

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VILLAS AT MONTGOMERY PLACE

This Instrument was Prepared by:

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

VILLAS AT MONTGOMERY PLACE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (hereinafter referred to as the "Declaration") is made this 11th day of August, 2002, by Jones Land Company, LLC, a Tennessee limited liability company (hereinafter referred to as "Declarant");

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property as is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) 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 subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of the Tennessee Horizontal Property Act, Tenn. Code Ann. Section 66-27-101, *et seq.*

Article I
Definitions

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration or by contract become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility.

Section 2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of McKays Mill Multi-Family Subassociation, Inc., as filed with the Secretary of State of the State of Tennessee.

Section 3. "Association" shall mean and refer to McKays Mill Multi-Family Subassociation, Inc., a Tennessee nonprofit corporation, its successors or assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Tennessee corporate law.

Section 4. "Base Assessment" shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

Section 5. "By-Laws" shall mean and refer to the By-Laws of McKays Mill Multi-Family Subassociation, Inc., to be recorded subsequent to this Declaration, and incorporated herein by reference, as they may be amended from time to time.

Section 6. "Class "B" Control Period" shall mean and refer to the period of time during which the Declarant, as the Class "B" Member, is entitled to appoint at least a majority of the members of the Board of Directors, as provided in Article IV, Section 2(b), of the Declaration.

Section 7. "Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners. The initial Common Area shall be conveyed to the Association prior to the conveyance of a Unit to any Unit purchaser other than Declarant or a builder holding title for the purpose of development and resale.

Section 8. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

Section 9. "Community Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Design Review Committee.

Section 10. "Declarant" shall mean and refer to Jones Land Company, LLC, a Tennessee limited liability company, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 11. "Master Declaration" shall mean and refer to the Declaration of Protective Covenants and Owners' Association for Reunion.

Section 12. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 13. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 14. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 15. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 16. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 17. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

Section 18. "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 19. "Special Assessment" shall mean and refer to assessments levied in accordance with Article XI, Section 3 of this Declaration.

Section 20. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

Section 21. "Unit" shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use and occupancy as a detached residence for a single family. The term shall include all portions of the lot owned, including any structure thereon.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units planned for such parcel until such time as a certificate of occupancy is issued on all or a portion thereof by the local government entity having jurisdiction, after which the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

Article II Master Declaration

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property hereafter subjected to this Declaration by Supplemental Declaration shall be held, sold and conveyed subject to the Master Declaration of record in Book 1649, page 339, Register's Office for Williamson County, Tennessee. Pursuant to the Master Declaration, the McKays Mill Multi-Family Subassociation Area is designated a Delegate District.

Article III Property Rights

Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for Villas at Montgomery Place desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for Villas at Montgomery Place.

Article IV
Membership and Voting Rights

Section 1. Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Owner or the Owner's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

Section 2. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any:

Class "A" Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership-under Section 1 hereof; there shall be only one (1) vote per Unit.

In any situation in which more than one (1) person holds the interest in a Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member shall be entitled to, in its sole discretion, appoint the members of the Board of Directors during the Class "B" Control Period, subject only to of the Provisions of the By-Laws. For a period of one (1) year after the date of termination of the Class "B" Control Period the Declarant shall have the right to participate in the decision-making process and the right to disapprove all actions of the Board of Directors and any committee as provided in the By-Laws. The Class "B" Control Period shall terminate, and the Class "B" membership shall terminate and become converted to Class "A" membership, upon the earlier of:

(i) when seventy-five (75%) percent of the Units planned for the property described on Exhibits "A" and "B" of the Declaration have certificates of occupancy issued thereon and have been conveyed to Persons other than the Declarant or builders holding title solely for the purpose of development and sale; or

(ii) January 1, 2012.

Notwithstanding any provisions to the contrary contained in this Declaration or the By-Laws, during the Class "B" Control Period, any action, policy or program of the Association requiring approval by the vote of the Members of the Association shall not be taken or adopted until also approved in writing by the Class "B" Members.

Article V
Maintenance

Section 1. Maintenance of Common Area. The Association shall maintain and keep in good repair the Common Area, such maintenance to be funded as hereinafter provided, subject to any insurance then in effect. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement of all landscaping and other flora, structures, and improvements situated upon the Common Areas. Maintenance may also include such portions of any additional property included within the Common Areas as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association.

Except as otherwise specifically provided herein, all costs associated with the maintenance, repair and replacement of Common Areas shall be a Common Expense to be allocated among all Units as part of the Base Assessment.

The Association may maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 2. Maintenance. The Association shall maintain and keep in good repair the Units, exterior surfaces of the Units, parking areas, fences and other improvements comprising the Units in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association may, in its sole discretion, perform any or all of the following:

a) Provide exterior maintenance and repair for each Unit as follows: periodic painting of exterior building surfaces; repair, maintenance and, if necessary, replacement of roofs, gutters, downspouts and all exterior and all exterior building surfaces (excluding glass surfaces) for normal usage and wear and tear (excluding, for example, damage due to vandalism, fire or other casualty), in accordance with the rules established from time to time by the Association.

b) Maintain, repair and replace all walkways and driveways located on the Units.

c) Furnish grass cutting and ground, tree and shrub maintenance (including replacement when necessary) for unenclosed portions of the Units. Should any Owner, after received proper authorization, enclose any portion of his/her Unit by a fence, wall or other obstruction, the Association, may, in its sole discretion, provide grass cutting and ground, tree, and shrub maintenance services for the enclosed portion of the Unit, and impose a special charge therefor based upon the additional cost of rendering such services. Any such charge will be added to and become a part of the assessment levied upon such Unit.

d) Include in the annual assessments levied under Section XI of this Declaration a sum to be held in a repair and replacement or other such reserve account for payment of the cost of any major maintenance and repairs (such as regular exterior painting) required in the Subdivision so that such maintenance and repairs can be undertaken without special assessment; provided, however, in the event that the need for any maintenance or repair is caused by the wilful or negligent act of any Owner or his family, guests or invitees, the cost thereof shall be added to and become a part of the assessment upon such Owner's Unit.

This section shall not relieve the Owners from responsibility of maintaining and preserving the interior surfaces of the Units. No Owner shall make any improvements to or otherwise alter the Unit which is to be maintained by the Association without obtaining written permission from the DRC, as hereinafter defined. Upon receiving approval for alteration/improvement, the Association shall be responsible for the maintenance of any authorized alteration/improvement, however, the Association reserves the right to impose a special charge for such maintenance.

Article VI
Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to casualty insurance on the Common Area, the Association may, as a Common Expense, but shall not under any circumstances be obligated to, obtain and continue, in effect adequate blanket all-risk casualty insurance, if reasonably available, and if not reasonably available, fire and extended coverage, in such form as the Board of Directors deems appropriate for one hundred (100%) percent of the replacement cost of all structures located on Units.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance shall be Common Expenses of the Association and shall be included in the Base Assessment, as defined in Article I and as more particularly described in Article XI, Section 2. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss of repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth

(a) All policies shall be written with a company licensed to do business in Tennessee which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies shall be for the benefit of the Association and its Members and their Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Williamson County, Tennessee, area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of the actions of anyone or more individual Owners;

(iv) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owner's policies from consideration; and

(vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than three (3) months' assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 2. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Units and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article VI for insurance on the Common Area, unless the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such, other plans and

specifications as are approved in accordance with Article XII of this Declaration. The Owner shall pay any costs of repair or reconstruction which is not covered by insurance proceeds. In the event that the structure is totally destroyed the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Unit in a neat and attractive condition consistent with the Community-Wide Standard.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with filing and adjusting all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Members representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as herein provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VII
No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Article VIII
Condemnation

If any portion of the Properties or interests therein are taken under exercise of the power of eminent domain or by private purchase in lieu thereof, the award in condemnation or the price payable shall be paid to the Association, except to the extent payable to any other Person with an interest in such property. The Association shall have the exclusive right to participate in such condemnation proceedings as they pertain to the Properties and to represent the interests of all Owners in such proceedings; each Owner hereby irrevocably appoints the Association and any such duly appointed trustee as such Owner's attorney-in-fact for such purposes. All condemnation compensation, damages or other proceeds received by the Association shall be held by the Association as determined by the Board, as a reserve for future maintenance, repair, reconstruction or replacement of the Properties, or may be used for improvements or additions to, or operation of, the Properties; provided, however, if an allocation of such condemnation compensation, damages or other proceeds is already established in negotiation, judicial decree or otherwise, then in allocating such condemnation compensation, damages or other proceeds the Association shall employ such allocation.

Article IX
Annexation of Additional Property

Section 1. Annexation Without Approval of Class "A" Membership. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "B" has been subjected to this Declaration or January 1, 2012, whichever is earlier, subject to the provisions of this Declaration and the jurisdiction of the Association, all or any portion of the real property described in Exhibit "B", attached hereto and by reference a part hereof. Such annexation shall be accomplished by filing a Supplemental Declaration in the public records of Williamson County, Tennessee, annexing such property. Such Supplemental Declaration shall not require the consent of Members. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant. However, so long as the Class "B" membership exists, any annexation of property requires the written consent of the U.S. Veterans Administration ("VA") or Department of Housing and Urban Development ("HUD") if VA or HUD has guaranteed any Mortgage on any Unit.

Section 2. Annexation With Approval of Class "A" Membership. Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B", and following the expiration of the right in Section 1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class "A" votes of the Association (other than those held by Declarant) present at a meeting duly

called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 1 of this Article.

Annexation shall be accomplished by filing of record in the public records of Williamson County, Tennessee, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B" which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

Section 4. Amendment. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" hereof.

Article X Rights and Obligations of the Association

Section 1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the recreational facilities. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided by the By-Laws of the Association.

The Association, acting through the Board by contract or other agreement, shall have the right to enforce city ordinances of the City of Franklin, Tennessee, to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Article XI
Assessments

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 2 of this Article. There shall be two (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Section 3 below.

Base Assessments shall be levied equally on all Units. Special Assessments shall be levied as provided in Section 3 below. Each Owner, by acceptance of his or her deed or recorded contract of sale, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate not to exceed ten (10%) percent or the highest rate allowed by Tennessee law as computed from the date the delinquency first occurs, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, but his or her grantee shall not be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance unless the obligation is expressly assumed by them. No first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to acquisition of title.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual Base Assessment for delinquents, including Owners delinquent in the payment of fines imposed in accordance with the By-Laws. Unless the Board otherwise provides, the Base Assessment shall be paid in monthly installments.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

So long as the Declarant has an option unilaterally to subject additional property to this Declaration, the following shall apply: unless assessments have commenced, pursuant to Section 6 below, on all Units subject to this Declaration as of the first day of any fiscal year, the Declarant shall be obligated for the difference between the amount of assessments levied on all Units subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget may include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared. The Base Assessment to be levied for the coming year against each Unit subject to assessment under Section 6 below shall be computed by dividing the budgeted Common Expenses by the total number of Units subject to assessment as of sixty (60) days before the end of the current fiscal year. The Board shall cause a copy of the Common Expense budget and notice of the amount of Base Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the members by the vote of Members representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-Laws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Special Assessments. In addition to the assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments from time to time; provided, such assessment shall have the affirmative vote or written consent of Members representing at least fifty-one (51 %) percent of the total vote in the Association and the written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Board may also levy a Special Assessment against any Member, without the necessity of a vote of the Members, to reimburse the Association for costs incurred in bringing a Member and his Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, and the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 4. Lien for Assessments. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5. Capital Budget and Contribution. The Board of Directors may annually prepare a capital budget to take into account the number and nature of replaceable assets, the

expected life of each asset, and the expected repair or replacement cost. The Board may set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the budget and assessment, as provided in Section 2 of this Article.

Section 6. Date of Commencement of Annual Assessments. The assessments provided for herein shall commence as to all Units upon conveyance of the first Unit to a person other than Declarant or a builder holding title solely for purposes of development and/or resale. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessments shall be adjudged according to the number of days remaining in the fiscal year at the time assessments commence on the Unit.

Section 7. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Tennessee law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage 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 Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 8. Capitalization of Association. Upon acquisition of record title to a Unit by the first purchaser thereof other than the Declarant or an owner who purchases solely for the purpose of constructing a dwelling thereon for resale, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the amount of the annual Base Assessment per Unit for that year as determined by the Board. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use to cover operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

Section 9. Exempt Property. Notwithstanding anything to the contrary herein, all Common Area shall be exempt from payment of Base Assessments and Special Assessments.

Article XII Architectural Standards

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committee established in Section 2 of this Article. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate committee has been obtained.

Section 1. Size of Residences. The minimum living area of any residence constructed on any lot, exclusive of basements, garages, carports, porches, breezeways, terraces, and similar appurtenances shall be as follows:

(a) a one-story residence shall have a minimum of 1,200 square feet, excluding garage, basement, crawl space, breezeways, terraces, and similar appurtenances.

(b) a one-store residence with full basement shall have a minimum of 1,200 square feet, excluding garage, basement, breezeways, terraces and similar appurtenances.

(c) a one and one-half story residence shall have a minimum of 1,200 square feet, excluding garage, basement, crawl space, breezeways, terraces, and similar appurtenances.

(d) a two-story residence shall have a minimum of 1,450 square feet, excluding garage, basement, crawl space, breezeways, terraces, and similar appurtenances.

Section 2. Exterior Materials to be Used. The exterior portion of a residence must be of brick, vinyl, hardi-plank or similar material or combination thereof, excluding doors and windows. Exterior materials shall comply with the site plans and elevations approved by the Franklin Municipal Planning Commission. The exterior material must be at grade level or as close to grade level as possible.

Section 3. Design Review Committee. The Board of Directors may appoint a Design Review Committee ("DRC") to consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors. The DRC, if established, shall have exclusive jurisdiction over all new construction on any portion of the Properties, as well as modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto.

The DRC shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with the guidelines and procedures detailed in this Declaration. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the DRC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Unit, or to paint the interior of his Unit any color desired. In the event that the DRC fails to approve or to disapprove such plans or to request additional information, reasonably required within forty-five days after submission, the plans shall be deemed approved. Any alterations to approved exterior finishes and elevations must be approved in writing by the DRC.

Section 4. No Waiver of Future Approvals. The approval of the DRC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the DRC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 5. Variance. The DRC may authorize variances from compliance with any of the provisions of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in

writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Article XIII
Use Restrictions

~~Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled or modified in a regular or special meeting of the Association by the vote of Members representing a Majority of the total Class "A" votes in the Association and with the consent of the Class "B" member, so long as such membership shall exist.~~

Section 1. Signs. No sign of any kind shall be erected within the properties without the written consent of the Board of Directors. The Board of Directors shall have the right to erect signs as it, in its discretion, deems appropriate.

Section 2. Parking and Garages. Each residence must have at least a two-car garage, attached to the residence. Vehicles shall be parked only in the garages or in the driveways serving the Units or in appropriate spaces or designated areas in which parking mayor may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors may adopt. No more than two (2) vehicles may be parked in any driveway. No parking shall be permitted on any street, except temporarily for social gatherings or other functions held in a Unit as may be approved by the Board. Commercial vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked for a period of up to 48 hours to accommodate or allow owners time to find other storage or parking space, other than the Montgomery Place community.

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association) as may more particularly be set forth in this Declaration or amendments hereto.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities.

Section 3. Occupants Bound. All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Unit.

Section 4. Animals and Pets. No animals, reptiles, rodents, livestock, birds, fish or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of two (2) may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, which endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board and turned over to the appropriate agency for keeping or disposal. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Unit be confined on a leash and held under the physical control of a responsible person. Electronic fences may be installed for the control of pets upon approval by the DRC and/or Board of Directors.

Section 5. Nuisance. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. ~~There shall not be maintained any plants or animals or device or thing of any sort~~ whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Properties.

Section 6. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties.

Section 7. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, without the prior written consent of the Board or its designee. The Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna or cable system for the benefit of all or a portion of the Properties, should any such master system or systems be utilized by the Association and require any such exterior apparatus.

Section 8. Basketball Equipment. Clotheslines. Garbage Cans. Tanks, etc.. No basketball hoops and backboards, clotheslines, above-ground tanks, and other similar items shall be placed, allowed or maintained upon any portion of the Properties, including any Unit. All garbage cans shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit, except that garbage cans may be placed at curbside on days designated for trash pick-up for that particular Unit. All rubbish, trash, and garbage shall be regularly removed from the Properties and shall not be allowed to accumulate thereon.

Section 9. Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 10. Guns. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types.

Section 11. Swimming Pools. Swimming pools below ground level for the use of residence occupants and their guests may be constructed on Units provided that: (1) the location, plans and specifications thereof are approved by the Declarant, (2) all applicable laws, ordinances, rules and regulations of governmental agencies are complied with, and all necessary governmental permits are obtained; and (3) such construction is not commenced until after construction of the residence has begun. Should a residence become vacant, that is, not occupied for residential purposes, the Owner shall see that the pool is drained and kept drained during the period of such non-occupancy, so as to prevent health and safety hazards. Aboveground pools are prohibited on the Properties.

Section 12. Tents, Trailers and Temporary Structures. Except as may be permitted by the DRC during initial construction within the Properties, no tent, utility, shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties.

Section 13. Drainage and Septic Systems. Catch basins and 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 Declarant may obstruct or rechannel the drainage flows after location and perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic systems are prohibited on the Properties.

Section 14. Tree Removal. Except as may be permitted by the DRC during initial construction within the Properties, no trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, and no trees may be added, unless approved in accordance with Article XII of this Declaration.

Section 15. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 16. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 17. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any Unit.

Section 18. Lighting. Except for seasonal Christmas decorative lights, which may be displayed between December 1 and January 10 only, all exterior lights must be approved in accordance with Article XII of this Declaration.

Section 19. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flagpoles, flags, and similar items must be approved in accordance with Article XII of this Declaration.

Section 20. Mailboxes. All mailboxes shall satisfy applicable postal regulations and shall conform to specifications established by the Declarant or the DRC. House numbers shall be maintained on both the street side of the Unit and on the garage visible from the alley.

Section 21. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XII hereof.

Section 22. Leasing of Units.

(a) Definition. "Leasing" for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) General. Units may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated in a Unit. All leases shall be in writing and shall be for an initial term of no less than six (6)

months, except with the prior written consent of the Board of Directors. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations.

~~(c) Compliance with Declaration, By-Laws and Rules and Regulations. Every Owner shall cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.~~

Section 23. Parks. Any park or other areas or equipment furnished by the Association or erected within the Properties, if any, shall be used at the risk of the user, and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 24. Fences. Fences may be permitted as part of any pre-designed construction plan for Units and thereafter, as may be permitted by the Declarant or DRC in accordance with Article XII of the Declaration. No dog runs, animal pens shall be permitted. No chain link or similar type of fencing will be allowed. No fence shall be erected on any lot or building site closer to the street than the rear corners of the house, and on corner lots, the front setback requirements on both streets shall apply. No fence will be permitted that is over six (6) feet in height. Fences will be allowed to property line on models only. All fence specifications and location must be submitted to Declarant or DRC for written approval or disapproval.

Section 25. Business Use. No trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a 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 Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, 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: (i) 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 Unit in accordance with Section 22 of this Article shall not be considered a trade or business within the meaning of the section.

Section 26. Landscaping. Landscaping is required as part of any pre-designed plan for Units and thereafter, as may be permitted by the DRC or Declarant or their assigns in accordance with Article XII of the Declaration. Any additions, subtractions or modifications to the landscaping shall be approved in advance by the DRC. Xeroscapes of any type shall not be permitted.

Article XIV
General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. Prior to the conveyance of the first Unit, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may amend this Declaration so long as it has the unilateral right to annex owns property described in Exhibits "A" and "B" to this Declaration for development as part of the Properties and so long as the amendment has no material adverse effect upon any right of any Owner; thereafter and otherwise, this Declaration may be amended only by the affirmative vote (in person or by alternate) or written consent, or any combination thereof, of Members representing two-thirds (2/3) of the total votes of the Association, and the written approval of the Class "B" Member so long as the Class "B" membership exists. So long as the Class "B" membership exists, any amendment to this Declaration shall also require the written consent of the VA or HUD if VA or HUD has guaranteed the Mortgage on any Unit. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of Williamson County, Tennessee.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 3. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Area or as between said adjacent Units, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

Section 5. Easement for Ingress/Egress. If the means of ingress to and egress from a Unit is through Common Area, then an easement for ingress/egress exists for the benefit of the Owner of such Unit over the Common Area. Any conveyance or encumbrance of the Common Area is subject to this easement.

Section 6. Easements for Utilities, etc.. There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B", the Association and the designees of each (which may include, without limitation, the City of Franklin, Tennessee, and any utility), blanket easements upon; across, over, and under all of the Common Area and, to the extent shown on any plat, over the Units for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity.

Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to the City of Franklin, Tennessee, or any other local, state, or federal governmental entity, subject to such approval requirements as may be contained in Article XV, Section 2 of this Declaration.

Section 7. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 8. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Unit for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of two-thirds (2/3) of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article XI hereof, (c) proceedings involving challenges to *ad valorem* taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 11. Use of the Words "McKays Mill" or "Montgomery Place". No Person shall use the words "McKays Mill" or "Montgomery Place" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the term, "Montgomery Place" in printed or promotional matter where such term is used solely to specify that particular property is located within the Montgomery Place community.

Article XV
Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Unit of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or Members representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar

purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may jointly or singly, pay taxes or other charges which are in default and which may have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 5. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Tennessee law for any of the acts set out in this Article.

Section 6. Applicability of Article XV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws or Tennessee law for any of the acts set out in the Article.

Section 7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Article XVI
Declarant's Rights

Section 1. Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein; and provided further, no such transfer shall be effective unless it is written instrument signed by the Declarant and duly recorded in the public records of Williamson County, Tennessee. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Units owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

Section 2. The development of the properties will conform with the Revised Site Plan prepared by Ragan-Smith, dated December 4, 2001, and approved by the Franklin Municipal Planning Commission or as revised by subsequent approvals.

Although variance in the size and the location of the boundaries of various phases is permitted, the development will generally conform to the configuration shown on the Site Plan. The locations of the dwelling Units and specific lot lines for building lots may vary from the Site Plan, although the configuration will generally conform to that shown in the Site Plan.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 16th day of AUGUST, 2002.

JONES LAND COMPANY, LLC,
 a Tennessee limited liability company

By: 
 Its: MANAGER

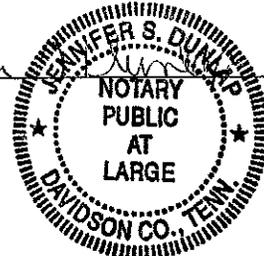
STATE OF TENNESSEE
COUNTY OF WILLIAMSON

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared Daniel E. Crunk with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Manager of Jones Land Company, LLC, the within-bargainor, a limited liability company and that he, as such Manager be so authorized to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by him self, as Manager.

WITNESS my hand and seal, at office in Franklin, Tennessee, This 16th day of August, 2002.

Jennifer S. Dunk
NOTARY PUBLIC

My Commission Expires: 7/30/05



MY COMMISSION EXPIRES:
07/30/2005

EXHIBIT "A"
LEGAL DESCRIPTION

A tract of land in the Eighth Civil District of Williamson County, City of Franklin, Tennessee; said tract being more particularly described as follows:

Commencing at the westerly terminus of the southwest curve return at the intersection of Rocking Chair Place (40-foot right of way) and Liberty Pike (80-foot right of way); thence North 06 degrees 49 minutes 34 seconds West, 80 feet to a point in the northerly right of way of said Liberty Pike, said point being the POINT OF BEGINNING for the herein described tract; thence,

1. With said northerly right of way, North 83 degrees 10 minutes 26 seconds West, 92.17 feet;
2. thence, leaving said northerly right of way, with a line severing said Jones Land Company, LLC, property North 06 degrees 49 minutes 34 seconds East, 98.00 feet;
3. thence, North 18 degrees 35 minutes 14 seconds West, 50.93 feet;
4. thence, South 83 degrees 10 minutes 26 seconds East, 101.48 feet;
5. thence, in a northerly direction with a 60.00 foot radius curve to the right an arc length of 17.19 feet, an interior angle of 08 degrees 13 minutes 47 seconds and a chord bearing and distance of North 01 degrees 24 minutes 12 seconds West, 17.18 feet;
6. thence, North 06 degrees 49 minutes 34 seconds East, 45.00 feet;
7. thence, with a 25.00 foot radius curve to the left an arc length of 36.28 feet, an interior angle of 45 degrees 00 minutes 00 seconds and a chord bearing and distance of North 38 degrees 10 minutes 26 seconds West, 35.36 feet;
8. thence, North 06 degrees 49 minutes 34 seconds East, 40.00 feet;
9. thence, in an easterly and northerly direction with a 25.00-foot radius curve to the left an arc length of 36.28 feet, an interior angle of 45 degrees 00 minutes 00 seconds and a chord bearing an distance of North 51 degrees 49 minutes 34 seconds East, 35.36 feet;
10. thence, North 06 degrees 49 minutes 34 seconds East, 166.00 feet;
11. thence, with a 25.00-foot radius curve to the left an arc length of 36.28 feet, and interior angle of 45 degrees 00 minutes 00 seconds and a chord bearing and distance of North 38 degrees 10 minutes 26 seconds West, 35.36 feet;
12. thence, North 06 degrees 49 minutes 34 seconds East, 53.23 feet to the southerly line of the City of Franklin property of record in Deed Book 1404, page 972, R.O.W.C., Tennessee;
13. thence, with the southerly property line of said City of Franklin property, South 83 degrees 27 minutes 39 seconds East, 744.90 feet to the southwesterly property corner of James H. Walker and wife, Ruth M. Walker property of record in Deed Book 5338, page 137, R.O.W.C., Tennessee;
14. thence, leaving the southwesterly property corner of said Walker property with a line severing said Jones Land Company, LLC, property, South 06 degrees 49

- minutes 34 seconds West, 543.96 feet to the northerly right of way of said Liberty Pike;
15. thence, with said northerly right of way, North 83 degrees 10 minutes 26 seconds West, 704.89 feet to the POINT OF BEGINNING, and containing 92.89 acres, more or less.

The above description has been prepared by a survey of McKays Mill P.U.D. Subdivision, Section 16 (Montgomery Area), not of record, prepared by Ragan-Smith Associates, Inc., 315 Woodland Street, Nashville, Tennessee 37206.

Being part of the same property conveyed to Jones Land Company, LLC, by deed of record in Book 1569, page 994, Register's Office for Williamson County, Tennessee.

State of Tennessee, County of WILLIAMSON
Received for record the 26 day of
AUGUST 2002 at 9:40 AM. (RECH# 491711)
Recorded in official records
Book 2534 pages 55- 81
Notebook 70 Page 11
State Tax \$.00 Clerks Fee \$.00,
Recording \$ 137.00, Total \$ 137.00,
Register of Deeds SADIE WADE
Deputy Register SHERRY ANDERSON