

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE ENCLAVE AT ANDOVER ESTATES**

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (“Restrictions”) is made on this the \_\_\_\_ day of \_\_\_\_\_, 2006, by **CHILES WORTH DEVELOPMENT COMPANY, LLC**, a Kentucky limited liability company, hereinafter referred to as “Developer” of the **ENCLAVE AT ANDOVER ESTATES**, hereinafter referred to as the “Subdivision”.

**W I T N E S S E T H:**

THAT WHEREAS, the Developer is the owner of the Enclave at Andover Estates to the City of Lexington, Fayette County, Kentucky, a final record plat of which is recorded in Plat Cabinet \_\_\_\_, Page \_\_\_\_, in the Fayette County Clerk’s Office (“Subdivision”); and,

WHEREAS, the Developer intends 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 the Subdivision, as follows:

1. PRIMARY USE RESTRICTIONS:

All lots in the Subdivision shall be used only for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except residential dwellings designed for the occupancy of one family only (including any domestic servants living on the premises), not to exceed two (2) stories in height at street elevation, and which shall contain a private attached no less than two (2) car garage. No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy and like endeavors) shall be conducted on any lot, except a home-based business with one employee, who is the lot owner, provided such business does not require use of the common open spaces for deliveries, parking, meetings, or for any other purpose, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof, 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.

2. APPROVAL OF CONSTRUCTION PLANS:

The Developer shall approve all house plans prior to commencement of construction. No construction activity of any kind, including excavation or lot clearing, shall begin until Developer has approved construction plans in writing. Additionally, no improvements of any kind 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 all improvements, the type of exterior material and the driveway shall have been approved in writing by Developer. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

The Developer, its agents, committees, successors and assigns, shall not be liable to any person by reason of mistakes, negligence, or nonfeasance arising out of or in connection with the approval or disapproval of any plans for construction submitted to the Developer. Every person who submits plans for construction to the Developer shall hold the Developer, its agents, committees, successors and assigns harmless from any and all liability arising out of or in any way connected with the approval and/or disapproval of all or any part of such plans.

3. PRIMARY PERMANENT RESIDENTIAL STRUCTURE CONSTRUCTION PLANS:

- (a) Plans submitted for approval by the Developer shall be one-fourth ( $\frac{1}{4}$ ) inch equals one (1) foot scale. Plans shall include a plot plan and driveway location(s). The construction plans shall include front, side and rear elevations.
- (b) All roof pitches shall be at a minimum ratio of eight (8) feet of rise to twelve (12) feet of run (8/12 pitch).
- (c) The following are required minimum square footages for the primary permanent residential structure:
  - (1) Two (2) story homes: 3,800 square feet minimum; 2,000 square feet minimum on first floor
  - (2) Ranch-style homes: 2,800 square feet minimum
  - (3) One and one-half ( $1\frac{1}{2}$ ) story homes: 3,400 square feet minimum; 2,000 square feet minimum on first floor (No split levels are permitted)
  - (4) All others: 3,400 square feet minimum
- (d) In computing total square footage, basements (whether finished or not), garages and porches (open or enclosed) shall not be included.
- (e) No improvement shall be located on any lot nearer to the front lot line or the side street line than the maximum building set back line shown on the recorded plat, without the approval of Developer.

4. BUILDING MATERIALS:

All exterior building materials shall be either brick or stone veneer. The brick or stone veneer shall be extended to the finished grade. No other exterior building material shall be used except upon 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. All roof shingles shall be of architectural design. All roof shingles, including variation in the minimum specification standards, shall be approved by the Developer in writing. The main roof design of all residences shall be hip unless otherwise approved or

altered by the Developer. Developer shall provide available color options for all exterior building materials, at its sole discretion. All fireplace chimneys shall be masonry, unless otherwise approved in writing by Developer.

5. APPURTENANCES, IMPROVEMENTS AND OTHER PERMANENT STRUCTURES:

No outbuilding storage facilities of any kind shall be permitted, and no appurtenance, improvement or other permanent structure shall be constructed or placed on any lot without prior written approval from the Developer. Such permanent structures include, but are not limited to, pools, fences, gazebos, treehouses, playhouses, flagpoles 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. No additional windows, platforms, etc., which may invade the privacy of adjacent dwellings are permitted. The following requirements are applicable to such appurtenances, improvements and other permanent structures:

(a) Garages.

No carports shall be constructed on any lot. Each residence shall include a two-car attached garage which shall 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.

(b) Driveways and Sidewalks.

All driveway areas must be concrete or brick, and each lot owner shall complete the driveway and install a concrete sidewalk in any location required by Subdivision regulations, entirely at lot owner's expense. Driveways and sidewalks shall be completely installed prior to or upon completion of construction of a single family dwelling on such lot.

(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. No above-ground pools are permitted. The construction of swimming pools and any fence enclosure therefor as referred to in paragraph 5(g) below 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 will be installed without the approval of the Developer, and if allowed, will be designed for recreational character so as to buffer the surrounding residences from all lighting.

(e) Tennis Courts.

No tennis court shall be permitted on individual lots.

(f) Basketball Goals.

No basketball goal shall be erected without the approval of the Developer in writing and no basketball goal shall be attached to the front of the house. No basketball goal shall be erected in common areas, and no portable basketball goals shall be located or used in or adjacent to streets or cul-de-sacs.

(g) Fences.

Placement of fences for swimming pools shall be restricted to the immediate pool area only, and style and design thereof shall be subject to Developer approval. No above ground boundary or perimeter fences of any kind will be permitted. Underground "invisible" fencing will be permitted with prior Developer approval only.

(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. No window air conditioners are permitted. The plans for such screening shall contemplate landscaping of solid materials and will be located as far from property lines as reasonably possible.

(i) Mailboxes.

All mailboxes shall be of uniform architectural design as determined by the Developer. No separate paperholders are permitted without the approval of Developer.

(j) Satellite Dishes.

No satellite dishes larger than eighteen inches (18") may be erected or placed on any lot. Installation and placement of 18" dishes shall not take place without the prior written approval of Developer. No 18" dish installed by any lot owner shall be visible when the residence is viewed from the street.

(k) Clotheslines.

No outside clothesline shall be erected or placed on any lot.

(l) Signs.

No signs of any kind shall be displayed on any lot, with the exception of one (1) For Sale or Rent sign (which shall not be greater in size than nine (9) square feet) and signs deemed acceptable or necessary by the Developer, including signs of Developer located on the common areas or lots advertising the sale of lots by the Developer. The Developer, at its

discretion, may install entry signs, traffic control signs or other signs necessary for the identification and benefit of the Subdivision, subject to applicable zoning and building regulations.

(m) Temporary Structures.

No temporary structure shall be permitted on any lot with the exception of temporary tool sheds and/or field offices used by individual builders during the course of construction on such lot, or by the Developer. Any such sheds or offices shall be removed upon substantial completion of construction on the lot in question. No such sheds and/or field offices of any kind shall be permitted on vacant lots once construction has been completed on seventy-five percent (75%) of the Subdivision lots.

(n) Lighting.

No exterior lighting, including recreational and/or security lighting, shall be installed or maintained on any lot which is found to be objectionable by the Developer, in its sole discretion. Should the Developer make such a determination, the owner of the lot on which such lighting is located will immediately remove said lighting upon notice being provided by the Developer, or have such lighting shielded to the satisfaction of the Developer. Temporary exterior building lights and decorations are permitted subject, however, to rules and regulations adopted by the Developer or Association.

(o) Tanks.

No above-ground tanks of any type shall be permitted to remain on any lot.

(p) Entry Walls.

In the event the entry walls and any gates are removed due to any widening of Chilesburg Road by a governmental entity, such improvements shall be reconstructed subject to the provisions of this paragraph. The Developer or Association shall have the right, in such event, to reconstruct the entry walls and any gates, provided that the lots disturbed by such reconstruction are restored to the same condition immediately prior to such reconstruction.

(q) Play equipment.

Any swing sets must be of wooden construction. No plastic swing sets or other similar play equipment shall be permitted to remain on any lot. Trampolines shall not be permitted to remain on any lot.

(r) 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.

6. LANDSCAPING DURING CONSTRUCTION:

During construction, builders shall be responsible for the following:

- (a) Stockpiling of any building materials shall not be allowed within 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, whether or not adjoining the construction site.
- (d) Runoff and erosion shall be controlled by the builder, at builder's sole expense, on each lot during construction while the lot is disturbed.

7. 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 Developer.
- (b) All front, side and rear yards must be completely sodded upon completion of construction. Seeding in lieu of sodding is strictly prohibited.
- (c) The plan shall include the planting of a three-inch (3") at base deciduous tree in the front yard in addition to any governmental street tree requirements.
- (d) No existing living tree shall be cut or removed without 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. 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) No man-made lawn ornaments of any kind will be permitted in front or side yards or in yards facing streets unless approved in writing by the Developer or its assigns.

8. UTILITIES:

Any and all utility lines or wires for communications or for 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.

9. DRAINAGE:

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.

10. EASEMENTS, COMMON AREAS AND LAKES:

(a) Utility Easements.

Easements for installation and maintenance of utilities may be reserved over each lot by deed or as shown on plat. Within these easements, no structure, planting or other material shall be placed or prevented 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 area 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. No above ground utilities are permitted unless approved by Developer.

(b) Common Open Space Easements, Common Areas and Lakes.

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 utilities. All common open space and the lakes are and shall remain private property exclusively for recreational or access purposes. The common open space and the lakes shall be used exclusively by residents or guests accompanied by residents. The Association (as hereinafter defined) shall maintain the common open space and the lakes and any other section of the Subdivision that Developer may by future deed restriction or amendment hereof designate and provide. No structure, object or plant material may be placed

in the common open space or the lakes without the approval of the Developer or Association. The lakes may be used in accordance with the rules promulgated by the Association. The lakes shall be considered an amenity and can be used for fishing, swimming, boating or other water sports in accordance with the aforesaid rules. The lakes shall be used at the risk of the user and the Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of the lakes. No docks are permitted and no boats or other water craft shall be permitted to remain in the lakes when not in use.

(c) Title to Common Areas.

The Developer may retain the legal title to the common areas until such time as the Developer determines, in its sole discretion, that the same should be conveyed to the Association; provided, however, the Developer hereby covenants that it shall convey legal title to the common areas to the Association no later than at such time as its Class B membership in the Association is converted to Class A membership. When the Developer conveys legal title to the common areas to the Association, the Association shall accept such legal title and assume full and complete control, responsibility, and liability for the common areas so conveyed.

11. VEHICLES:

No trailer, truck, commercial vehicle, camper trailer, camping vehicle, motor home, boat, jet skis, van or other large vehicle except to load or unload, shall be parked or kept on any lot at any time 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 operable vehicle shall be parked on any street in the subdivision for a period in excess of twenty-four (24) hours in any one calendar year. Any and all routine automobile maintenance shall be conducted only within a garage. No such routine maintenance shall be permitted on residential streets or on driveways. Vehicles parked in violation of any such regulations may be towed away at the unit owner's sole risk and expense. No motorized off-road vehicles including, but not limited to, trail bikes, mini-bikes, go-carts, three-wheelers, gators, ATV's, scooters, mopeds, and snowmobiles, shall be used on the street or common open spaces. Notwithstanding, vehicles reasonably necessary during construction or alterations of any buildings or improvements upon the lot are permitted.

Each owner shall be required to complete and submit to security personnel the registration form required for receiving a sticker/insignia, identifying the owner as a person who owns lot(s) within the Subdivision. Further, the owner shall be required to put the sticker/insignia on the windshield of his or her motor vehicle. The Developer shall determine the design and format for the sticker/insignia. Failure to use the sticker/insignia shall subject the owner to such fines as shall be established from time to time by the Developer. Fines may be levied by the Developer upon affidavit of an agent, identifying the owner as a person who has failed to use the sticker/insignia.

12. CONDUCT.

No improper, unlawful, noxious, or offensive activity shall be conducted on any lot or on the common areas or lakes, nor shall anything be done therein which may be or become

unreasonably annoying or a nuisance to the other lot owners. No lot owner shall make or permit any unreasonably loud or disturbing noises on any lot or do or permit anything to be done which will unreasonably interfere with the rights, comforts, or convenience of other lot owners. All lot owners shall keep the volume of any radio, television, musical instrument, or other sound-producing device on their lots sufficiently reduced at all times so as not to disturb other lot owners.

No trade or business of any kind shall be conducted on any lot, except a home-based business with one employee, who is the lot owner, provided such business does not require the use of the lot or common areas for deliveries, parking, meetings, or for any other purpose.

13. 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 waste receptacles. Dumping of said materials on any other lot is strictly prohibited. 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.

All garbage and trash must be placed in the proper receptacles designated for refuse collection and no garbage or trash shall be placed elsewhere. All receptacles shall be stored so as not to be visible from adjacent properties except that, on collection day, such receptacles shall be rolled out to the street for collection and shall not remain outside for more than 24 hours. Should the lot owner fail to comply therewith, the Developer may take such action on behalf, and at the expense of, such lot owner.

14. FIREWOOD STOCKPILING:

Any and all firewood stockpiles shall be placed so as not to 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.

15. ANIMALS:

No pets, other than the traditional domestic animals in this geographic area (i.e., dogs, cats, birds) shall be housed or kept on any lot. No pets, including traditional domestic animals, shall be kept for any commercial or breeding purposes. Pets shall always be under the control of the owner and adhere to the ordinances set forth by the Lexington-Fayette Urban County Government and other appropriate governmental authorities. No pets shall be allowed in any landscaped common areas. An animal otherwise permitted may be removed by Developer or the Association if it becomes a nuisance to the other lot owners, at the cost of the animal's owner(s)

16. SUBDIVISION/ONE BUILDING PER LOT:

No additional subdivision of any lot shall be made. No more than one (1) building shall be built on any lot, with the exception of permitted pool houses, gazebos or similar structures, any of which must have been approved by the Developer prior to construction. Any such structures which are constructed without prior Developer approval shall be subject to immediate removal upon demand of the Developer, at its sole discretion.

17. OBLIGATION TO CONSTRUCT OR RECONVEY:

Every lot owner shall, within one hundred twenty (120) days after the date of execution of a sales agreement regarding the sale and purchase of a lot without a dwelling thereon, commence in good faith the construction of a single family dwelling, as approved according to Paragraph 2 above; in the event the sales agreement provides for the sale and purchase of more than one lot, the lot owner shall commence construction of a single family dwelling on at least one of said lots within the one hundred twenty (120) day period; should construction not commence within eighteen (18) months from the date of execution of the sales contract, the Developer may elect to repurchase any and all lots on which construction has not commenced for a purchase price of 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 said lot or lots to Developer by deed of special warranty. Additionally, Developer shall have the right to approve any sale by lot owner of any vacant lot to a third party. Upon the receipt by lot owner of a bona fide offer to purchase any such lot, the lot owner shall provide Developer with a copy such offer for Developer's review and approval.

18. MAINTENANCE OF LAWN AREAS:

As set forth in Paragraph 21 hereinbelow, the Association (as hereinafter defined) shall be responsible for the maintenance of all common lawn areas and all lawn areas on individual lots so that a neat, uniform appearance may be maintained in the Subdivision. Such maintenance shall include the mowing, trimming and fertilization and weed eradication (if so determined by the Association) of such lawn areas. Such maintenance shall not include the care and trimming of any decorative shrubbery, trees or flowers. The lot owner(s) shall keep such decorative shrubbery, trees or flowers in a neat, attractive and uniform appearance. If such lot owner(s) fail to so maintain such decorative shrubbery, trees or flowers, the Developer, or its assigns, may take any action it deems appropriate to make the same neat, attractive and uniform, and the owner(s) of such lot shall, upon demand, reimburse Developer, or its assigns, for any expenses incurred. In addition, the lot owner(s) shall promptly remove any dead or dangerous tree located on their lot and should such lot owner(s) fail to so remove such dead or dangerous tree, the Developer, or its assigns, may take any action it deems appropriate to remove such dead or dangerous tree, and the owner(s) of such lot shall, upon demand, reimburse Developer, or its assigns, for any expenses incurred. Further, adjoining lot owner(s) shall have the right to cut back overhanging tree branches or offending tree roots to the boundary line of their lot without obtaining the consent of the lot owner(s) of the lot upon which such tree is located. The Association shall not be liable for any damage or injury arising from such maintenance, including any caused by the negligence of the individual lot owner as a result of the presence on or in the lawn of debris or materials not permitted under these Restrictions. Any damage to the

lot owner's property or injury to any person resulting from such negligence shall be the sole responsibility of the individual lot owner. The Association shall not be obligated to maintain lots on which homes are being constructed, or vacant lots, unless the conditions set forth in Paragraph 19 hereinbelow have been satisfied. No vegetable gardens shall be planted on any lot, without the prior approval of the Developer.

19. OWNER'S UPKEEP OBLIGATION PRIOR TO COMPLETION:

Each owner of a lot upon which construction of a residence has either not begun or has not been completed is obligated to maintain the lot in accordance with all of the provisions referred to herein. Vacant lots will be maintained by the Association only upon the following terms and conditions:

- (a) The lot owner must have begun payment of and be current on all monthly assessments made by the Association; and,
- (b) In accordance with other provisions contained herein, the lot must be free of any kind of debris and sufficiently level to permit the lot to be safely mowed with such mowers as are operated by the Association or its employees or agents, in its sole discretion.

20. ZONE CHANGES:

No zone changes for this property shall be applied for without the prior approval of Developer.

21. HOMEOWNERS ASSOCIATION/ASSESSMENTS:

- (a) The Articles of Incorporation of The Enclave at Andover Estates Homeowners Association, Inc. (the "Association"), which may be amended from time to time, dated \_\_\_\_\_, 2006, shall be placed of record in the Articles of Incorporation Book of the Office of the Fayette County Clerk, in Lexington, Kentucky. Every owner of a lot in the Subdivision (and such other sections as 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's bylaws, rules and regulations, shall pay the assessments provided for, when due, and shall comply with decisions of the Association's Board of Directors.
- (b) 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 their members. The Association shall have jurisdiction over all the Subdivision (and any other Units which Developer provides through amendments hereto or future deed restrictions), 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 acquisition, maintenance, replacement and repair of the streets, common areas, crosswalks, storm drains, basins, fences and entrances as are shown on any plat of the Subdivision, acquisition or acceptance of common area for purposes of operation, maintenance, replacement and repair, the maintenance of all lot owners' lawn areas, as provided in Paragraph 18 above, which maintenance shall include lawn mowing, trimming and fertilization and weed eradication (if so determined by the Association), and snow removal from driveways, sidewalks and roads (if so determined by the Association), together with the enforcement of these Restrictions.

- (c) Any assessments levied by the Association shall be used only for purposes generally benefiting the members of the Association, and together with interest at a rate not to exceed eighteen percent (18%) or the highest rate allowed by Kentucky law as computed from the date the delinquency first occurs, costs and reasonable attorneys' fees, shall constitute the personal obligation of the lot owner and shall create a lien upon the lot and improvements against which each such assessment is made. This lien shall be 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, and recordable in the Fayette County Clerk's office. A grantee of such lot owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of a conveyance.
  
- (d) The initial assessment made by the Association shall be no higher than \$ \_\_\_\_\_ per month per lot beginning \_\_\_\_\_, 20\_\_\_. After \_\_\_\_\_, 20\_\_\_, 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 effective date of each assessment in the manner set forth in the bylaws of the Association. Assessments will be billed monthly on the first of each month and will be due and payable on or before the 10<sup>th</sup> of said month; assessments may be paid in advance on a quarterly or a yearly basis with the permission of the Association and in accordance with the bylaws. With the exception of the Developer, the owner of any Subdivision lot as of the first of each month shall be responsible for payment of the entire monthly assessment; any proration of monthly assessments resulting from a change in ownership shall be the sole responsibility of lot owners, and partial payments for monthly assessments will not be accepted by the Association. This subparagraph should not be construed to restrict in any way the rights of the Association, its Board of Directors, officers or members from taking any action with regard to assessments which is permitted by its Articles of Incorporation or its bylaws, in which the Association's rights of assessment and the individual lot owner's and Developer's rights and responsibilities therefor are more particularly set forth.

- (e) If the assessments levied against the members/lot owners are insufficient to pay all of the capital expenditures for aesthetic improvements (for example: fountain, landscape planters and signage) on the common areas of the Subdivision, the Developer may provide funds to the Association to make up the short fall. The Association is hereby authorized to establish repayment terms for any such advancements made by the Developer, including repayment with interest at market rates, and payment of penalties for failure of the Association to comply with the repayment terms.
- (f) The Association shall have the right, but not the obligation, to enter into any lot for emergency, security and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the owner. This right of entry shall include the right of the Association to enter a lot to cure any condition which may increase the possibility of a fire or other hazard in the event an owner fails or refuses to cure the condition upon request by the Board and shall also include the right to enter upon the land comprising any lot for the purpose of performing maintenance of, repairs or replacements within the common areas, or any equipment, facilities or fixtures affecting or serving other lots or the common area or to make any alteration required by any governmental authority or as provided for in Paragraph 18 above.
- (g) The Association may enforce these Restrictions, seek any and all available relief and impose sanctions for violations of these Restrictions, including monetary fines, suspension of voting rights, and the right to use any facilities within the common areas, and reimbursement of Association's reasonable attorneys' fees incurred in connection therewith.
- (h) Suit to recover a money judgment for unpaid assessments and attorneys' fees may be maintainable without foreclosing or waiving the lien securing the same. The voting rights of the member/lot owner who is in default in payment of any assessment shall be automatically suspended and shall be reinstated upon cure of the default.
- (i) All payments shall be applied first to costs and attorneys' fees, then to late charges, then interest, and then to any unpaid assessments, in the order of their coming due.
- (j) The omission or failure of the Board of Directors to fix the assessment amounts or to deliver or mail to each member/lot owner an assessment notice shall not be deemed a waiver, modification, or a release of any member/lot owner from the obligation to pay assessments. In such event, each member/lot owner shall continue to pay assessments on the same

basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

22. FIREARMS/WEAPONS:

No discharge of firearms or other weapons in any unit or on the common elements is permitted. The term "firearms" includes "B-B" guns, paint guns, pellet guns, and other firearms of all types, regardless of size. The term "weapon" shall include bows, crossbows and/or projectile weapons.

23. SOLICITORS/GARAGE/YARD SALES:

Solicitors are not permitted. Any lot owner who is contacted by a solicitor on the property is requested to notify the managing agent. No garage, yard, rummage or similar sale shall be held on any lot or the common areas, unless approved in advance by the Developer.

24. RESTRICTIONS RUN WITH LAND:

Unless cancelled, altered or amended under the provisions of this paragraph, these Restrictions shall 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 seventy-five percent (75%) of the then owners of the front footage of all lots in the Subdivision has been recorded, agreeing to change these Restrictions in whole or in part. These Restrictions may be cancelled, altered or amended at any time by the affirmative action of the owners of seventy-five percent (75%) of the lots subject to these Restrictions. 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. So long as Developer owns at least ten (10%) percent of the lots within the Subdivision, Developer may unilaterally amend this Declaration by recording a subsequent amendment, which subsequent amendment may modify, delete or add covenants, conditions and restrictions to the lots. No amendment may remove, render or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege.

25. GENERAL:

- (a) The several approval and enforcement rights retained by Developer in this instrument may be assigned to any person or association, including the Association, and wherever the term "Developer" is used herein, such term shall be construed to include Developer's assigns. If Developer ceases to exist as a legal entity without formally assigning its approval and enforcement rights, those approval and enforcement rights shall be deemed assigned to the Association.
- (b) 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 Developer, and the lot

owner violates any of those requirements, 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 thirty (30) days, the Developer shall have the right to re-enter the lot and correct the violation, and the cost of correcting such violation, including reasonable attorneys' fees, shall be paid by the lot owner to Developer immediately upon demand. To secure the payment of that obligation by the lot owner, Developer shall have a lien on such owner's lot, which lien shall be equal in priority to the lien provided for in paragraph 21(c) above, and recordable in the Fayette County Clerk's office. That lien shall be enforceable against the lot by foreclosure or otherwise.

- (c) Invalidation of any one of the provisions herein contained by judgment or Court order shall not affect any other provisions, which shall remain in full force and effect.
- (d) These Restrictions shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
- (e) In the event of an asserted violation of these Restrictions, the Developer or the Association shall be permitted to file a notice thereof with the Fayette County Clerk's office. After such asserted violation is remedied to the Developer's or the Association's (as applicable) satisfaction or as ordered by a Court of competent jurisdiction, a release of such notice shall be filed by the Developer or the Association (as applicable) with the Fayette County Clerk's office.
- (f) The failure of the Developer, the Association or any owner to enforce any of the covenants, conditions or restrictions herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other covenant, condition or restriction.

IN WITNESS WHEREOF, the Developer, Chilesworth Development Company, LLC, a Kentucky limited liability company, has executed this Deed of Restrictions on this the day and year first above written.

**CHILES WORTH DEVELOPMENT COMPANY, A  
KENTUCKY LIMITED LIABILITY COMPANY**

**BY:** \_\_\_\_\_  
\_\_\_\_\_

**ITS:** \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

COUNTY OF \_\_\_\_\_

The foregoing Deed of Restrictions was acknowledged to before me by \_\_\_\_\_, in his capacity as \_\_\_\_\_ for Chilesworth Development Company, LLC, a Kentucky limited liability company, for and on behalf of said \_\_\_\_\_, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE, KY

This Instrument Prepared By:

\_\_\_\_\_  
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