

9/24/84

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VADEM VILLAGE COMMUNITY

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This instrument was prepared by:
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617 Walnut Street
CHATTANOOGA, TN 37402

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VADEN VILLAGE COMMUNITY

THIS DECLARATION, made on the date hereinafter set forth by Byron DeFoor, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Chattanooga, County of Hamilton, State of Tennessee, which is more particularly described as:

BEGINNING at a point in the Southern line of Vaden Drive at the Northeast corner of Lot Seven (7), Hilltop Subdivision; thence South sixty-seven (67) degrees three (03) minutes Twenty (20) seconds East, along the Southern line of Vaden Drive, Seven Hundred Seventeen and 98/100 (717.98) feet to a point at the Northwest corner of Lot Three (3), Otto Varner's Resubdivision of Ballard's Vaden Drive Tract, as shown by plat of record in Plat Book 27, page 302, in the Register's Office of Hamilton County, Tennessee; thence South Twenty-three (23) degrees Twenty-one (21) minutes Fifty (50) seconds West, along the Western line of said Lot Three (3) and Lot Two (2), said subdivision, Two Hundred Seventy-four and 44/100 (274.44) feet to a point in Lot Two (2); thence South Fifty-two (52) degrees Four (04) minutes Fifty (50) seconds West, along the Western line of Lot Two (2) said subdivision, and the Western line of the property conveyed to Associates Title Guaranty, Inc., by deed recorded in Book 2932, page 574, in the Register's Office of Hamilton County, Tennessee, passing the Northwest corner of said Lot One (1) at Two Hundred six and 7/10 (206.7) feet, in all Five Hundred Sixty and 5/10 (560.5) feet to a point in the Northern line of Ballard Drive; thence North Sixty-six (66) degrees Nineteen (19) minutes West, along the Northern line of Ballard Drive Fifty-nine and 49/100 (59.49) feet to the Southeast corner of Lot One (1), Division of Retirement Centers of America Investors Tract, as shown by plat of record in Plat Book 34, page 98, in the Register's Office of Hamilton County, Tennessee; thence North Twenty-three (23) degrees Thirty-two (32) minutes Ten (10) seconds East, along the Eastern line of Lot One (1), Five Hundred Thirty-six and 75/100 (536.75) feet to a point in the Northeast corner thereof; thence North Sixty-six (66) degrees Twenty-three (23) minutes West, along the Northern line of said Lot One (1), Three Hundred Ninety and 79/100 (390.79) feet to a point in the Northwest corner thereof, said point being in the Eastern line of Lot Nine (9), Hilltop Subdivision; thence along the Eastern line of Lots Nine (9), Eight (8) and Seven (7), Hilltop Subdivision Two Hundred Twenty-one and 55/100 (221.55) feet to the point of beginning.

For prior title, see Deed of Warranty recorded in Book 2638, page 579, in the Register's Office of Hamilton County, Tennessee.

SUBJECT to any governmental zoning and subdivision ordinances or regulations in effect thereon.

SUBJECT to Stipulation on subdivision plat that a Ten (10) foot Drainage Easement straddles all side and rear lot lines of the tract shown in Plat Book 27, page 275, in the Register's Office of Hamilton County, Tennessee.

SUBJECT to Perpetual Easement, upon, over and along a strip of land Ten (10) feet in width, as described in instrument recorded in Book 2501, page 724, in the Register's Office of Hamilton County, Tennessee.

SUBJECT to sanitary sewer easement as set out in instrument recorded in Book 2345, page 156, in the Register's Office of Hamilton County, Tennessee.

SUBJECT to Sanitary Sewer Easement as set out in instrument recorded in Book 2495, page 564, in the Register's Office of Hamilton County, Tennessee.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Section 1. "Association" shall mean and refer to Vaden Village Homeowner's Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to and Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

BEGINNING at a point in the Southern line of Vaden Drive at its intersection with the northwestern corner of Lot Three (3), Ballard's Vaden Drive Tract, as shown by plat of record in Plat Book 27, page 302, in the said Register's Office; thence South Twenty-three (23) degrees Twenty-one (21) minutes Fifty (50) seconds West along the Western line of said Lot Three (3) and continuing along the Western line of Lot Two (2) of said subdivision, Two Hundred seventy-four and 44/100 (204.44) feet to a point; thence South Fifty-two (52) degrees Four (04) minutes Fifty (50) seconds West continuing along the Western line of Lot Two (2) and One (1) of said subdivision, One Hundred Three (103) feet, more or less, to a point; thence North Sixty-five (65) degrees Twenty (20) minutes West, Seven (7) feet, more or less, to a point; thence North Twenty-four (24) degrees Forty (40) minutes East, Two Hundred Forty-five and 59/100 (245.59) feet to a point; thence North Sixty-five (65) degrees twenty (20) minutes West, Fifty-five and 6/10 (55.6) feet to a point; thence South Eighty-nine (89) degrees Forty-nine (49) minutes West Sixty-nine and 2/10 (69.2) feet to a point in the Eastern line of a roadway; thence in a Northerly direction with a curve to the left along the Eastern line of said roadway, Sixteen and 9/10 (16.9) feet to a point; thence North Eighty-seven (87) degrees Fifty (50) minutes East, One Hundred Twenty-seven and 1/10 (127.1) feet to a point; thence South Sixty-seven (67) degrees Three (03) minutes Twenty (20) seconds East, Seventy-six and 57/100 (76.57) feet to a point; thence North Twenty-two (22) degrees Fifty-six (56) minutes Forty (40) seconds

East, Ninety-four and 5/10 (94.5) feet to a point in the Southern line of Vaden Drive; thence South Sixty-seven (67) degrees Three (03) minutes Twenty (20) seconds East along the Southern line of Vaden Drive, Thirty (30) feet, more or less, to the point of beginning. Said tract being that designated as "Community Lot" by survey dated November, 1984, by Hopkins-Morton Engineering Co., Inc.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Byron DeFoor, his successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions.

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its unpublished rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of use. Any owner may delegate in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) January 1, 1986.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property

against which each such assessment is made. Each such assessments, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to the Owner, the maximum annual assessment shall be Three Hundred and No/100 (\$300.00) Dollars per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment as an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

EXTERIOR MAINTENANCE

In the event an owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3: Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore

it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, in the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned being the Declarant herein has hereunto set its hand and seal this 25th day of July, 1985.

DECLARANT [Signature]
BY: [Signature]
BYRON DEFOOR

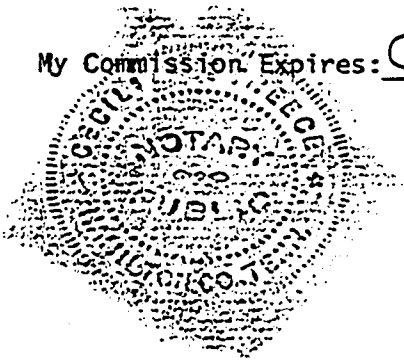
STATE OF TENNESSEE
COUNTY OF HAMILTON

On this 25th day of July, 1985, before me personally appeared
BYRON DEFOOR, to me known (or proved to me on the basis of satisfactory evidence)
to be the person described in and who executed the foregoing instrument and acknowledged
that he executed the same as his free act and deed.

WITNESS my hand and Notarial Seal.

Lucia E. Queen
NOTARY PUBLIC

My Commission Expires: June 24, 1989.



J 0 7 6 6

IDENTIFICATION
REFERENCE

AUG 14 9 34 AM '85

08/14/85 MISC

33.00

**33.00 A

DOROTHY P. BRAMMER
REGISTER
HAMILTON COUNTY
STATE OF TENNESSEE