and reputation for building quality residences, history of compliance with covenants and restrictions in residential subdivisions, history of compliance and cooperative working relationship with governmental officials and subdivision developers and a history of financial stability and demonstrated present capacity to complete the contemplated construction project. The ACC shall have the right to set reasonable charges and fees within their discretion necessary to offset expenses incurred by them in connection with the performance of their duties hereunder and the failure to pay the same shall be grounds for withholding approval hereunder. The ACC, through its members or duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or other part of the subdivision at reasonable hours for the purpose of the performance of its functions hereunder.

(b) The ACC shall have the authority, in connection with its hereinabove set forth functions, to adopt such rules, regulations and standards and to adopt such standard building or other codes (or any portion thereof) as it shall deem appropriate or necessary for the proper performance of its function and duties. The Owner, contractor and builder will subject all construction activities to such inspections as required by the ACC to determine compliance with such ACC permits and this Declaration. In the event of any conflict between the provisions of this Declaration and those of the ACC rules, regulations and standards, this Declaration shall prevail.

Section 3. ACC Responsibility. The function of the ACC is designed for the enforcement of this Declaration. The performance of its duties with respect thereto shall be on a best efforts basis, without personal liability on any individual person or entity serving on the committee, in an effort to reasonably protect the aesthetics and property values of Kensington Subdivision and the health, safety and welfare of all of the Owners therein as a community of interests. No warranty or representation is made to or should be implied by any individual Owner or any other person or entity that the actions of the ACC in the issuance of permits, inspection and approval of construction, or otherwise, is intended as a tacit approval of the quality, safety, desirability, or suitability of such design or construction.

Section 4. Property Owners Association. The Property Owners Association, hereinafter sometimes referred to as "POA", shall be formed at the time this Declaration of Covenants and Restrictions For Kensington Subdivision is filed for record. The ACC shall function as a part of the POA. The POA shall have the right, obligation and authority to, at any time and from time to time, impose upon the Owners such assessments which they deem necessary or appropriate for the costs incurred or to be incurred by the POA and ACC of such holding, ownership, operation, improvement, maintenance and regulation, including, but not limited to, ad valorem taxes and liability and property damage insurance upon the same, and any other costs, including administration costs, incurred or to be incurred by the POA or ACC in their performance of any and all rights, duties and obligations placed upon them under this Declaration. The Owners of a lot as of December 1, of each year shall be obliged to pay any such assessments imposed by the POA for such purpose by March 1, of each year together with interest thereon at a per annum rate equal to the Federal Discount Rate plus five percent (5%) and any attorneys fees or other costs of collection for any delinquency in payment thereof. The POA shall have the further right and authority to impose and enforce a lien upon any Lot and/or bring suit or other legal action for any nonpayment of such an assessment by the Owner thereof. Each such assessment, together with such interest, costs and fees, shall further be the personal obligation of the Owner at the time when the assessment fell due but such personal obligation shall not pass to successors in title unless expressly assumed by them. The Developer shall be obligated to pay and shall pay a one time assessment to the POA the sum of Fifty and no/100 dollars (\$50.00) for each lot. Said assessment to the Developer shall be due and payable upon the sale of each lot sold by the Developer. The members of the board of the POA, their successors in office and assigns, shall have the right, obligation and authority to take title at any time and from time to time upon the transfer of title from Kensington, LLC, to the POA, its successors or assigns, to any and all "Common Properties" as reflected upon the Plats of Kensington Subdivision and to hold, own, operate, and improve, maintain and regulate the use of the same as Trustees for the use and benefit of the Owners of Kensington Subdivision.

ARTICLE III UTILITIES AND EASEMENTS

Section 1. Utilities Reserved. It is contemplated that utilities for the subdivision shall be placed underground and furnished and/or serviced by public authorities or utility companies so engaged in the vicinity thereof. Kensington, LLC, has and hereby retains the exclusive right to negotiate contracts and agreements with such public authorities or utility companies, under such conditions and for such considerations as it shall deem proper under the circumstances. The utilities referred to may include, but are not limited to, water, sewer, natural gas, electrical, telephone and cable television services. Kensington, LLC, shall have the right, but not the obligation, to delegate to the Owners the right to enter into contracts with such public authorities or utility companies to furnish and/or service certain or all of the utility services aforesaid. Nothing herein contained shall be construed or interpreted as an obligation on the part of Kensington, LLC, to provide or service the utilities reserved.

Section 2. Utility and Drainage Easements. Kensington, LLC, for itself and its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable blanket easement, privilege and right, but not the obligation, for the construction, operation and maintenance of the aforesaid water, sewer, natural gas, electrical, telephone and cable television services and other conveniences or utilities on, in, over and under all of the private and public roads or streets within Kensington Subdivision in place or as shown on any subdivision plat thereof, and on, in, over and under a seven (7) foot strip along and parallel with the interior of all Lot lines of each Lot in the subdivision or as the same may be reflected on the subdivision plat thereof, whichever is greater. Kensington, LLC, shall have the unrestricted and sole right and power of alienating and releasing the easements, privileges and rights referred to herein with the understanding, however, that Kensington, LLC, will make such utility easements available to the City of Bentonville, Arkansas, and all other public authorities or publicly regulated utility franchisees as needed for the purposes of construction, operation and maintenance of such conveniences or utilities to the extent that such services are constructed, operated and maintained by them or for which they have assumed the responsibility for such services to be

provided. The Owners of such lands shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed in connection with such utilities or conveniences on, in, over or under the property which is subject to said easements, privileges and rights. All such easements, including those designated on any subdivision plat of Kensington Subdivision, are and shall remain private easements and the sole and exclusive property of Kensington, LLC, and its successors and assigns. Within these aforesaid easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of such utilities or conveniences, or which may change the direction of flow of drainage channels within the easements, or which may obstruct or retard the flow of water through drainage channels within the easements. Owners may, with the prior written consent of Kensington, LLC, its successors or assigns, install driveways, sidewalks or other similar facilities thereon, provided, however, that such installations do not cause any such damage or interference with any such utilities or other conveniences or drainage channels and subject to the right of Kensington, LLC, its successors or assigns, and the public authorities or utility companies, to cause the removal of same without liability to the Owner when reasonably required in connection with their utilization of such easement areas.

Section 3. Other Easements and Reservations. All easements and reservations as reflected on or in the notes of the recorded subdivision plats of any Lot or other parcel of land within Kensington Subdivision shall be reserved in Kensington, LLC, and be binding upon each Owner thereof to the same extent as if set forth herein.

ARTICLE IV PROTECTIVE COVENANTS

Section 1. Zoning. All Lots within Kensington Subdivision shall be held, owned, occupied and used solely for single family residential purposes in accordance with the provisions of this Declaration, the recorded subdivision plat thereof, and the subdivision and building codes of the city of Bentonville, Arkansas. Any and all conflicts shall be resolved in favor of the more restrictive thereof. All uses of said lands shall be subject to the regulations set forth in the Bentonville Zoning Ordinance. For Residential R1A Zoning. Each Lot in Kensington Subdivision shall be restricted to one (1) single family residential structure.

Section 2. Resubdivision. No Lot shall be resubdivided without the written approval of the ACC and the City of Bentonville, Arkansas. In the event such a resubdivision is intended to permit the construction of a single residential structure upon two or more Lots, written approval shall also be required from any public authority or utility company which has then utilized any easements on the effected interior Lot lines.

Section 3. Residential Square Footage Limitations. No residential structure shall be erected, altered, placed or permitted to remain on any Lot which contains less than the minimum square footage requirement as provided in this Declaration or the Supplemental Declarations recorded in connection therewith. Such minimum square footage requirement shall be calculated on heated and liveable floor space excluding porches, garages, patios, decks and other attachments to the structure. The minimum square footage requirement for the Lots in Phase I, being the initial phase of Kensington Subdivision subjected to this Declaration in Article I, Section 1 hereof, shall be 2,300 square feet, of which not less than 1,800 square feet must be on the ground floor.

Section 4. Building Height Limitations. No structure shall be erected, altered, placed or permitted to remain on any Lot which exceeds two stories in height from street level. Although basements which are fully below street level shall be excluded from such height restriction calculation, any portion of a basement above the street level shall be included in such height restriction calculation.

Section 5. Outbuildings and Similar Improvements. Outbuildings and improvements such as cabanas, gazebos and pools shall be allowed within the building area of any Lot upon

ACC approval and so long as incidental and related to residential use of the premises and the design thereof is compatible with the residential structure.

Section 6. Garages. All single family residential structures shall include a private garage for not less than two (2) automobiles which shall be served by a concrete driveway, which concrete driveway shall be of a minimum width of sixteen (16) feet. All garages facing the street shall be finished inside and fully enclosed with garage doors.

Section 7. Roofs. All roofing materials shall meet the requirements in all respects of any applicable ordinance of the city of Bentonville, Arkansas, and shall further be approved in writing by the Architectural Control Committee prior to any installation of such materials. The ACC will not approve any roofing materials with a warranty of less than 25 years. The roof pitch of any residential structure shall be at an eight by twelve (8x12) minimum, provided, however, the ACC may approve variations in such pitch which they deem necessary or appropriate with respect to portions of the roof such as those located over dormers, covered patios, covered decks and other similar type situations involving the design of the particular residential structure under consideration.

Section 8 Exterior Building Materials. A minimum of seventy-five percent (75%) of the exterior walls of any residential structure shall consist of brick, brick veneer, stone, stone veneer or masonry covering.

Section 9. Front and Side Yard Materials. All front and side yards located between the street and a line drawn from the side Lot lines across the rear foundation of the residential structure shall be covered with grass sodding no later than ninety (90) days subsequent to the completion of construction of any residential structure upon the Lot. The ACC may, however, grant an extension for the installation of such materials by reason of weather or other reasonable delays.

Section 10. Sidewalks. Every Owner shall cause sidewalks to be installed upon their Lot in compliance with the requirements of the City of Bentonville, Arkansas. The installation of said sidewalks shall occur not later than completion of construction of any residential structure upon the Lot.

Section 11. Street and Curb Cuts. The cutting of streets in Kensington Subdivision is strictly prohibited and the cutting of curbs shall be avoided where possible. Every Owner shall be responsible for assuring that neither they nor any building contractor or subcontractor utilized by them shall cut any streets within the subdivision or make any unnecessary curb cuts within the subdivision.

Section 12 Temporary Structures. No structure of a temporary character, including, but not limited to, any trailer, mobile home, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 13. Residency Restrictions. No residential structure erected, altered, placed or permitted to remain on any Lot may be utilized at any time as a residence, whether permanent or temporary, by more than eight (8) persons. For purposes of this provision, the term "residence" is defined to mean "home" or "usual place of abode" and, although not intended to limit social guests or invitees or reasonable duration whose level of occupancy does not rise to the level of a nuisance or of a residency as above defined, the term "residence" shall be strictly construed and interpreted to prohibit regular occupancy of the residential structure in excess of the above set forth limit of eight (8) persons.

Section 14. Yard Space Restrictions. No building shall be placed closer to the front, rear or side Lot lines than the setback lines shown therefor on the recorded subdivision plat, provided, however, where such is not shown thereon, the following will apply:

- (a) No residential structure or any building incident thereto shall be closer than twenty

five (25) feet to a front Lot line or twenty five (25) feet to a rear Lot line.

(b) No residential structure or any building incident thereto shall be closer than seven (7) feet from any side Lot line or twenty five (25) feet from any side Lot line adjacent to a street.

Section 15. Time for Completion of Buildings. All structures shall be completed in accordance with all applicable permits, codes, standards, rules and regulations applicable thereto within six months of start of construction as to the exterior and within twelve months of start of construction as to interior.

Section 16. Electric Wiring and Plumbing. Electric wiring and plumbing installed in any structure within the Kensington Subdivision shall be in accordance with the more restrictive of standards prescribed by the ACC rules and regulations or subdivision and building codes of the City of Bentonville, Arkansas.

Section 17. Water Supply and Sewage Disposal. No privately owned well or other water system or septic tank or other sewage disposal system shall be permitted upon any Lot or parcel of land of Kensington Subdivision without the approval of the ACC and the City of Bentonville, Arkansas.

Section 18. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 3 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 19. Signs. All signs are prohibited within the Kensington Subdivision except as set forth below:

(a) Signs erected by Kensington, LLC, or a public authority for identification of the project, streets, traffic control and directional purposes; and

(b) Signs of a temporary nature advertising property for sale or rent, which such signs shall not exceed six (6) square foot in area, shall be limited to one (1) such sign per Lot, must be placed upon the specific property involved, and may not be placed for the purpose of advertising that such property is already sold or rented; and

(c) Signs erected by Kensington, LLC, in furtherance of its Lot and home sales program, specifically including, but not limited to, the advertisement of one or more Model Homes, which signs may contain up to 50 square feet in area.

Section 20. Fences. Except for any fencing which may be constructed by Kensington, LLC, to set off and identify Kensington Subdivision, retaining walls and fencing of any portion of a Lot located between the street and a line drawn from the side Lot lines across the front foundation of the residential structure shall not exceed three (3) feet in height and may only be constructed with decorative or ornamental wood, brick, brick veneer, stone, stone veneer or masonry covering. Rear yard retaining walls and fencing shall be of the above set forth materials only. Rear yards may also be utilized for dog pens and recreational vehicle parking areas, so long as the same are appropriately screened from view by walls, fences or plantings and thereafter properly maintained. Wire fencing is strictly prohibited.

Section 21. Off Street Parking. Parking on the roads and streets within Kensington Subdivision shall be prohibited. All vehicles other than recreational vehicles shall be parked in the garage or driveway of the respective Lots. Recreational vehicles, including, but not limited

to, boats, motor homes, travel trailers, four wheelers, and campers, shall not be parked or stored on any portion of a Lot located between the street and a line drawn from the side Lot lines across the rear foundation of the residential structure for a period of time exceeding three (3) days, provided, however, the same may be parked or stored in excess of such time if maintained in a closed garage area or within a rear yard screened area.

Section 22. **Satellite Dishes.** Satellite television receiver dishes are permitted provided that such are located only in rear yard building areas and are screened from view in accordance with the provisions hereof for fences.

Section 23. **Businesses Prohibited in Residential Areas.** The practice of any profession or the carrying on of any business or home occupation is prohibited within Kensington Subdivision except for home offices which do not create any extraordinary traffic within the subdivision. Said home offices must first, however, be approved by the City of Bentonville and a permit issued therefore.

Section 24. **Nuisances.** No obnoxious or offensive activity shall be carried on upon any Lot including, but not limited to, the following:

(a) **Storage of Building Materials.** No building material of any kind or character shall be placed or stored upon any Lot until the Owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials shall be removed.

(b) **Inoperative Vehicles.** No automobile, truck, bus, tractor, or other vehicle shall be left inoperative on any Lot for a period of more than fourteen (14) days except in accordance with the provisions hereof for off street parking.

(c) **Destroyed Structures.** In the event that a residential structure or any other improvement upon any Lot in Kensington Subdivision is for any reason totally destroyed or partially damaged to the extent that the same is unusable for its intended purpose, the Owner shall raze or remove the structure or commence the repair or rebuilding of such within one hundred twenty (120) days from the date of such damage.

(d) **General Maintenance.** The Owner of any Lot or Living Unit shall properly provide for the exterior maintenance thereof, including, but not limited to, the following: cut, trim, care for and maintain trees, shrubs and grass, repair, replace and care for walks, roofs, gutters, downspouts, exterior building surfaces, windows, fascia, doors and decks and make other exterior improvements, including repainting or staining, as needed.

(e) **Oil, Gas and Mining Operations.** No oil, natural gas or mineral drilling, development operations, refining, quarrying, tunneling, or mining operations of any kind shall be permitted upon or in any Lot within Kensington Subdivision. No derrick or other structure designed for use in boring for oil or natural gas, nor any oil wells, gas wells, tanks, tunnels, mineral expeditions or shafts shall be erected, maintained or permitted.

Section 25. **Pets, Livestock or Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot within Kensington Subdivision, except that dogs, cats or other usual household pets which are not considered inherently frightening to the general public may be kept provided that no more than two (2) such pets shall be kept and maintained and they are not kept, bred or maintained for any commercial purposes. Reptiles and wild or exotic animals shall under no circumstances be construed as usual household pets.

Section 26. **Underground Utilities.** All utilities within Kensington Subdivision shall be placed underground.

Section 27. **Mail Boxes.** The owners of all lots in Kensington Subdivision; Phase I,

shall install at owners expense a mail box conforming with specifications determined by the ACC. The mail boxes shall be purchased from Kensington, LLC so as to insure uniformity of design and quality of construction. The mail box shall be competitively priced. The location of the mail boxes shall be determine by the local post master.

Section 28. Street Lights/Yard Lights. The owner of the following described lots in Kensington Subdivision; Phase I, Lots 4, 19, 23, 28, 32, 38, and 42, shall install at owner's expense a street light conforming with specifications determined by the ACC. The street lights shall be purchased from Kensington, LLC so as to insure uniformity of design and quality of construction. The light will be competitively priced. The location of the street light shall be designated by the Architectural Control Committee prior to construction of a residential dwelling. The street light must be installed and operating at the time a certificate of occupancy is issued by the building inspector for the City of Bentonville, Arkansas. The street light shall be controlled by a photoelectric cell, and the street light shall be equipped with an external electrical outlet. It shall be the responsibility of the owners of said described lots to maintain the street lights installed on said lots and to keep the street lights in a reasonable state of repair at all times. Any lot owner in Kensington Subdivision desiring a street or yard light shall abide by these restrictions.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 1. Duration The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Owners subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty six (26) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of not less than 75% of the total Lots has been recorded, agreeing to remove said covenants and restrictions, provided, however, that no such agreement to remove said covenants and restrictions shall be effective unless made and recorded one (1) year in advance of the effective date thereof and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Amendments. The covenants and restrictions of this Declaration may be amended at any time after execution hereof provided an instrument signed by the then Owners of not less than 75% of the total Lots has been recorded agreeing to such amendment and further provided that no such amendment shall be effective unless made and recorded ninety (90) days in advance of the effective date thereof and unless written notice of the proposed amendment is sent to every Owner at least thirty (30) days in advance of any action taken.

Section 3. Voting Rights. Notwithstanding anything in this Declaration or any Supplemental Declaration to the contrary, it is the intent of this instrument to provide that any vote required of the Owners of Lots in Kensington Subdivision shall be taken on the basis of one (1) vote for each Lot. When more than one person and/or entity holds such an interest entitled to vote, their single vote shall be cast as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to a Lot.

Section 4. Invalidity. If any of the provisions of this Declaration, or any section, clause, phrase, word, or the application thereof, in any circumstance, is held invalid, the validity of the remainder of such instrument and the application of any such provision, action, sentence, clause, phrase or word, in other circumstances, shall not be affected thereby.

Section 5. 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, postpaid, to the last known address of the person who appears as Owner on the public records at the time of such mailing.

Section 6. Genders and Plurals. Whenever the context so requires, use of any gender

shall be deemed to include all genders, use of the singular shall include the plural, and use of the plural shall include the singular. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the project.

Section 7. Captions. The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text.

Section 8. Enforcement. Enforcement of this Declaration shall be by any proceeding at law or in equity against any person or entity violating or attempting to violate any covenant, condition or restriction herein, either to restrain violation or to recover damages against the party in violation, and/or against the land to enforce any requirement created by these covenants. Failure by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9. Assignment Transfer or Conveyance By Developer. Kensington, LLC reserves and shall have the right to assign, transfer or convey any reservations, rights or obligations of Kensington, LLC, hereunder, and upon such assignment, transfer or conveyance, Kensington, LLC shall immediately be released and discharged as to any and all liability incident to such reservations, right or obligation.

Section 10. Applicability. All provisions set forth herein shall extend to and be binding on the respective legal representatives, heirs, successors and assigns of all Owners and other parties mentioned herein where consistent with the context thereof.

IN WITNESS WHEREOF Kensington, LLC has caused this instrument to be executed by its duly authorized officers this 26th day of June, 2001.

KENSINGTON, LLC
Owner

ATTEST:

SUSANA DEVELOPMENT CORPORATION
Manager

Velena L. Callis
VELENA L. CALLIS, Secretary

By: Ralph C. Verneti
RALPH C. VERNETTI, President

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)SS
COUNTY OF BENTON)

On this day before me, the undersigned, a Notary Public duly qualified, commissioned and acting within and for the said state and county, appeared in person the within named RALPH C. VERNETTI and VELENA L. CALLIS, to me well known, who stated that they are the President and Secretary of SUSANA DEVELOPMENT CORPORATION, an Arkansas Corporation and are duly authorized in their respective capacities to execute the foregoing instrument for and in behalf of said company as manager of Kensington, LLC an Arkansas Limited Liability Company, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and Notarial Seal on this 26th day of June, 2001.

My Commission Expires:

Donna Gay
Notary Public

