

DECLARATION OF COVENANTS AND
RESTRICTIONS FOR TIMBER CREEK

This Instrument Prepared By:
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BK/PG: 1697/578-622
06021574

45 PGS : AL - RESTRICTIONS	
MISSY BATCH: 36866	
11/16/2006 - 12:43 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	225.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	227.00

STATE OF TENNESSEE, BRADLEY COUNTY
RAYMOND SWAFFORD
REGISTER OF DEEDS

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DECLARATION OF COVENANTS AND RESTRICTIONS FOR TIMBER CREEK

THIS DECLARATION is made to be effective as of the 31st day of October, 2006 by JRT COMMUNITIES, LLC (herein "Developer").

WITNESSETH:

WHEREAS, Developer, as owner of certain real property (as more particularly described in Exhibit "A" and Exhibit "B" attached hereto) located in Bradley County, Tennessee, desires to create thereon a development to be known as **TIMBER CREEK** (sometimes herein the "Development"), the first phase of which shall be constructed upon that portion of the real property which is described in Exhibit "A" attached hereto (herein "Property"); and

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

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

WHEREAS, Developer has caused or will cause to be incorporated under the laws of the State of Tennessee, **TIMBER CREEK HOMEOWNERS' ASSOCIATION, INC.**, a Tennessee nonprofit corporation, for the purpose of exercising the above functions and those which are more fully set out hereafter;

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

ARTICLE I DEFINITIONS

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

1.01 Association. "Association" shall mean TIMBER CREEK HOMEOWNERS' ASSOCIATION, INC., a Tennessee nonprofit corporation.

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

1.03 Bylaws. "Bylaws" shall mean the Bylaws of the Association, the initial text of which is set forth in Exhibit "C" attached hereto and made a part hereof.

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

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

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

1.07 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions for Timber Creek and any Supplemental Declaration filed pursuant to the terms hereof.

1.08 Developer . "Developer" shall mean JRT COMMUNITIES, LLC, a Tennessee limited liability company, and its successors and assigns.

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

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

1.11 House. "House" shall mean any building situated upon a Lot designated and intended for use and occupancy by a single family.

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

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

1.14 Member or Members. "Member" or "Members" shall mean any or all Owner or Owners who are Members of the Association.

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

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

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

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

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

1.20 Recorder. "Recorder" shall mean and refer to the Register of Deeds of Bradley County, Tennessee.

ARTICLE II
PROPERTIES, COMMON PROPERTIES
AND IMPROVEMENTS THEREON

2.01 Property. The real property which is, and shall be held, transferred, sold, conveyed, leased and occupied, subject to these Covenants, is located in Bradley County, Tennessee and is more particularly described in Exhibit "A" hereto and additions or amendments thereto. Additionally, any easements on any real property retained by or granted to the Developer or the Association for the purpose of erection and maintenance of entrance signs or street lights, or landscaping and maintenance thereof, shall also be considered Property and subject to these Covenants.

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

(a) Additions by Developer. The Developer shall have the right, without further consent of the Association, to bring within the plan and operation of this Declaration (i) all or any part of that property described in Exhibit "B" attached hereto and made a part hereof, and (ii) additional properties in future stages of the Development beyond those described in Exhibit "A" and Exhibit "B" so long as they are contiguous with then existing portions of the Development. For purposes of this paragraph, contiguity shall not be defeated or denied where the only impediment to actual "touching" is a separation caused by a road, right-of-way or easement, and such shall be deemed contiguous. The additions authorized under this Section shall be made by filing a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of this Declaration to such additional property after which it shall fall within the definition of Property as herein set forth. The Supplemental Declaration may increase or decrease the minimum square footage requirements for Houses and may contain such other complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Property as described in Section 2.01 above.

(b) Other Additions. Upon approval in writing of the Association pursuant to seventy-five percent (75%) of the vote of those present in person or by proxy at a duly called meeting, the Owner of any property who desires to add it to the plan of these Covenants and to subject it to the jurisdiction of the Association, may file or record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of the Declaration to such additional property. The Supplemental Declaration may increase or decrease the minimum square footage requirements for Houses and may contain such other complementary additions and/or modification of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Association, to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration, but such modification shall have no effect on the Property described in Section 2.01 above.

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

2.03 Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, in the alternative, the properties, rights and obligations may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration.

2.04 Common Properties and Improvements Thereon. The Developer may install initially one or more entrance signs to the Development. The signs shall become part of the Common Properties when the Developer conveys the signs to the Association, at which time the Association shall become responsible for the operation, maintenance, repair and replacement of the signs. The Developer may also landscape the entrance areas (whether privately or publicly owned) and other areas where the Developer may or may not have reserved an easement. These areas shall become Common Properties when conveyed to the Association, and the Association shall then become responsible for maintenance of the landscaped areas. Additionally, the Developer will install one or more stormwater detention ponds which likewise will become Common Properties when conveyed to the Association. The Developer and the Association may add additional Common Properties from time to time as they see fit. The Common Properties shall remain permanently as open space except as improved, and there shall be no subdivision of same, except as otherwise provided herein. No building, structure or facility shall be placed,