

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SILVER OAKS SUBDIVISION
Jefferson County, Kentucky

Plat and Subdivision Book 46, Page 62 (Section 1)
Plat and Subdivision Book 47, Page 47 (Section 2)
Plat and Subdivision Book 48, Page 42 (Section 3)
Plat and Subdivision Book 48, Page 54 (Section 4)

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SILVER OAKS (hereinafter “Declaration”) is made, imposed and declared as of this 1st day of July, 2003, by Billtown Development, LLC, a Kentucky limited liability company (hereinafter “Developer”).

WITNESSETH, THAT:

WHEREAS, Developer is the sole owner of, or sole voting member as of the date hereof, with power and authority to amend and enforce the Declaration of Covenants, Conditions and Restrictions with regard to all platted lots in a certain residential subdivision known as “Silver Oaks” as shown on plat of Section 1 of record in Plat and Subdivision Book 46, Page 62, as shown on plat of Section 2 of record in Plat and Subdivision Book 47, Page 47, as shown on plat of Section 3 of record in Plat and Subdivision Book 48, Page 42, and as shown on plat of Section 4 of record in Plat and Subdivision Book 48, Page 54, all in the Office of the County Clerk of Jefferson County, Kentucky (the “Record Plats”); and

WHEREAS, pursuant to Article VII, Section 3 of the Declaration of Covenants, Conditions and Restrictions for Silver Oaks Subdivision, of record in Deed Book 7463, Page 375, as amended by Amendment to same of record in Deed Book 7659, Page 133, and further amended by Second Amendment to same of record in Deed Book 7962, Page 703, and as further amended by Third Amendment to same of record in Deed Book 8005, Page 92, all in the Office of the Clerk of Jefferson County, Kentucky, Developer, as the sole voting member of the Association, desires to amend and restate said original Declaration; and

WHEREAS, Developer desires to ensure the best use and improvement of each residential lot developed in Silver Oaks to provide for the maintenance of various improvements and areas and generally to enhance and protect the value, desirability and attractiveness of the real property made subject hereto and all portions thereof conveyed to others to their mutual benefit by subjecting such real property to the rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in, and the other provisions of, this Amended and Restate Declaration of Covenants, Conditions and Restrictions for Silver Oaks Subdivision (“Declaration”);

NOW, THEREFORE, in accordance with the foregoing preambles, Developer hereby declares that the real property as hereafter described, and such additional real property as may hereafter be made subject to this Declaration pursuant to Article I below, shall be owned, held, used, leased, sold, conveyed, and occupied subject to the rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens set forth in this Declaration. The easements, restrictions, covenants and conditions shall run with the real property made subject hereto, and be binding upon and inure to the benefit of all parties having any right, title or interest therein, their respective heirs, personal representatives, successors and assigns.

ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS

Section 1. Subject Property. The real property which is subject to this Declaration (the "Property", sometimes hereinafter referred to as the "Subdivision") is located in Jefferson County, Kentucky, and is more particularly described as follows:

BEING Lots 1 through 42 inclusive, all as shown on plat of Silver Oaks Subdivision, Section 1 of record in Plat and Subdivision Book 46, Page 62; and **BEING** Lots 43 through 92 inclusive and Open Space Lot 93, all as shown on plat of Silver Oaks Subdivision, Section 2 of record in Plat and Subdivision Book 47, Page 47; and **BEING** Lots 94 through 138 inclusive, Lots 140 through 143 inclusive and Open Space Lots 139, 144, 144-A, 145 and 145-A, all as shown on plat of Silver Oaks Subdivision, Section 3 of record in Plat and Subdivision Book 48, Page 42; and **BEING** Lots 146 through 162, inclusive, and Open Space Lot 163, all as shown on plat of Silver Oaks Subdivision, Section 4 of record in Plat and Subdivision Book 48, Page 54, all in the Office of the Clerk of Jefferson County, Kentucky.

BEING a part of the same property acquired by Developer, by Deed of record in Deed Book 7134, Page 681, and by Deed of record in Deed Book 7201, Page 696, both in the Office of the Clerk aforesaid.

Section 2. Additions to Subject Property. Additional residential property and common areas may become subject to this Declaration, or may be annexed to the real property subject to this Declaration, as follows:

Developer reserves the right to create cross easements and to restrict all of the properties according to the terms of this Declaration. The common area initially covered by this Declaration, if any, shall inure to the benefit of the owners of any new lots within the Subdivision which may become subjected to this Declaration or a similar set of deed of restrictions and any additional lots on other real estate which may hereafter be annexed to and made a part of the Subdivision and subjected to this Declaration or a similar set of deed restrictions, and the common area allocable to the owners of all such lots shall inure to the benefit of the owners of lots recorded earlier, each to enjoy the common area of the other and to have and to hold the same as if each new lot had been developed and subjected to this Declaration simultaneously.

All additions shall be made by filing with the Office of the Clerk of Jefferson County, Kentucky, an amended or supplementary Declaration of Covenants, Conditions, and Restrictions with respect to the additional property, which shall extend the scheme of the covenants and restrictions of this Declaration to such property. The amended or supplementary Declaration may contain additions as may be necessary to reflect added open space, tree preservation and woodland protection areas, other necessary restrictions and/or the different character, if any, of the added properties.

Section 3. Amendment. This article shall not be amended without the written consent of Developer, as long as Developer owns any of the Property.

ARTICLE II

HOMEOWNERS ASSOCIATION

Section 1. Membership. Developer and all owners of lots within the Subdivision shall be members of the Silver Oaks Homeowners Association (hereinafter the "Association"). All members of the Association shall abide by the Association's rules and regulations, shall pay the assessments provided for in this Declaration, when due, and shall comply with the decisions of the Association's governing body. If the Association is incorporated, its Board of Directors shall be the governing body of the Association. Conveyance of a lot (except to a mortgagee) automatically transfers membership in the Association without the necessity of further documentation. Membership shall be appurtenant to and may not be separated from ownership of any lot that 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 exception of the 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 upon the earlier of the occurrence of any event specified in Subsection C below.

C. Each member shall have one vote for each lot owned, which vote may not be exercised until the earlier of the occurrence of any one of the following events:

1. Developer, in its sole discretion, so determines;
2. Within ninety (90) days following the date when 100 percent of the lots, which may be developed on the Property, have been sold by Developer; or
3. January 1, 2010.

D. Upon conversion of Class B membership to Class A membership, Developer shall provide sufficient funds in the Association account so that no less than a three thousand dollar (\$3,000) balance in the account is available at the time the conversion occurs.

Section 3. Rights and Obligations of the Association. 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, retention/detention basins, recreational facilities and landscaping located therein. Developer shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Association. The Association shall also perform the other duties prescribed by this instrument or the Association's rules and regulations, which duties may include maintenance and grass cutting assignments on the lots, collection of garbage, maintenance and repair of sewers and streets. All rights reserved by Developer in this Declaration shall automatically pass to the Association when Class B membership ceases pursuant to Article II, Section 2, and thereafter any reference to Developer shall be construed to mean the Association.

ARTICLE III **PROPERTY RIGHTS**

Section 1. Owner's Easements of Enjoyment; Exceptions. Every owner shall have a right and easement of enjoyment including, without limitation, the right of pedestrian ingress and egress, in and to the "common areas" which shall be appurtenant to and shall pass with the title to every lot. This right and easement shall also be deemed granted to the Association and the lot owners' families, guests, invitees, servants, employees, tenants and contract purchasers. 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 suspend the voting rights of a lot 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. The right of the Association to dedicate or transfer all or any part of the common areas to any public agency, authority or utility upon (i) agreement by such agency, authority or utility for such purposes, (ii) the approval of the Louisville and Jefferson County Planning Commission, and (iii) subject to such conditions as may be agreed to by a majority of the members of the Association; provided, any public utility easements previously established shall not be affected. Developer may dedicate utility, service or drainage easements upon, through or under the common areas 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 governing body of the Association.

Section 2. Association's Right of Entry. The authorized representative of the Association or its governing body 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 any emergency or in connection with the maintenance of, repairs or replacements within the common areas, or any equipment, facilities or fixtures affecting

or serving other lots or the common areas or to make any alteration required by any governmental authority; provided, after any such entry the Association shall restore the lot to its former condition.

Section 3. No Partition. Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of the common areas or any part thereof, nor shall any person acquiring any interest in the Property have the right of judicial partition. This section does not prohibit the governing body of the Association 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 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 be responsible for the maintenance costs of the Association incurred over and above assessed amounts payable to the Association by the lot owners until Class B membership is converted to Class A membership pursuant to Article II, Section 2B. When Class B membership in the Association is converted to Class A membership, Developer shall pay assessments to the Association for each lot Developer owns, if any, in the same manner and amount as every other lot owner pays assessments. 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 enforced 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 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.

B. Until Class B membership ceases and is converted to Class A membership pursuant to Article II, Section 2B, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting the Property, as permitted in this Declaration.

Section 3. Maximum Annual Assessment.

A. The maximum annual assessment shall be One Hundred Twenty Dollars and No Cents (\$120.00), payable in annual installments as provided in Section 6 below. The maximum annual assessment may not be increased in any one year by more than ten percent 10% of the maximum assessment for the previous year without an affirmative vote of a majority of each class of members pursuant to the Association's rules and regulations.

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

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common areas, including fixtures and personal property related thereto.

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 II. The Association's governing body 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 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 governing body 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 governing body. The Association may bring an action at law against the owner personally obligated to pay the assessment, or foreclose the lien against the property, 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 of any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments that 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 family (including any domestic servants living on the premises), not to exceed two and one-half stories in height in the front.

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. Restrictions on Structures. No used or previously erected or temporary house shall ever be placed, erected or allowed to remain on any Lot. No structure of a temporary character shall be permitted on any Lot, except for temporary tool sheds, field offices or sales offices used by Declarant, or by a Builder (as hereinafter defined) as Declarant may permit by written consent in its sole discretion, which structure shall be removed by Builder when construction or redevelopment on a Lot is completed. Any such temporary structure shall be removed by a Builder within ten (10) days of receipt of written notice from Declarant.

B. No Temporary Residences. No bus, mobile home, trailer, camping unit, camping vehicle, motor home, or other vehicle, or outbuilding, basement, tent, shed, shack, garage or barn, or any structure other than the main residence erected on a Lot, shall at any time be used as a residence, temporarily or permanently, on any Lot or otherwise within the Property.

C. Restrictions on Vehicles and Parking.

(i) No bus, mobile home, motor home, trailer, camper trailer, camping unit, camping vehicle or boat shall be parked or kept on any Lot or on any street in the Subdivision except within a garage for any period in excess of two (2) days in any 365-day period (any portion of a day constitutes a day).

(ii) No commercial vehicle shall be parked or kept on any Lot, unless housed in a garage, or any street in the Subdivision between the hours of 4:00 p.m. and 6:00 a.m. except when used as part of a temporary construction or repair activity on the Lot. "Commercial vehicle" as defined as a vehicle meeting any one of the following characteristics: having dual rear wheels, having a design load carrying capacity of more than one ton, being designed to carry more than nine passengers, including driver, being

designed to carry business equipment on or in exterior racks or bins, but not including tool boxes, or advertising a business or containing on its exterior any business information in excess of the business name on the driver's side door of the vehicle.

(iii) No vehicle, motorized or otherwise, including, but not limited to, those set forth in and (c)(i) and (ii) above, shall be parked overnight on any street or right-of-way of the Subdivision and no such vehicle shall be parked at any time except on a street, in a designated parking lot, on a legal driveway or in a garage.

(iv) No vehicle determined to be objectionable or unsightly by Declarant or its successors or assigns, including the Community Association, and no vehicle which is inoperable, shall be parked at any time on any street or any portion of a Lot except in a garage.

(v) There shall be no habitation of any vehicle parked anywhere in the Subdivision.

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 owner's lot or leashed when not on such lot. The design, location and size of all exterior shelters for such household pets shall be approved in writing by the Developer.

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 common area, 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 of same in a sanitary manner.

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

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

B. No awnings or other similar exterior window coverings shall be installed on a residence without the prior written consent of the Developer.

C. A natural wood color, four board horse fence shall be installed along the rear property line of Lots 14 and 15 by the owners thereof before a certificate of occupancy for the residences thereon are obtained. Any amended or supplemental Declaration shall include similar provisions with regard to such lots as required to have fencing under conditions of approval of the Subdivision mandated by the Louisville and Jefferson County Planning Commission. No fence or wall of any nature may be extended toward the front or street side property line beyond the rear or side wall of the residences.

No wire or chain link type fence shall be erected or placed on any lot. However, vinyl coated chain link fences are permitted. All fences shall be maintained to preserve an attractive appearance from the exterior of each lot. As a "structure," 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. During construction of the house on a lot, the Developer may require the construction, at the lot owner's expense, of walls on the side lot lines to continue a pattern of enclosing rear yards. Wall construction materials may be specified by, and must be first approved in writing by Developer.

D. No aboveground swimming pools shall be erected or placed on any lot. However, in-ground swimming pools, tennis courts, hot tubs and spas may be permitted if design and placement thereof are approved in writing, in advance of construction, by Developer at Developer's sole discretion.

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

F. All exterior play equipment located on any lot, including, without limitation, swing sets, jungle gyms and similar equipment, shall be subject to the prior written approval of the Developer in its sole discretion, and all lot owners and residents of the Subdivision are advised to obtain the approval of Developer prior to the construction or placement of any such equipment on any 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. Every residence shall have proper window coverings (no sheets or other material of a temporary nature) placed over windows within thirty (30) days of occupancy. Without the prior written approval of the Developer, no aluminum foil, tinted or reflector glass or other tinted or reflective material shall be installed or maintained on any window. Window shutters must be sized to match window openings.

B. Each owner of a lot shall keep the lot and improvements thereon 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 is begun.

Section 7. Business; Home Occupations. No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy and other like endeavors) shall be conducted on any lot, except for “home occupations” as that term is strictly construed under the zoning district regulations for Louisville and Jefferson County, 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 on lots or Open Areas when advertising the Property, [ii] place signs on lots designating the lot number of the lots, [iii] place directional and instructional signs on lots for the smooth management of traffic, and [iv] 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 of Developer for the Property, including but not limited to all drainage swales. 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 Sidewalk. Within twelve (12) months after the date of conveyance of a lot without a dwelling thereon, every lot owner shall construct the sidewalk to be located in the front or street side yard of said lot, the exact location of which shall be as approved by Developer. If the sidewalk is not completed within said period of time, Developer may elect to construct the sidewalk and assess the lot owner for such charge. A lot owner’s failure to repay the Developer within seven (7) days after receipt of a statement for the assessed charges shall be treated as a non-payment of assessments, and Developer shall have all rights and remedies afforded the Association in Article IV, Section 7 of this Declaration.

Section 11. Obligation to Construct Dwelling or Reconvey. Within twenty-four (24) months after the date of conveyance of a lot without a dwelling thereon, every lot owner shall 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.

Section 12. 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, provided such lot owner makes provisions to retain all rubbish, trash and garbage on that particular lot.

Section 13. Underground Utility Service.

A. Each property owner's electric, water, sewer, gas, cable television and general utility service lines shall be underground through 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 thereof 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 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 the telephone company.

B. Easements for overhead 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 overhead 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 overhead and underground distribution lines.

Section 14. Rules for Common Areas. The Association is authorized to adopt rules for the use of the common areas, and such rules shall be furnished in writing to the lot owners. A walking trail shall be installed by the Developer in areas denoted on the initial or any subsequent plat of the Subdivision and maintained by the Association thereafter.

Section 15. Signage, Landscaping and Fencing. The Association shall maintain in any easement any signs and signature entrances identifying the Subdivision, any fencing constructed in any fencing easement on the Property and any landscaping and berms installed in the publicly dedicated rights-of-way within the Property and adjacent to the Property including street islands, as well as any landscaping provided in any sign

and landscaping easements on the Property. The purpose of the sign easement and the landscape and fence easement is to construct and maintain such signage, landscaping and fencing for the Subdivision as may be determined by the Developer. Notwithstanding the foregoing, each lot owner shall be responsible for the cost of repairing any damage to fencing caused by such lot owner.

Section 16. Yard Sales. No yard sales or garage sales of any kind shall be conducted on any lot without the prior written consent of the Developer.

Section 17. Garbage Collection. There shall be only one sanitation company approved for collecting garbage from each residence located in the Subdivision. The approval of such sanitation company shall be made by Developer unless same is provided by a municipal authority. If a lot owner fails to pay the fees charged by the approved sanitation company, the Developer may make such payment and assess the lot owner for such charge. A lot owner's failure to repay the Developer within five (5) days after receipt of such statement shall be treated as a non-payment of assessments, and Developer shall have all rights and remedies afforded the Association in Article IV, Section 7 of this Declaration.

Section 18. Woodland Protection Areas. The "Woodland Protection Areas" (WPA's) designated on any plat of the Subdivision shall be permanently preserved in a natural state. No clearing, grading, or other land disturbing activity shall occur in the WPAs except supplemental landscape planting, pruning to improve the general health of trees, removing dead or declining trees that pose a public health and safety threat, and clearing of under story brush to remove a public health and safety threat. Any tree or shrub removed in violation of this provision shall be replaced by the person who removed the tree or shrub within thirty (30) days. Trees planted to replace a tree that is improperly removed shall equal the diameter of the removed tree, and shrubs and under story vegetation shall be replaced using native species. This provision may be amended or released only with the prior approval of the Louisville and Jefferson County Planning Commission.

Section 19. Tree Preservation Areas. Within any "Tree Preservation Area" (TPAs) designated on any plat of the Subdivision, efforts shall be made to retain trees over an eight-inch caliper. If necessary for drainage purposes, such trees shall be replaced in accordance with a landscape and replanting plan to be approved by the Louisville and Jefferson County Planning Commission. This provision may be amended or released only with the prior approval of the Louisville and Jefferson County Planning Commission.

ARTICLE VI

ARCHITECTURAL AND LANDSCAPE CONTROL

Section 1. Approval of Construction and Landscape Plans.

A. No structure may be erected, placed or altered in any manner 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 of

exterior material, if requested by Developer; and [iv] the location and size of the driveway (which shall be concrete or such other material as may be approved in writing by Developer) shall have been approved in writing by the Developer.

B. Certain areas of the approved Subdivision as may be identified on the plat of the Subdivision as “Woodland Protection Areas” (WPA’s) represent areas that the Developer has agreed to preserve. All clearing, grading and fill activity in these designated areas shall be approved in advance by Developer. Upon completion of construction, no further clearing, grading, construction or other land-disturbing activity shall occur, except for pruning for the purposes of improving the general health of a tree or to remove dead or dying trees.

Tree protection fencing shall be erected adjacent to all WPA’s to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet from the edge of the tree canopy and shall remain in place until all construction is completed. In addition, no parking, material storage, or construction activities shall occur within the WPA’s.

C. References to “Developer” shall include the entity, person or Association to whom Developer may assign the right of approval. When Developer no longer owns any lots in the Subdivision, this right of approval shall automatically be assigned to the Association, which may then likewise assign its right of approval to any architectural review board, committee, entity or person, as the Association may determine in its sole discretion. 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”).

D. After any structure has been erected and the initial landscaping material installed, no alterations or additions that affect the external appearance of the structure or landscaping may be performed until the plans have been approved in writing by the Developer, the Association, or any designated review entity as the case may be.

Section 2. Building Materials and Architectural Standards.

A. The front exterior building material of all structures shall extend to ground level and shall be brick veneer, except for any structure built on Lots 1, 40, and 42, the exterior building material of which shall be entirely brick veneer. Developer may, at Developer’s sole discretion, prohibit or limit the use of wood or vinyl siding.

B. Developer reserves the right, at Developer’s sole discretion, to disapprove construction plans and/or to require modifications to such plans, based on building materials, roof pitches, elevations, etc.

Section 3. Minimum Floor Areas. The following shall be 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 four hundred (1,400) square feet.

B. All one and one-half story houses shall have a total minimum floor area of one thousand five hundred (1,500) square feet;

C. All two-story houses shall have a total minimum floor area of one thousand seven hundred (1,700) square feet;

D. Finished basement areas, garages and open porches are not included in computing floor areas; however, Developer may, at its option, include unfinished floor areas and above ground storage areas in computing minimum 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, if permitted under applicable law and regulations, bay windows and steps may project into said areas, and open porches may project into said areas not more than six feet.

Section 5. Garages; Carports.

A. No more than 50-percent of the garage depth shall extend beyond the front façade of any home constructed within the Subdivision.

B. No carport shall be constructed on any lot.

Section 6. Landscaping; Driveways; Sidewalks.

A. Within thirty days of final completion of the construction of a residence, the lot owner shall complete landscaping and grade and sod the front and side yards of each lot, and each front yard shall contain at least one (1) tree that is at least two (2) inches in diameter and five (5) feet in height at planting. Certain lots to be identified in certain sections of the Subdivision shall require additional plantings along the rear lot line two (2) inches in caliper planted every fifteen (15) linear feet. In addition, each lot shall contain at least twelve (12) shrubs, and each lot shall be landscaped so as to preserve as much natural vegetation as reasonably possible. No artificial grass, plants or other artificial vegetation shall be placed or maintained on any lot. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain on any lot. Within any areas denoted on the plat of the Subdivision as tree preservation areas, all healthy trees over a certain caliper, to be defined at such time as affected lots are put to record, shall be preserved.

B. Each lot owner shall install a concrete driveway upon the earlier of one (1) month of completion of the dwelling or occupancy.

C. Upon a lot owner's failure to comply with the provisions of this Section 6, Developer may take such action 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. There shall be only one contractor approved for constructing mail and paper boxes in the Subdivision. The approval of such contractor and the design for every mail and paper box shall be by the Developer. No other mail or paper boxes are permitted.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Enforcement.

A. Violations. The Association may issue a fine of up to \$100 per day of violation (each day of a continuing violation being considered a separate violation) for any violation of these restrictions. In order to levy any fine under this provision, the Association must provide five (5) days written notice to the offending Lot owner. If the violation is not remedied or discontinued within the 5-day period following issuance of the notice, then fines may be levied from the issuance of the notice forward until the violation is remedied or discontinued.

B. Parties. Enforcement of these restrictions shall be by proceeding at law and/or in equity, brought by Declarant and/or the Association, or, in the absence of any such action, by any Lot owner (although Declarant and/or the Association shall at all times have the superior right to bring and/or assume and control the course of, as applicable, any such proceeding) against any party violating or attempting to violate any covenant or restriction or other provision of this Declaration, either to restrain violation, to direct restoration and/or to recover damages. Failure of any Lot owner, Declarant or the Association to demand or insist upon observance of any of the provisions of this Declaration, or to proceed for restraint of violations, shall not be deemed a waiver of the violation, or of the right to seek enforcement of that provision in that or any other case. Any such Lot owner, Declarant and/or the Association enforcing this Declaration shall be entitled to recover all costs and expenses incurred in connection with such action from the defaulting party or parties, including, without limitation, court costs and reasonable attorney's fees. Any award of damages received by Declarant or the Association in connection with any such action and interest hereon until paid, and all costs and expenses incurred by Declarant or the Association in connection therewith, shall constitute a lien upon the Lot, of equal priority to the lien for assessments provided for in Article 4, and any award of damages received by any Lot owner in connection with any such action shall accrue to the sole benefit of the Association.

C. Liens. All liens created and/or imposed against any Lot pursuant to the provisions of this Declaration, including the lien set forth in paragraph A above, may be enforced in accordance with the applicable provisions of Kentucky Law, including the judicial foreclosure thereof and sale of Lot encumbered thereby, with the Lot owner and any other persons responsible therefor remaining liable for any deficiency.

D. Owner Liability. Each Lot owner (other than Declarant) shall be responsible and liable for any violations made or caused by such Lot Owner and every family member, agent, employee, contractor, material supplier, invitee, licensee, tenant, sublessee and assignee of such Lot owner.

E. Waivers. Failure of any party to demand or insist upon observance of any of these restrictions or covenants, or to proceed for a 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 one 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 the Land; Amendment. Unless cancelled, 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 III, Section 1B (ii) hereof, these restrictions may be cancelled, 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. Notwithstanding anything contained herein to the contrary, the Association shall be responsible for the maintenance of all open space and common areas so long as the Property is used as a residential subdivision or until such open space and/or common areas are properly dedicated to a unit of local government. The foregoing sentence shall not be amended without the written approval of the Louisville and Jefferson County Planning Commission or its successor.

Section 4. Amendments to Rules and Regulations. Nothing in this Declaration shall limit the right of the Association to amend, from time to time, its rules and regulations.

Section 5. Non-Liability of the Directors and Officers. Neither Developer or 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 lot owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successor and assigns in accordance with the Bylaws. This indemnification shall include without limitation, indemnification against all costs and expenses (including attorneys' 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. Governing Body's Determination Binding. In the event of any dispute or disagreement between any lot owners relating to the Property or any questions of interpretation or application of the provisions of this Declaration or the Rules and Regulations, the determination thereof by the governing body of the Association shall be final and binding on each and all such owners.

WITNESS the signature of Developer by its duly authorized representative as of this _____ day of _____, 2003.

BILLTOWN DEVELOPMENT, LLC
A Kentucky limited liability company

Signature
By: _____
Title: _____

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

I, a Notary public in and for the State and County aforesaid, do hereby certify that on this 1st day of July, 2003, John J. Miranda, a Member of Billtown Development, LLC, appeared before me and before me acknowledged that he executed and delivered the foregoing instrument as his free and voluntary act and deed and as the free and voluntary act and deed of Billtown Development, LLC, a Kentucky limited liability company.

My Commission expires: _____

Notary Public
State at Large, Kentucky

THIS INSTRUMENT PREPARED BY:

William B. Bardenwerper
BARDENWERPER LAW FIRM, PLLC
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Louisville, Kentucky 40222
(502) 426-6688

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