

Prepared by Don Walker  
4412 Brainerd Rd.  
New Chattanooga, TN 37411  
DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
HAWKS COVE SUBDIVISION

THIS DECLARATION made this 28th day of July 2004, by Hawks Cove  
Subdivision and Don Walker Construction. (hereinafter the "Developer").

WITNESSETH

WHEREAS, Developer as owner of certain real property located in Hamilton  
County, Tennessee, [redacted] desires to create thereon a residential  
development known as Hawks Cove Subdivision (hereinafter the "Development"); and

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WHEREAS, Developer desires to provide for the preservation of the land and  
home values when and as the Property is improved and desires to subject the  
Development to certain covenants, restrictions, easements, affirmative obligations,  
charges and liens, as hereinafter set forth, each and all of which are hereby declared  
to be for the benefit of the Development and each and, every owner of any and all parts  
thereof; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of  
the values and amenities in the Development, to create an entity to which may be  
delegated and assigned the power and authority of holding title to and maintaining and  
administering the Common Properties (as hereinafter defined) and administering and  
enforcing the covenants and restrictions governing the same and collecting and  
disbursing all assessments and charges necessary for such maintenance,  
administration, and enforcement, as hereinafter created; and

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WHEREAS, Developer has caused or may cause to be incorporated under the  
laws of the State of Tennessee, HAWKS COVE HOMEOWNER'S ASSOCIATION,  
INC., a Tennessee non-profit corporation, for the purpose of exercising the above  
functions and those which are more fully set out hereafter.

NOW, THEREFORE, the Developer subjects the real property described in  
Article II hereof, and such additions thereto as may from time to time be made, to the  
terms of this Declaration I and declares that the same is and shall be held, transferred,  
conveyed, sold, leased, occupied and used subject to the covenants, restrictions,  
conditions, easements, charges, assessments, affirmative obligations and liens  
(sometimes referred to collectively as the "Covenants") hereinafter set forth. These  
Covenants shall touch and concern and run with the Property and each lot thereof.

**ARTICLE I  
DEFINITIONS**

The following words and terms, when used in this Declaration, or any  
Supplemental Declaration (unless the context shall clearly indicate otherwise) shall  
have the following meanings:

Instrument: 20040729300295  
Book and Page: 61 307  
Data Processing Fee: 7220  
Misc. Recording Fee: \$150.00  
Total Fees: \$152.00  
This Declaration, or any Supplemental Declaration, shall be filed with the Hamilton County Register, Dam Hurst, Register Hamilton County Tennessee

AS

1.01 Association. "Association" shall mean the HAWKS COVE HOMEOWNERS ASSOCIATION, a Tennessee non-profit organization.

1.02 Board of Directors or Board. "Board of Directors" or "Board" shall mean the governing body of the Association established and elected pursuant to this Declaration,

1.03 Builder. "Builder" or "Builders" shall mean those contractors who have been approved by Developer pursuant to Section 3.39 of this Declaration.

1.04 Bylaws. "Bylaws" shall mean the Bylaws of the Association. The initial text of which is set forth in Exhibit B attached hereto and incorporated herein.

1.05 Common Expense. "Common Expense" shall mean and include (a) expenses of administration, maintenance, repair or replacement of the Common Properties; (b) expenses agreed upon as Common Expense by the Association; (c) expenses declared Common Expense by the provisions of this Declaration; (d) expenses deemed to be a Common Expense by Developer, and (e) all other sums assessed by the Board of Directors pursuant to the provisions of this Declaration.

1.06 Common Properties. "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are leased or leased to the Developer or Association and designated in said deed or lease as "Common Properties". The term "Common Properties" shall also include any personal property acquired by the Developer or Association if said property is designated as a "Common Property". All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners, persons occupying Dwelling Units or accommodations of Owners on a guest or tenant basis, and visiting members of the general public (to the extent permitted by the Developer or Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Developer or Association; provided, however, that any lands which are leased by the Developer or Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such lease. The Common Properties may include but not be limited to streetlights, entrance and street signs, pool, poolhouse, parks, ponds, medians in roadways, maintenance easement areas, landscaping easement areas, and walkways.

1.07 Covenants. "Covenants" shall mean the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens set forth in this Declaration.

1.08 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions for the Hawks Cove Subdivision and any Supplemental Declaration filed pursuant to the terms hereof.

1.09 Development. "Development" shall mean and refer to the real property described in Section 2.01 hereof as improved for use as a single family residential subdivision, and any and all additions thereto, which are subjected to this Declaration or any Supplemental Declaration under the provisions hereof.

1.10 Developer. "Developer" shall mean Hawks Cove Subdivision and Don Walker Construction, and its successors and assigns.

1.11 Dwelling Unit. "Dwelling Unit" shall mean any building situated upon the Properties designated and intended for use and occupancy by a single family.

1.12 First Mortgage. "First Mortgage" shall mean a recorded Mortgage with priority over other Mortgages.

1.13 First Mortgagee. "First Mortgagee" shall mean a beneficiary, creditor or holder of a First Mortgage.

1.14 Lot or Lots. "Lot" or "Lots" shall mean and refer to any improved or unimproved parcel of land located within the Property which is intended for use as a site for a single family detached Dwelling Unit as shown upon any recorded final subdivision map of any part of the Property, with the exception of the Common Properties.

1.15 Manager. "Manager" shall mean a person or firm appointed or employed by the Board to manage the daily affairs of the Association in accordance with instructions and directions of the Board.

1.16 Member. "Member" or "Members" shall mean any or all Owner or Owners.

1.17 Mortgage. "Mortgage" shall mean a deed of trust as well as a Mortgage.

1.18 Mortgagee. "Mortgagee" shall mean a beneficiary, creditor or holder of a deed of trust, as well as a holder of a Mortgage.

1.19 Owner. "Owner" shall mean and refer to the Owner as shown by the real estate records in the office of the Register whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Lot, situated upon the Property, but not withstanding any applicable theory of a mortgage, shall not mean or refer to the Mortgagee or holder of a security deed, its successors, or assigns, unless and until such Mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure, nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the Register's Office of Hamilton County, a longterm contract of sale covering any Lot within the Property, the Owner of such Lot shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

1.20 Property. "Property" shall mean and refer to the real property described in Section 2.01 hereof, and additions thereto, which is subjected to this Declaration or any Supplemental Declaration under the provisions hereof.

1.21 Record or To Record. "Record" or "To Record" shall mean to record pursuant to the laws of the State of Tennessee relating to the recordation of deeds and other instruments conveying or affecting title to real property.

1.22 Recorder. "Recorder" shall mean and refer to the Register of Deeds of Hamilton County, Tennessee.

1.23 Supplemental Declaration. "Supplemental Declaration" shall mean any declaration filed subsequent in time to this Declaration in accordance with Article 11, section 2.03 (a) hereof.

**ARTICLE II**  
**PROPERTIES, COMMON PROPERTIES AND**  
**IMPROVEMENTS THEREON**

2.01 Property. The Covenants set forth in this Declaration, as amended from time to time, are hereby imposed upon the real property located in Hamilton County, in the State of Tennessee [REDACTED] which shall hereafter be held, transferred, sold, conveyed, used, leased, occupied and mortgaged or otherwise encumbered subject to the Declaration. Additionally, any easements on any real property retained by or granted to the Developer or the Association for the purpose of carrying out one or more of the functions of a homeowners' association including, but not limited to, exercising all the powers and privileges and performing all the duties and obligations set forth in this Declaration. Every person who is an Owner shall be a member of the Association as more particularly set forth in the By-Laws of the Association. Lot 1 Hawk's Cove is a designated detention pond with additional dention ponds behind lots 4 and 5.

2.02 Association. The Developer has caused, or may in the future cause, the Association to be formed and incorporated under the laws of the State of Tennessee for the purpose of carrying on one or more of the functions of a homeowner's association including, but not limited to, exercising all the powers and privileges and performing all the duties and obligations set forth in this Declaration. Developer shall retain control of the Development and may exercise all the powers and privileges and perform all duties and obligations set out in this Declaration and the Bylaws until such time as Developer explicitly grants powers it would otherwise have to the Board or another committee. Every person who is an Owner is and shall be a Member of the Association as more particularly set forth in the By-Laws of the Association, attached hereto and incorporated herein.

2.03 Additions to Property. Additional lands may become subject to, but not limited to, this Declaration in the following manner:

(a) Additions. The Developer, its successors, and assigns, shall have the right, without further consent of the Association, to bring within the plan and operation of this Declaration additional properties in future stages of the Development [REDACTED] with the development. For purposes of this paragraph, contiguity shall not be defeated or denied where the only impediment to actual "touching" is a separation caused by a road, right-of-way or easement, and such shall be deemed contiguous. The additions authorized under this Section shall be made by filing a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property after which it shall fall within the definition of Property as herein set forth.

The Supplementary Declaration may increase or decrease the minimum square foot requirements for a Dwelling Unit and contain such other complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Property as described in Section 2.01 above.

(b) Other Additions. Upon approval in writing of the Association pursuant to seventy-five percent (75%) of the vote of those present in person or by proxy at a duly called meeting, the Owner of any property (other than the Developer) who desires to add it to the plan of these Covenants and to subject it to the jurisdiction of the Association, may file or record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient in the sole judgment of the Association to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration, but such modification shall have no effect on the Property described in Section 2.01 above.

(c) Separate Associations. For any additional property subjected to this Declaration pursuant to the provisions of this Section, there may be established by the Developer, an additional association limited to the owners and/or residents of such additional property in order to promote their social welfare, including their health, safety, education, culture, comfort and convenience, to elect representatives to the Board of the Association, to receive from the Association a portion, as determined by the Developer or the Board of Directors of the Association, of the annual assessments levied pursuant hereto and use such funds for its general purposes, and to make and enforce rules and regulations of supplementary covenants and restrictions, if any, applicable to such lands.

2.04 Mergers. Upon a merger or consolidation of the Association with another association, its Properties, rights and obligations may, by operation of law, be

transferred to another surviving or consolidated association or, in the alternative, the properties, rights and obligations may, by operation of law, be added to the Properties of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration.

2.05 Common Properties and Improvements Thereon. The Developer may install initially one or more entrance signs to the Development. The signs shall become part of the Common Properties when the Developer conveys the sign to the Association, at which time the Association shall become responsible for the operation, maintenance, repair and replacement of the signs. The Developer may also landscape the entrance areas (whether privately or publicly owned) and other areas where it may or may not have reserved an easement. These areas shall become Common Properties when conveyed to the Association and the Association shall then become responsible for maintenance of the landscaped areas. Additionally, the Developer may install street lights and street signs and certain other improvements which shall likewise become Common Properties when conveyed to the Association. The Developer and the Association may add additional Common Properties from time to time as they see fit. The Common Properties shall remain permanently as open space, except as improved, and there shall be no subdivision of the same, except as otherwise provided herein. Except as permitted by the Developer, no building, structure or facility shall be placed, installed, erected or constructed in or on the Common Properties unless it is purely incidental to one or more of the uses above specified. The Developer may reserve to itself or its designees the exclusive use of any portion of the Common Properties for the placement and use of a mobile home or similar structure for use as a sales office and as storage areas or construction yards as may be reasonably required, convenient or incidental to the sales of Lots and/or the construction improvements on the Common Properties.

**ARTICLE III**  
**COVENANTS, USES AND RESTRICTIONS**

3.01 Application. It is expressly stipulated that the Restrictive Covenants and Conditions set forth in this Article III apply solely to the Property [REDACTED] which Property is intended for use as single-family residential Lots only. These Restrictive Covenants and Conditions are not intended to apply to any other lots, tracts or parcels of land in the area or vicinity owned by the Developer. Specifically, the Developer, its successors or assigns reserve the right to use or convey such other lots, tracts and parcels with different restrictions.

**3.02 Residential Use.**

A. All of the Lots in the Development shall be, and be known and described as, residential lots, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than as provided in these Covenants and Restrictions and in supplements hereto, or except as provided for in a deed of conveyance from the Developer.

B. "Residential" refers to a mode of occupancy, as opposed to "business" or "commercial" or "mercantile" activity, and except where otherwise expressly provided, "residential" shall apply to temporary as well as permanent uses, and shall apply to vacant Lots as well as to buildings constructed thereon.

C. No Lot may be used as a means of service to business establishments or adjacent property, including, but not limited to supplementary facilities or an intentional passageway or entrance into a business or another tract of land, whether or not a part of the Property, unless consented to in writing by the Developer or the Board.

3.03 No Multi-Family Residences. Business. No residence shall be designed, patterned, constructed or maintained - to serve or for the use of more than one single family, and no residence shall be used as a multiple family Dwelling Unit at any time. Provided, however, that nothing herein contained shall be construed to prohibit the construction of attached single family residences in areas designated by the Developer for such construction. No trade or business may be conducted in or from any Dwelling Unit, except that an Owner or Occupant residing in a Dwelling Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (ii) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Developer with respect to its development and sale of the Property or its use of any Dwelling Units which it owns within the Property. Nothing contained herein shall prohibit the Developer or the Association from permitting, maintaining or operating concessions or vending machines on the Common Properties.

3.04 Minimum Square Footage. No single-family detached Dwelling Unit shall be erected or permitted to remain in the Property unless it has the minimum number of square feet of enclosed living area measured from the exterior walls, exclusive of open porches or screened porches, garages or basements, set forth in this Section. For the purposes of this Section, stated square footage shall mean the minimum floor area required, and floor area shall mean the finished and heated living area contained within the Dwelling Unit, exclusive of porches, decks, garages and steps. In the case of any

question as to whether a sufficient number of square feet of enclosed living area have been provided, the decision of the developer shall be final. The minimum number of square feet required may vary from phase to phase. Each phase shall have its own restrictive covenants. The minimum number of square feet required in this phase is as follows.

- (a) All single family homes shall have no less than sixteen hundred (1600) square feet with an attached two car garage.
- (b) No split foyers shall be allowed.

3.05 Set-Backs. No building shall be erected on any Lot nearer than twenty-five (25) feet to the front Lot line, twenty-five (25) feet from the rear Lot line, and ten (10) feet from the side Lot lines, unless the side Lot line fronts on a street, in which case no building shall be erected nearer than twenty (20) feet to such side Lot line. For the purposes of this covenant, steps and open porches or decks shall not be considered as part of the building, provided, however, this shall not be construed to permit any portion of the building on the Lot to encroach upon another Lot. No provision of this paragraph shall be construed to permit any structure to be constructed and erected upon any Lot that does not conform to the zoning laws and regulations applicable thereto; provided, however, that for good cause shown, an Owner may petition the Developer for a variance from such set-back requirements. Such variances may be granted or rejected by the Developer or in his sole and absolute discretion.

3.06 Rearrangement of Lot Lines. Not more than one Dwelling Unit shall be erected or maintained on any one Lot. With the written approval of the Developer or the Board of Directors, contiguous Lots may be combined if the Lots have the same Owner, for the purpose of erecting an approved Dwelling Unit thereon; however, the assessments provided for herein will continue to be based upon the number of original Lots purchased. Except as provided in section 3.41 hereof, Lots may not be resubdivided so as to create a smaller area than originally decided to a Lot Owner and as shown on the subdivision plat.

3.07 Temporary Structures. No part of any Lot shall be used for residential purposes until a completed Dwelling Unit, conforming fully to the provisions of these Covenants, shall have been erected thereon. The intent of this section is to prevent the use thereon of a garage, incomplete structure, trailer, barn, tent, outbuilding or other structure as temporary living quarters before or pending the erection of a permanent building. No structure of temporary character, including trailers and similar structures, shall be erected or permitted to remain on any Lot. No house may be moved from another location to any Lot in this Development.

Neither the foregoing nor any other section of this Declaration shall prevent the Developer or any builder approved by the Developer from constructing a house for use as a model home that may contain office-type furniture and be used for conducting the business of either selling that house or other houses within the Development, nor shall the foregoing or any other section of the Declaration prevent the Developer from designating a Lot or Lots from time to time for the temporary



placement of a trailer or other similar structure for use as an office and/or sales center by the Developer and/or approved builders at the sole discretion of the Developer.

3.08 Rainwater Drainage. Catch basins in drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person, other than Developer or the Association, may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. Developer hereby reserves for itself and the Association a perpetual easement across the property for the purpose of altering drainage and water flow.

3.09 Utility Easement. A perpetual easement is reserved on each Lot, as shown on the recorded plat, for the construction and maintenance of utilities such as electricity, gas, water, sewage, drainage, etc., and no structure of any kind shall be erected or maintained upon or over said easement.

3.10 Frontal Appearance. The frontal appearance must be in keeping with the overall look that is desired for the development.

3.11 Building Requirements.

- (a) Foundation. Any and all structures of any kind constructed on any lot shall have full masonry foundation, no exposed block, concrete or plaster shall be exposed to any exterior grade level.
- (b) Exterior of Front Elevation. As a part of the Architectural Design and Review process, the exterior of the front elevation may be brick, stone, EIFS (Exterior Insulated Finished Systems, also known as synthetic stucco or "Sto"), or genuine stucco that is steel-troweled cement, approved siding or a combination of the above.
- (c) Side and Rear Elevation. Side and rear elevation must be approved through Architectural and Design Review Process as set out in Article IV of this Declaration. Particular attention shall be given to the rear and side elevations that face any Common Property or street.
- (d) Windows. Design, size and placement of windows shall be approved by the developer. All windows shall be double paned. Windows facing the front of the house and any side elevation facing another street shall be wood or vinyl. Any windows not having mullions or grids must be approved by the developer. All windows must have brick Surround. Glazing on doors and windows shall be clear.
- (e) Awnings. No metal awnings shall be permitted.
- (f) Roof Pitch. Roof pitches shall, be at least 8/12 pitch. All roofing must be Twenty-Five (25) year dimensional shingles. All roof stacks, plumbing, etc. shall be placed on the rear slope of the roof when possible, so as not to show from the front elevation. Any exceptions to this must be approved by developer.

- (g) Gutters and downspouts. Gutters and down spouts shall be painted to match the house or trim color.
- (h) Siding. Siding can be vinyl or a fiber cement siding (e.g., Hardy Plank)
- (i) Skylights. Location and design of all skylights must be approved.
- (j) Solar Panels. No solar panels or collectors shall be allowed on any roof or in sight of any street or adjacent property.

3.12 Fences. All fences, walls and retainer walls must be approved by the developer. A drawing showing location, height, material and any other pertinent information required by the Developer shall be submitted. NO wire or chain link fences are allowed. Vinyl, wrought iron, wood, or aluminum fences may be approved by the Developer. All fences shall be painted or stained. No fence shall be allowed any closer to the street than the rear elevation of the Dwelling Unit. In the case of a corner lot, no fence shall be allowed closer to the side street than the side elevation facing that street. No fence shall be over six feet in height, Any fence joining Common Properties may be required to be of a specific design.

3.13 Driveways and Sidewalks. Driveways and sidewalks shall be considered and treated as part of the landscaping. Each Dwelling Unit constructed upon a Lot must be served by a driveway and by walkways constructed of hard surface materials such as concrete, brick, exposed aggregate, or pre-cast pavers. All other hard surface materials must be approved in writing by the Developer. Where a Lot borders on more than one street, the Lot shall be entered from the secondary street. It shall be obligatory on all Owners of Lots in this subdivision to construct or place any driveways, culverts or other structures, or gradings which are within the limits of any dedicated roadways, in strict accordance with the specifications therefor, as set forth on the recorded subdivision plat, in order that the roads or streets, which may be affected by such placement or construction, may not be disqualified for acceptance into the road system of Hamilton County, Tennessee. Sidewalks shall be completed when house is completed, or within one (1) year from purchase of lot. Developer may grant an extension if appropriate in its sole discretion.

3.14 Curbs. No permanent cuts may be made in the curbs for any purpose other than driveways. Curb cuts shall be made with a concrete saw at the curb and along the gutter. Irregular cuts Using sledge hammers and the like are prohibited. Driveways shall be added so as to form a smooth transitional surface with the remaining curb at locations where the approved driveway locations meet the street. Damaged curbs shall be replaced by the Owner of the adjoining Lot. Notwithstanding the foregoing, nothing herein shall permit any curb cuts where such cuts are prohibited by any applicable city, county or state regulation, ordinance or law.

3.15 Signs. One sign offering the Lot and/or Dwelling Unit for sale and one sign reflecting the name of the builder may be placed Upon a Lot. Upon sale of any Lot to an Owner, or upon sale of any Lot owned by a Builder upon which a speculative Dwelling Unit is constructed or is being constructed, one sign reflecting that such Lot and/or Dwelling Unit is sold may be placed upon the Lot. Such signs must be in a form

approved by the Developer. No other signs shall be erected or maintained on any Lot, except in accordance with approved standards for signs as set by the Developer. Nothing in the foregoing shall be construed to prevent Developer from erecting and maintaining signs at the entrance of the Development as provided herein.

3.16 Service Area. Each Dwelling Unit shall provide an area or areas on the, rear or side yard of the Lot to accommodate air conditioner compressors, garbage cans, the electrical service entrance, or other ancillary residential functions that by nature may present an unsightly appearance. Service areas shall be convenient to the utility services and screened from public view by an enclosure that is an integral part of the site development plan (the site development plan being more fully described in paragraph 4.01 C hereof), using materials, colors or landscaping that are harmonious with the Dwelling Unit it serves.

3.17 Garages. Each Dwelling Unit shall have at least a double car garage constructed at the same time as the Dwelling Unit. Detached garages will be allowed only with written approval from the Developer. No carports will be permitted. Garage doors may face the street upon which the Dwelling Unit fronts only if the Developer has given written approval for such configuration and as part of such approval, the Developer may require specific types and/or modifications to the proposed garage doors. The inside walls of garages must be finished. Garage doors may not be allowed to stand open.

3.18 Landscaping. A landscape plan shall accompany every new home application (the new home application being more particularly described in paragraph 4.01 C hereof) submitted to the Developer for approval. Developer may require ornamental trees to be planted as a part of the landscaping plan. The type, size and placement shall be determined by Developer. On a corner lot, Owner may be required to place said tree on each side of the lot facing a street. If a Dwelling Unit has a rear exterior which faces Common Property, another Lot, or Street, the Developer may require the placement of up to four (4) four inch (4") caliper trees in the rear of the lot, or other acceptable landscape buffer to provide screening for the Dwelling Unit. Landscaping in accordance with the approved landscape plan must be substantially completed before the unit is occupied. Shrubbery plantings adjacent to roadways and sidewalks shall not impede the vision of vehicle operators. No artificial plantings will be allowed. Sidewalks and driveways shall be considered and treated as part of the landscaping.

3.19 Unightly Conditions. All of the Lots must, from the date of purchase, be maintained by the Owner or Builder in a neat and orderly condition (grass being cut when needed, as well as leaves, broken limbs, dead trees and other debris being removed when needed). Tree limbs, rocks and other debris must be kept out of the streets. In the event that an Owner of a Lot, including an Owner who is a Builder, fails, of his own volition, to maintain his Lot in a neat and orderly condition, Developer, or its duly appointed agent, or the Board, or its duly appointed agent, may enter upon said Lot without liability and proceed to put said Lot into an orderly condition and shall bill the Owner two hundred per cent (200%) of the cost of such work. All Owners in the Development shall keep cars, trucks and delivery trucks off the curbs of the streets.

3.20 Animals. No poultry, livestock or animals shall be allowed or maintained on ally Lot at any time except that the keeping of dogs, cats or other household pets is permitted provided, however, that nothing contained herein shall permit the keeping of dogs, cats or other animals for commercial purposes. Pet owners shall not allow pets to roam unattended. The pet owner shall muzzle any pet which consistently barks. If barking persists the pet owner shall have the pet removed from the Development. If the pet owner refuses, it shall be deemed an "11offensive activity". Nothing contained herein shall be deemed to permit the keeping of an unreasonable number of pets, or the keeping of any animal deemed to be a danger to other residents, Developer or the Board of Directors shall, in their sole discretion, have the authority to determine what constitutes an "unreasonable" number or a "dangerous" pet. No dog pens, kennels or such shall be allowed without the written consent of Developer or the Board.

3.21 Zoning. Whether expressly stated so or not in any deed conveying any one or more of the Lots, each conveyance shall be subject to existing governmental zoning and subdivision ordinances or regulations in effect thereon.



3.23 Offensive Activity. No noxious or offensive activity shall be carried on any Lot, nor shall anything be done thereon that may be or may become an annoyance, discomfort, embarrassment or nuisance to the Development.

3.24 No Detached Buildings. There shall be no detached garages, outbuildings or servants quarters without the prior written consent of the Developer.

3.25 Sewage Disposal. Before any Dwelling Unit on any Lot shall be occupied, a connection with the sewer system meeting applicable municipal codes shall be made. There shall not be erected, permitted, maintained or operated on any Lot any privy, cesspool, vault or septic system without the written approval of the Developer or the Board.

3.26 Permitted Entrances. In order to implement and effect insect, reptile and woods fire control, and to maintain unsightly Lots, the Developer or the Board, or their respective agents, may enter upon any Lot on which a Dwelling Unit has not been constructed and upon which no landscaping plan has been implemented, such entry to be made by personnel with tractors or such other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Developer or the Board detracts from the overall beauty, setting and safety of the Property or Lots. Such entrance for the purpose of mowing, removing, clearing, cutting or pruning shall not be deemed a trespass. The Developer and its agents or the Board and its agents may likewise enter upon a Lot to remove any trash which has collected on said Lot without such entrance and removal being deemed a trespass. The provisions of this Section shall not be construed as an obligation on the part of the Developer and its agents or the Board and its agents to mow, clear, cut or prune any Lots or to provide garbage & trash removal services. Expenses incurred for any of the foregoing shall be chargeable to and recoverable from the Owner of the Lot upon which such work is done.

3.27 Tanks and Garbage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view, and such tanks or receptacles may be installed only within a Dwelling Unit, within a screened area or buried underground. All garbage and trash containers Must be placed in enclosed areas of the rear or side yard and must not be visible from adjoining Lots, houses or from any street.

3.28 Wells No private wells may be drilled or maintained on any Lot without the prior written consent of the Developer.


3.29 Excavation. No Owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which would materially affect the surface grade of a Lot unless the prior written consent of the Developer is obtained.

3.30 Sound Devices. No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed upon Lots within the Development. The playing of loud music from any balconies or porches shall be offensive, obnoxious activity constituting a nuisance.

3.31 Laundry. No Owner, guest or tenant shall hang laundry from any area within or outside a Dwelling Unit if such laundry is within the public view, or hang laundry in public view to dry, such as on balcony or terrace railings.

3.32 Mailboxes. Each and every house shall have the same mailbox and post. These will be selected by the Developers and each builder shall be made aware of the approved mailbox, and where it can be obtained.

3.33 Duty to Rebuild or Clear and Landscape Upon Casualty or Destruction. In order to preserve the aesthetic and economic value of all Lots within the Development, each Owner and Developer (with respect to improved property owned by Developer) shall have the affirmative duty to rebuild, replace, repair or clear and landscape within a reasonable period of time, any building, structure, improvements, and significant vegetation which shall be damaged or destroyed by fire or other casualty. Variations and waivers of this provision may be made only upon Developer or the Board of Directors establishing that the overall purpose of these Covenants would be best effected by allowing such a variation. Variations to this section are to be strictly construed and the allowance of a variance by the Developer or the Board of Directors shall not be deemed to be a waiver of the binding effect of this section upon all other Owners.

3.34 Vehicle Parking. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designated for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels),  like shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have cur-rent operating licenses shall not be permitted, except within enclosed garages. Vehicles of any type must not be parked on the street for a

*Change*

period exceeding twenty four (24) hours. Vehicles of any type also must not be parked on a sidewalk at any time. Notwithstanding the foregoing, service and delivery vehicles may be parked in the driveway of a lot during daylight hours for such period of time as is reasonably necessary to provide service or make a delivery to a lot. Any vehicle which is parked in violation of this paragraph may be towed by the Board of Directors at the Owner's expense. This paragraph shall not apply to any commercial vehicles providing service or making deliveries to or on behalf of the Association or Developer or their agents. No more than two vehicles shall be parked in the driveway for a length of time exceeding ten consecutive days without moving.

3.35 Maintenance. Each Lot Owner shall, at all times, maintain all structures located on such Lot, including driveways and permitted fences in good repair which shall include exterior painting as needed, and each Lot Owner shall keep all vegetation and landscaping in good and presentable condition.

3.36 Approved Builders. Only Builders who have been approved by Developer shall be permitted to construct Dwelling Units in the Development. The Developer shall maintain a list of approved Builders, which list shall be made available to lot owners and prospective purchasers. The Developer may, from time to time, add or delete Builders on this list. The addition or deletion of Builders shall be at the sole discretion of the Developer. No builder shall be permitted to construct a Dwelling Unit on a Lot until the builder has applied for and received written approval of the approved Builders status. This approval shall be at the sole discretion of the Developer. Each Builder must be a licensed general contractor.

3.37 Occupancy Before Completion. No building unit shall be occupied until the dwelling house has been completed. The only exception may be considered in the case of landscaping etc., -due to inclement weather or other excusable conditions. Any exception shall be approved by the Developer.

3.38 Developer Reserves the Right. Notwithstanding any other provisions herein to the contrary, the Developer reserves unto itself, its successors and assigns, the following rights, privileges and powers: to subdivide Lots, to combine Lots or parts of Lots, to rearrange boundaries of Lots, to cause, any part of any Lot to become a part of the Common Properties, and to cause portions of the Common Property Lots to become part of any of the Lots bordering them, provided that not more than five thousand (5,000) square feet of any one given Common Property Lot may be added to any one given Lot bordering it, and provided that not more than five thousand (5,000) square feet of any one given Common Property Lot may be added to the Lots bordering it.

3.39 Lawn Care. All unimproved Lots (except those owned by the Developer) and all improved Lots must be kept fully seeded with grass (except where other provisions of this Declaration require sodding) and regularly cut.

3.40 Fireplaces. All fireplace inserts must be capped with a shroud at the point where the flue reaches the top of the chimney. The design of and materials for the shroud must be approved in writing by the Developer.

3.41 Adjoining Lot Damage. Any damage done to any adjacent or adjoining Lot or by a Builder employed to build improvements on any Lot will be repaired immediately at the expense of the Owner or the Builder. Temporary construction support must be provided for the curbs and sidewalks by the Owner or contractor during the time of construction. All construction debris shall be removed at least weekly and the street must be kept clean during construction.

3.42 Material Quality. Only good quality materials and design will be accepted on any structure built on any Lot. Asbestos shingles are specifically prohibited. No concrete blocks shall be used above the finished ground elevation of any structure unless said blocks are covered with brick veneer, stone or other material acceptable to the Developer.

3.43 Air Conditioning and Heating Units. Air conditioning and heating units shall be architecturally screened or landscaped so as not to be visible from any street.

3.44 Sodding. Prior to occupancy of a Dwelling Unit, the front and side yards to the rear elevation of the Dwelling Unit must be sodded. Prior occupancy may be approved by the Developer if weather conditions prohibit sodding. The remainder of the lot may be seeded and strawed.

3.45 Exterior Finish Materials. All exterior finish materials, including without limitation siding, roofing, gutters, windows and doors, and any finish applied to such materials, and including without limitation all paints or stains, mortar or cement, must be approved in writing by the Developer.

3.46 No Waterway Use or Dumping. No boat or rafts of any kind shall be permitted upon, nor shall any swimming be permitted in, any pond, lake, waterway, etc. on the Common Properties. No garbage, trash or other refuse shall be dumped in any pond, lake, waterway, etc. of the Development. Owners will be assessed a Five Hundred Dollar (\$500.00) fine for each violation of this provision in addition to assessments for the cost of removal. The Developer shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the property.

3.47 Decks. All exterior wood decks and railings on dwelling units whose rear yard adjoins a street or public right of way must be water sealed and/or stained in accordance with the requirements of the Developer.

3.48 Swimming Pools. No above ground swimming pools will be permitted. All pools shall be inground and shall be fenced. Design, placement and construction details shall be submitted to Developer for approval of inground swimming pools. Fencing must also be approved by Developer.

3.49 Spas and Hot Tubs. Spas and hot tubs must be Submitted for approval by the Developer and must be screened from ~~any~~ street or adjacent property. If placed on decks, screening shall be placed around decking to conceal any motors, pipes, etc.

3.50 Renting or Leasing. No Dwelling Unit may be rented or leased for a period of time that is less than one (1) year. Every Owner shall cause all occupants of a leased Dwelling Unit to comply with these Covenants and Restrictions and Bylaws. Owner shall be responsible for all violations by such occupants.

3.51 Playground Equipment. No playground equipment, swing sets, basketball backboards, or similar equipment shall be permitted on any Lot without the written approval of the Developer. All Such equipment must be made of wood and blend with the natural surroundings. The Developer shall in its sole and absolute discretion determine whether or not any applications meet approval, and such approval shall be on a case-by-case basis and the approval of one application shall not be construed as the basis to approve other applications even if they are substantially similar in nature.

3.52 Damaged Structure. Any damaged or destroyed structure shall be promptly repaired or rebuilt to original state. If damage is beyond repair, the owner or insurance company shall make the site safe, and remove all debris and bring the lot back to the original state at their expense within six (6) months.

3.53 Modular Manufactured or Trailer Homes. No modular, manufactured or trailer homes shall be allowed. Only on the job stick built homes shall be allowed.

3.54 Obligation to Commence and Complete Construction. Each Owner, excepting the Developer, agrees that within twelve (12) months of the date on which they take title to a Lot, they will commence construction of a Dwelling Unit on that Lot. Once construction is commenced, each Owner shall continuously and diligently pursue such construction until complete, but in no case shall completion be more than 12 months from the date of commencement of construction. "Complete" shall mean that a final inspection and approval is granted by the governmental authority having the power to grant such approval, and shall also include completion of the landscaping in accordance with the landscape plan as required herein. Provided that for good cause shown, the Developer or the Board may grant an extension by written approval to an Owner who, in the opinion of the Developer or the Board in their sole and absolute discretion, has made a demonstrable good faith effort to comply with this provision.

An Owner who violates this requirement, and after receipt of notice of such violation from the Developer or the Board and the passage of a reasonable amount of time to commence construction, fails to commence, pursue or complete construction shall be liable for a fine of Five Hundred Dollars (\$500.00) for each month said Owner is in violation of this covenant. Proceeds collected under this provision shall be used to pay the annual operating expenses of the Association.

3.55 Violations and Enforcement. In the event of the violation, or attempted violation, of any one or more of the provisions of this Declaration, the Developer, its successors or assigns, including all parties hereinafter becoming Owners of any one or more of the Lots to which provisions of this Declaration apply, or the Board may bring an action or actions against the Owner in violation, or attempting violation, and the said Owner shall be further liable for such damages as may accrue, including any court costs and reasonable attorneys fees incident to any such proceeding, which costs and



fees shall constitute liquidated damages. In the event of a violation of set-back lines, side, rear or front which may be minor in character, a waiver thereof may be made by the Developer, its Successors or assigns, or the Board of Directors. Further, the Developer or the Board of Directors may grant variances of the restrictions set forth in this Declaration if such variances do not, in the sole discretion of the Developer or the Board of Directors, adversely affect the purposes sought to be obtained hereby,

By reason of the rights of enforcement of the provisions of this Section being given unto Owners of Lots (subject to rights of variances reserved by the Developer and the Board), it shall not be incumbent upon the Developer or the Board to enforce the provisions of these Covenants or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of these Covenants by any person other than itself.

#### **ARTICLE IV ASSESSMENTS**

4.01 Creation of the Lien and Personal Obligation of Assessments. Each Owner by acceptance of a deed conveying a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all of the terms and provisions of these Covenants and pay to the Association annual assessments or special assessments for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Owner of each Lot shall be personally liable, such liability to be joint and several if there are two or More Owners, to the Association for the payment of all assessments, whether annual or special, which may be levied while such party or parties are Owners of a Lot. The annual and special assessments, together with such interest thereon and costs of collection there for as hereinafter provided, shall be a charge and continuing lien on the Lot and on all the improvements thereon against which each such assessment is made. Unpaid assessments shall bear interest from the due date to the date of payment at the rate set by the Board, and said rate can be changed from time to time so that the rate is reasonably related to the economic situation. In the event that two or more Lots are combined into a single Lot by an Owner, the assessments will continue to be based upon the number of original Lots, and if any original Lot is subdivided, the assessment on such original Lot shall be prorated between the Owners based upon the square footage owned by each Owner. Neither the liability for assessments, nor the amount of assessments, shall be reduced or avoided due to the fact that all or any portions of the Common Properties or other portions of the property are not completed. If Owner leases a Lot and/or Dwelling Unit, Owner remains primarily liable for the assessments.

4.02 Purpose of Annual Assessments. The annual assessments levied by the Association shall be used to provide services to the Owners, promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Common Properties and for such other reasons consistent with these provisions, including but not limited to, construction of a clubhouse and/or swimming pool.

4.03 Amount of Annual Assessment. Until the transfer of governing authority from the Developer to the Board takes place as described in the By-Laws, the amount

of the annual assessments shall be set by the Developer at such amount as the Developer, in its sole discretion, deems appropriate to promote the recreation, health, safety and welfare of the Members (as they are defined in the Bylaws). Thereafter the amount of the annual assessments shall be set by the Board of Directors unless seventy-five per cent (75%) of the Members who are in attendance or represented by proxy vote to increase or decrease the said annual assessment set by the Board. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws.

4.04 Special Assessments for Improvements and Additions. In addition to the annual assessments, the Developer or Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, or the cost of any addition to the Common Properties, provided that any such assessment shall have the assent of **seventy-five per cent (75%) of the vote** of the Members who are in attendance or represented at a duly called meeting of the Association, written notice of which shall have been sent to all Members at least **thirty (30) days** in advance setting forth the purpose of the meeting. (This does not apply until transfer from Developer to Board.) At any such meeting, the Developer shall have the number of votes provided in the Bylaws.

4.05 Property Subject to Assessment. Only land within the Property which has been subdivided into Lots, and the plats thereof filed for public record, shall constitute a Lot for purposes of these assessments.

4.06 Exempt Property. No Owner may exempt himself from liability for any assessment levied against his Lot by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Lot in any other way.

The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from the assessment, charge and lien created herein:

- (a) The grantee of a utility easement.
- (b) All properties dedicated and accepted by a local public authority and devoted to public use.
- (c) All common Properties as defined in Article I hereof.
- (d) All properties exempted from taxation by the laws of the State of Tennessee upon the terms and to the extent of such legal exemptions. This exemption shall not include special exemptions, now in force or enacted hereinafter, based upon age, sex, income levels or similar classifications of the Owners.
- (e) Developer-owned and Builder-owned Lots; provided however, the assessments will be due once Builder has transferred lots to a new Owner or Developer has transferred a lot to an Owner that is not a builder.

Notwithstanding the foregoing, Builder will be responsible for assessments twenty-four (24) months from date he/she took title to the Lot.

4.07 Date of Commencement of Annual Assessments.

A. The annual assessments provided for herein shall commence on the first day of a month following transfer of title to the Owner from the Developer or Builder. The annual assessment shall be due and payable on the first ("1") day of the year. The amount of the first annual assessment shall be pro-rated at the time of title transfer. If less than six (6) months remain in the calendar year, Owner shall pay at the time of title transfer the pro-rata amount of the remainder of the current year, plus the following year's annual assessment. Thereafter, payment is due annually on the first ("1") day of each year and shall be considered late and subject to penalty and interest after thirty (30) days.

B. The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

4.08 Lien. Recognizing that the necessity for providing proper operation and management of the Property entails the continuing payment of costs and expenses therefor, the Association is hereby granted a lien upon each Lot and the improvements thereon as security for the payment of all assessments against said Lot, now or hereafter assessed, which lien shall also secure all costs and expenses and reasonable attorneys fees which may be incurred by the Association in enforcing the lien upon said Lot. The lien shall become effective on a Lot immediately upon the closing of the Lot. - The lien granted to the Association may be foreclosed as other liens are foreclosed in the State of Tennessee. Failure by the Owner or Owners to pay any assessment, annual or special, on or before the due dates set by the Association for such payment shall constitute a default, and this lien may be foreclosed by the Association.

4.09 Lease, Sale or Mortgage of Lot. Whenever any Lot may be leased, sold or mortgaged by the Owner thereof, which lease, sale or mortgage shall be concluded only upon compliance with other provisions of this Declaration, the Association, upon written request of the Owner of such Lot, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the Owner of such Lot; and such statement shall also include, if requested, whether there exists any matter in dispute between the Owners of such Lot and the Association under this Declaration. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Lot is to be leased, sold or mortgaged at the time when payment of any assessment against said Lot shall be in default, then the rent, proceeds of the sale or mortgage shall be applied by the lessee, purchaser or mortgagee first to the payment of any then delinquent assessment or installments thereof due to the

Association before payment of any rent, proceeds of sale or Mortgage to the Owner of any Lot who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Lot, the grantee(s) shall be jointly and severally liable with the grantor(s) for all unpaid assessment against the grantor(s) and the Lot made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee(s) to recover from grantor(s) the amounts paid by the grantee(s) therefor.

## ARTICLE V REGISTER OF OWNERS AND SUBORDINATION OF LIENS TO MORTGAGES

5.01 Examination of Books. Each Owner and each Mortgagee of a Lot shall be permitted to examine the books and records of the Board and Association during regular business hours.

5.02 Common Properties and Deposits. No First Mortgagee shall be obligated to construct any Common Properties and shall not be liable for any fees or deposits held hereunder unless the same are actually received by such First Mortgagee through foreclosure or any other lawful method.

## ARTICLE VI REMEDIES ON DEFAULT

6.01 Scope. Each Owner shall comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations of the Association as they presently exist or as they may be amended from time to time, and each Owner shall be responsible for the actions of his or her family members, servants, guests, occupants, invitees or agents.

### 6.02 Grounds For and Form of Relief.

(a) Failure to comply with any of the Covenants of the Declaration, the Bylaws or the Rules and Regulations promulgated by the Developer or Board which may be adopted pursuant thereto shall constitute a default and shall entitle Developer or the Association to seek relief Which may include, without limitation, an action to recover any unpaid assessment, annual or special, together with interest as provided for herein, any sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Developer or the Association or, if appropriate and not in conflict with the provisions of this Declaration or the Bylaws, by an aggrieved Owner.

(b) The Developer or Board of Directors shall have the power to impose reasonable fines which shall constitute an automatic and continuing lien upon a Lot of the violating Owner, to suspend an Owner's right to use the Common Properties, and to preclude Builders, contractors, subcontractors, agents and other invitees of an Owner or occupant from the Property for violation of any duty imposed under the Declaration or the By-Laws, provided, however, that nothing herein shall authorize the Developer, Association or the Board of Directors to limit an Owner's or occupant's ingress and egress to or from a Lot. In the event that any occupant of a Lot violates the Declaration or the By-Laws, and a fine is imposed, the fine shall first be assessed against the occupant residing therein provided, however, that if the fine is not paid by the occupant Within the time period set by the Developer or Board of Directors, the Owner shall pay the fine upon notice from the Association. The failure of the Developer or Board of Directors to enforce any provision of the Declaration or By-Laws shall not be deemed a waiver of the right of the Developer or Board of Directors to do so thereafter,

(c) Prior to imposition of any sanction hereunder for any reason other than nonpayment of assessments or other charges, the Developer or Board of Directors or its delegate shall serve the accused with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) a period of not less than ten (10) days within which the alleged violator may present a written request to the Developer or Board of Directors for a hearing, and (d) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge has been requested within ten (10) days of the notice.

(d) If a hearing is requested Within the allotted ten (10) day period, the hearing shall be held in executive session of the Developer or Board of Directors at the next regularly scheduled meeting or at a Special Meeting affording the accused a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the accused appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any. The Developer or Board of Directors may, but shall not be obligated, to suspend any proposed sanction if the violation is cured within the ten (10) day period. Any suspension shall not constitute a waiver of the rights to sanction future violations of the same or other provisions by any person.

(e) Notwithstanding anything to the contrary herein contained, the Developer or Association may elect to enforce any provisions of the Declaration or the By-Laws by self help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

6.03 Recovery of Expenses. In any proceeding arising because of an alleged default by an Owner, the Developer or the Association, if successful, shall, in addition to the relief provided for in Section 5.03, be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be allowed by the court, but in no event shall the Owner be entitled to such attorneys' fees.

6.04 Waiver. Developer or the Board may choose, at its option, not to enforce any provision, covenant or condition herein. The failure of the Developer or the Association or an Owner to enforce any right, provision, covenant or condition which may be granted herein or the receipt or acceptance by the Association of any part payment of an assessment shall not constitute a waiver of any breach of a Covenant, nor shall same constitute a waiver to enforce such Covenant(s) in the future.

6.05 Election of Remedies. All rights, remedies and privileges granted to the Developer, the Association or an Owner or Owners pursuant to any term, provision, covenant or condition of this Declaration or the Bylaws shall be deemed to be cumulative and in addition to any and every other remedy given herein or otherwise existing, 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 available to any such party at law or in equity.

#### ARTICLE VII EMINENT DOMAIN

7.01 Board's Authority. If all or any part of the Common Properties (excluding personally) is taken or threatened to be taken by Eminent Domain, the Developer or the Board is authorized and directed to proceed as follows~

A. To obtain any pay for such assistance from such attorneys, appraisers, architects, engineers, expert witnesses and other persons, as the Developer or the Board in its discretion deems necessary or advisable to aid and advise it in all matters relating to such taking and its effect, including but not limited to (i) determining whether or not to resist such proceedings or convey in lieu thereof, (ii) defending or instituting any necessary proceedings and appeals, (iii) making any settlements with respect to such taking or attempted taking and (iv) deciding if, how and when to restore the Common Properties.

B. To negotiate with respect to any such taking, to grant permits, licenses and releases and to convey all or any portion of the Common Properties and to defend or institute, and appeal from, all proceedings as it may deem necessary and advisable in connection with the same.

C. To have and exercise all such powers with respect to such taking or proposed taking and such restoration as those vested in boards of directors of corporations with respect to corporate property, including but not limited to, purchasing, improving, demolishing and selling real estate.

7.02 Notice to Owners and Mortgagees. Each Owner and each First Mortgagee on the records of the Association shall be given reasonable written advance notice of all final offers before acceptance, proposed conveyances, settlements and releases contemplated by the Developer or the Board, legal proceedings and final plans for restoration, and shall be given reasonable opportunity to be heard with respect to each of the same and to participate in and be represented by counsel in any litigation and all hearings, at such Owner's or Mortgagee's own expense.

7.03 Reimbursement of Expenses. The Developer and/or the Board shall be reimbursed for all attorneys', engineers', architects' and appraisers' fees, and other costs and expenses paid or incurred by it in preparation for, and in connection with, or as a result of, any such taking out of the compensation, if any. To the extent that the expenses exceed the compensation received, such expenses shall be deemed a Common Expense.

7.04 Subordination to First Mortgage on Common Properties. Notwithstanding any provision herein to the contrary, the terms and provisions of this Article IX shall be subject and subordinate to the terms and provisions of any First Mortgage encumbering the Common Properties.

#### ARTICLE VIII GENERAL PROVISIONS

8.01 Duration. The Covenants of the Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Developer, the Board, the Association or an Owner, their respective legal representatives, heirs, successors and assigns, in perpetuity, unless amended or terminated as provided herein.

8.02 Amendments. This Declaration may be amended, modified or revoked in any respect from time to time by the Developer, in his sole and absolute discretion, prior to the date that the governing authority for the Development is transferred from the Developer to the Board of the Association in accordance with the Bylaws. Thereafter, this Declaration may be amended in accordance with the following procedure:

A. An amendment to this Declaration may be considered at any annual or special meeting of the Association; provided, however, that, if considered at an annual meeting, notice of consideration of the amendment and a general description of the terms of such amendment shall be included in the notice of the annual meeting provided for in the Bylaws, similar notice shall be included in the notice of the special meeting provided for in the Bylaws. Notice of any meeting to consider an amendment that would adversely affect Mortgagees rights shall also be sent to each Mortgagee listed upon the register of the Association.

B. At any such meeting of the members of the Association, the amendment must be approved by an affirmative seventy-five per cent (75%) vote of those Owners who are in attendance or represented at the meeting. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws.

C. An amendment adopted shall become effective upon its recording with the Recorder, and the President of the Association and Secretary of the Association shall execute, acknowledge and record the amendment and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of this Section; provided, that in the event of the disability or incapacity of either, the Vice-President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including without limitation, any Mortgagee, prospective purchaser, tenant, lienor or title insurance company that the amendment was adopted in accordance with the provisions of this Section.

D. The certificate referred to in Paragraph C of this Section shall be in substantially the following form:

I, [Signature] do hereby certify that I am the Secretary of the Hawks Cove Association, Inc. and that the within amendment to the Declaration of Covenants and Restrictions of the Hawks Cove Subdivision was duly adopted by the Owners of said Association, in accordance with the provisions of said Declaration.

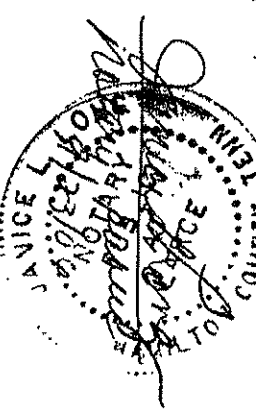
Witness my hand this 28th day of July 2004.

[Signature]  
Secretary  
Hawks Cove Association, Inc.

8.03 Deeds Conveying Dwelling Unit/Lot. Upon conveyance of any Dwelling Unit and for Lot, the conveying deed shall contain a reference to these Covenants and Restrictions.

8.04 Notices. Any notice required to be sent to any Owner or Mortgagee under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Owner or Mortgagee on their mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Owner to immediately notify the Secretary in writing of any change of address. Any notice required to be sent to the Board, the Association or any officer thereof, or the Developer under the provisions of this Declaration shall likewise be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to such ~~entity~~ person at the following address:

Hawk's Cove Subdivision





The address for the Board, the Association or any officer thereof, may be changed by the Secretary or President of the Association by executing, acknowledging and recording an amendment to this Declaration stating the new address or addresses. Likewise the Developer may change its address by executing, acknowledging and recording an amendment to this Declaration stating its new address.

9.05 Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared void, invalid, illegal or unenforceable, for any reason by the adjudication of any court or other tribunal having jurisdiction of the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force -and effect.

9.06 Captions. The captions herein are inserted only as a matter of convenience and are for reference and are in no way intended to define, limit or describe the scope of this Declaration nor any provision hereof.

9.07 Use of Terms. Any use herein of the masculine shall include the feminine, and the singular the plural, when such meaning is appropriate.

9.08 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

9.09 Law Governing. This Declaration is made in the State of Tennessee, and any question pertaining to its validity, enforceability, construction or administration shall be determined in accordance with the laws of that State.

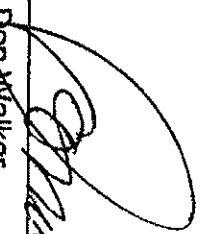
9.10 Effective Date. This Declaration shall become effective upon its recording in title office of the Register of Hamilton County, Tennessee.

IN WITNESS WHEREOF, the Developer has executed or caused to have executed by its duly authorized officers this Declaration on the date first above written.

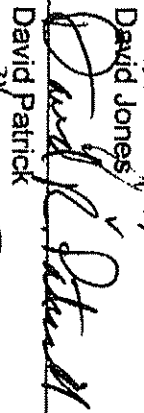
Hawks Cove Subdivision

By: Don Walker Construction

STATE OF TENNESSEE  
COUNTY OF HAMILTON

  
\_\_\_\_\_  
Don Walker

  
\_\_\_\_\_  
David Jones

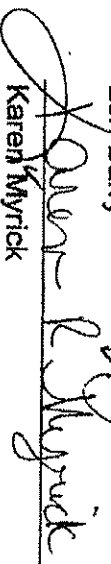
  
\_\_\_\_\_  
David Patrick

  
\_\_\_\_\_  
Kevin Barry

  
\_\_\_\_\_  
David Myrick

  
\_\_\_\_\_  
Donna Patrick

  
\_\_\_\_\_  
Lori Barry

  
\_\_\_\_\_  
Karen Myrick

STATE OF ✓

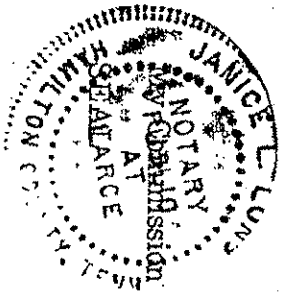
Book and Page: 61 7220 333

COUNTY OF ✓

On this 20th day of July 182004, before me personally appeared David Jones, to me known to be the person he described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.

Janice L Long  
Notary Public



Commission expires: 9/23/06

STATE OF ✓

COUNTY OF ✓

On this 20th day of July 182004, before me personally appeared Paul E. Myrick, to me known to be the person he described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.

Janice L Long  
Notary Public



Commission expires: 9/23/06

STATE OF ✓

Book and Page: 51 7220 334

COUNTY OF ✓

On this 27th day of July ~~1997~~, before me personally appeared Blaine H. Squire, to me known to be the person he described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.



Janice Elton  
Notary Public

9/23/99



STATE OF ✓

COUNTY OF ✓

On this 28th day of July ~~1997~~ before me personally appeared Don Walker, to me known to be the person he described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.



Janice Elton  
Notary Public

9/23/99



STATE OF ✓

COUNTY OF ✓

Book and Page: GI 7220 335

On this 27th day of July ~~1922~~, before me personally appeared Ruie Burg, to me known to be the person ~~all~~ described in and who executed the foregoing instrument, and acknowledged that she executed the same as she free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.

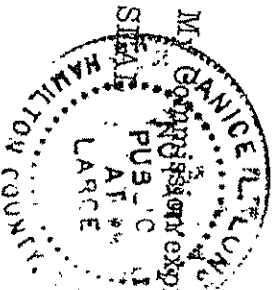
Janice L. Low  
Notary Public



STATE OF ✓  
COUNTY OF ✓  
On this 27th day of July ~~1922~~ before me personally appeared Ruie Burg, to me known to be the person ~~all~~ described in and who executed the foregoing instrument, and acknowledged that she executed the same as she free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.

Janice L. Low  
Notary Public



STATE OF ✓

Book and Page: GI 7220 335

COUNTY OF ✓

On this 17th day of July, ~~19 2014~~, before me personally appeared David E. Pettit, to me known to be the person he described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.

Janice Long  
Notary Public



STATE OF ✓

COUNTY OF ✓

On this 2th day of July, ~~19 2014~~ before me personally appeared Barbara Pettit, to me known to be the person she described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

IN WITNESS WHEREOF I have hereunto set my hand and Notarial Seal.

Janice Long  
Notary Public

