

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOX RUN SUBDIVISION,

Plat and Subdivision Book 48 Page38
Jefferson County, Kentucky

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOX RUN SUBDIVISION, (this "Declaration") is made on _____, 2002, by Glen-Mar Development, Inc., a Kentucky corporation (the "Developer").

WHEREAS, Developer owns certain real property in Jefferson County, Kentucky, which is to be developed as a residential subdivision known as Fox Run Subdivision, (the "Subdivision");

NOW, THEREFORE, Developer hereby declares that all of the property described in Article I, (the "Property"), 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 the Property. The easements, restrictions, covenants and conditions shall run with the Property and be binding on all parties having any right, title or interest in it, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS

Section 1. Existing Property.

The real property which is subject to this Declaration is located in Jefferson County, Kentucky and is more particularly described as follows:

BEING Lots 1-48, as shown on Minor Subdivision Plat approved by the Louisville and Jefferson County Planning Commission on October 28, 2000, which Minor Subdivision Plat is attached to and make a part of this Deed.

BEING the property conveyed to Developer by deeds dated (1)April 23, 2001 Deed Book 7689, Page 508, in the Office of the Clerk of Jefferson County, Kentucky.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment; Exceptions.

Every owner shall have a right and easement of enjoyment including, without limitation, the right of vehicular and pedestrian ingress and egress, in and to the "common areas" which shall be appurtenant to and shall pass with the title to every lot. The right and easement shall also be deemed granted to the Association and the lot owners' families, guests, invitees, servants, employee, tenants and contract purchasers. Developer may dedicate utility, service or drainage easements upon, through or under the common areas contained within the Property at its sole discretion so long as there is in existence the Class B membership in accordance with Article II, Section 2. When Class B membership ceases, this right of Developer shall automatically pass to the Association's Board of Directors. The term "common areas" means and refers to the common open space and public utility easements, all maintained for the common use, enjoyment and mutual benefit of the lot owners as hereinabove stated. Developer releases and quitclaims to the Association its right and title to the common areas. The right of enjoyment is subject to the following provisions:

A. The right of the Association to adopt rules for the common areas and to suspend the voting rights of an owner for any period during which any assessment against his lot remains unpaid, and for a period of time for any infraction of its published rules and regulations; and

B. Common areas, open space, private roads, islands in the right-of-way, and signature entrances shall not be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The Homeowners Association cannot amend this restriction without approval from the Louisville and Jefferson County Planning Commission.

Section 2. Association's Right of Entry.

The authorized representative of the Association or its Board of Directors shall be entitled to reasonable access to individual lots as may be required in connection with the preservation of property on an individual lot in the event of an emergency or in connection with the maintenance of the common areas, repairs or replacement of any equipment, facilities or fixtures affecting or serving other lots or the common areas or to make any alterations required by any governmental authority: provided, after any such entry the Association shall restore the lot to its former condition.

Section 3. Association Easements.

The Association shall have a right and easement, including without limitation, the right of vehicular and pedestrian ingress and egress over, under and across the common areas, for the purposes set forth in Article III, Section 3 below.

Section 4. No Partition.

Except as is permitted in this Declaration of Amendments thereto, there shall be no physical partition of the common areas or any part therefore, nor shall any person acquiring any interest in the Property have the right of judicial partition. This Section does not prohibit the Board of Directors of the Association from acquitting and disposing of tangible personal property not from acquitting title of real property which may or may not be subject to this Declaration.

ARTICLE III
HOMEOWNERS ASSOCIATION

Section 1. Membership.

Developer and every owner of a lot which is subject to an assessment shall be a member of a maintenance association currently existing for Fox Run Subdivision called the Fox Run Homeowners Association, Inc. (the "Association"). Such owner and member shall abide by the Association's Bylaws, Articles of Incorporation, rules and regulations, shall pay the assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's Board of Directors. Conveyance of a lot (except a conveyance to a mortgagee) automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. Classes of Membership.

The Association shall have two classes of voting membership:

A. Class A. Class A members shall be all lot owners, with the initial exception of Developer.

B. Class B. The Class B member shall be the Developer. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs first:

- (1) When Developer in its sole discretion, so determines;
- (2) When 100 percent of the lots which may be developed on the Property have been sold by Developer; or
- (3) January 1, 2012.

Section 3. Rights and Obligations of the Association.

A. The Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the common areas, including, without limitation, any open spaces, entranceways, signature entranceways, streets, medians, sidewalks, retention/detention basing, recreational facilities and landscaping located in the Subdivision. All rights reserved by Developer in this Declaration shall automatically pass to the Association when Class B membership ceases pursuant to Article III, Section 2, and thereafter any reference to Developer shall be construed to mean the Association.

B. Anything to the contrary herein notwithstanding, the Homeowners Association and the individual lot owners shall be responsible for the maintenance of all common open space, private roads, islands in the right-of-way, and signature entrances so long as the subdivision is used as a residential subdivision or until properly dedicated to a unit of local government. This provision shall not be amended.

ARTICLE IV
ASSESSMENTS

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

Each lot owner, except Developer and the Association, by acceptance of a deed for the lot, whether or not it shall be expressed in such deed, covenants and agrees to pay to the Association [i] annual or monthly assessments or charges, and [ii] special assessments for capital improvements, such assessments to be established and collected as provided in this Article IV. Developer shall pay no assessments to the Association for any unsold lots Developer owns. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Such lien may be enforce by foreclosure in the manner that mortgages are foreclosed in the Commonwealth of Kentucky. Each such assessment, together with interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment became

due and payable. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

A. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and in particular for the acquisition, construction, management, improvement care and maintenance of properties, services and facilities devoted to this purpose, or for the use and enjoyment of the common areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the common areas, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys, accountants and other professionals to represent the Association when necessary, and such other needs as may arise, and for the improvement and maintenance of the common areas.

Section 3. Maximum Annual Assessment.

A. Until December 31, 2001, the annual assessment shall be set at a rate \$250 per year per lot. Lot owners who purchase lots for a third party (i.e. homebuilders) shall pay an annual assessment of \$150.00 per lot. Developer shall not be subject to any assessment on lots owned in developer's name. From and after December 31, 2001, the maximum annual assessment may not be increased each year by more than 25% of the maximum assessment for the previous year without an affirmative vote of two-thirds of the Board of Directors.

B. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum. The Board of Directors of the Association shall determine when the assessments shall be paid.

Section 4. Special Assessment 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 including paving of roads. Any such assessment shall have the assent of the members of the Association in accordance with the Bylaws of the Association.

Section 5. Uniform Rate of Assessment.

Both annual and special assessments shall be fixed at a uniform rate for all lots, except those owned by Developer during the period when Class B membership exists in the Association, as provided in Section 2 of Article III. The Association's Board of Directors may, at its discretion, waive the assessment for any year or part of a year for any lot not occupied as a residence.

Section 6. Date of commencement of Annual Assessments; Due Dates.

The annual assessments provided for herein shall begin as to any lot subject to the assessment on the first day of the month next following the date on which title to the lot is conveyed to the owner, subject to the waiver provided in Section 5 of this Article. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year when title to the lot is transferred. The Board of Directors of the Association shall determine the dates when assessments are due.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid by the due date shall be subject to a late charge as determined by the Association's Board of Directors. The Association may bring an action at law against the owner personally obligated to pay the assessment, or foreclose the lien against the lot, and interest, costs and reasonable attorneys' fees of such assessments. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of his lot.

Section 8. 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 or liens provided for in the preceding sections. However, the sale or transfer of any lot pursuant to a first 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 owner from liability for any assessment thereafter becoming due or relieve such lot from the lien for any assessments thereafter becoming due.

ARTICLE V
USE RESTRICTIONS

Section 1. Primary Use Restrictions.

No lot shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half stories in height in the front as measured from the front elevation of the lot.

Section 2. Nuisances.

No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 3. Use of Other Structures and Vehicles.

A. No structure of a temporary character including, without limitation, an outbuilding, trailer, tent, shack, garage, barn or structure other than the main residence erected on a lot shall be permitted on any lot except temporary sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed, and no such structure shall at any time be used as a residence, temporarily or permanently.

B. No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle, boat or other recreational type vehicle shall be parked or kept on any lot any time unless housed in a garage or basement or kept in the backyard in such a manner as not to be intrusive on neighboring lots. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street in the Subdivision. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in the Subdivision for a period in excess of twenty-four hours in any one calendar year.

C. No automobile shall be continuously or habitually parked on any street or in the common areas of the Property.

Section 4. Animals

A. No animals, including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, provided they are not kept, bred or maintained for any commercial or breeding purposes. Any such pets shall be kept on the lot or leashed when not on the owner's lot.

B. No person in charge of a dog, cat or other household pet shall permit or allow such animal to excrete manure or feces on any lot in the Subdivision (other than that lot of the owner or person in charge or control of such animal) or on any street, sidewalk or right-of-way in the Subdivision, unless the owner or person in control of such animal immediately removes all feces deposited by such animal and disposes the same in a sanitary manner.

Section 5. Clothes Lines: Fences and Walls; Tennis Courts: Swimming Pools; Antennae and Receivers/Transmitters.

A. No outside clothes lines shall be erected or placed on any lot.

B. No fence or wall of any nature may be erected, placed or altered on any lot until construction plans are approved in writing by Developer pursuant to Article VI, Section 1. Such approval may be withheld by Developer in its sole and absolute discretion, for any or no reason, and Developer may apply its discretion differently with respect to otherwise similar fences or walls.

C. No swimming pool shall be erected or placed on any lot from the date hereof unless design and placement thereof are approved in writing by Developer.

D. No antennae, masts, poles, microwave or any other similar type receivers or transmitters (including those currently called "satellite dishes") or appurtenances shall be erected or placed on any lot unless its design and placement are approved in writing by Developer.

E. No firewood shall be stored in a location that is visible from the front of the lot.

Section 6. Duty to Maintain and Rebuild.

A. Each owner of a lot shall at its sole cost and expense, repair his residence, keeping the same in condition comparable to the condition of such residence at the time of its initial construction excepting only normal wear and tear.

B. Each owner of a lot shall keep the lot neat and attractive in appearance. Should any lot owner fail to do so, then Developer or the Association may take such action as it deems appropriate in order to make the lot neat and attractive. The owner of that lot shall, immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest. Developer shall have a lien on that lot and the improvements, thereon equal in priority to the lien for assessments provided in Article IV, Section 1 to secure the repayment of such amounts. Such lien may be enforced by foreclosure.

C. If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then the owner shall, with all due diligence, promptly rebuild, repair or reconstruct such residence in a manner which will substantially restore it to its apparent condition immediately prior to the casualty. Alternatively, the lot owner shall completely raze the residence and sod or seed the entire lot until such time as construction of a new residence in begun.

Section 7. Business; Home Occupations.

No trade or business of any kind (and no practice of medicine, dentistry, osteopathy and other like endeavors) shall be conducted of any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

Section 8. Signs.

No sign for advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any lot, except one sign for advertising the sale or rent thereof, which shall not be greater in area than nine square feet; provided, however, Developer shall have the right to [i] erect larger signs when advertising the Property, [ii] place signs on lots designating the lot number of the lots, and [iii] following sale of a lot, place signs on such lot indicating the name of the purchaser of that lot. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

Section 9. Drainage.

Drainage of each lot shall conform to and be maintained in accordance with, the general drainage plans for the Subdivision. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

Section 10. Obligation to Construct or Reconvey.

Every lot owner shall, within twenty-four (24) months after the date of conveyance of a lot without a dwelling thereon, commence in good faith the construction of a single family dwelling approved according to Article VI, Section 1, upon each lot conveyed. If construction does not commence within the specified period of time, Developer may elect to repurchase any and all lots on which construction has not commenced for 100% of the purchase price, without interest, of said lot or lots hereunder sold by Developer, in which event the lot owner shall immediately reconvey and deliver possession of said lot or lots to Developer by deed of special warranty. If Developer has not exercised this right to repurchase within three years from the date such right vests in Developer, the Developer's right to repurchase shall cease with respect to that particular lot. Developer shall have the right, at Developer's sole and absolute discretion, to waive its repurchase rights set forth herein.

Section 11. Disposal of Trash.

No lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers. This restriction shall not apply during the period of construction of a residence on the lot or adjoining lots, provided such lot owner makes provisions to retain all rubbish, trash and garbage on that particular lot. All waste collection shall be done by a common collection company selected by Developer and paid for by lot owners.

Section 12. Underground Utility Service.

A. Each lot owner's electric, water, sewer, gas, cable television and general utility service lines shall be underground throughout the length of service line from the utility company's point of delivery to the customer's building; and the cost of installation and maintenance there of shall be borne by the respective lot owner upon which said service line is located.

Appropriate easements are hereby dedicated and reserved to each property owner, together with the right of ingress and egress over abutting lots or properties to install, operate and maintain electric, water, sewer, gas, cable television and general utility service lines to the utility company's termination points. Electric service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the plat of the Subdivision shall be maintained and preserved in their present condition and no encroachment

therein and no change in the grade or elevation thereof shall be made by any person or lot owner without the express written consent of the utility company or telephone company.

B. Easements for transmission and distribution feeder lines, poles and equipment appropriate in connection therewith are reserved over, across and under all areas shown on the plat (including park, open and drainage space area) and designated for underground and facilities.

Aboveground electric transformers and pedestals may be installed at appropriate points in any electric easement.

In consideration of bringing service to the Property, the utility company is granted the right to make further extensions of its lines from all underground distribution lines.

Section 13. Assignment by Developer.

References to "Developer" shall include any entity, person or association to whom Developer may assign the right of approval. When Developer no longer owns any lots in the Property, this right of approval shall automatically be assigned to the Association.

ARTICLE VI
ARCHITECTURAL AND LANDSCAPE CONTROL

Section 1. Approval of Construction and Landscape Plans.

A. No structure may be erected, placed or altered on any lot until the construction plans and building specifications and a plan showing (i) the location of improvements on the lot; (ii) the grade elevation (including rear, front and side elevations); (iii) the type of exterior material (including delivery of a sample thereof); and (iv) the location and size of the driveway (which shall be concrete), shall have been approved in writing by Developer. All roof pitches and roof overhangs shall be that which is standard in the community for traditional homes and shall be a 8/12 or greater roof pitch with a roof overhang which is customary for traditional homes.

B. In addition to the plans referred to in the previous paragraph, a landscape plan shall be submitted to the Developer for its approval in writing, which plan shall show the trees, shrubs and other plantings.

C. References to "Developer" shall include any entity, person or association to whom Developer may assign the right of approval. When Developer no longer owns any lots in the Property, this right of approval shall automatically be assigned to the Association. References to "structure" in this paragraph shall include any building (including a garage), fence, wall, antennae

and microwave and other receivers and transmitters (including those currently called "satellite dishes").

Section 2. Building Materials.

The exterior building materials of all structures shall be either brick, stone, brick veneer, stone veneer, or a combination thereof. However, Developer recognizes that the appearance of other exterior building materials (such as wood siding, stucco, drivet, cedar, vinyl or the like) may be attractive and innovative, and reserves the right to approve in writing the use of other exterior building materials. All materials must be approved in writing.

Section 3. Minimum Floor-areas.

The following shall have a total minimum floor areas for homes to be constructed after this instrument is recorded:

A. All one story houses shall have a minimum floor area of one thousand eight hundred (1,800) square feet.

B. The ground floor area of a one and one-half story house shall be a minimum of 1200 square feet, plus no less than 800 square feet on the second floor.

C. The ground floor area of a two-story house shall be a minimum of 1100 square feet, plus no less than 1100 square feet on the second floor.

D. Finished basement areas, garages and open porches are not included in computing floor areas.

Section 4. Setbacks.

No structure shall be located on any lot nearer to the front lot line or the side street line than the minimum building setback lines shown on the recorded plat, except, bay windows and steps may project into said areas, and open porches may project into said areas not more than six feet. Developer may vary the established building lines or permit encroachments into such areas, in its sole discretion, where not in conflict with applicable zoning and subdivision regulations.

Section 5. Garages; Carports.

A. All lots must have an attached minimum 2 car garage. No front entry garages shall be constructed without the written approval of the Developer. Developer has full discretion to reject all front entry garages.

Section 6. Landscaping; Driveways; Sidewalks.

A. Within 60 days after the construction of residence, the lot owner shall grade and sod the front and side yards of the lot.

B. Each lot owner shall concrete the driveway within three months after completion of the single family dwelling.

C. Each lot owner shall, at its expense and upon completion of a single family dwelling on the lot, install a four-foot wide sidewalk along the length of all portions of the lot bordering the street if required by record plat. The corner lots must provide handicap access to sidewalk at the corner. The location and elevation of the sidewalk must be approved in writing by Developer.

D. Any exterior lighting installed on any lot shall be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby lots as determined by the Developer.

E. Upon an owner's failure to comply with the provisions of this Section 6, Developer may take such actions as necessary to comply therewith, and the owner shall immediately, upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and developer shall have a lien on that lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced in the same manner and with the same priority that the lien for annual and special assessments may be enforced.

Section 7. Mail and Paper Boxes.

All mail and paper boxes shall be installed in accordance with Developer's uniform specifications.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Enforcement.

Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any owner, by the Association, or by developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or recover damages. Failure of any owner, the Association, or Developer to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

Section 2. Severability.

Invalidation of any other of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions. Run With Land.

Unless canceled, altered or amended under the provisions of this paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten years so long as the real property subject to this Declaration remains a residential subdivision. Except for Article II, Section IB. (ii) and Article IV, Section 1 hereof, these restrictions may be canceled, altered or amended at any time by a written instrument signed by the owners of the lots with 75% of the votes in the Association and recorded in the Jefferson County Clerk's office.

Section 4. Amendments to Articles and Bylaws.

Nothing in this Declaration shall limit the right of the Association to amend, from time to time, its Articles of Incorporation and Bylaws.

Section 5. Non-liability of the Directors and Officers.

Neither Developer nor the directors or officers of the Association shall be personally liable to the owners for any mistake or judgment or for any other acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors,

administrators' successors and assigns in accordance with the Bylaws. This indemnification shall include, without limitation, indemnification against all costs and expenses (including attorney's fees, amounts of judgments paid and amounts paid in settlement) incurred in connection with any claim, action, suit or proceeding, whether civil, criminal, administrative or other.

Section 6. Board's Determination Binding.

In the event of any dispute or disagreement between any owners relating to the Property, to any questions of interpretation or application of the provisions of this Declaration or the Bylaws, the determination thereof by the Board of the Association shall be final and binding on each and all such owner.

Section 7. Compliance with Other Laws.

Nothing herein shall limit application of any zoning regulation or ordinance conflicts with this Declaration, the more restrictive shall prevail. No approval given by Developer shall be deemed a representation by Developer or the Association that the matter approved complies with any law, ordinance or regulation of any governmental entity having jurisdiction.

WITNESS the signature of Developer by its duly authorized representative as of _____, 2002.

Developer: Glen-Mar Development Inc
a Kentucky/corporation

Amos Martin, President

STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me on 8 22,2002, by Amos Martin, as President of Glen-Mar Development, Inc., a Kentucky corporation, on behalf of the corporation.

My commission expires: 8/30/2006
Notary Public: Ronda Logsdon

"SMITH, GREENBERG & DEETSCH, PLLC
4967 U.S.Hwy. 42, Suite 145
Louisville, KY 40222