Prepared by: Ed Woods P. O. Box 355
Chapel Hill, Tennessee
37034

# RESTRICTIVE COVENANTS OF WALNUT HILLS SUBDIVISION
## Section One

The Following restrictive covenants shall apply to all lots and/or parcels of land in the Walnut Hills Subdivision, a subdivision in the First Civil District of Marshall County, Tennessee, a plat of which is recorded in Map Plat Cabinet Slide ~~Book~~ A, Page 69, Register's Office, Marshall County, Tennessee, and shall be binding on the present owners, their successors and assigns, and shall be covenants running with the land.

WHEREAS, DEEP EAST TEXAS SAVINGS ASSOCIATION, in its desire to keep the development of said real property for the mutual benefit and pleasure of the owners of lots within said property, and for the protection of property values, desires to place on and against said property certain protective restrictive covenants regarding the use thereof;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that DEEP EAST TEXAS SAVINGS ASSOCIATION, does hereby make and file the following declarations, reservations, protective covenants, limitations, conditions and restrictions regarding the use and/or improvements on the lots located in said subdivision.

1. BUILDING PERMITS AND ARCHITECTURAL CONTROL

No building shall be erected, placed or altered on any lot, property or area in said property until the building plans, specifications and plot plans showing the location of such building have been approved in writing by DEEP EAST TEXAS SAVINGS ASSOCIATION, or its designated representative, or such Architectural Control Committee as may be established, as to conformity and harmony of external and structural design and quality with existing structures on said property and as to the location of the building and in conformity with the declarations, reservations, protective covenants, limitations, conditions and restrictions, as hereinafter set out. In the event said DEEP EAST TEXAS SAVINGS ASSOCIATION or its designated representative or such Architectural Control Committee, fails to approve or disapprove such design and location within (30) days after said plans and specifications have been submitted to it, and if no suit to enjoin the erection of such building or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to be fully complied with. Notice of disapproval shall be delivered in person or by registered letter, addressed to Purchaser's last known address, and which said notice will set forth in detail the elements disapproved and the reason therefore. Such notice need not, however, contain any suggestions as to the methods of correcting the matters and things disapproved. The judgment of the supervising authority or committee shall in all things be final.

2. RESIDENTIAL LOTS

All lots in said property shall be known and designated as "residential lots" and shall be used for residential purpoees only, and shall be subject to the following restrictions, reservations, protective covenants, limitations and conditions:

A. USE: No dwelling shall be erected, altered, placed or per-

mitted to remain on any of said lots other than a single residence, designated and constructed for the use by a single family, together with such servants' quarters, garages and other structures as may be suitable and proper for the use and occupance of said residents as a single family dwelling, nor shall any residence constructed thereon be converted into or thereafter used as a duplex, apartment house or any form of multiple family dwelling, nor shall any residence or combination of residences on separate lots be advertised for use or used as hotels, tourist courts or tourist cottages or as places of abode for transient persons.

B. All dwellings erected on any residential lots shall have an interior area of not less than 1400 square feet, unless otherwise approved by DEEP EAST TEXAS SAVINGS ASSOCIATION, or such representative or architectural control committee as described in Item 1, above. No building or structure shall be occupied or used until the exterior thereof is completely finished.

C. No building may be erected nearer than forty (40) feet to any front street lot line or as reflected on map. No building shall be erected nearer than twenty-five (25) feet on any side street lot line, or as reflected on map. No building or structure shall be erected on any lot nearer than five (5) feet, including roof overhang, from any interior lot line.

D. In no event shall any residential lot be used for any business purpose.

E. It is expressly agreed and understood that Lots 17, 51, 57, 58, 88, 89, 96 and 131, are commercial lots and do not come under the scope of these restrictions.

F. CONSTRUCTION

All materials used in the exterior construction of any residence or other structure must be approved by DEEP EAST TEXAS SAVINGS ASSOCIATION, or its assigns or nominee before any structure may be erected and only new construction materials shall be used except for used brick. In no event shall any old house or building be moved on any lot or lots in said subdivision. The exterior construction of any kind and character, be it the primary residence, garage, porches, or appendages thereto shall be completed within six (6) months after the start of foundation.

3. GARBAGE AND TRASH DISPOSAL

Garbage and trash shall be disposed of at least once a week. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. All garbage or trash accumulated from day to day shall be kept in covered sanitary containers. All incinerators or other equipment for storage or disposal of such materials shall be kept in a clean and sanitary condition and not visible from any road or right-of-way.

4. NUISANCES

No noxious or offensive trade or activity shall be carried on or maintained on any lot in said subdivision, nor shall anything be

done thereon which may be or become a nuisance in the neighborhood. A nuisance shall include but not be limited to: a truck larger than three-quarter (3/4) ton parked on lots or roads permanetly kept on property; any motor vehicles not properly licensed by the State of Tennessee; junk or wrecking yards; automobiles, trucks or other vehicles used for parts.

5. EASEMENTS

Certain easements are reserved over and across lots in said subdivision for the purpose of furnishing and/or the movement of electric power, water, sewage, drainage, telephone services and petroleum substances in and through said property and all contracts, deeds and conveyances of any of said lots or portion thereof are hereby made subject to such easements. Such easements also include the right to remove all trees within the easements. All such easements further include the right to trim overhanging trees and shrubs located on the property belonging to or being a part of said property.

6. TEMPORARY STRUCTURES AND RESIDENCES

No trailer, mobile home, tent, shack or barn shall be moved upon or built upon any lot in said property nor shall any garage or other out building be used as a temporary or permanent residence in said subdivision.

7. ANIMALS

No horses, cows, poultry or livestock of any kind other than house pets, may be kept on said property. No lot in said subdivision shall be used for the commercial breeding and/or feeding of any animals or birds.

8. FENCES AND PLANTS

No fence or wall shall be located between the Street and the Building Line. All fences built of lumber shall be painted with at least two coats of paint or stain and maintained so as to appear neat and presentable at all times. Hedges or shrubs less than three (3) feet in height may be located between the Street and Building Set Back Line.

9. SIGNS

No signs of any kind shall be displayed to the public view on any tract or lot except one sign advertising the property for sale by the builder, or signs used by a builder to advertise the property during the construction and sales period, or signs approved by the Architectural Control Committee.

10. Access

No driveways or roadways may be constructed on any lot in said subdivision that will furnish access to any adjoining lots or property, unless approved by the Architectural Control Committee.

11. DRIVEWAYS

All driveway location, construction and building material must be approved by the Architectural Control Committee.

12. CULVERTS

The size and construction of all drain tiles or culverts in any drainage ditch (including road ditches) in the subdivision must

be approved by the Architectural Control Committee and in no event shall any such drain tile or culvert have an inside diameter of less than eighteen (18) inches or be less than specified by County specifications.

13. GARAGES

Each and every residence shall be required to have a two car garage. Size and placement must be approved by the Architectural Control Committee.

14. RESUBDIVISION

No lot may be split or divided without the written approval of DEEP EAST TEXAS SAVINGS ASSOCIATION.

15. FIREARMS

The use or discharge of firearms is expressly prohibited within said subdivision.

16. MATERIALS STORED ON LOTS

No building material or debris of any kind shall be placed or stored upon any lot except during construction.

17. MAINTENANCE FUND

A. Each conveyed lot shall be subject to an annual maintenance fee of $120.00 per year, payable in monthly installments of $10.00 or in advance on February 1st of each year. Said fee to be collected and dispersed by DEEP EAST TEXAS SAVINGS ASSOCIATION, or its successors, or assigns or nominees.

B. All past due maintenance charges shall bear interest from their due date at the rate of TEN PERCENT (10) per annum until paid. Such charges shall be a covenant running with the land and to secure payment thereof, a Vendor's Lien is hereby retained to DEEP EAST TEXAS SAVINGS ASSOCIATION upon the property herein conveyed, subject and inferior however, to a purchase money lien or construction money lien, or both.

Funds arising from such charge shall be applied, so far as sufficient, toward the common good of the community, civic betterment, municipal, education and public recreational purposes (but not by way of limitation) as follows:

(1) To render constructive civic welfare for the promotion of the social welfare of the community and of the citizens, to inculcate civic consciousness by means of active participation in constructive projects which will improve the community, state and nation.

(2) To promote and/or provide municipal service and educational and public recreational services and facilities for residents.

(3) To do any other thing necessary or desirable or of general benefit to the community.

18. DURATION OF RESTRICTIONS

These restrictions shall remain in full force and effect for the primary period of twenty (20) years from the date hereof, indicated below unless the owners of at least FIFTY-ONE PERCENT (51%) of the lots within said property shall, by instrument in writing duly placed of record, elect to terminate or amend these restric-

tions and the force and effect thereof; and, thereafter shall be automatically renewed for additional successive periods of ten (10) years each unless the owners of at least FIFTY-ONE PERCENT (51%) of the lots within said subdivision shall, by instrument in writing duly placed of record, elect to terminate or amend these restrictions and the force and effect thereof.

19. ANTENNAE

No radio, satellite dish, television transmission or reception antennae, towers or satellite receiving apparatus shall be erected on the Property unless approved by the Architectural Control Committee. In no event shall free standing transmission or receiving towers be permitted.

20. MISCELLANEOUS PROVISIONS

All covenants and restrictions are for the benefit of all lot owners within said subdivision and shall be binding upon every purchaser, his (her) successors, heirs and assigns. Invalidation of any one of the covenants or restrictions by judgment or any court shall in no way effect any of the other provisions which shall remain in full force and effect.

All of the restrictions, easements and reservations herein provided and adopted as part of said property shall apply to each and every lot and when such lot or lots are conveyed, the same shall be conveyed subject to such restrictions and reservations as contained herein, and when lots with such reservations, easements, restrictions, etc., are so referred to by reference thereto in any such deed or conveyance to any lot or lots in said subdivision, the same shall be the same force and effect as if said restrictions, covenants, conditions, easements and reservations were written in full in such conveyance, and each contract and deed shall be conclusively held to have been so executed, delivered and accepted upon the express conditions, reservations, easements and restrictions as herein stated and set forth.

Enforcement of these restrictions and covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate the same, either to restrain or prevent such violation or proposed violation by an injunction, either prohibitory or mandatory, or to obtain any other relief authorized by law. Such enforcement may be by the owner of any of said lots or by DEEP EAST TEXAS SAVINGS ASSOCIATION, or its successors or assigns.

EXECUTED this 17 day of June, 1987.

DEEP ~~EAST~~ TEXAS ~~SAVINGS~~ ASSOCIATION

BY: Wm. E. Haynie

Vice-President

STATE OF TENNESSEE

COUNTY OF MARSHALL

Before me Barbara Simmons, a Notary Public, within and for the State and County aforesaid, personally appeared Wm. E. Haynie, with whom I am personally acquainted and who upon oath acknowledged himself to be the Vice-President of Deep East Texas Savings Association, the within named bargainor, and that he as such Vice-President being authorized so to do, executed the foregoing instrument for the purposes therein contained by

924

924

signing the name of the corporation by the said Wm. E. Haynie.

Witness by hand and official seal at office at Lewisburg, Tennessee, on this the 17th day of June, 1987.

Barbara Simmons
Notary Public

My Commission Expires:
Oct. 20, 1987

REGISTER'S OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 17 DAY OF
June A. D. 1987
AT 10 O'CLOCK 56 MINUTES AM
RECORD BOOK 124 PAGE 917
Bill Walker REGISTER

mail to
mid-State Title Co.
A-13 Royal Oaks Trade Center
128 Holiday Court
Franklin, Tn. 37064

This instrument prepared by:
GAYLE T. MOYER, ATTORNEY
128 Holiday Court, Suite 125
Franklin, Tennessee 37064

AMENDMENT TO RESTRICTIVE COVENANTS OF
WALNUT HILLS SUBDIVISION, SECTION ONE

WHEREAS, DEEP EAST TEXAS SAVINGS ASSOCIATION is the owner of certain real property as more particularly described in Deed Book 116, page 995, Register's Office of Marshall County, Tennessee, a portion of which is designated as Walnut Hills Subdivision, Section One, as shown on the plan of record in Plat Cabinet A, slide 69, said Register's Office; and

WHEREAS, DEEP EAST TEXAS SAVINGS ASSOCIATION caused to be recorded certain restrictive covenants applicable to the lots and parcels shown on said plan, said restrictive convenants of record in Book 124, page 917, Register's Office of Marshall County, Tennessee; and

WHEREAS, DEEP EAST TEXAS SAVINGS ASSOCIATION inadvertently included within the scope of the application of said restrictions that certain Lot No. 104 as shown on said plan, said Lot 104 having been designated by the owner and approved by the Marshall County Planning Commission as a utility lot not to be used for residential purposes, and now desires to amend the restrictive covenants so as to delete Lot 104 from the scope thereof.

NOW, THEREFORE, DEEP EAST TEXAS SAVINGS ASSOCIATION hereby amends the Restrictive Covenants of Walnut Hills Subdivision, Section One, of record in Book 124, page 917, Register's Office of Marshall County, Tennessee by specifically excluding therefrom Lot No. 104 as shown on the plan of Walnut Hill Subdivision as of record in Plat Cabinet A, slide 69, said Register's Office, said Lot No. 104 deing designated solely for utility purposes.

IN WITNESS WHEREOF, DEEP EAST TEXAS SAVINGS ASSOCIATION has caused this instrument to be executed on this the 27th day of August, 1987.

REGISTER'S OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 25 DAY OF
April A.D., 19 88
AT 11 O'CLOCK 10 MINUTES AM
RECORD BOOK 130 PAGE 827
Dee Walker REGISTER

DEEP EAST TEXAS SAVINGS ASSOCIATION

By: Wm E. Haynie

Title: Chairman of the Board

STATE OF TENNESSEE
COUNTY OF WILLIAMSON

Before me, the undersigned, a Notary Public in and for said State and County, personally appeared Wm E. Haynie, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who upon oath, acknowledged himself to be the Chairman of the Board of Deep East Texas Savings Association, the within named bargainor, a corporation, and that he, as such Chairman of the Board, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Chairman of the Board of said corporation.

Witness my hand and official seal at Franklin, Tennessee, on this the 27th day of August, 1987.

(SEAL)

Gayle T. Moyer
Notary Public

My Commission Expires:
4-23-91

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THIS INSTRUMENT PREPARED BY:

O'Hare, Sherrard & Roe
242 Church Street, Suite 2000
Nashville, Tennessee 37219

# AMENDED AND RESTATED

# DECLARATION OF RESTRICTIVE COVENANTS

# FOR

# WALNUT HILLS

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration"), made, published, and declared this 14th day of December, 1988, by and between Deep East Texas Savings Association (the "Developer"), and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property;

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property in Marshall County, Tennessee, known as Walnut Hills, Section One (I), which is shown on the Plat of record in Map Plat Cabinet A, slide 69, in the Register's Office for Marshall County, Tennessee (the "Plat") and being the first phase of a residential subdivision within Marshall County, Tennessee (the "Subdivision"), a preliminary plan for which is on file in the Office of the Planning Commission for Marshall County, Tennessee;

WHEREAS, all of the real property shown on the Plat was previously subjected to that certain Restrictive Covenants of Walnut Hills Subdivision Section One of record in Book 124, page 917, Register's Office for Marshall County, Tennessee ("ROMC"), as amended by Amendment to Restrictive Covenants of Walnut Hills, Section One, of record in Book 130, page 827, ROMC (the "Prior Restrictions");

WHEREAS, it is expressly understood that Lots 58, 88 and 104, as shown on the Plat will not be subject to the Restrictions as hereinafter defined;

WHEREAS, it is to the benefit, interest, and advantage of Developer and of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of such property be established, fixed, and set forth and declared to be covenants running with the land;

WHEREAS, pursuant to Paragraph 18 of the Prior Restrictions, the covenants and restrictions contained therein may be amended by at least fifty-one percent (51%) of the 107 owners;

WHEREAS, the Developer, as the owner of more than 51% of the Lots at the Subdivision, now desires to supersede any restrictions that may presently exist with respect to the property described in the Prior Plat and to establish restrictions applicable to such property in accordance with the terms of this Declaration;

NOW, THEREFORE, in consideration of the premises, Developer agrees with any and all persons, firms, corporations, or other entities hereafter acquiring all or any of the property hereinafter described (the "Property"), that any previous restrictions, recorded or unrecorded, shall be of no further force or effect and that the Subdivision shall be hereinafter subjected to the following restrictions, covenants, conditions, assessments, and liens (collectively, the "Restrictions") relating to the use and occupancy thereof and relating to the use, occupancy, and maintenance of such portions of the same as at present or in the future shall be designated as common areas, said Restrictions to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title, or interest in or to the Property or any part thereof and which shall inure to the benefit of each owner thereof.

## ARTICLE I

## DEFINITIONS

The following words, when used in this Declaration or any amendment or supplement hereto, shall, unless the context shall clearly require to the contrary, have the following meanings:



616

1. "Additional Sections" shall mean the additional acreage that may be added to the Subdivision in one or more Sections at the sole discretion of the Developer.

2. "Association" shall mean and refer to Walnut Hills Homeowner's Association, a nonprofit corporation organized and existing under the laws of the State of Tennessee, its successors and assigns.

3. "Common Area" or "Common Areas" shall mean and refer to any and all real property owned by the Association, and such other property to which the Association may hold legal title, whether in fee or for a term of years, for the non-exclusive use, benefit, and enjoyment of the members of the Association, subject to the provisions hereof, and such other property as shall become the responsibility of the Association, through easements or otherwise, including in particular the areas located at the entrance to Walnut Hills Subdivision. Common Areas with respect to the properties made subject to this Declaration, whether at the time of filing of this Declaration or subsequently by Supplementary Declaration(s) shall be shown on the Plat(s) of Walnut Hills and designated thereon as "Common Areas."

4. "Declaration" shall mean and refer to this Amended and Restated Declaration of Restrictions applicable to the Properties that is to be recorded in the Office of the Register of Deeds for Marshall County, Tennessee and any Supplementary Declarations upon the creation of Additional Sections.

5. "Developer" shall mean and refer to Deep East Texas Savings Association, a Texas corporation having its principal place of business in Jasper, Texas, its successors and assigns.

6. "Lot" shall mean and refer to any plot of land to be used for single-family residential purposes and not designated for commercial or utilities use upon the Plat.

7. "Member" shall mean and refer to any person who shall be an Owner and, as such, shall be a member of the Association.

8. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee interest in any Lot or portion of a Lot, excluding, however, those parties having such interest merely as security for the performance of an obligation.

9. "Occupant" shall mean and refer to any person or persons in possession of a Lot or home other than an Owner.

10. "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust, or other legal entity.

11. "Plat" shall mean and refer to the Plat of record in Map Plat Cabinet A, slide 69, Register's Office for Marshall County, Tennessee, together with any amendments and supplements thereto recorded upon the creation of Additional Sections.

12. "Properties" shall mean and refer to any and all of that certain real property now or which may hereafter be brought within that certain residential subdivision being developed by Developer in Marshall County, Tennessee, which subdivision is and shall be commonly known as Walnut Hills.

13. "Section One (I)" shall mean and refer to the initial Properties subject to the Declaration, which consists of Single-Family Residences, as shown on the Plat and the Common Areas.

14. "Section" shall mean and refer to any of the Properties located within the Subdivision once such Properties are shown as Sections on a plat of record in the Register's Office for Marshall County, Tennessee.

15. "Single-Family Residences" shall mean those homes that are free-standing and which shall be constructed in certain areas of the Properties as shown on the Plat(s).

16. "Successor Developer" shall mean and refer to any person (including any affiliate of the original owners) who shall acquire the right to construct Additional Sections on all or any portion of Tract II (as defined herein) adjacent to Walnut Hills and able to be included in the general development plan of Walnut Hills.

17. "Supplementary Declaration(s)" shall mean the one or more supplementary declarations that may be recorded from time to time to create Additional Sections or to or to amend this Declaration as expressly permitted hereunder.

18. "Tract II" shall mean and refer to that certain real property located adjacent to Section One (1) and described in the instrument of record at Book 118, page 211, Register's Office of Davidson County, Tennessee.

19. "Walnut Hills" shall mean and refer to that certain residential community known as Walnut Hills, which is being developed on real property now owned by Developer



617

617

in Marshall County, Tennessee, together with such additions thereto as may from time to time be designated by Developer whether or not such additions are contiguous with or adjoining the boundary lines of Walnut Hills, Section One (I), as shown on the Plat.

## ARTICLE II

## PROPERTIES SUBJECT TO THIS DECLARATION

Section 1. Initial Properties Subject to Declaration. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Marshall County, Tennessee, and is more particularly described and shown on Exhibit "A" attached hereto and made a part hereof by this reference. Walnut Hills is to be built in two or more Sections.

Section 2. Additional Sections. Without further assent or permit, Developer and any Successor Developer hereby reserves the right, exercisable from time to time but not later than twenty (20) years after the date hereof, to subject all or part of other, real property described as Tract II to the restrictions set forth herein, and such other property situated in Marshall County, Tennessee, in one or more Additional Sections, in order to extend the scheme of this Declaration to such property to be developed as part of Walnut Hills and thereby to bring such additional contiguous Properties within the jurisdiction of the Association.

Section 3. Supplementary Declarations. The additions herein authorized shall be made by filing of record one or more Supplementary Declarations in respect to the creation of Additional Sections or the addition of other Properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such property and thereby subject such addition to assessment for its just share of the Association's expenses and shall also require the filing of such additional plats as are required for such Sections in the Register's Office for Marshall County, Tennessee. Each Supplementary Declaration must subject the added property or additional Lots to the covenants, conditions and restrictions contained herein.

Section 4. Consent to Rezoning. Every Owner shall be deemed to have consented to any rezoning of Tract II that may be necessary to the development of such property as part of Walnut Hills. Owners of any Lots in the additional property shall succeed to all of the rights and obligations of membership in the Association.

Section 5. Extension of Development Rights to Adjacent Property. The Developer and any Successor Developer shall have the rights described in Section 2 of this Article II, exercisable without approval of the Association or any other person or entity. The Developer or such Successor Developer shall have the voting rights as specified hereinafter with respect to any added Lots, subject to the original limitations as to duration of weighted voting.

Section 6. Compatibility of Construction. Developer or any Successor Developer warrants that any additional Lots to be constructed on Tract II together with any Common Areas to be added hereunder shall be compatible in style and quality of construction with the remainder of Walnut Hills.

Section 7. Association Rights. The Association may not assert as a reason to object to the new development plan the fact that existing Association facilities will be additionally burdened by the property to be added by the new development.

## ARTICLE III

## MAINTENANCE AND USE RESTRICTIONS

Section 1. Single-Family Residential Construction. No building shall be erected, altered or permitted to remain on any Lot other than one (1) single-family residential dwelling. Notwithstanding the foregoing, it is expressly agreed and understood that Lots 58 and 88 are commercial lots and lot 104 is a utility lot, and do not come within the scope of this Declaration.

Section 2. Minimum Square Footage within Improvements; Building Materials; Foundation; Brick.

(a) Unless otherwise approved by the Developer, the exterior area of the main residential structure shall include not less than one thousand two hundred (1,200) exterior square feet, excluding garages and open porches.

(b) The exterior construction of any kind and character, be it the primary residence, garage, porches, or appendages thereto shall be completed within six (6) months after the start of the foundation. All foundations of any Single-Family Residence must be covered by brick or such brick facsimile as approved by the Association. Only new construction materials shall be used, except for used brick. In no event, shall any old house

or building be moved on any lot or lots in Walnut Hills. At least twenty-five percent (25%) of the front of each Single-Family Residence shall be constructed of brick, exclusive of the foundation.

Section 3. Improvement and Setback Restrictions.

(a) No building or structure, or any part thereof, shall be located on any Lot nearer to the front line, the rear line, or any side line than the minimum building setback lines required by Marshall County, and as may he shown on the recorded plats. For purposes of determining compliance with this requirement, porches, wing walls, eaves, and steps extending beyond the outside wall of a structure shall be considered as a part thereof. No encroachment upon any utility easements reserved on the Plat shall be authorized or permitted.

(b) To provide for uniformity and proper utilization of the building area within the Lots, dwellings or appurtenant structures on a Lot shall not be less than forty (40) feet from any front street lot line as reflected on the Plat. No building shall be erected nearer than twenty-five (25) feet on any side street lot line, or as reflected on the Plat. No building or structure shall be erected on any lot nearer than five (5) feet, including roof overhang, from any interior lot line.

Section 4. Re-subdivision of Lots. No Lot shall be re-subdivided, nor shall any building be erected or placed on any such re-subdivided Lot, unless such re-subdivision is approved by the Association, as well as any governmental authority having jurisdiction. Developer, however, shall have the right, but not the obligation, to re-subdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the Properties contained within the outer boundaries of the Plat, and such Lots, as replatted, shall he subject to this Declaration as if such Lots were originally included herein. Any such replat must comply with pertinent replatting ordinances, statutes, regulations and requirements.

Section 5. Walls, Fences and Hedges. No wall or fence shall be erected or maintained nearer to the front lot line than the front building line on such Lot, nor on corner lots nearer to the side Lot line than the building setback line parallel to the side street. No side or rear fence, wall or hedge shall be more than six (6) feet in height. Any wall, fence or hedge erected on a Lot shall be maintained by the Owner thereof. All fencing hall he constructed only of such materials and erected only on such Lots and in such a manner as shall he approved by the Association. No fence shall be constructed or maintained between the front building or setback line and the street; provided, however, the planting of hedges, shrubbery or evergreens in lieu of a fence, and extending to the front or sides of any Lot is permitted, provided such planting shall not he maintained at a height in excess of forty-two (42) inches.

Section 6. Roofing Material; Driveways.

(a) The roof of any building (including any garage) shall be constructed or covered with asphalt or composition type shingles. Any other type of roofing material shall be permitted only in the sole discretion of the Association upon written request.

(b) All driveways shall be paved or covered with concrete, aggregate, or of pea or creek gravel.

Section 7. Swimming Pools. Swimming pools shall be allowed only on Lots approved by the Association and shall be located at the rear of the residence. All swimming pools shall have a perimeter enclosure, the plans for which, including landscaping plans, must be approved by the Association.

Section 8. Storage Tanks and Refuse Disposal. No exposed above-ground tanks or receptacles shall be permitted for the storage of fuel, water, or any other substance, except for refuse produced through normal daily living and of a nature which is satisfactory for pick-up by appropriate waste disposal agencies. Incinerators for garbage, trash, or other refuse shall not be used or permitted to be erected or placed on any Lot. All equipment, coolers, and garbage cans shall be concealed from the view of neighboring lots, roads, streets, and open areas.

Section 9. Signs and Advertisements. No sign, advertisement, billboard or advertising structure of any kind shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon without the prior written consent of the Association; provided that this requirement shall not preclude the installation by Developer of signs identifying the entire residential development and provided further that this requirement shall not preclude the placement by Owners of "For Sale" signs in the front of individual residences of such size, character, and number as shall from time to time be approved by the Association. The Association shall have the right to remove any such unapproved sign, advertisement, billboard or structure that is placed on said Lots, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

Section 10. Use of Temporary Structures. No structure of a temporary character, mobile home, camper, trailer, basement, tent, shack, garage, barn or other outbuilding shall be erected, moved onto any Lot and/or used at any time as a residence, nor



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shall any residence of a temporary charter be permitted. No structure of any kind except a dwelling house may be occupied as a residence, and the outside of any building so occupied must be completed before occupancy. No residence shall be built on any Lot unless it conforms to and is in harmony with the existing structures in Walnut Hills subdivision and not more than one residence may be maintained on any Lot at the same time. Temporary structures may be used as building offices and for related purposes during the construction period. Such structures shall be inconspicuous and sightly and shall be removed immediately after completion of such construction.

Section 11. Storage of Automobiles, Boats, Trailers and Other Vehicles. No trailers, boat trailers, travel trailers inoperative automobiles or campers shall be semi-permanently or permanently parked or stored in the public street right-of-way or forward of the front building line. Storage of such items and vehicles must be screened from public view, either within a garage or behind a fence which screens such vehicle from public view. No tractor trailers, buses, or other large commercial vehicles shall be parked on driveways or in streets within the Properties for periods of time exceeding twelve (12) hours or for more than twenty-four (24) hours in any calendar week.

Section 12. Maximum Height of Antennae. No electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lot, house or building. Television antennas must be located to the rear of the roof ridge line, cable or center line of the principal dwelling. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. No antennae, either freestanding or attached, shall be permitted to extend more than ten (10) feet above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole.

Section 13. Window Units. All supplements to the central air conditioning system must be used, erected, placed or maintained to the rear of the main residential structure. No window or wall type air conditioning units shall be permitted to be seen from the street view of any Lot.

Section 14. Recreational Equipment. All playground and recreational equipment must be used, erected, placed or maintained to the rear of all Lots. No playground or recreational equipment shall be permitted to be seen from the street view of any Lot.

Section 15. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations shall be permitted on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 16. Maintenance. All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective Owners or Occupants. Such maintenance shall include, but not be limited to, painting, repairing, replacing, and caring for roofs, gutters, downspouts, building surfaces, patios, walkways, driveways, and other exterior improvements. The Owner or Occupant of each Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and all trees and shrubbery pruned and cut. No Lot shall be used for storage of material and equipment, except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish of any kind and the burning of any such materials is prohibited. In the event of default on the part of the Owner or Occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, the Association may, subject to approval of its Board of Directors, enter upon said Lot, cut or prune or cause to be cut or pruned, such weeds, grass, trees and shrubbery and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions and to place said Lot in a neat, attractive, healthful and sanitary condition. In so doing, the Association shall not be subject to any liability for trespass or otherwise. All costs incurred in any such repair, maintenance, restoration, cutting, pruning or removal shall be charged against the Owner of such Lot as the personal obligation of such Owner and as a lien upon the Lot, enforceable and collectible in the same manner and to the same extent as a maintenance assessment. Any Occupant of such Lot shall be jointly and severally liable with the Owner for the payment of such costs.

The Association shall contract with one (1) or more landscaping services to provide grass cutting, lawn maintenance, proper care for all trees, shrubbery and other landscaping, and other necessary maintenance services for the Common Areas, provision for which shall be made in the monthly or annual assessments.

Section 17. Damage, Destruction or Maintenance. In the event of damage or destruction to any structure located on the Properties, the respective Owner thereof agrees as follows:

(i) In the event of total destruction, the Owner shall promptly clear the Lot of debris and leave the same in a neat and orderly condition. Within 60 days of any insurance settlement, the Owner must commence to rebuild and reconstruct the structure. Any such

rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the original structure so destroyed, subject to any changes or modifications as approved by the Developer or the Association, as the case may be, in accordance with Article III hereof.

(ii) In the case of partial damage or destruction, the Owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original structure and in conformity with its original exterior painting and decor. Any change or alteration must he approved by the Developer or the Association, as the case may be, in accordance with Article III hereof. In no event shall any damaged structure be left unrepaired and unrestored for in excess of sixty (60) days, from the date of the insurance adjustment.

(iii) If the correction of a maintenance or repair problem incurred on one Lot necessitates construction work or access on another Lot, both Owners shall have an easement on the property of the other for the purpose of this construction. Each party shall contribute to the cost of restoration thereof equally, unless such damage was caused by the fault of an Owner, in which event the Owners shall allocate the cost of restoration in proportion to the relative fault of the parties.

Section 18. Use of Premises. Each Lot shown on the Plat shall he used only for private, single-family residential purposes and not otherwise. Notwithstanding the foregoing, Developer may maintain, as long as it owns property in or upon such portion of the Properties as Developer may determine, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units and signs, and Developer may use, and permit builders (who are at the relevant time building and selling houses in the development) to use, residential structures, garages or accessory buildings for sales offices and display purposes, but all rights of Developer and of any builder acting with Developer's permission under this sentence, shall be operative and effective only during the construction and sales period within the area.

Section 19. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot, except household pets such as dogs and cats which may be kept thereon in reasonable numbers as pets for the sole pleasure of the Owner or Occupant, but not for any commercial use or purpose.

Section 20. Nuisances and Unsightly Materials. No house or other structure on any Lot shall be used for any business or commercial purpose. Each Owner or Occupant shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to others. No noxious, offensive, or illegal activity shall be carried on upon any Lot. No motorcycle, motorbike, motor scooter, or any other unlicensed motorized vehicle shall be permitted to be operated on or in the Common Areas. No Lot shall be used, in whole or in part, for the storage of rubbish of any character whatsoever; nor shall any substance, thing, or material he kept upon any Lot which will emit foul or noxious odors or which will cause any noise that will or might disturb the peace and quiet of the Owners or Occupants of surrounding Lots or property. The foregoing shall not be construed to prohibit the temporary deposits of trash and other debris for pick-up by garbage and trash removal service units, so long as such units are kept in a clean and sanitary condition and are stored in such a way as not to be visible from any road or right-of-way.

Section 21. Hobbies and Activities. The pursuit of any inherently dangerous activity or hobby, including, without limitation, the assembly and disassembly of motor vehicles or other mechanical devices, the shooting of firearms, fireworks, or pyrotechnic devices of any type or size, and other such activities shall not be pursued or undertaken on any part of any Lot or upon the Common Areas without the consent of the Association.

Section 22. Visual Obstruction at the Intersection of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) feet and six (6) feet above the surface of the streets shall be placed, planted or permitted to remain on any corner Lot within the triangular area formed by the curb lines of the streets involved and a line running from curb line to curb line at points twenty-five (20) feet from the junction of the street curb lines. The same limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway.

Section 23. Governmental Restrictions. Each Owner shall observe all governmental building codes, health regulations, zoning restrictions, and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation, or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

Section 24. Roads. It shall be obligatory upon all owners of the Lots in this subdivision to consult with the Chief Engineer of the Highway Department of Marshall County, Tennessee, before any driveways, culverts, other structures or grading are constructed



621

621

within the limits of any dedicated roadway, and such placement or construction shall be done in accordance with the requirements of the County Highway Commission applying to county roads in order that the roads or streets within the subdivision which would be affected by such placement or construction may not be disqualified for acceptance by the County into the public road system. All driveways shall be paved or covered with concrete, aggregate or pea or creek gravel.

Section 25. Easement for Roads. The right is expressly reserved to the Developer and Owners, their representatives, heirs, successors and assigns, to construct all streets, roads, alleys, or other public ways as now, or hereafter may be, shown on the Plat(s), at such grades or elevation as they, in their sole discretion, may deem proper; and, for the purpose of constructing such streets, roads, alleys or public ways, they additionally, shall have an easement, not exceeding (10) feet in width, upon and along each adjoining Lot, for the construction of proper bank slopes in accordance with the specifications of the government body or agency having jurisdiction over the construction of public roads; and no Owner of any Lot shall have any right of action or claim for damages against anyone on account of the grade of elevation at which such road, street, alley or public way may hereafter by constructed, or on account of the bank slopes constructed within the limits of the said ten (10) feet easement.

## ARTICLE IV

## ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is the Owner of record of a fee interest in any Lot shall be a Member of the Association, subject to and bound by this Declaration and the Association's Articles of Incorporation, the By-Laws of the Association and such rules and regulations as may be adopted by the Association. When any Lot is owned of record in joint tenancy, tenancy in common, tenancy by the entirety, or by some other legal entity, the membership as to such Lot shall he joint and the rights of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section 2 below.

Section 2. Voting and Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lot. The Owner of each Lot shall be entitled to one (1) vote; provided that Developer shall be entitled, for each Lot that it owns, to four (4) votes until such time as seventy-five percent (75%) of the Lots subjected to this Declaration by this instrument or by any Supplementary Declaration have been sold by it or until five (5) years from the later of the date hereof or the date of the last such Supplementary Declaration, whichever shall first occur, after which time Developer shall have only one (1) vote for each Lot that it owns. When two (2) or more persons hold an interest in any Lot as Owners thereof, all such persons shall be Members. The vote for such Lot shall be exercised by one (1) of such persons as proxy or nominee for all persons holding an interest as Owners in the Lot and in no event shall more than one (1) vote be cast with respect to any Lot, except as provided above with respect to Developer.

Section 3. Method of Voting. Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation. Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Members of each Class present at the meeting shall, prior to voting on any matters, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the Members, the official solicitation of proxies for such elections may be conducted by mail.

Section 4. First Meeting of Members. The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, that the first meeting may (if necessary to comply with Federal Regulations) be held no later than the earlier of the following events: (a) four months after all of the Lots have been sold by the Developer; or (b) three years following conveyance of the first Lot by the Developer.

Section 5. Working Capital Fund. There may (if necessary to comply with Federal Regulations) be established a working capital fund equal to three months' assessments for each Lot. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of each Lot and maintained in an account for the use and benefit of the Association. Amounts paid into the fund shall not be considered as advance payment of regular assessments. The purpose of the fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors.

Section 6. Acceptance of Development. By the acceptance of a deed to a Lot, any purchaser of a Lot shall be deemed to have accepted and approved the entire plans for

622

the Walnut Hills Subdivision development, and all improvements constructed by that date, including, without limitation, the utilities, drains, roads, sewers, landscaping, Common Area amenities, and all other improvements as designated on the Plat, and as may be supplemented by additional plats upon completion of development of any portion of Tract II. Such purchaser agrees that all improvements constructed after the date of purchase consistently with such plans, and of the same quality of then existing improvements, shall be accepted.

## ARTICLE V

## COMMON AREA PROPERTY RIGHTS AND MAINTENANCE ASSESSMENTS

Section 1. Common Areas. Each Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to each Lot as designated upon the Plats, subject only to the provisions of this Declaration and the Articles of Incorporation, By-Laws, and rules and regulations of the Association, including, but not limited to, the following;

1. the right of the Association to limit the use of the Common Areas to Owners or Occupants of Lots, their families and their guests;

2. the right of the Association to suspend voting privileges and rights of use of the Common Areas for any Owner whose assessment against his Lot becomes delinquent; and

3. the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility or to transfer or mortgage all or any part of the Common Areas for such purposes and subject to such conditions as may he agreed upon by the Members; provided that no such dedication, transfer, or mortgage shall be effective unless the Members entitled to cast at least three-fourths (3/4) of the votes agree to such dedication, transfer, or mortgage and signify their agreement by a signed and recorded written document; and provided further that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities, and drainage facilities upon, over, under, and across the Common Areas without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties.

Section 2. Assessment for Maintenance of Common Areas. For each Lot owned within the development, every Owner covenants and agrees, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, shall be deemed to covenant and agree, to pay to the Association monthly or annual assessments or charges for the creation and continuation of a maintenance fund in amounts to be established from time to time by the Board of Directors of the Association in order to maintain, landscape, and beautify the Common Areas, to promote the health, safety, and welfare of the residents of the community, to pay taxes, if any, assessed against the Common Areas, to procure and maintain insurance thereon, to employ attorneys, accountants, and security personnel, and to provide such other services as are not readily available from governmental authorities having jurisdiction over the same.

Section 3. Creation of Lien and Personal Obligation of Assessments. In order to secure payment of assessments, as the same become due, there shall arise a continuing lien and charge against each Lot, the amount of which shall include interest at the maximum effective rate allowed by law, costs, and reasonable attorney's fees to the extent permissible by law. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment became due; provided further that this personal obligation shall pass to successors in title. The lien provided for herein shall have priority over the lien of any first deed of trust (sometimes hereinafter called "mortgage") on any Lot if, but only if, all such assessments made with respect to such Lot having a due date on or prior to the date such first mortgage is filed for record have been paid. The sale or transfer of any Lot shall not affect any assessment lien.

Section 4. Levy of Assessments. The Board of Directors of the Association shall fix the commencement date for monthly or annual assessments on the first day of the month following the conveyance of the first Lot to an Owner and shall provide for a partial assessment between the commencement date and the end of the calendar year next following. Thereafter, monthly or annual assessments shall be levied by the Board of Directors of the Association, by action taken on or before December 1 of each year for the ensuing year. The Board, in its discretion, may provide for the periodic payment of such assessments at some intervals other than monthly. Written notice of the monthly or annual assessment shall be mailed (by U.S. first class mail) to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner, but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting the same.

623



623

Section 5. Maximum Annual Assessment. Until otherwise established by the Board of Directors of the Association as set forth herein, the maximum annual assessment shall be One Hundred Twenty and No/100 Dollars ($120.00) per Lot, payable in monthly installments of $10.00, or in advance on February 1 of each year. In the event the Board of Directors determines that an increase in excess of such amount is required, the amount of assessment shall be automatically effective thirty (30) days after the Association sends written notice to each Owner of the amount and necessity of such increased assessment.

Section 6. Rate of Assessment. All Lots in the development shall commence to bear their applicable maintenance fund assessment simultaneously, and any such Lots owned by Developer shall he exempt from assessment. Lots which are owned by residents shall be subject to the annual assessment determined by the Board of Directors in accordance with the provisions of Sections 4 and 5 hereof. The rate of assessment for an individual Lot, within a calendar year, may change as the character of ownership and the status of occupancy by a resident changes, and the applicable assessment for such Lot shall be prorated according to the rate required during each type of ownership.

Section 7. Effect of Non-Payment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum effective rate then allowed by law. The Association, its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs, and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may avoid liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

## ARTICLE VI

## EASEMENTS

Section 1. General. The Lots and Common Areas in the Properties subject to this Declaration shall be subject to all easements shown or set forth on the Plat.

Section 2. Development and Construction. Developer hereby reserves an easement upon, over, and across the Common Areas for purposes of access, ingress, and egress to and from the Lots during the development of the Properties and during the period of construction of residences such Lots.

Section 3. Emergency. There is hereby reserved, without further assent or permit, a general easement to all policemen and security guards employed by Developer or by the Association, firemen, ambulance personnel, and all similar persons to enter upon the Properties or any portion thereof which is made subject to this Declaration in the performance of their respective duties. Further, employees of any utility serving the Properties, may enter upon the Properties for the purpose of making repairs.

Section 4. Utilities. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the Plat or by separate instrument, and no structure of any kind shall he erected upon any of said easements. Neither Developer nor any utility company using the easements shall be liable for any damage done by either of them or their successors or assigns, or by their agents, employees or servants to shrubbery, trees, flowers or improvements of the Owner located on the land within or affected by said easements. A right of pedestrian access by way of a driveway or open lawn area shall also be granted on each Lot, from the front Lot line to the rear Lot line to any utility company having an installation in the easement. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or public utility company is responsible. Fences shall not be allowed to be constructed over any easement for public utilities.

## ARTICLE VII

## ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

Anything in this Declaration to the contrary notwithstanding, the Developer shall have the responsibility of enforcing the restrictions set forth in this Article until it shall have given the Association written notice of its election to transfer such responsibility to the Association or until all of the residences are owned and occupied, whichever shall first occur, including the right to approve initial design, site plan and construction of all improvements on the Lots. Thereafter, the Board of Directors of the Association shall assume and be responsible for the enforcement hereof. References in this Article to the Developer shall, therefore, apply to the Association after it has assumed the enforcement of these restrictions.

The following architectural, maintenance and use restrictions shall apply to each and every Lot now or hereafter subjected to this Declaration.

624

1. No construction, reconstruction, remodeling, alteration or addition to any structure, building, fence, wall, driveway, path or other improvement of any nature shall be constructed without obtaining the prior written approval of the Developer as to the location of the same and as to its plans and specifications. For this purpose, the Developer shall establish a confidential Architectural Committee which shall have full authority to review and act upon requests for approval of plans.

2. The Architectural Committee shall be the sole arbiter of the appropriateness of any plans and may withhold approval for any reason, including purely aesthetic considerations. Upon approval being given, construction shall commence within ninety (90) days, and shall be prosecuted to completion promptly and in strict compliance with the approved plans, otherwise the approval shall be void. The failure of the Developer to act upon any set of plans within thirty (30) days from the date of the submission of the same shall constitute the approval of such plans.

3. All plans of proposed residences to be constructed in Walnut Hills must be of an architectural style as specified herein, and the Architectural Committee may refuse approval of any plans which in its sole judgment, are inconsistent with the overall purpose and aesthetic values of Walnut Hills or the architectural standard described herein. The Architectural Committee may provide additional guidelines in the preparation of plans by the dissemination of architectural guidelines. If not previously provided, each Lot Owner should request a copy of such guidelines from the Architectural Committee.

4. All references to Developer hereunder and to an Architectural Committee appointed by the Developer shall be deemed to include the Association and an architectural committee appointed by the Board of Directors of the Association after such time as control of the development has been transferred to the Association.

## ARTICLE VIII

## GENERAL PROVISIONS

Section 1. Exercise of Powers. Until such time as the Association is formed and its Board of Directors is elected, Developer shall exercise any of the powers, rights, duties, and functions of the Association and/or its Board of Directors.

Section 2. Duration. The foregoing Restrictions shall be construed as covenants running with the land and shall be binding and effective for fifty (50) years from the date hereof, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by vote of a majority in interest of the then Owners of the Properties to alter, amend, or revoke the Restrictions in whole or in part. Every purchaser, or subsequent grantee of any interest in the Properties made subject to this Declaration, by acceptance of a deed or other conveyance therefor, agrees that the restrictions set forth in this Declaration may be extended as provided in this Article IX, Section 2.

Section 3. Amendment. The provisions of this Declaration may be amended by Developer, without joinder of the Owner of any Lot, for a period of five (5) years from the later of the date hereof or the date of the last Supplementary Declaration adding Additional Sections and thereafter by an agreement signed by at least three-fourths (3/4) of the Owners whose Lots are then subject hereto. No such amendment shall become effective until the instrument evidencing such change has been filed of record. Notwithstanding the foregoing, the Owners of Lots then subject hereto shall have no right to amend the provisions of Article V, Section 2, without the prior written consent of Developer.

Developer reserves the right to file any amendments that may be necessary to correct clerical or typographical errors in this Declaration, and to make any amendments that may be necessary to conform the Declaration to regulations of the Federal Home Loan Mortgage Corporation, Federal Housing Administration or the Veteran's Administration, or to other applicable regulations that may be necessary to assure Lender approval of the development.

Section 4. Enforcement. If any person, firm or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for any other person, firm or corporation owning any property within Walnut Hills to bring an action against the violating party at law or in equity for any claim which these Restrictions may create in such other Owner or interested party either to prevent said person, firm, or corporation from so doing such acts or to recover damages for such violation. The provisions of this Section 4 are in addition to and separate from the rights of the Association to collect Association fees. Any failure by Developer or any property Owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these restrictions by judgment or court order shall neither affect any of the other provisions not expressly held to be void nor the provisions so voided



625

625

626

circumstances or applications other than those expressly invalidated, and all such remaining provisions shall remain in full force and effect together with the provisions ruled upon as they apply to circumstances other than those expressly invalidated. Should any aggrieved Owner employ counsel to enforce any of the foregoing covenants or Restrictions, the prevailing party in any legal action shall be entitled to recover from the losing party the attorneys fees and expenses incurred in such action.

Section 5. Headings and Binding Effect. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Developer and all persons claiming by, through or under Developer.

Section 6. Unintentional Violation of Restrictions. In the event of unintentional violation of any of the foregoing Restrictions with respect to any Lot, the Developer or its successors reserves the right (by and with the mutual written consent of the Owner or Owners for the time being of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

Section 7. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to inspection by any Member upon five (5) days prior notice. The Articles of Incorporation, the By-Laws of the Association, and this Declaration shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 8. Conflicts. In the event of any conflict between the provisions of this Declaration and the By-Laws of the Association, the provisions of this Declaration shall control.

Section 9. Binding Effect. The provisions of this Declaration shall be binding upon and shall inure to the benefit of the respective legal representatives, successors and assigns of Developer and the Present Owners and all persons claiming by, through, or under Developer or the Present Owners.

IN WITNESS WHEREOF, Developer and all other record owners of Lots within the Properties have caused this Declaration of Restrictive Covenants to be executed on the day and date first above written.

DEEP EAST TEXAS SAVINGS ASSOCIATION,
DEVELOPER

By: _____
Wm. E. Haynie, Chairman of the Board



626

STATE OF TENNESSEE

COUNTY OF MARSHALL

Personally appeared before me, a Notary Public for the state and county aforesaid, the within named William E. Haynie, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is Chairman of the Board of Deep East Texas Savings Association, a corporation, and is authorized to execute this instrument on behalf of Deep East Texas Savings Association

WITNESS my hand, at office this 14th day of Dec., 1988.

Janie J. Ingram
Notary Public

My Commission Expires:
1-19-92

STATE OF TENNESSEE

COUNTY OF MARSHALL

Personally appeared before me, a Notary Public for the state and county aforesaid, the within named _____, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is _____ of Jerry Butler Builders, a corporation, and is authorized to execute this instrument on behalf of said corporation.

WITNESS my hand at office this _____ day of _____, 1988.

_____
Notary Public

My Commission Expires:

_____

STATE OF TENNESSEE

COUNTY OF MARSHALL

Personally appeared before me, a Notary Public for the state and county aforesaid, the within named _____, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is _____ of Titan Homes Corporation, a corporation, and is authorized to execute this instrument on behalf of said corporation.

WITNESS my hand at office this _____ day of _____, 1988.

_____
Notary Public

My Commission Expires:

_____



627

729

628

EXHIBIT A

TRACT 1: The realty conveyed is lying and situated in the First Civil District of Marshall County, Tennessee, bounded on the North by State Route 99; East, South and West by Luther Moore, and being more particularly described as follows:

Beginning at an existing iron pin in the South margin of State Route 99, said point being approximately 63.2 feet East of a concrete right-of-way marker, said point being approximately 670 feet East of the centerline of State Route 272 (Caney Springs-Verona Pike), said point being the northwest corner of this tract; thence with the South margin of State Route 99, on a curved line with a radius of 3487.74 feet and a length of 300.57 feet (chord bearing South 69° 42' East, chord distance 300.48 feet) to an iron pin; thence with Moore South 02° 41' West, 72.00 feet to an existing iron pin; thence North 73° 04' West 204.18 feet to an iron pin; thence North 82° 19' West, 96.00 feet to an iron pin; thence North 06° 36' East, 104.50 feet to the beginning, containing 0.55 acres more or less.

Being the same property conveyed to Deep East Texas Savings Association of Jasper, Texas by deed from William H. Duckworth and wife, Frances D. Duckworth and Ricky Duckwork, a single man, of record in Book 118, page 208, Register's Office for Marshall County, Tennessee.

TRACT 2: The realty conveyed is lying and situated in the First Civil District of Marshall County, Tennessee, and is more particularly described as follows, to-wit:

Beginning at an iron pin in the South margin of State Highway number 99 (60 feet from the centerline), same being referenced from a concrete highway marker, South 70° 06' 26" East, 434.47 feet; thence with said margin and with a curve to the left having a radius of 3487.74 feet and a length of 581.50 feet; thence continuing with said margin the following two calls: South 87° 52' 56" East, 1538.2 feet; South 88° 47' 22" East, 125.77 feet, to an iron pin in the South margin of said highway (60 feet from the centerline); thence leaving said margin and generally following a fence the following two calls: South 19° 24' 26" West, 62.61 feet, to an iron pin at a fencepost; South 06° 58' 32" West, 1952.54 feet, to an iron pin in a fencepost; thence leaving said fence and generally following a fence the following three calls: North 83° 50' 03" West, 810.63 feet; North 83° 59' 29" West, 1025.46 feet to a fence post; North 83° 16' 09" West, 321.61 feet, to an iron pin in said fence on the West side of an eighteen-inch (18") elm tree, same being the Southwest corner of the property here described; thence leaving said fence, with Phillips' East line, North 04° 57' 17" East, 496.79 feet, to a fencepost in a fence running generally East to West; thence continuing with Phillips' East line and generally following a fence, North 05° 01' 21" East, 1182.63 feet, to a set stone in said fence; thence leaving Phillips and continuing with a fence, Moore's East line, North 04° 28' 31" East, 221.85 feet, to the beginning, containing 97.43 acres, more or less, according to a survey made by James H. Bingham, Jr., L.S. Certificate #1251, dated August 13, 1986.

628

Being the same property conveyed by deed from William A. Phillips et al to Deep East Texas Savings Association, Jasper, Texas, of record in Book 118, page 211, Register's Office for Marshall County, Tennessee.

TRACT 3: The realty conveyed is lying and situated in the First Civil District of Marshall County, Tennessee, and is more particularly described as follows, to-wit:

Beginning at a concrete right-of-way monument located on the South side of Highway #99, said monument further described as being located directly across said highway from a graveled country road (Caney Springs Road) and being located on a bearing of North 70° 00' 32" West 1586.88 feet from the Northwest corner of the South portion of the Florence Wallace property, said South portion being situated on the South side of State Highway #99; thence continuing with the South right of way line of said highway with a spiral curve concave to the South an arc distance of 248.04 feet said curve having a central angle of 1° 52' 29" a radius of 7580 feet, a tangent length of 124.03 feet which the chord bears North 70° 37' 53" West, to a concrete monument; thence with a simple curve concave to the South an arc distance of 479.27 feet, said curve having a central angle of 7° 18' 13", a radius of 3759.83 feet, which the chord bears North 75° 32' 08" West to a concrete monument; thence North 85° 44' 45" West 98.80 feet to a concrete monument; thence North 77° 55' 58" West 147.78 feet to a concrete monument; thence with a spiral curve concave to the South an arc distance of 209.77 feet; said curve having a central angle of 3° 11' 48", a radius of 3759.83 feet, a chord length of 209.75 which the chord bears North 84° 32' 08" West to a concrete monument; thence with a simple curve concave to the South an arc distance of 123.14 feet, said curve having a central angle of 0° 55' 51" a radius of 7580 feet, a chord distance of 123.14 feet which the chord bears North 86° 54' 52" West to an iron pin located at the Northeast corner of the Ligiett Phillips property as recorded in Deed Book Y-3, page 115, ROMC, Tn., and the Northwest corner of the herein described property; thence continuing generally along a fence and with the East line of Phillips South 18° 58' 53" West 63.65 feet to an iron pin; thence South 06° 58' 32" West 2103.27 feet to an iron pin located in the North line of the Erwin Garrett property as recorded in Deed Book 89, page 176, ROMC; thence continuing generally along a fence and with the North line of Garrett South 81° 23' 13" East 337.25 feet to an iron pin; thence South 84° 09' 39" East 613.45 feet to an iron pin; thence South 83° 38' 25" East 249.91 feet to iron pin; thence South 84° 41' 34" East 324.23 feet to an iron pin; thence South 84° 04' 12", East 323.33 feet to an iron pin; thence South 81° 20' 25" East 201.30 feet to an iron pin; thence South 85° 00' 19" East 280.51 feet to an iron pin; thence South 85° 15' 10" East, 193.64 feet to an iron pin; thence South 84° 25' 25" East 368.52 feet to an iron pin located in a fence line; thence continuing generally along a fence North 05° 16' 18" East 137.26 feet to a fence corner, said point being located in the West line of the Florence Wallace property as recorded in Deed Book U-3, page 360, ROMCT; thence continuing generally along a fence and with the West line of Wallace North 5° 45' 41" East,1520.23 feet to an iron pin located in the South right-of-way line of Highway #99; thence continuing with the same North 70° 00' 32" West 1586.88 feet to the point of beginning, containing 131.00 acres, more or less.

Being the same property conveyed to Deep East Texas Savings Association of Jasper, Texas by deed from Claude H. Young and wife, Cynthia H. Young, and Monty K. Young and wife, Linda L. Young, of record in Book 116, page 995, Register's Office for Marshall County, Tennessee.

REGISTER'S OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 17 DAY OF
Apr. 1985
AT 2 O'CLOCK 25 MINUTES PM
RECORD BOOK 136 PAGE 611
REGISTER

629

629

112

Mail

THIS INSTRUMENT PREPARED BY:
M. Andrew Hoover
O'Hare, Sherrard & Roe
424 Church Street, Suite 2000
Nashville, Tennessee 37219

# FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS FOR WALNUT HILLS

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration") made, published, and declared this 6th day of March, 1990, by and between Deep East Texas Savings Association (the "Developer"), and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property;

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property in Marshall County, Tennessee, known as Walnut Hills, Section One (I), which is shown on the Plat of record in Map Plat Cabinet A, slide 69, in the Register's Office for Marshall County, Tennessee (the "Plat") and being the first phase of a residential subdivision within Marshall County, Tennessee (the "Subdivision"), a preliminary plan for which is on file in the Office of the Planning Commission for Marshall County, Tennessee;

WHEREAS, all of the real property shown on the Plat was previously subjected to that certain Amended and Restated Declaration of Restrictive Covenants of Walnut Hills dated December 14, 1988 (the "Declaration") of record in Book 139, page 616, Register's Office for Marshall County, Tennessee ("ROMC");

WHEREAS, it is to the benefit, interest, and advantage of Developer and of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of such property be amended as hereinafter described; and

WHEREAS, pursuant to Article VIII, Section 3 of the Declaration, the covenants and restrictions contained therein may be amended by the Developer, without joinder of the Owner of any Lot, for a period of five (5) years from the date of the Restrictions;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer hereby amends the Declaration as follows:

Section 1. Improvement and Setback Restrictions. Article III, Section 3(b) of the Declaration is amended to read as follows:

To provide for uniformity and proper utilization of the building area within the Lots, dwellings or appurtenant structures on a Lot shall not be less than the distance from any front street lot line as reflected on the Plat. No building shall be erected nearer than the distance from any side street lot line as reflected on the Plat. No building or structure shall be erected on any lot nearer than five (5) feet, including roof overhang, from any interior lot line.

Section 2. Maximum Annual Assessment. Article V, Section 5 of the Restrictions shall be amended to read as follows:

Until otherwise established by the Board of Directors of the Association as set forth herein, the maximum annual assessment shall be One Hundred Twenty and No/100 Dollars ($125.00) per Lot, payable in monthly installments of $10.00, or in advance on February 1 of each year. Notwithstanding the foregoing, the Sewer Fee, as defined in Article V, Section 8 hereof, shall not be deemed an annual assessment for the purposes only of this Section and shall not be included in such annual limitation. In the event the Board of Directors determines that an increase in excess of such amount is required, the amount of assessment shall be automatically effective thirty (30) days after the Association sends written notice to each Owner of the amount and necessity of such increased assessment.



112

Section 3. Assessment for Operation of Wastewater Treatment/Sewer Facility. The following provision shall be added as a new Section 8 of Article V:

For each Lot owned within the development, every Owner covenants and agrees, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, shall be deemed to covenant and agree, to pay to the Association or its designate monthly assessments or charges for the maintenance of the wastewater treatment/sewer facility serving the Subdivision (the "Sewer Fee") in amounts to be established from time to time by the Board of Directors of the Association in order to procure and maintain management and engineering services therefor and insurance thereon, to employ attorneys, accountants, engineers, inspectors, and security personnel, and to provide such other services with respect to such facility. The Sewer Fee shall be secured by the lien and the personal obligation described in Article V, Section 3 hereof.

Section 4. Binding Effect. The provisions of this Amendment Number One shall be binding upon and shall inure to the benefit of the respective legal representatives, successors and assigns of Developer and the Present Owners and all persons claiming by, through, or under Developer or the Present Owners.

Section 5. Continuing Effect. Except as expressly modified by the terms of this instrument, the Declaration shall continue and remain in full force and effect.

IN WITNESS WHEREOF, Developer has caused this First Amendment to Amended and Restated Declaration of Restrictive Covenants to be executed on the day and date first above written.

DEEP EAST TEXAS SAVINGS ASSOCIATION, DEVELOPER

By: R. Reagan Stephenson
R. Reagan Stephenson, President

STATE OF ~~TENNESSEE~~ TEXAS

COUNTY OF ~~MARSHALL~~ JASPER

Personally appeared before me, a Notary Public for the state and county aforesaid, the within named R. Reagan Stephenson, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is President of Deep East Texas Savings Association, a corporation, and is authorized to execute this instrument on behalf of Deep East Texas Savings Association.

WITNESS my hand, at office this 6TH day of March, 1990.

Gail Woolems
Notary Public

My Commission Expires:

GAIL WOOLEMS
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 6-21-93

REGISTERED OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 8th DAY OF
March A.D., 1990
AT 9 O'CLOCK 25 MINUTES AM
RECORD BOOK 147 PAGE 112
Bill Walker REGISTER

180

THIS INSTRUMENT PREPARED BY:
M. Andrew Hoover
O'Hare, Sherrard & Roe
424 Church Street, Suite 2000
Nashville, Tennessee 37219

# SECOND AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS FOR WALNUT HILLS

THIS SECOND AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration") made, published, and declared this 27th day of March, 1990, by and between Deep East Texas Savings Association (the "Developer"), and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property;

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property in Marshall County, Tennessee, known as Walnut Hills, Section One (I), which is shown on the Plat of record in Map Plat Cabinet A, slide 69, in the Register's Office for Marshall County, Tennessee (the "Plat") and being the first phase of a residential subdivision within Marshall County, Tennessee (the "Subdivision"), a preliminary plan for which is on file in the Office of the Planning Commission for Marshall County, Tennessee;

WHEREAS, all of the real property shown on the Plat was previously subjected to that certain Amended and Restated Declaration of Restrictive Covenants of Walnut Hills dated December 14, 1988, of record in Book 139, page 616, Register's Office for Marshall County, Tennessee ("ROMC"), as amended by the First Amendment to Amended and Restated Declaration of Restrictive Covenants for Walnut Hills, dated March 6, 1990, of record in Book 147, page 112, ROMC (collectively, the "Declaration");

WHEREAS, it is to the benefit, interest, and advantage of Developer and of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of such property be amended as hereinafter described; and

WHEREAS, pursuant to Article VIII, Section 3 of the Declaration, the covenants and restrictions contained therein may be amended by the Developer, without joinder of the Owner of any Lot, for a period of five (5) years from the date of the Restrictions;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer hereby amends the Declaration as follows:

Section 1. Minimum Square Footage within Improvements; Building Materials; Foundation; Brick. Article III, Section 2(b) of the Declaration is amended to read as follows:

(b) The exterior construction of any kind and character, be it the primary residence, garage, porches, or appendages thereto shall be completed within six (6) months after the start of the foundation. All foundations of any Single-Family Residence must be covered on the front elevation by brick or such brick facsimile as approved by the Association; except that any exposed edges of a monolithic slab foundation on the front elevation of the structure may be covered with stucco if less than sixteen (16) inches is exposed. All other exposed surfaces of the foundation must be covered with brick, brick facsimile, stucco or treated in a manner approved by the Association. Only new construction materials shall be used, except for used brick. In no event, shall any old house or building be moved on any lot or lots in Walnut Hills. At least twenty-five percent (25%) of the front of each Single-Family Residence shall be constructed of brick, exclusive of the foundation.

Section 2. Improvement and Setback Restrictions. Article III, Section 3(b) of the Declaration is amended to read as follows:

To provide for uniformity and proper utilization of the building area within the Lots, dwellings or appurtenant structures on a Lot shall not be less than the distance from any front street lot line as reflected on the Plat. No building shall be erected nearer than the distance from any side street lot line as reflected on the Plat. No building or structure shall be erected on any lot nearer than fifteen (15) feet, including roof overhang, from any interior lot line.



180

Section 3. Binding Effect. The provisions of this Second Amendment shall be binding upon and shall inure to the benefit of the respective legal representatives, successors and assigns of Developer and the Present Owners and all persons claiming by, through, or under Developer or the Present Owners.

Section 4. Continuing Effect. Except as expressly modified by the terms of this instrument, the Declaration shall continue and remain in full force and effect.

IN WITNESS WHEREOF, Developer has caused this Second Amendment to Amended and Restated Declaration of Restrictive Covenants to be executed on the day and date first above written.

DEEP EAST TEXAS SAVINGS ASSOCIATION, DEVELOPER

By: R. Reagan Stephenson
R. Reagan Stephenson, President

STATE OF TEXAS

COUNTY OF JASPER

Personally appeared before me, a Notary Public for the state and county aforesaid, the within named R. Reagan Stephenson, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is President of Deep East Texas Savings Association, a corporation, and is authorized to execute this instrument on behalf of Deep East Texas Savings Association.

WITNESS my hand, at office this 27TH day of March, 1990.

Gail Woolems
Notary Public

My Commission Expires:

GAIL WOOLEMS
NOTARY PUBLIC
State of Texas
My Comm. Expires 8-11-93

REGISTER'S OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 4 DAY OF
April A.D., 1990
AT 9 O'CLOCK 25 MINUTES Am
RECORDED IN BOOK 148 PAGE 180
Bill Walker REGISTER

SECOND AMENDED AND RESTATED

DECLARATION OF RESTRICTIVE COVENANTS

FOR

WALNUT HILLS

For Amendment To Second Amended & Restated
Declaration of Restrictive Covenants
See Record BK 180, Page 18

mail

This instrument prepared by:
M. Andrew Hoover, Esquire
O'HARE, SHERRARD & ROE
424 Church Street, Suite 2000
Nashville, Tennessee 37219

TABLE OF CONTENTS

SECOND AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE COVENANTS

FOR

WALNUT HILLS

THIS SECOND AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS (the "Declaration"), made, published, and declared this 22nd day of May, 1990, by and between Deep East Texas Savings Association (the "Developer"), and any and all persons, firms, or corporations presently owning or hereafter acquiring any of the within described property;

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property in Marshall County, Tennessee, known as Walnut Hills, Section One (I), which is shown on the Plat of record in Map Plat Cabinet A, slide 69, in the Register's Office for Marshall County, Tennessee (the "Plat") and being the first construction phase of a Residential Subdivision within Marshall County, Tennessee (hereinafter referred to as the "Subdivision"), a preliminary plan for which is on file in the Office of the Planning Commission for Marshall County, Tennessee;

WHEREAS, all of the real property shown on the Plat was previously subjected to that certain Amended and Restated Declaration of Restrictive Covenants of Walnut Hills of record in Book 139, page 616, Register's Office for Marshall County, Tennessee ("ROMC"), as amended by First Amendment to Amended and Restated Declaration of Restrictive Covenants of Walnut Hills, of record in Book 147, page 112, ROMC and as further amended by Second Amendment to Amended and Restated Declaration of Restrictive Covenants for Walnut Hills; of record in Book _____, page _____, ROMC, (collectively the "Declaration");

WHEREAS, pursuant to Article 8, Section 8.3 of the Declaration, the covenants and restrictions contained therein may be amended by Developer without the joinder of any Owner in order to conform the Declaration to the rules and regulations of the Federal Housing Administration;

WHEREAS, it is to the benefit, interest, and advantage of Developer and of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, restrictions, assessments, and liens governing and regulating the use and occupancy of such property be established, fixed, and set forth and declared to be covenants running with the land;

WHEREAS, the Developer, now desires to supersede any restrictions that may presently exist with respect to the property described herein and to establish restrictions applicable to such property in accordance with the terms of this Declaration;

NOW, THEREFORE, in consideration of the premises, Developer, with any and all persons, firms, corporations, or other entities hereafter acquiring all or any of the property hereinafter described (the "Property"), that any previous restrictions, recorded or unrecorded shall be of no further force or effect and that the Property shall be hereinafter subjected to the following restrictions, covenants, conditions, assessments, and liens (collectively, the "Restrictions") relating to the use and occupancy thereof and relating to the use, occupancy, and maintenance of such portions of the same as at present or in the future shall be designated as common areas, said Restrictions to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title, or interest in or to the Property or any part thereof and which shall inure to the benefit of each owner thereof.

ARTICLE 1.

DEFINITIONS

The following words, when used in this Declaration or any amendment or supplement hereto, shall, unless the context shall clearly require to the contrary, have the following meanings:

1.1 "Additional Phases" shall mean the additional acreage that may be added to the development in one or more Phases at the sole discretion of the Developer, together with the Common Areas as shown on the Plat amendment(s) to be filed in connection therewith.

1.2 "Association" shall mean and refer to Walnut Hills Homeowners Association, a not-for-profit corporation organized and existing under the laws of the State of Tennessee, its successors and assigns.

1.3 "Common Area" or "Common Areas" shall mean and refer to any and all real property owned by the Association, and such other property to which the Association may hold legal title, whether in fee or for a term of years, for the non-exclusive use, benefit, and enjoyment of the members of the Association, subject to the provisions hereof, and such other property as shall become the responsibility of the Association, through easements or otherwise, including any recreational areas, which may be constructed initially by the Developer or thereafter by the Association. Common Areas with respect to the properties made subject to this Declaration, whether at the time of filing of this Declaration or subsequently by Supplementary Declaration(s), shall be shown on the Plat(s) of Walnut Hills and designated thereon as "Common Areas" or "Open Space".

1.4 "Declaration" shall mean and refer to this Declaration of Restrictions applicable to the Properties that is to be recorded in the Office of the Register of Deeds for Marshall County, Tennessee and any Supplementary Declarations upon the creation of Additional Phases.

1.5 "Detached Homes" shall mean those homes that are free-standing and which shall be constructed in certain areas of the Properties as shown on the Plat(s).

1.6 "Developer" shall mean and refer to Deep East Texas Savings Association, a Texas association having a principal place of business in Jasper, Texas, its successors and assigns.

1.7 "Lot" shall mean and refer to any plot of land to be used for single-family residential purposes and so designated as a Lot upon the Plat.

1.8 "Member" shall mean and refer to any person who shall be an Owner and, as such, shall be a member of the Association.

1.9 "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee interest in any Lot or portion of a Lot, excluding, however, those parties having such interest merely as security for the performance of an obligation.

1.10 "Occupant" shall mean and refer to any person or persons in possession of a Lot or home other than an Owner.

1.11 "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust, or other legal entity.

1.12 "Phase I" shall mean and refer to the initial Properties subject to the Declaration, which contains 146 Lots intended for detached homes as shown on the Plat (the "Detached Homes"), and the Common Areas.

1.13 "Plat" shall mean and refer to the Plat of Phase I, of record in Map Plat Cabinet A, slide 69, Register's Office for Marshall County, Tennessee, together with any amendments and supplements thereto recorded upon the creation of Additional Phases or upon the commencement of construction of additional sections within a previously submitted phase.

1.14 "Properties" shall mean and refer to any and all of that certain real property now or which may hereafter be brought within that certain residential subdivision being developed by Developer in Marshall County, Tennessee, which subdivision is and shall be commonly known as Walnut Hills.

1.15 "Walnut Hills" shall mean and refer to that certain residential community known as Walnut Hills, which is being developed on real property now owned by Developer in Marshall County, Tennessee, together with such additions thereto as may from time to time be designated by Developer whether or not such additions are contiguous with or adjoining the boundary lines of Walnut Hills, Phase I, as shown on the Plat.

1.16 "Successor Developer" shall mean and refer to any person (including any affiliate of the original owners) who shall acquire the right to construct Additional Phases on all or any portion of Tract II (as defined herein) adjacent to Walnut Hills and able to be included in the general development plan of Walnut Hills.

1.17 "Supplementary Declaration(s)" shall mean the one or more supplementary declarations that may be recorded from time to time to create Additional Phases or to amend this Declaration as expressly permitted hereunder.

## ARTICLE 2.

## PROPERTIES SUBJECT TO THIS DECLARATION

2.1 Initial Properties Subject to Declaration. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Marshall County, Tennessee, and is more particularly described and shown on Exhibit "A" attached hereto and made a part hereof by this reference. Walnut Hills is to be built in two or more Phases, each of which may comprise a number of section for construction purposes. Construction of Phase I, Section 1, consisting of a portion of the total 146 Lots in Phase I is anticipated to be completed as of January 1, 1991. All of the real property shown on Exhibit "A" and designated as Tract I shall be submitted to these Restrictions.

2.2 Additional Phases. Without further assent or permit, Developer and any Successor Developer hereby reserves the right, exercisable from time to time but not later than seven (7) years after the date hereof, to subject all or part of other, contiguous real property described as Tract II on Exhibit "B" to the restrictions set forth herein, in one or more Additional Phases, in order to extend the scheme of this Declaration to such property to be developed as part of Walnut Hills and thereby to bring such additional contiguous Properties within the jurisdiction of the Association.

2.3 Supplementary Declarations. The additions herein authorized shall be made by filing of record one or more Supplementary Declarations in respect to the creation of Additional Phases or the addition of other Properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such property and thereby subject such addition to assessment for its just share of the Association's expenses and shall also require the filing of such additional plats as are required for such sections in the Register's Office for Marshall County, Tennessee. Each Supplementary Declaration must subject the added property or additional Lots to the covenants, conditions and restrictions contained herein.

2.4 Consent to Rezoning. Every Owner shall be deemed to have consented to any rezoning of Tract II that may be necessary to the development of such property as part of Walnut Hills. Owners of any Lots in the additional property shall succeed to all of the rights and obligations of membership in the Association.

2.5 Extension of Development Rights to Adjacent Property. The Developer and any Successor Developer shall have the rights described in this Article 2, exercisable without approval of the Association or any other person or entity. The Developer or such Successor Developer shall have the voting rights as specified hereinafter with respect to any added Lots, subject to the original limitations as to duration of weighted voting.

2.6 Construction Sections. The Developer may submit more unimproved property than is immediately anticipated to be used or improved to the terms and conditions of these restrictions, in order to insure and demonstrate its intentions with respect to such property and to assure that such property will be developed subject to the covenants and restrictions contained in this Declaration and such land shall initially constitute one Lot. No additional "Lots" shall be deemed to have been created on such property until such time as the final plat approving such construction section has been approved and recorded in the Register's Office for Marshall County, Tennessee. At such time as the final plat is recorded, all Lots depicted thereon, and Common Areas shown thereon, shall be owned and used in accordance with the terms of this Declaration. Each such Lot shall then be responsible for its pro rata share of the expenses of the Association and shall be entitled to the benefits of ownership set forth herein.

2.7 Association Rights. The Association may not assert as a reason to object to the new development plan the fact that existing Association facilities will be additionally burdened by the property to be added by the new development or that the type of home or size of Lot in any future construction differs from that of the initial construction of Phase I, or any subsequent Construction Section, it being acknowledged that the developer intends to construct a wide variety of homes in terms of style, size and prices within Walnut Hills. The Developer reserves the right to modify any preliminary plan to reconfigure Lots, create additional amenities, areas or Common Areas, prior to the sale of any Lot in an additional Construction Section and thereafter within a Construction Section with the consent of the Owners of that Section only.

## ARTICLE 3.

## ARCHITECTURAL, MAINTENANCE, AND USE RESTRICTIONS

3.1 Single-Family Residential Construction. No building or other structure shall be erected, altered or permitted to remain on any Lot other than one (1) single-family residential dwelling not to exceed two and one-half (2 1/2) stories in height, which may have an attached private garage for not more than two (2) cars which structures shall not exceed the main dwelling in height. Notwithstanding the foregoing, it is expressly agreed



9

and understood that Lot 104 is a utility lot, and does not come within the scope of this Declaration.

3.2 Minimum Square Footage Within Improvements; Building Materials; Foundation; Brick.

(a) Unless otherwise approved by the Developer, the exterior area of the main residential structure shall include not less than one thousand two hundred (1,200) exterior square feet, excluding garages and open porches;

(b) The exterior construction of any kind and character, be it the primary residence, garage, porches, or appendages thereto shall be completed within six (6) months after the start of the foundation. All foundations of any Single Family Residence must be covered on the front elevation by brick or such brick facsimile as approved by the Association; except that any exposed edges of a monolithic slab foundation on the front elevation of the structure may be covered with stucco if less than sixteen (16) inches of height is exposed. All other exposed surfaces of the foundation must be covered with brick, brick facsimile, stucco or treated in a manner approved by the Association. Only new construction materials shall be used, except for used brick. In no event, shall any old house or building be moved on any lot or lots in Walnut Hills. At least twenty-five percent (25%) of the front of each Single Family Residence shall be constructed of brick or stone, exclusive of the foundation.

3.3 Approval of Plans.

(a) No construction, reconstruction, remodeling, alteration, or addition of or to any structure, building, fence, wall, drive, or improvement of any nature shall be constructed without obtaining prior written approval of Developer as to the location, plans, and specifications therefor. As a prerequisite to consideration for approval, and prior to the commencement of the contemplated work, two (2) complete sets of building plans and specifications shall be submitted. Developer shall be the sole arbiter of such plans and may withhold its approval for any reasons, including purely aesthetic reasons. Upon giving approval, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans.

(b) At such time as Developer divests itself of all Lots within the development, the right of approval of plans for further construction, reconstruction, remodeling, alterations, and additions shall thereafter vest exclusively in the Association and in its Board of Directors, or such committees of the Association as shall he appointed by its Board of Directors.

(c) Developer, the Association and the individual members thereof shall not be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. In the event that Developer or the Association fails to indicate its approval or disapproval within thirty (30) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. Approval or disapproval by Developer or the Association shall not be deemed to constitute any warranty or representation by it including, without limitation, any warranty or representation as to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes and regulations. Anything contained in this paragraph 3.2, or elsewhere in this Declaration to the contrary notwithstanding, Developer and the Association are hereby authorized and empowered, at their sole and absolute discretion, to make and permit reasonable modifications or deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Lot and of the size and location of any such building or improvement when, in their sole and final judgment, such modifications and deviations in such improvements will he in harmony with existing structures and will not materially detract from the aesthetic appearance of the Properties and the improvements as a whole; provided, however, such modifications and deviations must remain within all applicable ordinances and regulations established by Marshall County, Tennessee.

Developer or the Association, as the case may be, may require the submission to it of such documents and items, including as examples, but without limitation, written requests for and description of the variances requested, plans, specifications, plot plans and samples of material(s), as either of them shall deem appropriate, in connection with its consideration of a request for a variance. If Developer or the Association shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing its decision to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the type of alternate materials to be permitted, and alternate fence height approved or specifying the location, plans and specifications applicable to an approved outbuilding), and signed by Developer or the Association, as the case may be. Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the

event of either (i) written notice of disapproval from Developer or the Association or (ii) failure by Developer or the Association to respond to the request for variance. In the event Developer or the Association or any successor to the authority thereof shall not then be functioning, no variances from the covenants herein contained shall be permitted, it being the intention of Developer that no variances be available except at its discretion or that of the Association. Neither Developer nor the Association shall have the authority to approve any variance except as expressly provided in this Declaration.

3.4 Structural Compliance. All structures shall be built in substantial compliance with the plans and specifications therefor, approved by Developer or the Association as provided in paragraph 3.3 above.

3.5 Improvement and Setback Restrictions.

(a) No building or structure, or any part thereof, shall be located on any Lot nearer to the front line, the rear line, or any side line than the minimum building setback lines required by Marshall County, Tennessee and as may be shown on the recorded plats. For purposes of determining compliance with this requirement, porches, wing walls, eaves, and steps extending beyond the outside wall of a structure shall be considered as a part thereof. No encroachment upon any utility easements reserved on the Plat shall be authorized or permitted.

(b) To provide for uniformity and proper utilization of the building area within the Detached Homes Lots, no building or structure shall be erected on any lot nearer than fifteen (15) feet, including roof overhand, from any interior lot line.

3.6 Re-subdivision of Lots. No Lot shall be re-subdivided, nor shall any building be erected or placed on any such re-subdivided Lot, unless such re-subdivision is approved by the Association, as well as any governmental authority having jurisdiction. Developer, however, shall have the right, but not the obligation, to re-subdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the Properties contained within the outer boundaries of the Plat, and such Lots, as re-platted, shall he subject to this Declaration as if such Lots were originally included herein. Any such re-plat must comply with pertinent re-platting ordinances, statutes, regulations and requirements.

3.7 Walls, Fences and Hedges. No wall or fence shall be erected or maintained nearer to the front lot line than the front building line on such Lot, nor on corner lots nearer to the side Lot line than the building setback line parallel to the side street. No side or rear fence, wall or hedge shall be more than six (6) feet in height. Any wall, fence or hedge erected on a Lot shall be maintained by the Owner thereof. All fencing shall be constructed only of such materials and erected only on such Lots and in such a manner as shall be approved by the Association. No fence shall be constructed or maintained between the front building or setback line and the street; provided, however, the planting of hedges, shrubbery or evergreens in lieu of a fence, and extending to the front or sides of any Lot is permitted, provided such planting shall not be maintained at a height in excess of forty-two (42) inches.

3.8 Roofing Material. The roof of any building (including any garage) shall be constructed or covered with asphalt or composition type shingles. Any other type of roofing material shall be permitted only in the sole discretion of the Association upon written request.

3.9 Driveways. All driveways shall be paved or covered with concrete, aggregate, or of pea or creek gravel.

3.10 Swimming Pools. Swimming pools shall be allowed only on Lots approved by the Association and shall be located at the rear of the residence. All swimming pools shall have a perimeter enclosure, the plans for which, including landscaping plans, must be approved by the Association.

3.11 . Storage Tanks and Refuse Disposal. No exposed above-ground tanks or receptacles shall be permitted for the storage of fuel, water, or any other substance, except for refuse produced through normal daily living and of a nature which is satisfactory for pick-up by the Marshall County Department of Public Works. Incinerators for garbage, trash, or other refuse shall not be used or permitted to be erected or placed on any Lot. All equipment, coolers, and garbage cans shall be concealed from the view of neighboring lots, roads, streets, and open areas.

3.12 Clothes Lines. Outside clothes lines shall not be permitted.

3.13 Signs and Advertisements. No sign, advertisement, billboard or advertising structure of any kind shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon without the prior written consent of the Association; provided that this requirement shall not preclude the installation by Developer of signs identifying the entire residential development and provided further that this requirement shall not preclude the placement by Owners of "For Sale" signs in the front of



11

11

individual residences of such size, character, and number as shall from time to time be approved by the Association. The Association shall have the right to remove any such unapproved sign, advertisement, billboard or structure that is placed on said Lots, and in doing so shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

3.14 Use of Temporary Structures. No structure of a temporary character, mobile home, camper, trailer, basement, tent, shack, garage, barn or other outbuilding shall be erected, moved onto any Lot and/or used at any time as a residence, nor shall any residence of a temporary charter be permitted. No structure of any kind except a dwelling house may be occupied as a residence, and the outside of any building so occupied must be completed before occupancy, including landscaping. No residence shall be built on any Lot unless it conforms to and is in harmony with the existing structures in Walnut Hills subdivision and not more than one residence may be maintained on any Lot at the same time. Temporary structures may be used as building offices and for related purposes during the construction period. Such structures shall be inconspicuous and sightly and shall be removed immediately after completion of construction and shall be subject to approval of the Association.

3.15 Storage of Automobiles, Boats, Trailers and Other Vehicles. No trailers, boat trailers, travel trailers inoperative automobiles or campers shall be semi-permanently or permanently parked or stored in the public street right-of-way or forward of the front building line. Storage of such items and vehicles must be screened from public view, either within the garage or behind a fence which screens such vehicle from public view, unless otherwise approved in writing by the Developer in accordance with paragraph 3.3 above. No tractor trailers, buses, or other large commercial vehicles shall be parked on driveways or in streets within the Properties for periods of time exceeding twelve (12) hours any day or for more than twenty-four (24) hours in any calendar week.

3.16 Outside Lighting. Outside lights at eaves and door entrances shall be permitted, but no exterior flashing or high-intensity lights, floodlights, or spotlights on the exterior of any building or erected on any other support device shall be permitted, except with the prior written approval of the Association.

3.17 Maximum Height of Antennae. Unless approved by Developer, no electronic antenna or device of any type other than an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lot, house or building. Television antennas must be located to the rear of the roof ridge line, cable or center line of the principal dwelling. Freestanding antennae must be attached to and located behind the rear wall of the main residential structure. No antennae, either freestanding or attached, shall be permitted to extend more than ten (10) feet above the roof of the main residential structure on the Lot, or shall be erected on a wooden pole.

3.18 Window Units. All window air conditioning units must be used, erected, placed or maintained to the rear of the main residential structure. No window or wall type air conditioning units shall be permitted to be seen from the street view of any Lot.

3.19 Recreational Equipment. All playground and recreational equipment must be used, erected, placed or maintained to the rear of all Lots.

3.20 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations shall be permitted on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

3.21 Maintenance. All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective Owners or Occupants. Such maintenance shall include, but not be limited to, painting, repairing, replacing, and caring for roofs, gutters, downspouts, building surfaces, patios, walkways, driveways, and other exterior improvements. The Owner or Occupant of each Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and all trees and shrubbery pruned and cut. No Lot shall be used for storage of material and equipment, except for normal residential requirements or incident to construction of improvements thereon as herein permitted. The accumulation of garbage, trash or rubbish of any kind and the burning (except as permitted by law) of any such materials is prohibited. In the event of default on the part of the Owner or Occupant of any Lot in observing the above requirements or any of them, such default continuing after ten (10) days' written notice thereof, the Association may, subject to approval of its Board of Directors, enter upon said Lot, repair, maintain and restore the same, cut or prune or cause to be cut or pruned, such weeds, grass, trees and shrubbery and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions and to place said Lot in a neat, attractive, healthful and sanitary condition. In so doing, the Association shall not be subject to any liability for trespass or otherwise. All costs incurred in any such repair, maintenance, restoration,



12

cutting, pruning or removal shall be charged against the Owner of such Lot as the personal obligation of such Owner and as a lien upon the Lot, enforceable and collectible in the same manner and to the same extent as a maintenance assessment. Any Occupant of such Lot shall be jointly and severally liable with the Owner for the payment of such coats.

The Association shall contract with one (1) or more landscaping services to provide grass cutting, lawn maintenance, proper care for all trees, shrubbery and other landscaping, and other necessary maintenance services for the Common Areas, provision for which shall be made in the monthly or annual assessments.

3.22 Damage, Destruction or Maintenance. In the event of damage or destruction to any structure located on the Properties, the respective Owner thereof agrees as follows:

(a) In the event of total destruction, the Owner shall promptly clear the Lot of debris and leave the same in a neat and orderly condition. Within 60 days of any insurance settlement, the Owner must commence to rebuild and reconstruct the structure. Any such rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the original structure so destroyed, subject to any changes or modifications as approved by the Developer or the Association, as the case may be, in accordance with Article 3 hereof.

(b) In the case of partial damage or destruction, the Owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original structure and in conformity with its original exterior painting and decor. Any change or alteration must he approved by the Developer or the Association, as the case may be, in accordance with Article 3 hereof. In no event shall any damaged structure be left unrepaired and unrestored for in excess of sixty (60) days, from the date of the insurance adjustment.

(c) If the correction of a maintenance or repair problem incurred on one Lot necessitates construction work or access on another Lot, both Owners shall have an easement on the property of the other for the purpose of this construction. Each party shall contribute to the cost of restoration thereof equally, unless such damage was caused by the fault of an Owner, in which event the Owners shall allocate the cost of restoration in proportion to the relative fault of the parties.

3.23 Use of Premises. Each Lot shown on the Plat shall he used only for private, single-family residential purposes and not otherwise. Notwithstanding the foregoing, Developer may maintain, as long as it owns property in or upon such portion of the Properties as Developer may determine, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units and signs, and Developer may use, and permit builders (who are at the relevant time building and selling houses in the development) to use, residential structures, garages or accessory buildings for sales offices and display purposes, but all rights of Developer and of any builder acting with Developer's permission under this sentence, shall be operative and effective only during the construction and sales period within the area.

3.24 Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot, except household pets such as small dogs and cats which may be kept thereon in reasonable numbers as pets for the sole pleasure of the Owner or Occupant, but not for any commercial use or purpose.

3.25 Nuisances and Unsightly Materials. No house or other structure on any Lot shall be used for any public business or commercial purpose. Each Owner or Occupant shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to others. No noxious, offensive, or illegal activity shall be carried on upon any Lot. No motorcycle, motorbike, motor scooter, or any other unlicensed motorized vehicle shall be permitted to be operated on or in the Common Areas. No Lot shall be used, in whole or in part, for the storage of rubbish of any character whatsoever; nor shall any substance, thing, or material he kept upon any Lot which will emit foul or noxious odors or which will cause any noise that will or might disturb the peace and quiet of the Owners or Occupants of surrounding Lots or property. The foregoing shall not be construed to prohibit the temporary deposits of trash and other debris for pick-up by garbage and trash removal service units, so long as such units are kept in a clean and sanitary condition and are stored in such a way as not to be visible from any road or right-of-way.

3.26 Hobbies and Activities. The pursuit of any inherently dangerous activity or hobby, including, without limitation, the assembly and disassembly of motor vehicles or other mechanical devices, the shooting of firearms, fireworks, or pyrotechnic devices of any type or size, and other such activities shall not be pursued or undertaken on any part of any Lot or upon the Common Areas without the consent of the Association.

3.27 Visual Obstruction at the Intersection of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) feet and six (6) feet above the surface of the streets shall be placed, planted or permitted to remain on any corner Lot within the triangular area formed by the curb lines of the streets involved and a line running from curb line to curb line at points twenty-five (20) feet from the junction of the street curb lines. The same limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway.

3.28 Governmental Restrictions. Each Owner shall observe all governmental building codes, health regulations, zoning restrictions, and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation, or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

3.29 Roads. It shall be obligatory upon all owners of the Lots in this subdivision to consult with the Chief Engineer of the Highway Department of Marshall County, Tennessee, before any driveways, culverts, other structures or grading are constructed within the limits of any dedicated roadway, and such placement or construction shall be done in accordance with the requirements of the County Highway Commission applying to county roads in order that the roads or streets within the subdivision which would be affected by such placement or construction may not be disqualified for acceptance by the County into the public road system.

3.30 Easement for Roads. The right is expressly reserved to the Developer and Owners, their representatives, heirs, successors and assigns, to construct all streets, roads, alleys, or other public ways as now, or hereafter may be, shown on the Plat(s), at such grades or elevation as they, in their sole discretion, may deem proper; and, for the purpose of constructing such streets, roads, alleys or public ways, they additionally, shall have an easement, not exceeding (10) feet in width, upon and along each adjoining Lot, for the construction of proper bank slopes in accordance with the specifications of the government body or agency having jurisdiction over the construction of public roads; and no Owner of any Lot shall have any right of action or claim for damages against anyone on account of the grade of elevation at which such road, street, alley or public way may hereafter by constructed, or on account of the bank slopes constructed within the limits of the said ten (10) feet easement.

## ARTICLE 4.

## ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

4.1 Membership. Every person or entity who is the Owner of record of a fee interest in any Lot shall be a Member of the Association, subject to and bound by this Declaration and the Association's Articles of Incorporation, the By-Laws of the Association and such rules and regulations as may be adopted by the Association. When any Lot is owned of record in joint tenancy, tenancy in common, tenancy by the entirety, or by some other legal entity, the membership as to such Lot shall be joint and the rights of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section 4.2 below.

4.2 Voting and Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lot. The Owner of each Lot shall be entitled to one (1) vote; provided that Developer shall be entitled, for each Lot that it owns, to three (3) votes until such time as seventy-five percent (75%) of the Lots subjected to this Declaration by this instrument or by any Supplementary Declaration have been sold by it or until five (5) years from the date of recordation of this instrument, after which time Developer shall have only one (1) vote for each Lot that it owns. When two (2) or more persons hold an interest in any Lot as Owners thereof, all such persons shall be Members. The vote for such Lot shall be exercised by one (1) of such persons as proxy or nominee for all persons holding an interest as Owners in the Lot and in no event shall more than one (1) vote be cast with respect to any Lot, except as provided above with respect to Developer.

4.3 Method of Voting. Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. No proxy shall be valid unless promulgated by the Board of Directors as an official proxy. A corporate Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation. Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Members of each Class present at the meeting shall, prior to voting on any matters, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the Members, the official solicitation of proxies for such elections may be conducted by mail.

4.4 First Meeting of Members. The first regular annual meeting of the Members may be held, subject to the terms hereof, on any date, at the option of the Board of Directors; provided, however, that the first meeting may (if necessary to comply with Federal Regulations) be held no later than the earlier of the following events: (a) four months after all of the Lots have been sold by the Developer; or (b) three years following conveyance of the first Lot by the Developer.

4.5 Working Capital Fund. There may (if necessary to comply with Federal Regulations) be established a working capital fund equal to three months' assessments for each Lot. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of each Lot and maintained by the Association in an account for the use and benefit of the Association. Amounts paid into the fund shall not be considered as advance payment of regular assessments. (The contribution to the working capital fund for each unsold Lot shall be paid to the Association within sixty (60) days after the date that the Developer shall cease to have three (3) votes for each Lot it owns pursuant to Sections 4.1 and 4.2 above.) The purpose of the fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors.

4.6 Acceptance of Development. By the acceptance of a deed to a Lot, any purchaser of a Lot shall be deemed to have accepted and approved the entire plans for the Walnut Hills Subdivision development, and all improvements constructed by that date, including, without limitation, the utilities, drains, roads, sewers, landscaping, Common Area amenities, and all other improvements as designated on the Plat, and as may be supplemented by additional plats upon completion of development of any portion of the balance of Tract I or of Tract II. Such purchaser agrees that all improvements constructed after the date of purchase consistently with such plans, and of the same quality of then existing improvements, shall be accepted. quality of then existing improvements, shall be accepted. Security may be provided at the Developer's discretion, and no Owner shall have any cause of action for failure to provide adequate security.

## ARTICLE 5.

## COMMON AREA PROPERTY RIGHTS AND MAINTENANCE ASSESSMENTS

5.1 Common Areas. Each Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to each Lot as designated upon the Plats, subject only to the provisions of this Declaration and the Articles of Incorporation, By-Laws, and rules and regulations of the Association, including, but not limited to, the following;

(a) The right of the Association to limit the use of the Common Areas to Owners or Occupants of Lots, their families and their guests;

(b) The right of the Association to suspend voting privileges and rights of use of the Common Areas for any Owner whose assessment against his Lot becomes delinquent; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may he agreed upon by the Members; provided that no such dedication or transfer shall be effective unless the Members entitled to cast at least three-fourths (3/4) of the votes agree to such dedication or transfer and signify their agreement by a signed and recorded written document; and provided further that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities, and drainage facilities upon, over, under, and across the Common Areas without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties.

(d) Notwithstanding anything herein to the contrary, no Owner shall be subject to absolute liability for damage or destruction to any Lot or the Common Areas.

5.2 Assessment for Maintenance of Common Areas. For each Lot owned within the development, every Owner covenants and agrees, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, shall be deemed to covenant and agree, to pay to the Association monthly or annual assessments or charges for the creation and continuation of a maintenance fund in amounts to be established from time to time by the Board of Directors of the Association in order to maintain, landscape, and beautify the Common Areas, to promote the health, safety, and welfare of the residents of the community, to pay taxes, if any, assessed against the Common Areas, to procure and maintain insurance thereon, to employ attorneys, accountants, and security personnel, and to provide such other services as are not readily available from governmental authorities having jurisdiction over the same. In addition, the Owner of each Lot and each subsequent Owner thereof, by acceptance of his deed, covenants and agrees to pay special assessments as approved by the membership in the manner hereinafter provided. In addition, the Owner of

Owner thereof, by acceptance of his deed, covenants and agrees to pay special assessments as approved by the membership in the manner hereinafter provided.

5.3 Creation of Lien and Personal Obligation of Assessments. In order to secure payment of assessments, both monthly or annual and special, as the same become due, there shall arise a continuing lien and charge against each Lot, the amount of which shall include interest at the maximum effective rate allowed by law, costs, and reasonable attorney's fees to the extent permissible by law. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment became due; provided that this personal obligation shall not pass to successors in title unless expressly assumed by them. The lien provided for herein, however, shall be subordinate to the lien of any first deed of trust (sometimes hereinafter called "mortgage") on any Lot if, but only if, all such assessments made with respect to such Lot having a due date on or prior to the date such first mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such first mortgage is filed of record and prior to the satisfaction, cancellation, or foreclosure of the same, or the transfer of the mortgaged property in lieu of foreclosure. The sale or transfer of any Lot shall not affect any assessment lien. The sale or transfer of any Lot that is subject to any first mortgage, pursuant to a foreclosure thereof or under power of sale or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessment, but not the personal obligation of any former title holder, as to payments that became due prior to such sale or transfer and subsequent to the recordation of the first mortgage that has been foreclosed, but the Association shall have a lien upon the proceeds from foreclosure or of sale junior only to the lien of the foreclosed first mortgage. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

5.4 Levy of Assessments. The Board of Directors of the Association shall fix the commencement date for monthly or annual assessments on the first day of the month following the conveyance of the first Lot to an Owner and shall provide for a partial assessment between the commencement date and the end of the calendar year next following. Thereafter, monthly or annual assessments shall be levied by the Board of Directors of the Association, by action taken on or before December 1 of each year for the ensuing year. The Board, in its discretion, may provide for the periodic payment of such assessments at some intervals other than monthly. Special assessments may be levied in any year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, if any, including fixtures and personal property related thereto; provided that the same are first approved by the Board of Directors of the Association, recommended to the membership, and subsequently approved by affirmative vote of Members entitled to cast at least two-thirds (2/3) of the votes at a meeting of the Members duly held for that purpose. Written notice of the monthly, annual or special assessment shall be mailed (by U.S. first class mail) to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner, but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for requesting the same.

5.5 Maximum Annual Assessment. Until otherwise established by the Board of Directors of the Association as set forth herein, the maximum annual assessment shall be One Hundred Twenty and No/100 Dollars ($120.00) per year per Lot, payable in monthly installments of $10,00, or in advance of February 1 of each year. Notwithstanding the foregoing, the Sewer Fee, as defined in Article 5, Section 5.8 hereof, shall not be deemed an annual assessment for the purposes only of this Section and shall not be included in such annual limitation. In the event the Board of Directors determines that an increase in excess of such amount is required, the amount of assessment shall be automatically effective thirty (30) days after the Association sends written notice to each owner of the amount and necessity of such increased assessment.

5.6 Rate of Assessment. From and after one year from the date hereof, the maximum annual assessment may be increased each year by an amount up to, but not in excess of, five percent (5%) of the maximum annual assessment for the previous year without a vote of the membership. All Lots in the development shall commence to bear their assessments simultaneously.

5.7 Effect of Non-Payment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum effective rate then allowed by law. The Association, its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs, and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may avoid liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

5.8 Sewer Fee. For each Lot owned within the development, every Owner covenants and agrees, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, shall be deemed to covenant and agree, to pay to the Association or its designate monthly assessments or charges for the maintenance of the wastewater treatment/sewer facility serving the Subdivision (the "Sewer Fee") in amounts to be established from time to time by the Board of Directors therefor and insurance thereon, to employ attorneys, accountants, engineers, inspectors, and security personnel, and to provide such other services with respect to such facility. The Sewer Fee shall be secured by the lien and the personal obligation described in Article 5, Section 5.3 hereof.

5.9 Insurance.

(a) The Board of Directors of the Association shall determine what insurance and in what amounts shall be necessary for the operation of Walnut Hills. Until such time as any of the Common Areas of Walnut Hills are improved, it is anticipated that the only insurance necessary for the operation of the Association shall be general liability insurance for claims arising out of the use of the Common Areas.

(b) In the event that the Board of Directors determines that it will be in the best interest of the Association to obtain insurance on any improvements owned by the Association and constructed in the Common Areas, the Association shall obtain fire and extended coverage insurance covering all such improvements and all personal property, equipment, fixtures and supplies owned by the Association. The face amount of such policy or policies shall not be less than one hundred percent (100%) of the current replacement cost of the property required to be covered by this Section. Such policy shall contain and agreed amount and an inflation guard endorsement, if such can be reasonably obtained, and also construction code endorsements, such as demolition costs endorsement, contingent liability from operation of building laws endorsement and increased cost of construction endorsement. Such policy shall also contain steam boiler and machinery coverage endorsements, if applicable. The insurance policies so purchased shall be purchased by the Association for the use and benefit of individual Owners and their mortgagees. The Association shall issue certificates of insurance to each Owner showing and describing the insurance coverage for the interest of each Owner, and shall develop procedures for the issuance, upon request, of a copy of the policy together with standard mortgagee endorsement clauses to the mortgagees of Owners. To the extent reasonably available, such policy shall waive rights of subrogation against Owners, the Association, and all agents of the Association. The insurance policies purchased by the Association shall also provide, to the extent reasonably available, that the insurance will not be prejudiced by any acts or omissions of Owners that are not under the control of the Association, and that such policies will be primary even if the Owner has other insurance that covers the same loss. The insurance policy shall also provide that any applicable insurance trust agreement will be recognized.

(c) If available at reasonable cost, as determined in the sole discretion of the Board of Directors, directors and officers liability insurance shall be purchased in amount determined by the Board of Directors. It is presently agreed that coverage in the amount of Two Hundred and Fifty Thousand and No/100 Dollars ($250,000.00) per occurrence would be a reasonable amount of such coverage.

## ARTICLE 6.

## EASEMENTS

6.1 General. The Lots and Common Areas in the Properties subject to this Declaration shall be subject to all easements shown or set forth on the Plat.

6.2 Development and Construction. Developer hereby reserves an easement upon, over, and across the Common Areas for purposes of access, ingress, and egress to and from the Lots during the development of the Properties and during the period of construction of residences such Lots. Developer shall be responsible for and shall repair all damage to the Common Areas arising out of or resulting from its development of the Properties and construction of residences on the Lots.

6.3 Emergency. There is hereby reserved, without further assent or permit, a general easement to all policemen and security guards employed by Developer or by the Association, firemen, ambulance personnel, and all similar persons to enter upon the Properties or any portion thereof which is made subject to this Declaration in the performance of their respective duties. Further, employees of any utility department of Marshall County, Tennessee, or of any utility serving the Properties, may enter upon the Properties for the purpose of making repairs.

6.4 Utilities. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the Plat or by separate instrument, and no structure of any kind shall he erected upon any of said easements. Neither Developer nor any utility company using the easements shall be liable for any damage done by either of them or their successors or assigns, or by their agents, employees or servants to shrubbery,

trees, flowers or improvements of the Owner located on the land within or affected by said easements. A right of pedestrian access by way of a driveway or open lawn area shall also be granted on each Lot, from the front Lot line to the rear Lot line to any utility company having an installation in the easement. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or public utility company is responsible. Fences shall not he allowed to be constructed over or along any easement for public utilities.

## ARTICLE 7.

## MORTGAGEE RIGHTS AND GOVERNMENTAL REGULATIONS

7.1 Special Actions Requiring Mortgagee Approval. Notwithstanding anything herein to the contrary, unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the Developer) of the individual Lots have given their prior written approval, the Association shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the restrictions declared herein;

(b) Partition or subdivide any Lot;

(c) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common facilities. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common facilities by Walnut Hills shall not be deemed to transfer within the meaning of this clause;

(d) Use hazard insurance proceeds for losses to any common facilities for other than the repair, replacement or reconstruction of such improvements, except as provided by statute.

7.2 Special Rights of Mortgagees. A first mortgagee, or beneficiary of any deed of trust shall be entitled to the following special rights:

(a) Upon request, such first mortgagee is entitled to written notification from the Association of any default in the performance of any individual Owner of any obligation under these restrictions which is not carried by such Owner within sixty (60) days.

(b) Any first mortgagee shall have the right to examine the books and records of the Association during regular business hours, and such books and records shall be made available to such first mortgagees upon their request.

7.3 Conformity with Regulations. Notwithstanding anything to the contrary contained in these restrictions, all terms, conditions, and regulations now existing, or which may be promulgated from time to time, by the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal Housing Administration ("FHA"), the Farmers' Home Administration ("FmHA"), or the Veterans Administration ("VA") pertaining to planned unit developments are hereby incorporated as terms and conditions of this Declaration shall be binding upon the Developer, the Association and the Owners. In the event of a conflict between such regulations the most restrictive provision will apply.

7.4 Notices of Mortgages. Any Owner who mortgages his ownership interest shall notify the Association in such manner as the Association may direct, of the name and address of his mortgagees and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgages. The Association shall maintain such information in a book entitled "Mortgages."

7.5 Copies of Notices to Mortgage Lenders. Upon written request delivered to the Association, the holder of any mortgage of any ownership interest or interest therein shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner whose ownership interest or interest therein is subject to such mortgage.

7.6 Further Right of Mortgagees.

(a) No Owner or any other party shall have priority over any rights of the first mortgagees pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of common facilities.

(b) Any agreement for the professional management for the Association, whether it be by the Developer, is successors and assigns, or any other person or entity, may be terminated on ninety (90) days written notice and the terms of any such contract shall so provide and shall not be of a duration in excess of three (3) years.

(c) The Association shall give to the FHLMC, the VA, the FmHA, or the FHA or any lending institution servicing such mortgages as are acquired by the any of the foregoing, notice in writing of any loss to or the taking of the common facilities if such loss or taking exceeds Ten Thousand Dollars ($10,000.00). The Association may rely on the information contained in the book entitled "Mortgages" as must be established pursuant to this Declaration for a list of mortgages to be notified hereby.

## ARTICLE 8.

## GENERAL PROVISIONS

8.1 Exercise of Powers. Until such time as the Association is formed and its Board of Directors is elected, Developer shall exercise any of the powers, rights, duties, and functions of the Association and/or its Board of Directors.

8.2 Duration. The foregoing Restrictions shall be construed as covenants running with the land and shall be binding and effective for fifty (50) years from the date hereof, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by vote of a majority in interest of the then Owners of the Properties to alter, amend, or revoke the Restrictions in whole or in part. Every purchaser, or subsequent grantee of any interest in the Properties made subject to this Declaration, by acceptance of a deed or other conveyance therefor, agrees that the restrictions set forth in this Declaration may be extended as provided in this paragraph 8.2.

8.3 Amendment. Except as provided below, the provisions of this Declaration may be amended by Developer, without joinder of the Owner of any Lot, for a period of five (5) years from the date of recordation of this instrument. Thereafter this Declaration may be amended by the affirmative vote of at least three-fourths (3/4) of the Owners whose Lots are then subject hereto. No such amendment shall become effective until the instrument evidencing such change has been filed of record. Notwithstanding the foregoing, the Owners of Lots then subject hereto shall have no right to amend the provisions of Article 2 or paragraph 5.2, without the prior written consent of Developer.

Developer reserves the right to file any amendments that may be necessary to correct clerical or typographical errors in this Declaration, and to make any amendments that may be necessary to conform the Declaration with regulations of the Federal Home Loan Mortgage Corporation, Federal Housing Administration, the Veteran's Administration or other applicable regulations that may be necessary to assure Lender approval of the development.

For so long as the Developer maintains ownership of any Lots, any amendments which would provide for the annexation of additional properties, the merger of the Subdivision with any other similar project or the consolidation of the Subdivision with such similar project, the mortgaging of common areas, the dedication of common areas, or the dissolution or amendment of the provisions of this Declaration, shall require the prior, written approval of the Veteran's Administration, the FmHA, or the Federal Housing Administration.

8.4 Enforcement. If any person, firm or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for any other person, firm or corporation owning any property within Walnut Hills to bring an action against the violating party at law or in equity for any claim which these Restrictions may create in such other Owner or interested party either to prevent said person, firm, or corporation from so doing such acts or to recover damages for such violation. The provisions of this paragraph 8.4 are in addition to and separate from the rights of the Association to collect Association fees. Any failure by Developer or any property Owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these restrictions by judgment or court order shall neither affect any of the other provisions not expressly held to be void nor the provisions so voided in circumstances or applications other than those expressly invalidated, and all such remaining provisions shall remain in full force and effect together with the provisions ruled upon as they apply to circumstances other than those expressly invalidated. Should any aggrieved Owner employ counsel to enforce any of the foregoing covenants or Restrictions, the prevailing party in any legal action shall be entitled to recover from the losing party the attorneys fees and expenses incurred in such action.

8.5 Regulatory Compliance. The foregoing Restrictions shall at all times comply with all ordinances and regulations of Marshall County, Tennessee.

8.6 Headings and Binding Effect. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Developer and all persons claiming by, through or under Developer.



19

19

8.7 Unintentional Violation of Restrictions. In the event of unintentional violation of any of the foregoing Restrictions with respect to any Lot, the Developer or its successors reserves the right (by and with the mutual written consent of the Owner or Owners for the time being of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

8.8 Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to inspection by any Member upon five (5) days prior notice. The Charter, the By-Laws of the Association, and this Declaration shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

8.9 Conflicts. In the event of any conflict between the provisions of this Declaration and the By-Laws of the Association, the provisions of this Declaration shall control.

8.10 Binding Effect. The provisions of this Declaration shall be binding upon and shall inure to the benefit of the respective legal representatives,successors and assigns of Developer and the Present Owners and all persons claiming by, through, or under Developer or the Present Owners.

IN WITNESS WHEREOF, Developer and all other record owners of Lots within the Properties have caused this Declaration of Restrictive Covenants to be executed on the day and date first above written.

DEEP EAST TEXAS SAVINGS ASSOCIATION
Developer

By: R. Reagan Stephenson

Title: President

STATE OF TEXAS )
COUNTY OF JASPER )

Personally appeared before me, Gail Woolems, Notary Public, R. Reagan Stephenson with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is President of Deep East Texas Savings Association, a corporation, and is authorized to execute this instrument on behalf of Deep East Texas Savings Association.

WITNESS my hand, at office this 16th day of May, 1990.

Gail Woolems
Notary Public

My Commission Expires:

GAIL WOOLEMS
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 6-21-93



20

EXHIBIT A

TRACT 1: The realty conveyed is lying and situated in the First Civil District of Marshall County, Tennessee, bounded on the North by State Route 99; East, South and West by Luther Moore, and being more particularly described as follows:

Beginning at an existing iron pin in the South margin of State Route 99, said point being approximately 63.2 feet East of a concrete right-of-way marker, said point being approximately 670 feet East of the centerline of State Route 272 (Caney Springs-Verona Pike), said point being the northwest corner of this tract; thence with the South margin of State Route 99, on a curved line with a radius of 3487.74 feet and a length of 300.57 feet (chord bearing South 69° 42' East, chord distance 300.48 feet) to an iron pin; thence with Moore South 02° 41' West, 72.00 feet to an existing iron pin; thence North 73° 04' West 204.18 feet to an iron pin; thence North 82° 19' West, 96.00 feet to an iron pin; thence North 06° 36' East, 104.50 feet to the beginning, containing 0.55 acres more or less.

Being the same property conveyed to Deep East Texas Savings Association of Jasper, Texas by deed from William H. Duckworth and wife, Frances D. Duckworth and Ricky Duckwork, a single man, of record in Book 118, page 208, Register's Office for Marshall County, Tennessee.

TRACT 2: The realty conveyed is lying and situated in the First Civil District of Marshall County, Tennessee, and is more particularly described as follows, to-wit:

Beginning at an iron pin in the South margin of State Highway number 99 (60 feet from the centerline), same being referenced from a concrete highway marker, South 70° 06' 26" East, 434.47 feet; thence with said margin and with a curve to the left having a radius of 3487.74 feet and a length of 581.50 feet; thence continuing with said margin the following two calls: South 87° 52' 56" East, 1538.2 feet; South 88° 47' 22" East, 125.77 feet, to an iron pin in the South margin of said highway (60 feet from the centerline); thence leaving said margin and generally following a fence the following two calls: South 19° 24' 26" West, 62.61 feet, to an iron pin at a fencepost; South 06° 58' 32" West, 1952.54 feet, to an iron pin in a fencepost; thence leaving said fence and generally following a fence the following three calls: North 83° 50' 03" West, 810.63 feet; North 83° 59' 29" West, 1025.46 feet to a fence post; North 83° 16' 09" West, 321.61 feet, to an iron pin in said fence on the West side of an eighteen-inch (18") elm tree, same being the Southwest corner of the property here described; thence leaving said fence, with Phillips' East line, North 04° 57' 17" East, 496.79 feet, to a fencepost in a fence running generally East to West; thence continuing with Phillips' East line and generally following a fence, North 05° 01' 21" East, 1182.63 feet, to a set stone in said fence; thence leaving Phillips and continuing with a fence, Moore's East line, North 04° 28' 31" East, 221.85 feet, to the beginning, containing 97.43 acres, more or less, according to a survey made by James H. Bingham, Jr., L.S. Certificate #1251, dated August 13, 1986.



21

Being the same property conveyed by deed from William A. Phillips et al to Deep East Texas Savings Association, Jasper, Texas, of record in Book 118, page 211, Register's Office for Marshall County, Tennessee.

TRACT 3: The realty conveyed is lying and situated in the First Civil District of Marshall County, Tennessee, and is more particularly described as follows, to-wit:

Beginning at a concrete right-of-way monument located on the South side of Highway #99, said monument further described as being located directly across said highway from a graveled country road (Caney Springs Road) and being located on a bearing of North 70° 00' 32" West 1586.88 feet from the Northwest corner of the South portion of the Florence Wallace property, said South portion being situated on the South side of State Highway #99; thence continuing with the South right of way line of said highway with a spiral curve concave to the South an arc distance of 248.04 feet said curve having a central angle of 1° 52' 29" a radius of 7580 feet, a tangent length of 124.03 feet which the chord bears North 70° 37' 53" West, to a concrete monument; thence with a simple curve concave to the South an arc distance of 479.27 feet, said curve having a central angle of 7° 18' 13", a radius of 3759.83 feet, which the chord bears North 75° 32' 08" West to a concrete monument; thence North 85° 44' 45" West 98.80 feet to a concrete monument; thence North 77° 55' 58" West 147.78 feet to a concrete monument; thence with a spiral curve concave to the South an arc distance of 209.77 feet; said curve having a central angle of 3° 11' 48", a radius of 3759.83 feet, a chord length of 209.75 which the chord bears North 84° 32' 08" West to a concrete monument; thence with a simple curve concave to the South an arc distance of 123.14 feet, said curve having a central angle of 0° 55' 51" a radius of 7580 feet, a chord distance of 123.14 feet which the chord bears North 86° 54' 52" West to an iron pin located at the Northeast corner of the Ligiett Phillips property as recorded in Deed Book Y-3, page 115, ROMC, Tn., and the Northwest corner of the herein described property; thence continuing generally along a fence and with the East line of Phillips South 18° 58' 53" West 63.65 feet to an iron pin; thence South 06° 58' 32" West 2103.27 feet to an iron pin located in the North line of the Erwin Garrett property as recorded in Deed Book 89, page 176, ROMC; thence continuing generally along a fence and with the North line of Garrett South 81° 23' 13" East 337.25 feet to an iron pin; thence South 84° 09' 39" East 613.45 feet to an iron pin; thence South 83° 38' 25" East 249.91 feet to iron pin; thence South 84° 41' 34" East 324.23 feet to an iron pin; thence South 84° 04' 12", East 323.33 feet to an iron pin; thence South 81° 20' 25" East 201.30 feet to an iron pin; thence South 85° 00' 19" East 280.51 feet to an iron pin; thence South 85° 15' 10" East, 193.64 feet to an iron pin; thence South 84° 25' 25" East 368.52 feet to an iron pin located in a fence line; thence continuing generally along a fence North 05° 16' 18" East 137.26 feet to a fence corner, said point being located in the West line of the Florence Wallace property as recorded in Deed Book U-3, page 360, ROMCT; thence continuing generally along a fence and with the West line of Wallace North 5° 45' 41" East.1520.23 feet to an iron pin located in the South right-of-way line of Highway #99; thence continuing with the same North 70° 00' 32" West 1586.88 feet to the point of beginning, containing 131.00 acres, more or less.

REGISTERED OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 22nd DAY OF
May A.D. 1992
AT 11 O'CLOCK 30 MINUTES AM
RECORD BOOK 119 PAGE 1
Bill Walden REGISTER

Being the same property conveyed to Deep East Texas Savings Association of Jasper, Texas by deed from Claude H. Young and wife, Cynthia H. Young, and Monty K. Young and wife, Linda L. Young, of record in Book 116, page 995, Register's Office for Marshall County, Tennessee.

18

Southeast Title Env.

Prepared by:
Brent Campbell
Suite 110
2000 Richard Jones Rd.
Nashville, TN 37215

**AMENDMENT TO SECOND AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS**

WHEREAS, Deep East Texas Savings Association of Jasper Texas was the owner and developer of certain property known as WALNUT HILLS in Marshall County, Tennessee, being more particularly described in Deeds of record in Book 116 at page 995, Book 118 at page 211 and in Plat Cabinet "A" at panel (page) 69 all in the Register's Office for Marshall County, Tennessee;

WHEREAS, as Developer, Deep East Texas Savings Association did execute a certain "Second Amended and Restated Restrictive Covenants" of record in Book 149 at page 4, Register's Office for Marshall County, Tennessee;

WHEREAS, subsequent to the execution and recording of said "Second Amended and Restated Declaration of Restrictive Covenants", Deep East Texas Savings Association of Jasper Texas was placed in receivership by the Resolution Trust Corporation;

WHEREAS, Resolution Trust Corporation as Receiver for Deep East Texas Savings Association of Jasper, Texas, has conveyed and assigned all of the right, title and interest in Walnut Hills to Brent A. Campbell by "RTC Special Warranty Deed" of record in Book 176 at page 531, Register's Office for Marshall County, Tennessee;

WHEREAS, pursuant to "Article 1, Section 1.6" of said "Second Amended and Restated Declaration of Restrictive Covenants", Resolution Trust Corporation as Receiver for Deep East Texas Savings Association of Jasper, Texas, has assigned all of the right, title and interest as "Developer" of Walnut Hills to Brent A. Campbell by a certain "Assignment and Assumption Agreement" of record in Book 176 at page 540 (attached as Exhibit "B" to "RTC Special Warranty Deed" of record in Book 176 at page 531), Register's Office for Marshall County, Tennessee;

WHEREAS, pursuant to "Article 8, Section 8.3" of said "Second Amended and Restated Declaration of Restrictive Covenants", Brent A. Campbell now as owner and Developer of Walnut Hills is desirous of amending said "Second Amended and Restated Declaration of Restrictive Covenants";

NOW THEREFORE, in consideration of the premises, the undersigned, Brent A. Campbell as owner and Developer does hereby amend said "Second Amended and Restated Declaration of Restrictive Covenants" as follows:

"Article 3, Section 3.2" is hereby deleted in its entirety and in its place substitute the following:

3.2 Minimum Square Footage of Residences; Building Materials; Foundation Materials.

(a) Unless otherwise approved by the Developer, the gross finished living area of each residence exclusive of

garages, carports, porches or appendages thereto, shall be not less than one thousand fifty (1,050) square feet;

(b) The exterior construction of any kind and character, be it primary residence, garage, carport, porches or appendages thereto shall be completed within six (6) months after the start of the foundation;

(c) All foundations must be covered on the front and side elevations by split face block, stucco, dryvit, brick or such other material as approved by the Association;

(d) The exterior elevation of any structure shall be covered with one or a combination of the following: stone, brick; wood, aluminum or vinyl siding; stucco, dryvit or such other material that may be approved by the Association from time to time. Only new construction materials shall be used except for used brick;

(e) In no event shall any old houses or buildings be moved on any lot(s); nor shall any log homes be erected without the prior written approval of the Association;

(f) Unless located within the attic area of a residence, garage or carport and completely concealed from view, no satellite dishes shall be permitted on any lot.

"Article 3, Section 3.9" is hereby deleted in its entirety and in its place substitute the following:

3.9 Driveways. All driveways shall be paved with asphalt, concrete, concrete aggregate, chert or be constructed with crushed stone, pea or creek gravel.

"Article 6, Section 6.5" is hereby added:

6.5 Easement for Repair and Maintenance of Sewage Holding Tanks. An easement, including ingress and egress, is hereby granted to enter upon any lot for the repair and maintenance of sewage holding tanks servicing individual residences. Neither the Developer, Association nor any utility company using the easement shall be liable for any damage done by either of them or their employees, agents or assigns to driveways, walkways, shrubbery, trees, flowers or improvements belonging to the lot Owner located on the land affected by any work performed in conjunction with said repair or maintenance.

"Article 8, Section 8.3" is hereby deleted in its entirety and in its place substitute the following:

8.3 Amendment. Except as provided below, the terms, conditions and provisions of the Declaration may be amended by Developer, his successors or assigns, without joinder of the Owner of any Lot, until January 1, 1999. Thereafter this Declaration may be amended by the affirmative vote of a least three-fourths (3/4) of the lot Owners. No such amendment shall become effective until the instrument evidencing such is duly executed and filed for record in the Register's Office for Marshall County, Tennessee. Notwithstanding the foregoing, the Owners of Lots then subjected hereto shall have no right to amend the provisions of Article 2 or Article 5 hereof, without the prior written consent of Developer, his successors or assigns.

Developer, his successors or assigns, reserves the right to file any amendments that may be necessary to correct clerical or typographical errors in this Declaration, amendments or supplements thereto, and to make any amendments that may be necessary to conform with the regulations of the Tennessee Housing Development Agency, Federal Housing Authority, Department or Veteran Affairs, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Farmers Home Administration; or other such governmental agency having jurisdiction over home mortgages; or private mortgage insurance company insuring home mortgages.

IN WITNESS WHEREOF, the undersigned having hereunto set his hand and seal this 1st day of June, 1993.

Brent A. Campbell

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Personally appeared before me, the undersigned, a Notary Public in and for the State and County aforesaid, Brent A. Campbell, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who upon oath acknowledged the execution of the within instrument as his free act and deed for the purposes therein contained.

Witness my hand and seal this 1st day of June, 1993 at Nashville, Tennessee.

My Commission Expires:

3/22/97

Notary Public

NOTARY PUBLIC

REGISTERED OFFICE
MARSHALL COUNTY TENNESSEE
FILED FOR RECORD THIS 5 DAY OF
June A.D., 1993
AT 9 O'CLOCK 30 MINUTES AM
RECORD BOOK 180 PAGE 18
Barbara Simmons REGISTER
1993204M