

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

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Jefferson County, Kentucky
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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

**PINE VALLEY ESTATES, SECTION 5
Jefferson County, Kentucky**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pine Valley Estates, Section 5 (this "Declaration") is made and effective as of the date of its recording below.

WHEREAS, the Developer, Razor Development, LLC, was the original owner and "Developer" of certain real property in Jefferson County, Kentucky, which was developed as a residential subdivision known as Pine Valley Estates.

AND WHEREAS, Developer declared that all of the property described in the original Declaration of Covenants, Conditions and Restrictions filed of record in Deed Book 8579, Page 22, in the office of the Jefferson County Clerk, were to be held, sold and conveyed subject to the easements, restrictions, covenants and conditions, which were for the purpose of protecting the value and desirability of the real property. The easements, restrictions, covenants and conditions shall further run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns and shall inure to the benefit of each owner.

AND WHEREAS, The Pine Valley Estates Homeowners Association, Inc., is the successor in interest to the Developer, and is charged, through its Board of Directors, to further administer and enforce the above referenced Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, the Association has, by the required and proper vote of the lot owners, as attested to by its Secretary below, hereby Amended and Restated the original Declaration below, which shall replace in its entirety that original Declaration, previously filed and referred to above, in Deed Book 8579, Page 22, in the office of the Jefferson County Clerk aforesaid.

**ARTICLE I
PROPERTY SUBJECT TO THIS DECLARATION**

Section 1.1 **Existing Property.** The real property which is subject to this Declaration is located in Jefferson County, Kentucky, and is more particularly described as follows:

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Being Lots 154 through 184 inclusive, and the open space lots and other property, all as shown on the plat of Pine Valley Estates, Section 5, of record in Plat and Subdivision Book 50, Page 70, in the office of the Clerk of Jefferson County, Kentucky.

BEING part of the property acquired by Razor Development, LLC, by deed dated January 5, 1999, of record in Deed Book 7164, Page 478, and by deed dated March 17, 2004, of record in Deed Book 8375, Page 619, in the office of the County Clerk of Jefferson County, Kentucky.

Section 1.2 Additions and Previous Sections. Additional real property may become subject to this Declaration. Developer made this Section (5) part of a larger community developed as Pine Valley Estates Subdivision, part of which has already been platted as sections 1, 2, 3, 3B and 4 of Pine Valley Estates subdivision. Other land may be included by Developer as other phases or sections of Pine Valley Estates, but this expression of intent does not require Developer to develop all of that property as part of Pine Valley Estates, nor does that expression or intent limit Developer from including other real property as part of Pine Valley Estates. To the extent Developer does develop other property as part of Pine Valley Estates, it may contain certain common areas benefiting this Section of Pine Valley Estates, and this Section of Pine Valley Estates may contain common areas for the benefit of future phases or sections. Developer reserves the right to create cross easements, restrictions, covenants and conditions on any such common areas. Any common area initially covered by this Declaration shall inure to the benefit of the owners of any new Lots in future phases or sections, and the common areas in any future phase or section shall inure to the benefit of the owners of Lots in this Section, to the extent set forth in this or subsequent declarations, each to enjoy the common areas of the others and to have and to hold such common areas as if each lot had been developed and subjected to this Declaration simultaneously. All additions shall be made by filing in the office of the Clerk of Jefferson County, Kentucky, a supplementary, separate, or amended Declaration of Covenants, Conditions and Restrictions with respect to the additional property which shall extend the scheme of the covenants, conditions, restrictions and covenants of this Declaration to such property. The supplementary, separate or amended Declaration may contain additions to, modifications of and differences from the covenants, conditions, restrictions and covenants contained in this Declaration as may be appropriate to reflect the different character, if any, of the added properties.

ARTICLE II USE RESTRICTIONS

Section 2.1 Primary Use Restrictions. No Lot shall be used except for private single family residential purposes. No structure shall be erected, placed, altered or permitted to remain on any Lot except single family dwellings designed for the occupancy of one family not to exceed two and one-half stories in height and including a

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garage for the sole use of the owner and occupants of the Lot. "Family", as used in this Section 1, shall include any domestic servants living on the premises.

Section 2.2 Clothes Lines; Fences and Walls; Antennae and Receivers/Transmitters; Firewood; Mailboxes.

(a) No outside clotheslines shall be erected or placed on any Lot.

(b) No fence or wall of any nature may be extended toward the front or street side property line beyond the front or side wall of the residences; all fences shall be constructed of decorative metal or metal look-alike fencing and shall not exceed four (4) feet in height (with Developer reserving the right to approve certain privacy fences up to six (6) feet in height as Developer or Association deems appropriate under certain circumstances). Chain Link fences are expressly prohibited. All fences, as structures, are subject to prior written plan approval by Developer, and now the Association under Section 3.5 of this Declaration. The owner of any Lot on which any fence is constructed, whether the fence was constructed by the owner or Developer, shall be obligated to maintain such fence and keep such fence in a neat appearance. Non-conforming fences that previously existed can be repaired, but not completely replaced with a new non-conforming fence. Any retaining walls, which are subject to prior written plan approval by Developer/Association under Section 3.5 of this Declaration, shall be constructed entirely of brick, stone or decorative retaining wall blocks unless otherwise approved by Developer/Association.

(c) No exterior antenna (except for standard small television antennae not to exceed five (5) feet in height) or microwave or other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any Lot unless the site design, screening and placement are approved in writing by the Developer Association, which approval shall be within the discretion of Developer Association

(d) No firewood shall be stored in a location that is visible from the front of the Lot on which it is stored.

(e) All mailboxes and paper boxes and posts shall be of a uniform style and color (black). The original box and post style is Bird of Paradise from the Duggins Company. Any new or replacement mailbox must essentially match this design. The 5 inch by 15 inch number plate must have a black back ground with 3 inch white numbers. If this style becomes unavailable, the Association will designate a new style to become the standard for Pine Valley Estates.

Section 2.3 Use of Other Structures and Vehicles.

(a) No structure of a temporary character shall be permitted on any Lot, except temporary tool sheds or field offices used by a builder with the written approval of

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Developer, or sales or field offices used by Developer, which shall be removed when construction or development is completed.

(b) No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a Lot shall at any time be used as a residence, either temporarily or permanently.

(c) No trailer, boat, commercial truck, RV or other vehicle, except an automobile or other personal vehicle, shall be parked on any street in Pine Valley Estates.

(d) No automobile or other personal vehicle shall be habitually or continuously parked on any street or right-of-way in Pine Valley Estates. The Board of Directors shall be granted the sole and absolute discretion to define and enforce rules and regulations on parking policies.

(e) No trailer, boat, commercial vehicle or truck, recreational vehicle or other vehicle, except an automobile or personal vehicle, may be regularly parked or stored in any driveway or on any lot in this section of Pine Valley Estates.

Section 2.4 Nuisances. No noxious or offensive activity (legal or otherwise) shall be conducted on any Lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood

Section 2.5 Animals. No animals, including reptiles, livestock or poultry of any kind, shall be raised, bred or kept on any Lot for any commercial purposes except that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area) may be kept, providing they are not kept, bred or maintained for any commercial purposes. Owners of pets must abide by all Louisville Metro Animal Control Services Laws and Ordinances.

Section 2.6 Disposal of Trash. No Lot shall be used or maintained as a dumping ground of rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers which must be stored in the garage. No trash, garbage or other waste in sanitary containers shall be kept or allowed to remain outside, except same may be placed outside after 5:00 p.m. of the evening before any regular trash or garbage collection day, and until same is collected on said day.

Section 2.7 Drainage. Drainage of each Lot shall conform to the general drainage plans of Developer for Pine Valley Estates. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Plumbing connections on each Lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

Section 2.8 Business; Home Occupations. No trade or business of any kind (including any practice of medicine, dentistry, chiropody, osteopathy and other like endeavors), or any business activities which create a nuisance of any kind to the neighborhood, shall be conducted on any Lot. Notwithstanding the provisions hereof or of Section 2.1 of this Declaration, a new house may be used by a builder thereof as a model home for display or for the builder's own office. Also, until such time as Developer has sold all of its Lots in all Phases or Sections of Pine Valley Estates, it may maintain a sales office within Pine Valley Estates.

Section 2.9 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 sign shall not be greater in area than nine (9) square feet (political signs are permitted 30 days prior and 7 days after Election Day by city ordinance); provided, however, Developer shall have the right to (i) erect larger signs when advertising Pine Valley Estates, and said signs shall not be greater in area than sixteen (16) square feet. (only one sign shall be erected at the main entrance, (ii) place signs on Lots designating the lot number of any Lot, and (iii) following the sale of a Lot, place signs on such Lot indicating it has been sold and 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 2.10 Duty to Repair and Build.

(a) Each Lot owner shall, at the owner's 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) If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then owner shall, with all due diligence, promptly rebuild, repair or reconstruct such residence in a manner which will substantially restore it to the condition which existed immediately prior to the casualty.

Section 2.11 Duty to Maintain Lot.

(a) After the date of purchase, it shall be the duty of each owner to keep the grass on the Lot properly cut, to keep the Lot free from weeds and trash and to keep it otherwise neat and attractive in appearance. This requirement includes, without limitation, performing such duties in all areas of the Lot subject to easements. Should any owner fail to do so, then the Association may take such action as it deems appropriate, including mowing, in order to make such Lot neat and attractive, and the owner shall, immediately upon demand, reimburse the Association or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Association shall have a lien on that Lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that Lot

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and the improvements thereon, but such lien shall be subordinate to any first mortgage lien thereon.

(b) The owner shall indemnify and hold harmless the Association for any liability, loss or damage as a result of the entry by the Association onto the owner's Lot in accordance with subparagraph (a) of this Section 2.11.

Section 2.12 Underground Utility Service.

(a) Each property owner's electric utility services lines shall be underground at locations designated by Louisville Gas & Electric (LG&E) throughout the length of service from LG&E's point of delivery to customer's building, and title to the service lines shall remain in and the cost of installation or maintenance thereof shall be borne individually by the respective owner upon which said service line is located.

Appropriate easements are hereby dedicated and reserved to each property owner, together with the rights of ingress and egress over abutting Lots or properties to install, operate and maintain electric service lines to LG&E'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 owner without the express written consent of LG&E and South Central Bell Telephone Company and their respective successors and assigns.

(b) Easements for overhead electric transmission and distribution feeder lines, poles and equipment appropriate in connection therewith are reserved over, across and under all spaces (including park, open and drainage space area) outlined by appropriate lines on the plat and designated for underground and overhead facilities.

Above ground electric transformers and pedestals may be installed at appropriate locations in electric easements where described and directed by Developer/Association.

In consideration of LG&E bringing service to the property shown on this Plat, it is granted the right to make further extensions of its lines from all overhead and underground distribution lines.

(c) The electric and telephone easements hereby dedicated and reserved to LG&E and South Central Bell Telephone Company, as shown on the recorded plat of Pine Valley Estates, shall include easements for the installation, operation and maintenance of cable television service to the owners, including the overhead and/or underground installation and service of coaxial cables, cable drop wires, converters, home terminal units and other necessary or appropriate equipment, as well as easements

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for the installation, operation and maintenance of future communication, telecommunication and energy transmission mediums.

ARTICLE III ARCHITECTURAL CONTROL

Section 3.1 Building Materials; Builder.

(a) Except as provided in this Section 3.1(a), the exterior building material of all structures shall be either brick, stone, brick veneer, stone veneer, or a combination of same. Developer, and now the Association recognize that the appearance of other exterior building materials (such as siding and stucco) may be attractive and innovative and reserves the right to approve in writing the use of other exterior building materials.

(b) Developer/Association reserves the right of prior approval of each general contractor, contractor, or builder which proposes, or is contracted with, hired or otherwise retained by any owner, to build a residential structure on any Lot, which approval must be obtained prior to the commencement of any such construction in Pine Valley Estates. Developer/Association reserves the right of prior approval in order to ensure (i) the maintenance of a quality construction within Pine Valley Estates; (ii) that the economic value of the other Lots and structures within Pine Valley Estates, will not be impaired by the construction of residential structures not of the comparable quality, and (iii) the maintenance of the aesthetic quality of Pine Valley Estates. Developer's/Association's approval of any general contractor or builder for any particular Lot shall not be considered approval to build on any subsequent Lot, nor does the Developer/Association waive any right to disapprove any general contractor or builder on any subsequent Lot because of approval on a previous Lot.

(c) Any approval by Developer/Association of any general contractor, contractor or builder shall in no manner whatsoever serve as a guarantee, warranty or representation of the quality of workmanship by said general contractor, contractor or builder, or of the ability of said general contractor, contractor or builder to fully perform the work for which the owner contracted, nor the owner's satisfaction therewith.

(d) The architectural review and similar provisions of this Declaration do not apply to the residential house now existing on Lot 163, as it existed prior to this Declaration, and it is "grandfathered" in. If, however, that existing house is removed, including removal by fire or other casualty, then this Declaration will apply to any new house. The assessments and other restrictions set forth in this Declaration do apply to Lot 163.

Section 3.2 Setbacks. No structure shall be located on any Lot nearer to the front Lot line or the street side Lot line than the minimum building setback lines shown on the recorded plat of Pine Valley Estates, except steps may project into said areas, and open

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porches may project into said areas not more than six (6) feet. Developer/Association may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations. In addition, and notwithstanding the provisions of any plat or zoning regulation, each Lot shall have side yards of at least six (6) feet on one side and at least twelve (12) feet on the other, with Developer/Association to have the right to vary this requirement under certain circumstances.

Section 3.3 Minimum Floor Areas. The following shall be the minimum floor areas for homes to be constructed after this Declaration is recorded:

- (a) The total floor area of a one-story dwelling shall be a minimum of 1,800 square feet.
- (b) The total floor area for a two-story dwelling shall be a minimum of 2,400 square feet, with a minimum of 1,200 square feet on the first floor.
- (c) The total floor area of any other dwelling shall be a minimum of 2,100 square feet, with a minimum of 1,300 square feet on the first floor.
- (d) Basement areas (finished and unfinished), garages, decks and open porches shall not be included in calculating floor areas.

Section 3.4 Garages; Carports.

(a) One attached garage for two to three vehicles on each Lot is required provided that the location of each garage complies with any and all setback requirements set forth in applicable zoning regulations. Notwithstanding the foregoing requirement for an attached garage, there may be a detached garage on Lot 184, but only if Developer expressly approves in writing the detached garage, including without limitation its design, layout and location.. No garage shall face the front street side of the house unless otherwise approved in writing by Developer/Association based on site characteristics in the determination of Developer/Association. All garages shall have doors that must be maintained by the owner in usable condition. Garages, as structures, are subject to prior plan approval under Section 3.5 of this Declaration.

- (b) No carport shall be constructed on any Lot in Pine Valley Estates.

Section 3.5 Approval of Construction, Fencing and Landscaping Plans.

(a) Except as provided in this subparagraph (a) of this Section 3.5, no structure may be erected, placed or altered on any Lot (except by Developer) until the construction plans and building specifications and a plan consisting of (i) a survey of the Lot prepared by a land surveyor, licensed in the Commonwealth of Kentucky; (ii) the location and specifications of all improvements including any building, fence, wall or

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other structure on the Lot, (iii) the grade elevation (including rear, front and side elevations); (iv) the type of exterior materials (including delivery of a sample thereof); (v) the location and size of the driveway, which shall be concrete or brick; and (vi) such other data as the Developer/Association may request shall have been approved by Developer/Association in its sole discretion, including without limitation a landscaping plan. In addition to the foregoing, no structure may be erected, placed or altered on any Lot until a plot plan depicting the location of all improvements, setbacks and easements has been approved by Developer/Association in its sole discretion. In reviewing any proposed structure, Developer/Association shall have the right to take into consideration the suitability of the structure to the site, the harmony thereof with the surroundings, and the effect of the structure on the view from adjacent or neighboring Lots. Developer/Association, in its sole discretion, shall have the right to accept or reject construction plans and building specifications solely on the basis of aesthetics.

(b) References to “Developer/Association” in this Declaration shall include any entity, person or association to whom Developer/Association may assign its rights and responsibilities, including these rights of approval. References to “structure” in this Section 3.5 shall include, but not be limited to, any building (including a garage), fence, sheds, walls, antennae (except for standard small television antennae not exceeding five (5) feet in height), microwave and other receivers and transmitters (including those currently called “satellite dishes”), swimming pool(s), tennis court(s) and mail and paper boxes.

Section 3.6 Landscaping; Driveways; Trees; Sidewalks.

(a) After the construction of a residence, the owner shall promptly grade and sod the yards of the house.

(b) Each owner shall brick or concrete the driveway and concrete the driveway apron up to the edge of the sidewalk prior to occupancy of a single family dwelling. Any driveway which in Developer’s/Association’s determination restricts drainage by, over or into a roadway shall be removed and replaced by owner within twenty (20) days of demand for such removal and replacement by Developer/Association at the sole cost and expense of owner.

(c) Prior to occupancy of any residence and unless otherwise permitted by the express written approval of Developer/Association, the owner shall cause to be planted at least two (2) trees (at least two to one and one-half inches in caliper) in the front yard of the Lot. The only exception shall be that pie shaped lots at the end of Cul-de-sac’s due to their smaller amount of road frontage, will only be required to have at least one tree in the front yard. Developer/Association retains the right, in its sole discretion, to determine the location of any and all trees on the Lot. No tree shall be removed from any Lot without the prior written approval of Developer/Association. Trees must always be maintained and replaced, as needed.

(d) Upon an owner's failure to comply with the provisions of this Section 3.6, Developer/Association may take such action as necessary to cause the owner to comply therewith or take such other actions as Developer/Association shall deem appropriate, and the owner shall immediately, upon demand, reimburse Developer/Association or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer/Association shall have a lien on that Lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that Lot and the improvements thereon, but such lien shall be subordinate to any first mortgage thereon.

(e) Each owner shall construct on that owner's Lot a four (4) foot wide concrete sidewalk along the full length of the front Lot line, and where such Lot is a corner Lot, the sidewalk shall be constructed along the full length of each Lot line adjacent to a right-of-way, all in accordance with applicable laws and regulations. Such sidewalk shall be concrete and a broom finish. Sidewalks have not been added to streets that end in a Cul-de-sac so therefore homes on these streets are exempt.

Section 3.7 **Subdividing Lots.** No owner of a Lot shall subdivide any Lot in Pine Valley Estates, without the prior written consent of the Developer/Association.

ARTICLE IV COMMON AREAS AND HOMEOWNERS ASSOCIATIONS

Section 4.1 **Common Area.** Every Lot owner in Pine Valley Estates shall have a right and easement of enjoyment in and to any "Common Area", which right and easement shall be appurtenant to and shall pass with the title to every Lot. The term "Common Area" means and refers to all non-residential Lots and areas designated as "common area" or "open space" or "non-buildable" on the plat of any phase or section of Pine Valley Estates (including the Open Space Lot 1001 and 1002 on the plat of Section 4 of Pine Valley Estates and Open Space Lot 1003 on the plat of this Section 5 of Pine Valley Estates) but only to the extent made subject to this Declaration or previous or future declarations for other sections or phases, and shall also mean any area intended and designated by Developer/Association or the developer of other phases or sections for the common use and enjoyment of Lot owners in Pine Valley Estates, whether or not so designated on a plat. Such Common Area may also mean and include, to the extent necessary and appropriate for the enjoyment of or maintenance by the Homeowner Association (defined below), certain areas dedicated to public use and certain easement areas on a Lot or Lots in Pine Valley Estates, including without limitation areas where signature walls or entrances may be located. The right of enjoyment is subject to the following provisions:

(a) The right of the Developer/Homeowners Association to permit or regulate the use of any recreational facilities situated within Common Area.

(b) The right of the Homeowners Association to borrow money for the purpose of improving the Common Area or for constructing, repairing or improving any facilities located or to be located thereon, and to give a security for the payment of any such loan a mortgage on all or part of the Common Area.

(c) The right of the Homeowners Association to suspend the voting rights and the right to use and enjoy the Common Area, by any Lot owner for any period during which an assessment against the owner's Lot remains unpaid, and for a period of time for any infraction of its published rules and regulations.

(d) The right of the Homeowners Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Homeowners Association. Developer/Association may dedicate utility or service easements at its sole discretion so long as Developer owns any Lots in Pine Valley Estates.

(e) The right of the Board of Directors of the Homeowners Association to make rules and regulations governing the use of the Common Area, and the right to enforce Common Area rules and the CC&R's by establishing reasonable fines or other penalties, including the suspension of privileges

(f) Common Area, including open space, private roads, islands in dedicated rights-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, or its successors or assigns. The Homeowners Association may not amend this restriction without approval from the Louisville and Jefferson County Planning Commission, or its successors or assigns.

(g) Anything to the contrary herein notwithstanding, the Homeowners Association and the Lot owners shall be responsible for the maintenance of all Common Area and 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.

Section 4.1A Woodland Protection Area. Each Lot owner in every section of Pine Valley Estates shall have a right and easement of enjoyment in and to, and shall be bound by the provisions of, this Section 4-1A. Certain portions of prior or future sections of Pine Valley Estates are or may be designated as "Woodland Protection Area". Any such Woodland Protection Area shall be preserved in its natural state, and no clearing, grading or other land disturbing activity shall occur in any Woodland Protection Area, except supplemental landscape planting, pruning to improve the general health and safety, and clearing of under story brush to remove a public health or safety threat. If any

tree or shrub is removed in violation of this restriction, the person who removed it shall replace it within thirty (30) days. Each improperly removed tree shall be replaced by a tree with a diameter equal to that of the removed tree. Each improperly removed shrub or under story shall be replaced with comparable native species. This restriction may be amended or released only with the prior written, recorded approval of the Louisville Metro Planning Commission. This restriction may be enforced by owners of lots in Pine Valley Estates, by the Louisville Metro Planning Commission and by property owners adjoining any Woodland Protection Area. All lot owners and the Homeowners Association shall also comply with the provisions of the Variable Perpetual Conservation Easement requirements set forth on the plat of Pine Valley Estates, Sections 1, 2, 3, 3B, 4..

Section 4.2 **Delegation of Use.** Any Lot owner may delegate, in accordance with the Homeowners Association's bylaws or rules and regulations, his or her right of enjoyment and responsibility to and for the Common Area and facilities to the members of his or her family or to tenants or contract purchasers who reside on that owner's Lot. Lot owners shall provide to any of said occupants or tenants a copy of the governing documents, including but not limited to all rules and regulations adopted by the Association, which said occupants and tenants shall hereby agree to abide by as part of any leasehold or contract interest. Membership in the Homeowners Association may not be conveyed separately from ownership of the Lot.

Section 4.3 **Homeowners Association's Right of Entry.** The authorized representative(s) of the Homeowners Association or its Board of Directors shall be entitled to reasonable access to the individual Lots as may be required in connection with the preservation of property on an individual Lot or in the event of an emergency or in connection with the maintenance of, repairs or replacements within the Common Area, 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.

Section 4.4 **Assessments; Creation of Lien and Personal Obligation.** Each Lot owner by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Homeowners Association (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article IV. The annual and special assessments, together with interest, costs, late fees as established by the Board of Directors and reasonable attorney fees, shall be a charge on each owner's Lot and improvements thereon and shall be a continuing lien upon such property against which each such assessment is made. Each such assessment, together with interest, costs, late fees and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successor in title unless expressly assumed by them; provided, however, the lien shall remain effective against a Lot for delinquent assessments notwithstanding any transfer of the Lot

Section 4.5 **Purpose of Assessments.** The assessments levied by the Developer, and now the Homeowners Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, and for the use and enjoyment of the Common Area, 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 Area, the procurement and maintenance of insurance in accordance with the Bylaws of the Homeowners Association, the employment of attorneys, accountants and other professionals to represent and advise the Homeowners Association, and such other needs as may arise, and for the improvement and maintenance of the Common Area. The Homeowners Association shall maintain, operate and repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Area.

Section 4.6 **Assessment Amounts.** The Board of Directors of the Homeowners Association may fix the annual assessment at an amount determined by the Board to be reasonably necessary to meet the budgeted expenses of the Homeowners Association. The Board of Directors shall determine when the assessment shall be due, and whether the assessment shall be paid monthly, quarterly or annually. The Board of Directors may establish from such assessments a reserve account.

Section 4.7 **Special Assessments.** In addition to the annual, regular assessments authorized above, the Homeowners Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. As determined by the Board of Directors, any such special assessment may be payable in a lump sum or the Board of Directors may allow installment payments, such installment payments to bear interest at a rate set by the Board of Directors.

Section 4.8 **Uniform Rate of Assessment.** Both annual and special assessments shall be fixed at a uniform rate for all Lots except those owned by Developer. The Board of Directors may at its discretion waive or modify the assessment for any year or part of a year for any Lot not occupied as a residence.

Section 4.9 **Date of Commencement.** The annual assessments provided for shall begin as to any Lot subject to the assessment at the time the Lot is deeded pursuant to Section 4.4.

Section 4.10 **Effect of Non-Payment; Remedies.** Any assessment not paid by the due date shall bear interest from the due date at a rate of interest established from time to time by the Board of Directors of the Homeowners Association, and shall be due along with any additional administrative costs of collection, including reasonable

attorneys fees. Until such rate is established, the interest rate shall be 10% (unless such rate is usurious under applicable law, in which event the interest rate shall be automatically deemed to be the maximum rate allowed by applicable law). The Homeowners Association may bring an action at law against the owner personally obligated to pay the assessment, and/or the Homeowners Association may foreclose the lien against a nonpaying Lot owner's Lot and improvements thereon, including any interest, administrative and court costs, and reasonable attorney fees of such action or foreclosure, which shall be added to the amount of such assessments due. No owner may waive or otherwise escape liability for the assessments by nonuse of the Common Area or abandonment of a Lot.

Section 4.11 Subordination to Mortgages. The lien of the assessments provided for in this Declaration 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 this Declaration. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien.

Section 4.12 Homeowners Association and Membership. Developer has incorporated as a not-for-profit corporation under the laws of the Commonwealth of Kentucky "Pine Valley Estates Homeowners Association, Inc.", or a similar name (the "Homeowners Association"). Developer and every owner of a Lot that is in Pine Valley Estates shall be a member of the Homeowners Association. Such owner and member shall abide by the Homeowners Association's Articles of Incorporation, Bylaws, rules and regulations, shall pay the assessments provided for in this Declaration when due, and shall comply with decisions of the Homeowners Association's Board of Directors. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment.

ARTICLE V GENERAL PROVISIONS

Section 5.1 Restrictions Run with Land; Amendment. Unless canceled, altered or amended under the provisions of this Section 1, these covenants, conditions and restrictions are to run with the land and shall be binding on all parties claiming under them for a period thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of owners prior to the date of extension is placed of record in the Jefferson County Clerk's office canceling such automatic extension. These restrictions may be canceled, altered or amended at any time by the affirmative vote of the owners of seventy-five percent (75%) of the Lots subject to these restrictions. No cancellation of, alteration of or amendment to any covenant, condition or restriction shall take effect until the owners of seventy-five percent (75%) of the Lots subject to these restrictions file in the Office of the Jefferson County Clerk an Amendment to the

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Declaration describing such cancellation of, alteration to or amendment to such provision herein.

Section 5.2 Severability; Modification. The provisions of this Declaration are severable. While the covenants, conditions or restrictions set forth above are considered to be reasonable in all circumstances, it is recognized that covenants, conditions or restrictions of this nature may fail for reasons unforeseen, and accordingly it is hereby declared that if any of such covenants, conditions or restrictions shall be adjudged void as going beyond what is reasonable in all circumstances, the said covenant, condition or restriction shall apply with such modifications as may be necessary to make it valid and effective. In the event any provision or portion of this Declaration shall be held or adjudged invalid or unenforceable and incapable of reasonable modification to make it valid and effective in accordance with this Section 2, the remaining provisions or portions of this Declaration shall not be invalidated thereby, but shall remain in full force and effect.

Section 5.3 Non-Liability of the Developer. Developer shall not be personally liable to the owners of the Lots for any mistake of judgment or for any other acts or omissions of any nature whatsoever while acting within the scope of the rights and duties specified in this Declaration, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The owners shall indemnify and hold harmless Developer and its respective successors and assigns from and against any damage, costs and/or other expenses (including reasonable fees of counsel of the indemnified party's choice) arising out of or in connection with any actions taken in good faith in accordance with this Declaration

Section 5.4 Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any owner or by Developer/Association against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. Failure of any owner or Developer/Association to demand or insist upon observance of any of these restrictions or covenants, or to proceed for restraint of violations, shall not be deemed a waiver of a violation, or the right to seek enforcement of these restrictions. Any fines, costs of enforcement, court costs and reasonable attorneys fees shall be the violating owner's responsibility, and said sums shall constitute a lien against the owner's Lot pursuant to Section 4.4

Section 5.5 Discretion. At any time that Developer/Association is granted a right of approval herein, such right of approval shall be exercisable within the sole and absolute discretion of the Developer/Association.

Section 5.6 Special Provisions Concerning Lot 8 Neither Developer nor the homeowners Association nor any other owner shall take any action that would result in

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