

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**THOMAS COMMUNICATIONS, INC. (WALNUT GROVE ESTATES)  
SUBDIVISION - UNIT 1-A**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made and effective as of the 15<sup>th</sup> day of March, 2002, by JJK-THOMAS, LLC, a Kentucky limited liability company (hereinafter referred to as the "Developer").

**WITNESSETH**

WHEREAS, the Developer is the owner of Unit 1-A of the Thomas Communications, Inc. (Walnut Grove Estates) Subdivision to the City of Lexington, Fayette County, Kentucky, as shown by that Final Record Plat of record in Plat Cabinet L, Slide 640, in the Fayette County Clerk's Office (the "Subdivision"); and

WHEREAS, the Developer intends to further subdivide the Subdivision into residential lots and desires to establish a general plan for the use, occupancy and enjoyment of the Subdivision; and

WHEREAS, in an effort to maintain uniformity in said use and occupancy, the Developer desires to create certain restrictions as to the lots in the Subdivision.

NOW, THEREFORE, the Developer does hereby establish the following covenants, conditions and restrictions as to the use and occupancy of all lots in the Subdivision as follows:

1. PRIMARY USE RESTRICTIONS: No lot in the Subdivision shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one-half stories in height. Any residence constructed upon a lot shall contain an attached private garage, large enough to accommodate two (2) automobiles.

2. APPROVAL OF CONSTRUCTION PLANS: All house plans must be approved by the Developer prior to the commencement of any construction. No construction of any kind, including excavation or lot clearing, shall begin until the Developer has approved such construction plans in writing. Additionally, no building, fence, wall, structure or other improvement (including a detached garage) shall be erected, placed or altered on any lot until the construction plans, specifications and a plan showing the grade elevation (including rear, front and side elevations) and location of the

**MAIL TO:**

**GLENN A. HOSKINS, ATTY.  
P.O. BOX 55254  
LEXINGTON, KY 40555**

structure, fence, wall or improvement, the type of exterior material and the driveway (which shall be of concrete) shall have been approved in writing by Developer or by any person or association to whom it may assign such approval right. No fence or wall of any nature may be extended toward the front or street side property line beyond the back or side wall of the residences. The Developer may vary the established building set-back lines, at its sole discretion, where not in conflict with applicable zoning regulations. All plans submitted to the Developer for its approval shall be based upon a one-fourth ( $\frac{1}{4}$ ) inch equals one (1) foot scale. All such plans shall include a plot plan, show the driveway location(s), and include the front, side and rear building elevations.

3. SETBACKS:

(a) No structure shall be located on any lot closer to the front lot line or the side street line than the maximum building set back line on the recorded plat, except bay windows, steps, and open porches may project into said areas not more than three (3) feet. Six (6) foot side yard set-backs shall be required pursuant to the "Expansion Area Residential One" (EAR-1) zoning category. The provisions of this Paragraph shall be deemed to be complied with if the average set-back of the front or side of the structure satisfies the set-back line requirements set forth on the recorded plat.

(b) The Developer may authorize variances from compliance with any of the foregoing set-back requirement provisions when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with duly adopted rules and regulations of the Lexington-Fayette Urban County Government. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of these Restrictions, or (c) stop the Developer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4. MINIMUM FLOOR AREAS:

(a) All ranch-style houses shall have a minimum of 2,600 square feet, exclusive of the garage.

(b) A one and one-half (1-1/2) story house shall have a minimum of 1,800 square feet on the ground floor, exclusive of the garage, with a total minimum of 3,100 square feet.

(c) A two (2) story house shall have a minimum of 1,600 square feet on the ground floor, exclusive of the garage, with a total minimum of 3,200 square feet.

(d) Any other type of house not specifically listed above shall have a minimum of 3,200 square feet, exclusive of the garage.

(e) In computing total square feet, only habitable living space shall be included; basements (whether finished or not), garages and porches (open or enclosed) shall not be included.

5. BUILDING MATERIALS AND DESIGN CRITERIA:

A. Exterior Materials. All exterior building materials shall be either brick or stone veneer. The brick or stone veneer shall be extended to the finished grade, and there shall be no exposed concrete, concrete block or stucco foundations permitted without the Developer's prior written consent. No other exterior building material shall be used except upon the approval by the Developer in writing. Any and all retaining walls extending beyond the exterior residential structure walls shall be the same material as the exterior residential structure walls (unless otherwise approved by the Developer in writing).

B. Shingles. All roof shingles shall be of the "dimensional shingle" type with minimum specification standards of 300 pounds or cedar shake, and shall be of a dark or "earth-tone" color, or black in color. No white or light color shades of shingles shall be permitted. All roof shingles, including variation in the minimum specification standards, shall be approved by the Developer in writing.

C. Non-Brick Surfaces. All non-brick surfaces of all houses and other structures must be approved of in writing by the Developer and shall be of "earth-tone" colors (as hereinafter defined), except that window shutters may also be black or white in color. Notwithstanding the foregoing, window frames, grills, casing and other window trim components installed within houses may (in addition to earth-tones) be white or off-white in color.

D. Earth-Tone Colors. For purposes hereof, "earth-tone" colors are defined as being warm, muted colors ranging in the color spectrum from neutral (including white) to deep brown. By way of example and not by way of limitation, the following colors are not considered to be "earth-tone" colors: yellow, green, orange, red, blue, pink, purple and black.

E. Chimneys.

(i) No cantilevered fireplace chimneys will be permitted. The exterior portion of all chimneys shall be constructed of masonry, unless otherwise approved in writing by the Developer.

(ii) "Direct vent fireplace systems" are permitted, and the exterior vent may be visible on the outside of the house, but must be painted to match the exterior masonry of

the house. However, if the "firebox" of the fireplace system protrudes out from the exterior wall of the house, a traditional chimney system (constructed of masonry materials) must be installed.

6. APPURTENANCES, IMPROVEMENTS AND OTHER PERMANENT STRUCTURES: No appurtenance, improvement or other permanent structure shall be constructed or placed on any lot without the prior written approval from the Developer. Such permanent structures include, but are not limited to, pools, fences, gazebos, tennis courts and/or basketball goals. No exterior alterations of any existing building may be permitted without the prior approval of the Developer. No second story additions are permitted without the Developer's prior written consent. No additional windows, platforms, etc., which may invade the privacy of any adjacent dwelling are permitted. The following requirements are applicable to such appurtenances, improvements and other permanent structures:

(a) Garages - All garages shall be rear entry or side entry attached garages; any other garage entries must be approved by the Developer. Garages are to be given the same architectural treatment and be constructed of the same materials as the main structure. Each resident must have a garage large enough to accommodate at least two (2) automobiles.

(b) Driveways, Sidewalks and Curbs - All driveway areas must be made of concrete or brick. The builder of the house constructed upon each lot shall be responsible for installing, at its expense, the sidewalks upon that lot, and for repairing, at its expense, any damage done to the curbs contiguous to the lot as the consequence of construction activity. Each lot owner shall be responsible for maintaining the sidewalks on that lot, at the lot owner's expense. Each lot owner shall concrete or brick the driveway within one (1) month after completion of the house thereon.

(c) Flashing, Vents, Louvers, Etc. - The roof pipes, vents, louvers, flashing and utility equipment shall be painted to match the surface from which they project, or pursuant to a color scheme approved in writing by the Developer.

(d) Swimming Pools - All swimming pools shall be in-ground pools. There shall be no above-ground pools permitted. The construction of swimming pools must be approved in writing by the Developer prior to the commencement of construction. Drainage, fencing, placement, and lighting plans shall be included in the construction design plan submitted to the Developer for approval. There shall be no increase in drainage to other properties permitted as a result of construction nor shall there be an increase in drainage to other properties during such construction. No swimming pool shall extend beyond the primary permanent residential structure.

No lighting of a pool or other recreation area may be installed without the approval of the Developer, and if allowed, must be designed for recreational character so as to buffer the surrounding residences from all lighting.

(e) Tennis Courts - No tennis court shall be constructed without the prior written approval of the Developer. Any tennis court approved by the Developer shall not extend beyond the primary permanent residential structure. Drainage, fencing, placement and lighting plans shall be included in the construction plan submitted to the Developer for approval. There shall be no increase in drainage to other properties as a result of construction nor during the construction of the tennis court. No tennis court shall be erected or placed on any lot unless the fencing (including posts, clasps and gates) is coated with black or green vinyl.

(f) Basketball Goals - No basketball goal shall be erected without the approval of the Developer in writing. No basketball goal shall be erected in any common areas.

(g) Fences - **No chain-link, wire or stockade fences or walls shall be constructed or permitted on any lot.** No other type of fence or wall may be constructed or permitted on any lot without the prior written approval of the Developer (or its designated representative) as to type and location, and no fence or wall may exceed five (5) feet in height. No fence or wall of any nature may be extended toward the front or street side property line beyond the rear corners of the residence without the prior written approval of the Developer or its authorized representative.

(h) Air Conditioning and Utility Areas - Air conditioners, utility equipment and utility meters shall be completely screened from public view in a manner and at a location approved in writing by the Developer. The plans for such screening shall contemplate landscaping and/or permanent fences of solid materials and will be located as far from property lines as reasonably possible.

(i) Mailboxes - To insure uniformity, all mailboxes shall be of a decorative "wrought iron" design in accordance with the design shown on the drawing attached hereto as Exhibit "A", painted with a semi-gloss black finish. The house address number shall be mounted on both sides of the mailboxes with gold vinyl lettering, two (2") inches high. Any deviations from these requirements shall require the Developer's written approval; provided however, that this provision is subject to the United States Postal System's requirements.

(j) Satellite Dishes - No satellite dish may be erected or placed on any lot in excess of 36 inches in diameter and any such dish must be discretely situated so as to minimize its visibility from the street.

(k) Clotheslines - No outside clothesline shall be erected or placed on any lot.

(l) Temporary Structures - No temporary structure shall be permitted on any lot with the exception of temporary tool sheds and/or field offices used by builders during the construction upon the subject lot; any such sheds or offices shall not exceed 200 square feet in area, and shall be removed when the construction or development has been completed or is no longer taking place.

(m) Lighting - No exterior lighting, including recreational and/or security lighting (but not including seasonal Christmas decorative lights, which may be used between November 15 and January 10 only), shall be installed or maintained on any lot which light is found to be objectionable by the Developer. Upon being given notice by the Developer that any exterior light is objectionable, the owner of the lot on which same is located shall immediately remove said light or have it shielded in such a way that it is no longer objectionable.

7. LANDSCAPING DURING CONSTRUCTION: During construction, builders shall be responsible for the following:

(a) Stockpiling of any building materials shall not be allowed within the drip line of trees. Cutting, filling or any ground disturbance shall not be allowed within the drip line of existing trees.

(b) All debris, including, but not limited to, trees, branches, trimmings, clippings, rocks and roots, resulting from the clearing of a lot shall be promptly removed from the Subdivision. If such debris is not promptly removed, the Developer shall have the right to re-enter the property for the purpose of removing such debris at the expense of the owner of the lot.

(c) No construction material or equipment or debris shall be placed on any lot, other than the lot on which a structure is being built, whether said lot is vacant, in any stage of construction or completed, or whether or not said lot adjoins the construction site.

(d) Run-off and erosion shall be controlled on site by the builder during construction while the site is disturbed.

8. PERMANENT LANDSCAPING PLANS: All permanent landscaping plans must be approved in writing by the Developer prior to planting. The landscaping plan submitted to the Developer for approval shall include the following requirements:

(a) Landscaping shall be completed within thirty (30) days of occupancy of the residence unless otherwise approved by the Developer.

(b) All front, side and rear yards must be completely sodded upon the completion of construction. Seeding in lieu of sodding is strictly prohibited.

(c) During the next planting season following the completion of all houses within the Subdivision, or at such earlier time as the Developer may select, the Developer shall be responsible for planting "street trees" in accordance with the recorded plat referred to on Page 1 hereof in conformity with the Lexington-Fayette Urban County Government Regulations. Unless otherwise agreed by the Developer in writing, all such "street" trees (as required by the plat) must be "Sugar Maple" trees. The estimated cost of purchasing and planting the "street trees" shall be passed on by the Developer to the builder or owner, as the case may be, and collected by the Developer at the closing of the lot. In addition, upon the completion of the residence, the builder or owner, as the case may be, shall plant two (2) three and one-half (3½) inch caliber deciduous trees in the front yard and at least two (2) shade trees in the back yard of the lot.

(d) No existing living tree shall be cut or removed without the prior written approval from the Developer.

(e) Landscape plans and designs for each lot shall reinforce the natural character and meadow and woodland quality of the surroundings. Cleared areas should be landscaped with trees, shrubs and lawns designed to complement the architectural character of the residence in form, location and scale. The use of plant material of advanced maturity and of the highest quality should be used to give the property a finished and established feeling.

(f) No hedge shall be planted on any lot unless its placement and planting are approved in writing by the Developer.

(g) Owners shall maintain their yards, hedges, plants and shrubs in a neat and trimmed condition at all times.

(h) No lawn ornaments of any kind will be permitted in front or side yards or in yards facing streets.

9. UTILITIES: Any and all utility lines or wires for communications or for the transmission of electrical current outside of any residence or building will be constructed, placed and maintained underground. All other utility conduits shall similarly be constructed, placed and maintained underground.

10. NUISANCES; UNSIGHTLY OR UNKEPT CONDITIONS: No obnoxious or offensive trade or activity shall be conducted on any lot and nothing shall be done which may become an annoyance or nuisances to the neighborhood. It shall be the responsibility of the owner of each lot to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such lot. The pursuit of hobbies or other

activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any lot.

11. USE AND STORAGE OF VEHICLES:

(a) No trailer, truck, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time except on a short-term basis or unless said vehicle is housed in a garage or basement; no inoperable automobile shall be parked on any lot or street, unless housed in a garage; and no vehicle shall be parked on any street in the Subdivision except on a short-term basis.

(b) Any and all routine automobile maintenance shall be conducted within the garage or within close proximity to the garage entrance. No such routine maintenance shall be permitted on residential streets or on portions of driveways within close proximity to the residential street.

12. BUSINESS/HOME OCCUPATIONS: No trade or business of kind (except for home occupations allowed under the applicable zoning ordinance where the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence, does not involve large number of persons coming onto the lot, and is consistent with the residential character of the Subdivision) and no practice of medicine, dentistry, chiropody, osteopathy and like endeavors, shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Paragraph 1 above, a new house may be used by the builder thereof as a model home for display or for the builder's own office, provided said use terminates within two years from completion of that house.

13. DRAINAGE AND IRRIGATION: Drainage of each lot shall be in conformity with the general drainage plan of the Subdivision; no storm water drains, roof downspouts or ground water shall be integrated into the sanitary sewer system, and all lot connections shall be made with water-tight joints in accordance with plumbing code requirements. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, canals or other waterways within the Subdivision shall be installed, constructed or operated within the Subdivision unless prior written approval has been received from the Developer. All sprinkler and irrigation systems shall draw water only from the local water company, unless otherwise approved by the Developer.

14. EASEMENTS:

(a) Utility Easements - Easements for the installation and maintenance of utilities may be reserved over each lot by deed or as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. The easement are of each lot and all improvements on it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

(b) Common Open Space Easements - The Developer has included within its plan several common open space easements, for the enhancement of property and for the use of all property owners. The common open space easements may be used for locating utility lines. All common open space is and shall remain private property exclusively for recreational or access purposes. The common open space shall be used exclusively by residents or guests accompanied by residents. The Association (as defined in Numerical Paragraph 29 hereof) shall maintain the common open space located in the Subdivision, and any other section of the Walnut Grove Estates residential development which the Developer may by future deed restriction or amendment thereof designate and provide. Common open space located elsewhere in the Walnut Grove Estates residential development shall be maintained by the Association (as defined in Numerical Paragraph 29 hereof). No structure, object or plant material may be placed in the common open space without the approval of the Developer.

(c) Monument Signs/Entry Features - The Developer reserves the right (but not the obligation) to construct a monument sign, landscaping feature or similar type of improvement upon any lot in the Subdivision near any street intersection leading into the Subdivision. Any such signage feature shall be constructed at the expense of either the Developer or the Association (defined in Numerical Paragraph 29 hereof), and maintained at the expense of the Association. Any such signage feature shall be located in front of the building set-back line of the lot, near the street upon which such lot fronts. An easement is hereby reserved over the appropriate portion of any such lot in favor of the Developer and the Association in order to facilitate the construction and maintenance of the signage feature.

15. DISPOSAL OF TRASH: No lot shall be used as a dumping ground for rubbish, trash or garbage, and any and all such waste shall be kept in suitable sanitary containers. No vacant lot shall accrue trash, rubbish or debris at any time. Grass and/or shrubbery clippings, dead shrubs, leaves or any other debris shall be disposed of in

appropriate waster receptacles. Dumping of said materials on any other lot is strictly prohibited. The Developer reserves the right to remove any trash from lots at the expense of the owner of the lot and/or at the expense of the individual who violates this section.

16. FIREWOOD STOCKPILING: Any and all firewood stockpiles shall be placed so as to not detract from the aesthetic appearance of the lot when viewed from any vantage point. If a firewood stockpile is to be covered, that covering shall be of a heavy non-plastic material and shall be black in color and securely tied down to prevent disturbance by wind.

17. ANIMALS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, with the exception of dogs, cats and other household pets (meaning the domestic pets traditionally recognized as household pets in this geographic area), provided that such pets are not kept, bred or maintained for commercial purposes, and provided that such pets be kept within an enclosed area and not permitted to run or stray upon other lots unless on a leash or under direct control; further, when pets are walked, they are to be kept off the medians at all times. No pets shall be allowed in any landscaping common area.

18. OWNER'S DUTY TO MAINTAIN PROPERTY: Each lot owner shall keep the grass properly cut, keep the lot free from weeds and trash, and keep the lot neat and attractive. If a lot owner fails to so maintain the lot, the Developer, or its assignee, may take any action it deems appropriate to make that lot neat and attractive, and the owner shall, upon demand, reimburse the Developer for any expenses incurred. Each owner of a lot upon which construction of a residence has not yet been completed is obligated to maintain the lot prior to the completion of construction in accordance with all of the provisions referred to herein.

19. SIGNS: No signs of any kind shall be displayed on any lot, with the exception of For Sale or Rent signs [which shall not be greater in size than nine (9) square feet] and signs deemed acceptable or necessary by the Developer.

20. UTILITIES: Each lot owner shall be responsible for preserving and protecting underground utilities located on the lot; no utility lines of any kind may be above ground unless approved by the Developer.

21. GARDENS: No vegetable gardens shall be planted or extended nearer the street than the rear yard of any residence, and in no event shall be nearer than twenty (20') feet from the right-of-way line of any street.

22. SUBDIVISION/ONE BUILDING PER LOT: No additional subdivision of any lot shall be made without the written consent of the Developer and any appropriate governmental bodies; further, no more than one (1) building shall be built on any lot;

however, this restriction shall not include pool houses, gazebos or similar structures which have been approved by the Developer.

23. OBLIGATION TO CONSTRUCT OR RECONVEY: Every lot owner shall, within fifteen (15) months after the date of conveyance of the lot without a dwelling thereon, commence in good faith the construction of a single family dwelling, approved according to Paragraph 2 above; provided that should construction not commence within the fifteen (15) months period of time, the Developer may elect to repurchase any and all lots on which construction has not commenced for a purchase price equal to ninety percent (90%) of the agreed purchase price of said lot or lots hereunder, in which event the lot owner shall immediately reconvey and deliver possession of, and marketable title to, said lot or lots to the Developer.

No lot owner shall sell, convey or transfer his lot, if a primary permanent residential structure has not been constructed on that lot, without first offering to reconvey the lot to Developer for an amount equal to the purchase price paid by the lot owner for that lot. Whenever any lot owner receives a binding offer from a third party to purchase his lot, the lot owner shall notify the Developer of such binding offer and include a copy of the binding offer with that notice. The Developer shall then have 45 days to purchase the lot at an amount equal to the purchase price paid by the lot owner for the lot. If the Developer fails to purchase the lot within such 45 day period or elects not to purchase the lot during such 45 day period, then the lot owner may sell the lot to the party named in the binding offer to purchase.

24. ZONE CHANGES: No zone changes for any portion of the Subdivision shall be applied for without the prior approval of the Developer.

25. ROOF PITCH: No roof on any residence shall be less than a 8/12 pitch unless approved in writing by the Developer.

26. ARTIFICIAL VEGETATION, EXTERIOR SCULPTURE, AND SIMILAR ITEMS: No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved in writing by the Developer.

27. ENERGY CONSERVATION EQUIPMENT: No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed upon any lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Developer.

28. LAKES: All lakes, ponds, and streams within the Subdivision shall be aesthetic amenities only, and no other use thereof, including, without limitation, swimming, boating, playing, or use of personal flotation devices, shall be permitted.

Fishing by owners and their guests shall be permitted, subject to certain rules and regulations which may be established by the Board of Directors of the Association (as defined in Paragraph 29 below) from time to time. The Developer shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Subdivision.

29. HOMEOWNER ASSOCIATION:

(a) The Articles of Incorporation of **Walnut Grove Estates Homeowners' Association, Inc.** (the "Association"), and which may be amended from time to time, are recorded in Corporate Records Book \_\_\_\_\_, Page \_\_\_\_\_, in the Fayette County Clerk's Office.

(b) Every owner of a lot in the Subdivision (and the owners of lots in such other sections of the Walnut Grove Estates residential development as the Developer has provided in other deed restrictions or may provide in future deed restrictions) shall be a member of the Association and by acceptance of a deed for any lot, agrees to accept membership in and does thereby become a member of the Association. Such owner and member shall abide by the Association by-laws, rules and regulations, shall pay the assessments provided for, when due, and shall comply with decisions of the Association's Boards of Directors.

(c) The objects and purposes of the Association are set forth in its Articles of Incorporation and shall be to promote the social welfare and serve the common good and general welfare of its members. The Association shall have jurisdiction over all residential units of the Walnut Grove Estates residential development, and its objects and purposes shall include, without limitation and unless such obligations are otherwise assumed by any municipal or governmental agency having jurisdiction thereof, the maintenance and repair of the private streets, entrances, common areas, crosswalks, storm drains, basins, fences, paddock areas, horse pastures (and any barns or stables constructed thereon) and riding trails, including, but not limited to, any such items shown on any plat of the Walnut Grove Estates residential development, and acceptance of common areas for purposes of operation, maintenance and repair.

(d) Any assessments levied by the Association shall be used only for purposes generally benefiting the Association, and shall constitute the personal obligation of the lot owner and shall create a lien upon the lot and improvements subordinate to the lien of any first mortgage or vendor's lien on the lot and shall be enforceable against the real estate by foreclosure or otherwise.

(e) The initial assessment by the Association shall be no higher than \$600.00 per year for the 2002 calendar year. After December 31, 2002, the Board of

Directors of the Association may, from time to time, increase or decrease the assessment. The Board of Directors of the Association shall determine the amount of and fix the due date of each assessment. The annual assessment will be dated January 1 of each year and will be due and payable on or before February 1 of that year. The assessment will be prorated in the event of occupancy for a portion of the year, with the proration to be calculated by determining the number of days of occupancy of the residence from the date of occupancy through December 31 of that year. This subparagraph should not be construed to restrict or prohibit the rights of the Association, its Board of Directors, officers or members from taking any action permitted by its Articles of Incorporation, its By-Laws, rules or regulations.

30. RECREATIONAL FACILITIES:

A. The Developer has constructed within the Walnut Grove Estates development a building (the "Community Building") to accommodate meetings, etc. of residents of the Walnut Grove Estates residential development (or such other purposes as the Developer may specify), with the expenses associated with such facility to be brought within the scope of the common areas assessments to be levied against the owners of all lots pursuant to Section 29 above, and allocated among the owners of all lots within the Walnut Grove Estates residential development (including the owners of the lots comprising the Subdivision).

B. It is contemplated that a portion of the common areas of the Subdivision and future sections of the Walnut Grove Estates residential development will be transformed by the Developer into an equestrian facility, including pastures, fencing, riding trails, a barn and stable structure, for the keeping, care and riding of horses exclusively by owners of lots within the Walnut Grove Estates residential development (hereinafter the "Equestrian Facilities"). The Equestrian Facilities shall be managed by the Association, but the Association shall have the right to assign the management to a third party. Subject to availability (based upon the number of stalls), the owner(s) of each lot within the Walnut Grove Estates residential development shall have the right to board no more than one (1) horse per lot within the Equestrian Facilities. Each owner boarding a horse in the Equestrian Facilities shall be totally responsible for all care, feeding and watering of his or her horse, and shall be deemed to have released the Developer and the Association, and their respective officers and directors, from any liability relating to the boarding of any horses within the Equestrian Facilities. The costs and expenses relating to the operation of the Equestrian Facilities shall be allocated among the owners of the horses boarded therein (with the exception of mowing the pastures and painting and maintaining the fences, which shall be expense of the Association), and shall be invoiced

to the owners of such horses on a periodic basis. The operation of the Equestrian Facilities shall be subject to any rules and regulations established by the Board of Directors of the Association, as same may be revised from time to time.

C. Unless otherwise conveyed to the Association by deed or other written instrument, the Community Building, the Equestrian Facilities, and other similar recreational facilities situated within the Subdivision or upon any other portion of the Walnut Grove Estates residential development (hereinafter collectively referred to as the "Recreational Amenity Facilities") shall be owned by the owner of the underlying real estate (the "Recreational Facilities Owner"), which may or may not be the Developer, and neither the Association nor the owner of any lot shall have any claim of ownership with respect to the Recreational Amenity Facilities in the absence of a specific agreement between the lot owner and the Recreational Facilities Owner. The criteria for membership in or use of the Recreational Amenity Facilities and the rules pertaining thereto shall be at the sole discretion of the Recreational Facilities Owner, and may be changed from time to time by the Recreational Facilities Owner.

D. The Developer reserves the right (on its own account or on behalf of the Recreational Facilities Owner, any other entity affiliated with the Developer, or their respective successors or assigns) to utilize portions of the Community Building, and any barns constructed in connection with the Equestrian Facilities for the purpose of storing equipment, vehicles or other items of personal property of all types until such time as the Developer has relinquished such right by the execution of a written agreement addressed to the Association. The Developer (or other permitted user of such space, as the case may be) shall not be responsible for paying any type of rent for the use of such space, but shall reimburse the Association for its prorata share of any documented out-of-pocket expenses relating to the use of such space.

31. PRESERVATION OF FARM ROAD FENCES AND TREE LINES: Any existing or proposed fence lines built along and trees growing along the historic farm roads which transverse throughout the Subdivision shall be preserved. No such fence or tree may be removed or torn down without the Developer's prior written consent, and any person or entity who violates this provision shall be responsible for reimbursing the Developer or the Association, as the case may be, for the costs incurred in replacing the fence or tree(s) improperly removed or damaged. Such fences and trees shall be maintained by the Association, and the costs of such maintenance shall be a common area expense allocated among the owners of all Lots in the Walnut Grove Estates residential development.

32. ASSIGNMENT OF DEVELOPER'S RIGHTS: The various approval rights retained by the Developer in this instrument may be assigned to any person, entity or association. If the Developer ceases to exist as a legal entity without formally assigning its approval rights, those approval rights shall be deemed to have been assigned to the Association.

33. ENFORCEMENT: Enforcement of these Restrictions by the Developer, the Association, or any lot owner shall be by proceedings by law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Any lot owner at any time may enforce the restrictions and covenants herein contained by appropriate legal procedure. The failure of any owner to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions. Wherever in this instrument a lot owner has an affirmative obligation to take some action or is restricted from taking some action or is restricted from taking some action without the approval of the Developer, and the lot owner violates any of those requirements, the Developer may notify the lot owner of his violation. If the lot owner has not complied with the Developer's notification to correct the violation within 30 days, the Developer shall have the right to correct the violation, and the cost of correcting such violation shall be paid by the lot owner to the Developer immediately upon demand. To secure the payment of that obligation by the lot owner, the Developer shall have a lien on such owner's lot, which lien shall be equal in priority to the lien provided for in Paragraph 30(d) above. That lien shall be enforceable against the lot by foreclosure or otherwise.

34. SEVERABILITY OF PROVISIONS: The invalidation of any one of these provisions by judgment or Court order shall not affect any other provisions hereof which shall remain in full force and effect.

35. RESTRICTIONS BINDING UPON BUILDERS AND CONTRACTORS: These covenants and restrictions shall be binding upon and enforceable against a builder or contractor engaged by the owner of a lot in the Subdivision to construct a house or any other improvements upon the lot. The lot owner shall be responsible for ensuring that the builder/contractor is made aware of, and complies with, these covenants and restrictions.

36. AMENDMENTS: These covenants and restrictions may be amended at **any time by the Developer**, provided that the Developer still owns at least one (1) lot or tract of land in the Walnut Grove Estates residential development, and (a) the minimum floor area requirements set forth in Numerical Paragraph 5 are not decreased thereby, (b) the amendment does not discriminate against the owner of any lot in the Subdivision,

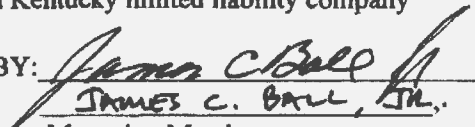
unless such owner consents to the amendment in writing, and (c) written notice specifying the nature of the amendment is sent to the owner of each lot in the Subdivision at least thirty (30) days prior to the effective date of such amendment. Furthermore, these covenants and restrictions may be canceled or amended at any time by the affirmative action of the owners of seventy-five percent (75%) of the lots subject to these restrictions, except that (x) no such cancellation or amendment shall affect the provisions of Paragraphs 29 and 30 hereof unless the Developer consents to same in writing, and (y) the Developer's written consent to any such cancellation or amendment shall be required if the Developer still owns any lots or tracts of land within the entire Walnut Grove Estates residential development. No amendment to these covenants and restrictions relating to the construction criteria of houses built upon any lot in the Subdivision shall be applicable to any house the construction of which commenced prior to the date such amendment is recorded in the Fayette County Clerk's Office.

37. RESTRICTIONS RUN WITH LAND: Unless canceled, altered or amended under the provisions of this or the preceding 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 (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) a majority of the then owners of the lots in the Subdivision, and (b) the Developer, if the Developer still owns any lots or tracts of land within the entire Walnut Grove Estates residential development, has been recorded, agreeing to terminate these restrictions and covenants in whole or in part (provided that no such change shall affect the provisions of Paragraphs 29 and 30 hereof unless the Developer consents to same in writing). The failure of any owner to demand or insist upon observance of any of these covenants and restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions.

IN WITNESS WHEREOF, the Developer, JJK – THOMAS, LLC, a Kentucky limited liability company, has executed this Declaration of Covenants, Conditions and Restrictions on this the day and year first above written.

JJK – THOMAS, LLC,  
a Kentucky limited liability company

BY:

  
JAMES C. BALL, JR.,  
Managing Member

STATE OF KENTUCKY )  
 )  
COUNTY OF FAYETTE )

The foregoing Declaration of Covenants, Conditions and Restrictions was subscribed and sworn to before me by James C. Ball, Jr. the Managing Member of JJK - Thomas, LLC, a Kentucky limited liability company, on this the 15<sup>th</sup> day of March, 2002.

My Commission Expires: 11-10-2002

Glenn A. Hoskins

NOTARY PUBLIC, KENTUCKY,  
STATE AT LARGE

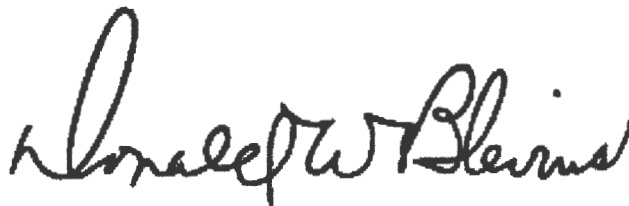
THIS INSTRUMENT PREPARED BY:

Glenn A. Hoskins

GLENN A. HOSKINS  
GLENN A. HOSKINS, P.S.C.  
1077 Eastland Drive  
P. O. Box 55254  
Lexington, Kentucky 40555  
(859) 231-1077

GAH/020270gh

**I, Donald W Blevins, County Court Clerk  
of Fayette County, Kentucky, hereby  
certify that the foregoing instrument  
has been duly recorded in my office.**



**By: Doug BRADLEY, dc**

**200203150035**

**March 15, 2002**

**09:04:24 AM**

**Fees \$37.00**

**Tax \$0.00**

**Total Paid \$37.00**

**THIS IS THE LAST PAGE OF THE DOCUMENT**

**18 Pages**

**701 - 718**