

Note: The Declaration and Protective Covenants in their original legal format can be challenging to read and understand. This document is a compilation of the Declaration and Protective Covenants, with notes added, to make the documentation easier to understand. The Declaration and Protective Covenants in their original format are available on the POA's website and should be considered the official documentation. If there are any discrepancies between the original and the compilation, the original documents will govern.

The attached notes are written with many years of perspective with the goal of making the Declaration and Protective Covenants easier to understand and more relatable to the current environment of Bella Vista.

The Declaration and Protective Covenants establishes the creation of the Bella Vista Property Owners Association, the Bella Vista Townhouse Association, and the Architectural Control Committee. In reviewing this document, it is important to differentiate the roles and responsibilities of each entity.

NOTE: Cherokee Village Development Company, Inc., an Arkansas corporation, referred to in this document is now Cooper Communities, Inc., a Delaware corporation.

# BELLA VISTA VILLAGE, UNIT ONE COVENANTS AND RESTRICTIONS DATED MAY 18, 1965

## DECLARATION

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Cherokee Village Development Company, Inc., an Arkansas Corporation, hereinafter called the "Developer" is now the owner of the lands hereinafter described in ARTICLE II of this Declaration and all of which, with the exception of certain lots hereinafter referred to, are reflected upon a plat prepared by J. F. Gore, Registered Professional Engineer, bearing the date of the 18th day of May, 1965, which plat referred to is filed contemporaneously with the filing of this Declaration in the office of the Circuit Court Clerk and Ex-Officio Recorder in and for Benton County, Arkansas, and is of record in Plat Book D, page 100, and which plat is by reference made a part of this Declaration and likewise this Declaration is by reference made a part of said plat; and, **Note: The Developer, which was previously called Cherokee Village Development Company, Inc., is now Cooper Communities, Inc.**

WHEREAS, Developer desires to create upon said lands and other additions as herein provided under ARTICLE II a residential and commercial community with public and private streets, roads, ways and lanes, as indicated upon the plat aforesaid, water system, lakes, golf course, playgrounds, permanent parks, and other common facilities and limited common facilities for the benefit of the said community; and **Note: This paragraph outlines the creation of Bella Vista as an amenities based community.**

WHEREAS, Developer desires to provide for the construction of the facilities aforesaid and also desires to provide for the preservation of the values and amenities in said community and for the maintenance of said public and private streets, roads, ways and lanes, as well as the water system, lakes, golf course, playgrounds, permanent parks and other common facilities; and, to this end, desires to subject the real property described in ARTICLE II together with such additions as may hereafter be made thereto (as provided in ARTICLE II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and **Note: From this paragraph, it was clear from the onset the community would have an abundance of amenities for all ages.**

WHEREAS, Developer is also the owner as aforesaid of certain lots reflected upon the Fourth Revised Map of Bella Vista, of record in Plat Book D, page 46, records aforesaid, which are described as Tract No. 1, in ARTICLE II, which it desires to bring within the plan of this Declaration subject to the "Dedication and Reservations" and other reservations and restriction upon said map and with the understanding said map shall not be considered a

subdivision plat hereunder and that no other property including, but not limited to roads, streets, ways and drives, reflected upon said map shall in anywise be included within the plan of this Declaration or affected in any way thereby unless such lands shall be brought within the provisions of the Declaration as provided in Section 2, ARTICLE II; and

WHEREAS, Developer has deemed it desirable and necessary, for the efficient construction of the common facilities and the preservation of the values and amenities in said community that an agency be created to which should be delegated and assigned the powers of the construction, maintaining, and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and **Note: In general terms, this paragraph is describing the purpose of the Bella Vista Property Owners Association.**

WHEREAS, the Developer through its management has encouraged and participated in the organization of BELLA VISTA COUNTRY CLUB, hereinafter referred to as "Club", a nonprofit corporation organized and existing under and by virtue of the laws of the State of Arkansas, with its principal office located in Bella Vista Village, Arkansas, for the purpose of exercising the functions aforesaid; **Note: The Bella Vista Country Club first changed its name in 1973 and is now known as the Bella Vista Property Owners Association (POA).**

NOW, THEREFORE, the Developer declares that the real property described in ARTICLE II, and such additions thereto as may hereafter be made pursuant to ARTICLE II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth. **Note: The Developer is making it clear that all real property described in the Declaration, plus property added later, are subject to the covenants, restrictions, easements, charges, and liens established in this document.**

## ARTICLE I

### Definitions

**Section 1.** The following words when used in this Declaration or any Supplemental Declaration, or upon the plat aforesaid, except the Fourth Revised Map of Bella Vista aforesaid, or any supplemental plat covered by this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Club" shall mean and refer to the Bella Vista Country Club. **Note: The terms "Club" or the "Bella Vista Country Club", are interchangeable with the current legal name of Bella Vista Property Owners Association (POA).**

(b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of ARTICLE II hereof. **Note: Properties that are "subject to this Declaration or any Supplemental Declaration" are considered part of the POA. The phrase "Supplemental Declaration" means any additional Properties which have been added to the POA after the drafting of the original documents.**

(c) "Common Properties" shall mean and refer to those areas so designated upon any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of Owners of The Properties; and shall also mean and refer to any improvement designated by the Developer as Common Properties and intended to be devoted to the common use and enjoyment of owners of The Properties, and shall specifically include, but not to the exclusion of other improvements which may hereinafter be designated as Common Properties by the Developer, the following:

Roads and Streets not dedicated to the Public,  
Lakes,  
Golf Course,  
Permanent Parks,  
Permanent Recreational Plots, Water System.

**Note: The amenities within the POA are located on Common Property (e.g., golf courses, lakes, parks, recreational areas, footways, fitness facilities, etc.). With the founding of the City of Bella Vista in 2007, most of the roads and streets within Bella Vista were dedicated to the City of Bella Vista for ownership, maintenance, repair, and expansion.**

By way of emphasis, it is reiterated that Common Properties shall not mean any of the lands, lakes, parks, golf course, et cetera reflected upon the Fourth Revised Map of Bella Vista aforesaid. **Note: The Fourth Revised Map included areas either formerly or commonly known as Old Bella Vista, Sunset Hotel, and The Heights. In 1965, some of the locations covered by the Fourth Revised Map had amenities already in place. The amenities which**

were in place at that time did not become Common Property and are not part of the POA. The Declaration and Protective Covenants is a forward-looking document, whereby future amenities developed by the Developer after May of 1965 would become Common Property and part of the POA. There are only a few amenities covered under the Fourth Revised Map that predate May 1965, and still exist. Lake Bella Vista predates May 1965, and is owned and maintained by the City of Bentonville.

(d) "Limited Common Properties" shall mean and refer to those areas of land so designated upon any recorded subdivision plat of The Properties intended to be devoted to the common use and enjoyment of the owners of specifically designated property; and also, those areas so designated from time to time by the Developer for the purposes aforesaid. **Note: Most of the Limited Common Properties are located in areas controlled by the Bella Vista Townhouse Association, which are considered "specifically designated" areas. The use and enjoyment of amenities located in the Bella Vista Townhouse Association are limited to the Lot and Living Unit owners of the Townhouse Association. Individuals are encouraged to review the governing documents of the Bella Vista Townhouse Association.**

(e) "Roads and Streets" shall mean and refer to every way for passage by vehicle, whether or not dedicated to the Owners exclusively or to the general public, and whether or not known by the name of road, street, avenue, place, lane or other name. The designation shall not mean private driveways. **Note: With the founding of the City of Bella Vista in 2007, most of the roads and streets within Bella Vista were dedicated to the City of Bella Vista for maintenance, repair, and expansion. In a few isolated instances, the POA still owns and maintains certain roads and streets.**

**Note: Many of the following definitions are self-explanatory, requiring no further commentary.**

(f) "Utility Easement" shall mean and refer to those areas of land designated on any recorded subdivision plat of The Properties as "Utility Easements" or as may be provided in or by this Declaration, or any Supplemental Declaration.

(g) "Reserved Properties" shall mean and refer to those areas of land designated on any recorded subdivision plat of The Properties as "Reserved Properties".

(h) "Lot" shall be the numbered lots in the numbered blocks as shown on any recorded subdivision plat of The Properties. Also, the numbered lots referred to under Tract No. 1, ARTICLE II.

(i) "Commercial Lot" shall mean and refer to any Lot so designated upon any recorded subdivision plat of The Properties, or as may be so designated by this Declaration, or any Supplemental Declaration.

(j) "Residential Lot" shall mean and refer to any Lot so designated upon any recorded subdivision plat of The Properties, or as may be so designated by this Declaration, or any Supplemental Declaration.

(k) "Living unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

(l) "Single Family Detached" shall mean and refer to any building intended for use by a single family and not attached to any other building.

(m) "Single Family Attached" shall mean and refer to any building containing one or more Living Units attached but each living unit located on a separate Parcel of Land.

(n) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units located on a single Parcel of land.

(o) "A Parcel of Land" may be less than a lot, a single lot, more than a lot, or several lots, or a plot of land described by a metes and bounds description.

(p) "Owner" shall mean and refer to the Developer, any other record owner and the contract purchaser from the Developer, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties.

(q) "Member" shall mean and refer to all those persons or entities who are members of the Club as provided in ARTICLE. III, Section 1, hereof.

(r) "Associate Member" shall mean all those persons or entities who are associate members of the Club as provided in ARTICLE III, Section 3, hereof. **Note: There are few, if any, associate members remaining. Associate members were more common in the early developmental years of Bella Vista.**

## ARTICLE II

### Property Subject to This Declaration: Additions Thereto

**Section 1. Existing Property.** The real property, which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located and situated in the County of Benton, State of Arkansas, to-wit:

#### TRACT NO. 1:

The following lots as reflected upon the Fourth Revised Map of Bella Vista of record in Plat Book D. page 46, of the records in the office of the Circuit Court Clerk and Ex-Officio Recorder in and for Benton County, Arkansas, and subject to the "Dedication and Reservations" and other reservations and restrictions upon said map and with the understanding said map shall not be considered a subdivision plat hereunder and that no other property including, but not limited to, roads, streets, ways, and drives reflected upon said map shall in any wise be included hereunder, and the lots referred to being as follows: **Note: The lots and tracts listed below are the original properties comprising the POA. Additional property has been added to the POA through various Supplemental Declarations. One must review the Supplemental Declarations to gain a complete understanding of the lots and tracts which have been added since the creation of the POA.**

Lots A, 5, 7, 8, 10 through 38 both inclusive, 40, 42, 43, 44, 46, 49, 51, 56, 57, 59, 60, 66, 71, 82, 86, 93, 94, 101, 102 and 103, Block 1;

Lots 25 through 32 both inclusive, and 36, 37 and 38, Block 4;

Lots 5, 6, 7, 8 and 9, Block 5;

Lots 5, 6, 10, 11, 12, 13 and 18 through 23 both inclusive, Block 7;

Lots 1, 2, 3, 4, and 7 through 34 both inclusive, Block 8; Lots 1, 2, 4, 5, 6, 9 through 23 both inclusive, 26, 27, 29 and 30, Block 9;

Lots 2, 3, 4, 5, 6, 12, 15, 16, 17, 18, 19, 23, 24, 25, 26 and 27 Block 10;

Lots A, B, I through 15 both inclusive, 17 through 27 both inclusive, 31 through 38 both inclusive, 52 through 73 both inclusive, Block 11;

Lots 3, 9, 25 through 33 both inclusive, 35 through 45 both inclusive, and 47 through 55 both inclusive, Block 12;

Lots 2, 3, 6, 7, 16, 18 and 19, Block 13;

Lots 1, 2, 3, 4, 8, 9 and 10, Block 14;

Lots 10, 17, 18, 21, 22, 23, 24, and 27 through 36 both inclusive, Block 15;

Lots 1 through 11 both inclusive, Block 16;

Lots 1 through 11 both inclusive, and 13 through 17 both inclusive, Block 17;

Lots 11, 12 and 13, Block 18;

Lots 1 through 5 both inclusive, and 7 through 14 both inclusive, Block 19;

Lots 6, 11, 12, 34, and 53 through 63 both inclusive, Block 20;

Lot 24, Block 21;

Lots 1, 2, and 4 through 11 both inclusive, Block 22;

Lots 18 through 23 both inclusive, 25, 26, 27, 28, 31, 36 through 40 both inclusive, 42 and 43, Block 23;

Lots 18, 23 through 43 both inclusive, and 45 through 48 both inclusive, Block-32;

Lots A, 5, 7, 11, 12, 16 through 21 both inclusive, 23, 25 through 29 both inclusive, 35 through 43 both inclusive, 47

through 50 both inclusive, and E 'h of 52, Block 33;

Lots 6 through 24 both inclusive, Block 35;

Lots 1 through 13 both inclusive, and 15, Block 36;

Lots 19 through 22 both inclusive, 26, 27, 28, 33, 34, 39, 41, 44, 47, 48, 53 through 59 both inclusive, 62, 68 through 72 both inclusive, and 74 through 101 both inclusive, Block 38;

Lots 14 through 17 both inclusive, Block 39;

Lots 1 through 19 both inclusive, 22, 26, 27, 38 through 44 both inclusive, 46, and 47, Block 40;

Lots A, 1, and 3 through 7 both inclusive, Block 41; Lots 9 through 11 both inclusive, and 14, Block 42; Lots 1, 9, 10, 12, 14, 17, 18, 19, 22, and 32 through 41 both inclusive, Block 46;

Lots 1 through 8 both inclusive, Block 48;

Lots 2, 3, 4, 5, 7, 8, 9, 10, and 14 through 29 both inclusive, Block B;

Lots 1 through 43 both inclusive, Block D;

Lots 1 through 8 both inclusive, Block E;

Lots 1 through 20 both inclusive, Block H.

## **TRACT NO. 2:**

A parcel of land lying in Sections 21 and 22, Township 21 North, Range 31 West of the Fifth Principal Meridian, Benton County, Arkansas, more particularly described as follows:

Beginning at the quarter section corner of Sections 21 and 22, Township 21 North, Range 31 West of the Fifth Principal Meridian, Benton County, Arkansas, thence South 65 degrees 38 minutes West, 673.82 feet to a point, said point being the point of beginning. Thence South 980.00 feet to a point; thence South, degrees 43 minutes East, 595.39 feet to a point, thence South 19 degrees 39 minutes East, 148.66 feet to a point; thence South 29 degrees 45 minutes East, 241.88 feet to a point; thence South 38 degrees.59 minutes East, 135.08 feet to a point; thence South 52 degrees 42 minutes East, 132.00 feet to a point; thence South 75 degrees 58 minutes East, 164.92 feet to a point; thence North 18 degrees 52 minutes East, 618.22 feet to a point; thence North 82 degrees 48 minutes East, 917.24 feet to a point; thence South 29 degrees 45 minutes East, 201.57 feet to a point; thence South 55 degrees 26 minutes East, 143.07 feet to a point; thence South 45 degrees 00 minutes East, 95.00 feet to a point; thence South 65 degrees 00 minutes East, 160.00 feet to a point; thence South 7X degrees 21 minutes East, 40.84 feet to a point; thence North 29 degrees 24 minutes East, 75.53 feet to a point; thence North 28 degrees 37 minutes East, 193.08 feet to a point; thence North 12 degrees 48 minutes East, 79.18 feet to a point; thence South 84 degrees 34 minutes East. 61.75 feet to a point; thence South 74 degrees 03 minutes East 137.74 feet to a point: thence South 62 degrees 06 minutes East, 229.21 feet to a point; thence North 39 degrees 48 minutes East, 41.04 feet to a point; thence South 62 degrees 06 minutes East, 35.00 feet to a point; thence South 84 degrees 00 minutes East, 120.00 feet to a point; thence North 1 degree 34 minutes West, 125.00 feet to a point; thence East, 78.31 feet to a point; thence North 14 degrees 00 minutes East, 61.97 feet to a point; thence North 23 degrees 38 minutes East, 87.32 feet to a point; thence North 34 degrees 17 minutes East, 133.13 feet to a point; thence North 39 degrees 22 minutes East, 252.23 feet to a point; thence North 28 degrees 37 minutes East, 125.31 feet to a point; thence North 19 degrees 39 minutes East, 74.33 feet to a point; thence North 10 degrees 37 minutes West, 81.39 feet to a point; thence North 22 degrees 15 minutes West, 406.58 feet to a point; thence and on a curve to the left having a degree of curvature of 21 degrees 27 minutes 41 seconds, an arc distance of 90.94 feet, thence North 46 degrees 25 minutes West, 80.00 feet to a point; thence South 43 degrees 35 minutes West, 50.00 feet to a point, thence North 27 degrees 33 minutes West, 449.00 feet to a point; thence North 32 degrees 54 minutes East, 202.47 feet to a point; thence North 50 degrees 26 minutes East, 180.59 feet to a point; thence North 39 degrees 30 minutes West, 255.00 feet to a point; thence North 50 degrees 30 minutes East, 135.00 feet to a point; thence North 36 degrees 28 minutes West, 170.19 feet to a point; thence South 71 degrees 22 minutes West, 445.97 feet to a point; thence South 77 degrees 54 minutes West, 96.90 feet to a point; thence North 8 degrees 45 minutes West, 97.44 feet to a point; thence North, 16.94 feet to a point; thence West,

185.00 feet to a point; thence North 41 degrees 03 minutes West, 205.53 feet to a point; thence North 89 degrees 33 minutes West, 635.02 feet to a point; thence South 71 degrees 34 minutes West, 189.74 feet to a point; thence South 55 degrees 11 minutes West, 280.15 feet to a point; thence South 89 degrees 23 minutes West, 338.48 feet to a point; thence North 37 degrees 38 minutes West, 170.00 feet to a point; thence South 52 degrees 22 minutes West, 9.77 feet to a point; thence North 37 degrees 38 minutes West, 125.00 feet to a point; thence South 52 degrees 22 minutes West, 236.91 feet to a point; thence South 73 degrees 04 minutes West, 42.60 feet to a point; thence South 52 degrees 22 minutes West 53.62 feet to a point; thence South 30 degrees 15 minutes West, 204.11 feet to a point; thence South, 67.34 feet; thence along a curve to the left, having a degree of curvature of 11 degrees 53 minutes, 51 seconds an arc distance of 100.73 feet to a point; thence East, 40.00 feet to a point; thence South, 80.00 feet to a point; thence East 10.00 feet to a point; thence and on a curve to the right having a degree of curvature of 5 degrees 51 minutes 36 seconds an arc distance of 145.54 feet to a point; thence South 3 degrees 11 minutes West, 206.06 feet to a point; thence South 77 degrees 03 minutes West, 182.75 feet to a point; thence South 35 degrees 00 minutes West, 55.00 feet to a point; thence North 51 degrees 36 minutes West, 207.05 feet to the point of beginning and containing in all 156.26 acres, more or less.

**Section 2. Additions to Existing Property.** Additional lands of the Developer may become subject to this Declaration in the following manner:

(a) Additions in Accordance with a General Plan of Development. The Developer, its successors and assigns, shall have the right but not the obligation to bring within the plan of this Declaration additional properties, regardless of whether or not said properties are presently owned by the Developer, in future stages of the development, provided that such additions are in accord with the General Plan of Development which has been prepared and heretofore made public prior to the date of this Declaration and prior to the sale of any Lot, and provided such proposed additions, if made, will become subject to assessment for their just share of Club expenses. UNDER NO CIRCUMSTANCES shall this Declaration or any Supplemental Declaration or such General Plan bind the Developer, its successors and assigns, to make the proposed additions or to adhere to the Plan in any subsequent development of land shown upon such General Plan, or in anywise preclude the Developer, its successors and assigns, from conveying the lands included in the General Plan, but not having been made subject to this Declaration or any Supplemental Declaration as herein provided, free, and clear of such Plan, as well as free and clear of this Declaration or any Supplemental Declaration. **Note: The Developer, its successors, and assigns, shall have the right to add additional properties to the POA. This is a declarative right owned by the Developer which gives them the unilateral authority to expand the POA at any time. Any properties added to the POA would be subject to assessments.**

(b) The additions authorized hereunder shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the plan of the covenants and restrictions of this Declaration to such property, and the Owners, including the Developer of Lots and Living Units in such additions shall immediately be entitled to all privileges herein provided. **Note: This paragraph describes the filing requirements for a Supplemental Declaration for adding additional properties to the POA.**

(c) Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties as are not inconsistent with the plan of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify, and add to the covenants established by this Declaration within the Existing Property. **Note: The Developer could establish complementary regulations through a Supplementary Declaration, provided these regulations are not contradictory to those established through the Declaration. The Developer could add a new subdivision, for example, which requires all houses to have at least 3,000 square feet. The Developer couldn't, within that Supplemental Declaration, require all other already existing subdivisions to also have 3,000 square feet.**

### **Section 3. Additions Limited to Developer.**

No one other than the Developer, its successors, and assigns, shall have the right to subject additional lands to the covenants and restrictions contained in this Declaration, unless the Developer, its successors and assigns, shall indicate in writing to the Club that such additional lands may be included hereunder. **Note: This section further clarifies that only the Developer, its successors, and assigns, shall have the declarative right to add additional lands and properties to the POA. Written notice to the POA is required of the addition of lands and properties.**

## **ARTICLE III**

### **Membership and Voting Rights in the Club**

**Section 1. Membership.** The Developer, its successors and assigns shall be a member of the Club so long as it shall be the record owner of a fee, or an undivided fee, interest in any lot or Living Unit which is subject by



covenants of record to assessment by the Club, and the Developer shall also be a member until it is paid in full for every such Lot or Living Unit which it shall sell. Also, every person or entity who is a record owner of a fee, or undivided fee, interest in any Lot or Living Unit which is subject by covenants of record to assessment by the Club and who shall have paid the Developer in full for the purchase price of the Lot or Living Unit shall be a member of the Club provided that any such person or entity (except the Developer) who holds such interest merely as security for the performance of all obligation shall not be a member. **Note: Throughout this document there are references to Lot and Living Units, also commonly referred to as unimproved and improved lots. The rights of Lots and Living Units are the same. The only exception is the annual assessments charged for unimproved Lots compared to Living Units (improved lots).**

**Section 2. Voting Rights.** Every member of the Club shall be entitled to one vote in the election of directors of the Club, but for all other purposes there shall be two classes of voting memberships:

Class A. Class A members shall be all those persons or entities as defined in Section 1 with the exception of the Developer, who have paid the Developer in full for the purchase price of the Lot or Living Unit. Class A members shall be entitled to one vote for each Lot or Living Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Living Unit all such persons shall be members, and the vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit. **Note: Lot or Living Unit owner(s) have one vote per Lot or Living Unit. If there are multiple owners of a Lot or Living Unit, they must determine amongst themselves how to cast the vote. Class A members encompass the bulk of the approximate 39,000 Lots and Living Units in Bella Vista. As of November 2023, there are approximately 16,000 Living Units and approximately 23,000 unimproved Lots in Bella Vista. Whether a member owns an unimproved Lot or Living Unit, they are still afforded the same rights.**

Class B. Class B member shall be the Developer. The Class B member shall be entitled to ten votes for each Lot or Living Unit of which it is the record owner and which is subject by covenants of record to assessment by the Club until it shall have conveyed the Lot or Living Unit by deed to a purchaser and shall have been paid in full for such Lot or Living Unit. The Developer shall continue to the right to cast votes as aforesaid (ten votes for each Lot or Living Unit) even though it may have contracted to sell the Lot or Living Unit or may have same under a mortgage or deed of trust. **Note: Currently, Class B Lots or Living Units are owned exclusively by the Developer. Class B Lots and Living Units may not cast a vote for the election of members of the Board of Directors for the POA. As of the last vote that Class B Lots and Living Units participated in (October 2022), there were only five Lots or Living Units which cast votes.**

**Regarding voting to increase annual assessments or special assessments, Class A and Class B votes are counted separately during the voting process. In other words, while Class B members are entitled to ten votes per Lot or Living Unit and Class A lots are only entitled to one vote per Lot or Living Unit, the Class B votes are counted separately from the Class A votes, so there is no unfair dilution of Class A votes. For an issue to pass, at least 51% of both Class A and Class B votes must vote in the affirmative.**

For purposes of determining the votes allowed under this Section, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted. **Note: This sentence clarifies that a Lot with a Living Unit (e.g., a single-family home) upon it, still only gets one vote. In other words, the member does not receive two votes since they own a Lot with a Living Unit situated on the Lot.**

**Section 3. Associate Members.** Every person or entity who has entered into a contract of purchase with the Developer covering a Lot or Living Unit which is subject by covenants of record to assessment by the Club and who has not paid the Developer in full for the purchase price of the Lot or Living Unit shall be an associate member of the Club. An associate member shall be entitled to all of the privileges of a member except the right to vote in the election of directors, or otherwise. Rescission of a contract of purchase by Developer for any reason shall terminate the associate membership or memberships incident to the contract of purchase rescinded. **Note: There are few, if any, associate members remaining. Associate members were more common in the early developmental years of Bella Vista.**

## **ARTICLE IV**

### **Utility Easements**

**Section 1. Reservations of Utility Easements.** Developer, for itself, and its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable easement, privilege and right on, over and under the ground as hereinafter designated of The Properties to erect, maintain and use electric and telephone poles, wires, cables, conduits, water mains, drainage lines and drainage ditches, or drainage structures, sewers and other suitable equipment and structures for drainage and sewerage collection and disposal purposes or for the installation, maintenance, transmission and use of electricity, telephone, gas, lighting, heating, water, drainage, and sewerage and

other conveniences or utilities on, in, over and under all of the Common Properties upon The Properties and on, in, over and under all of the easements including, but not limited to, Roads and Streets, shown on any subdivision plat of The Properties (whether such easement are shown on said subdivision plat to be for drainage, utilities or other purposes) and in, over and under a 5-foot strip at the back of each lot of The Properties and on, in, over and under a 5-foot strip along the interior of all side lot lines of each lot of The Properties and on, in, over and under a 5-foot strip at the front of each Lot of The Properties. The Developer shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements, and rights referred to in this Section. The owners other than the Developer, of the lot or lots subject to the privileges, rights and easements referred to in this Section I shall acquire no right, title, or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the property which is subject to said privileges, rights, and easements. All such easements, including those designated on any plat of The Properties, are and shall remain private easements and the sole and exclusive property of the Developer and its successors and assigns. **Note: With this section, the Developer is making their rights clear with regards to utility easements.**

## **ARTICLE V**

### **Reserved Properties**

**Section 1. Real Properties Designated as “Reserved Properties” are Reserved from Declaration and Plats.** Any area upon a plat covered by this Declaration or any Supplemental Declaration designated as “Reserved Properties”, shall remain the privately owned and the sole and exclusive property of the Developer, its successors and grantees, if any, of said areas or any portion of same, and neither this Declaration or any Supplemental Declarations or the plats in connection with same shall in anywise apply to such “Reserved Properties” unless at a later time same shall be included under the provisions of the Declaration or a Supplemental Declaration as provided in ARTICLE II hereof. **Note: The Developer has the right to designate certain properties they own as Reserved Properties. In many instances, Reserved Properties are areas the Developer designated for future development. It is the Developer’s sole right to determine whether the Reserved Properties will be developed and how Reserved Properties will be developed. The Developer must comply with all applicable local and state ordinances when developing Reserved Properties.**

### **Section 2. Utilities Reserved from Declaration.**

Utilities, except the water system, are specifically reserved unto the Developer. It is contemplated utilities for the Properties with the exception of the water system shall be furnished by companies so engaged in the vicinity of The Properties and the Developer retains and has the exclusive right to negotiate contracts and agreements with such companies, under such conditions and for such consideration, which consideration shall belong to the Developer, as it shall deem proper under the circumstances. The utilities referred to shall include, but not be limited to:

Natural, Liquified or Manufactured Gas System,

Electrical System,

Telephone System,

Antenna Television Transmission and

Distribution Facilities and System.

**Note: Since the creation of the POA in 1965, it was the intent to have the POA own and operate the water system.**

In the event the Developer cannot negotiate contracts and agreements with local companies to furnish the utility services aforesaid, it may, but shall not be obligated to do so, organize a company, or companies, to furnish such utility services, and shall have the right to enter into agreements with such company, or companies, to furnish the utility services reserved, or any of them, even though such company, or companies, so organized shall be wholly or partially owned by the Developer. Nothing herein contained shall be construed or interpreted as an obligation on the part of the Developer to provide the utilities reserved, although the Developer will use its best efforts consistent with economic feasibility to so provide same. **Note: The Developer no longer provides any utilities within Bella Vista. The water system is owned and operated by the POA. Village Waste Water, which provides sewer service to certain limited areas, is a separate entity controlled by neither the Developer nor the POA. Other utilities such as Carroll Electric, AT&T, Cox Communications, etc. are also separate entities controlled by neither the Developer nor the POA.**

## **ARTICLE VI**

### **Plan for Construction and Maintenance of Common Properties**

**Section 1. Water System.** It is contemplated the water system shall be constructed by the Developer but will be



a part of the Common Properties. However, the Developer shall be the sole judge as to the time when the water system shall be constructed and shall also be the sole judge as to when such system shall be extended from time to time. In the event the Developer shall decide it is not economically feasible to extend the water system to a particular area, it shall not be obligated to do so. The cost of the maintenance, capital improvements, operation, taxes and other expenses incident to the water system, and operation of same, shall be paid from assessments against each Lot and Living Unit as herein provided and from charges made to Owners for furnishing such service at such prices as shall be fixed from time to time by the Board of Directors of the Club. It is specifically provided that the water service will not be furnished to the public for compensation, and to the contrary such water service will be limited to Owners, as herein defined, and in the event the water service is made available to other than Owners, there will be no charge to such persons or entities, unless the Club shall have complied with the applicable Arkansas law relative to the sale of water to the public for compensation. **Note: The POA is the owner and operator of the water system in the POA. The Board of Directors of the POA has the sole authority to fix prices for water service, although there are certain state laws the POA must adhere to regarding the water system. From the onset it was established that the water system would be owned and operated by the POA.**

**The Developer, successors and assigns, has the “declarative” right to determine when the water system shall be extended from time to time. While the POA owns and operates the water system, the POA does not have the legal authority to refuse the Developer’s right to extend the water system. Likewise, the POA does not have the legal authority to expand the water system without the approval of the Developer.**

**Throughout Bella Vista, there are properties that lie within the limits of the City of Bella Vista that are not part of the POA. These properties are considered public and the POA can only provide water service to these properties at no compensation. As a result of this restriction, it is the practice of the POA Water Department to only provide water to properties that are part of the POA.**

**Section 2. Roads and Streets.** It is contemplated the roads and streets shall be constructed by the Developer and that those roads and streets which are not dedicated to the general public will be a part of the Common Properties. However, the Developer shall be the sole judge as to when such roads and streets, whether dedicated to the public or as Common Properties, shall be constructed and extended from time to time. The Developer shall also be the sole judge as to the extent the roads and streets will be improved. In the event the Developer shall decide it is not economically feasible to extend improved roads or streets to a particular area, it shall not be obligated to do so. The cost of maintenance, capital improvements, operation, taxes, and other expenses incident to the roads and streets, regardless of whether dedicated to the public or as Common Properties, shall be paid from assessments against each Lot and Living Unit as herein provided. **Note: With the founding of the City of Bella Vista in 2007, almost all the roads and streets within Bella Vista were dedicated to the City of Bella Vista for maintenance, repair, and expansion. In a few isolated instances, the POA still owns and maintains certain roads and streets.**

**Section 3. Lakes, Golf Course, Permanent Parks and Permanent Recreational Plots.** It is contemplated the Developer shall construct the Lakes, Golf Course, Permanent Parks and Permanent Recreational Plots. The cost of maintenance, capital improvements operation, taxes, and other expenses incident to these Common Properties shall be the obligations of the Club, and shall be paid from assessments against each Lot and Living Unit as herein provided, and also from fees for the use of the Common Properties. The Developer shall be the sole judge as to the time when such Lakes, Golf Course, Permanent Parks and Permanent Recreational Plots shall be constructed, and if the Developer shall decide that it is not economically feasible to construct any or a portion of such due to the failure to sell sufficient Lots or Living Units, it shall not be obligated to construct same. **Note: During the founding and early expansion of Bella Vista, the Developer would pay for the initial cost to construct a new amenity, for example, a new golf course or lake. Upon completion of the new amenity, the Developer would transfer ownership of the amenity and the ongoing maintenance, capital improvements, operations, taxes, and other expenses to the POA. To pay for the ongoing maintenance and other expenses of the new amenity, the POA will utilize a combination of funds from assessments and proceeds from amenity usage fees. The Developer is not obligated to develop new amenities for the POA and has not done so in many years.**

## **ARTICLE VII**

### **Plan for Construction and Maintenance of Limited Common Properties**

**Section 1. Construction and Maintenance.** The Developer shall construct the roads and streets to the extent of cutting, grading, and graveling the roads and streets so that vehicles may traverse same. All other construction and maintenance, including payment of taxes, as to the Limited Common Properties shall be the obligation of the owners of the Lots or Living Units entitled to the use and enjoyment of the particular Limited Common Properties. In order to perform such construction and maintenance the owners of the Lots and Living Units entitled to the use and enjoyment of the particular Limited Common Properties may organize a non-profit corporation to be limited to membership to those owners of Lots and Living Units entitled to the use and enjoyment of the particular Limited Common Properties and the non-profit corporation shall have all of the powers, including the power to levy assessments against particular Lots and Living Units in order to obtain funds, as the Club has which are referred to

in this Declaration. Note: The Bella Vista Townhouse Association is a non-profit organization organized for the management and maintenance of the Limited Common Properties. This section authorizes the Bella Vista Townhouse Association to charge an assessment which is in addition to the assessment charged by the Bella Vista POA.

**Section 2.** Upon the failure of the owners of the property entitled to the use and enjoyment of the particular Limited Common Properties to provide for the construction and maintenance of the particular Limited Common Properties, the Club may perform same and apportion the charge against the Lots and Living Units entitled to the benefit of the particular Limited Common Properties and same shall constitute a lien against such property subject only to the lien by reason of a first mortgage or deed of trust against such property. **Note: The Bella Vista Townhouse Association has the right to collect assessments, and the failure to pay constitutes a lien against the property.**

## ARTICLE VIII

### Property Rights of the Common Properties

**Section 1. Members' and Associate Members' Easement of Enjoyment.** Subject to the provisions of ARTICLE IV hereof and Section 3 of this ARTICLE VIII, every member and associate member, so long as the associate membership shall continue, shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit. **Note: Members have the right to the use and enjoyment of the amenities, regardless of whether the individual property owner chooses to utilize the amenities or not. This right to use and enjoy the amenities is tied to the Member's ownership of a Lot or Living Unit. If a Member were to sell their Lot or Living Unit, the right to use and enjoy the amenities would transfer to the new owner.**

**Section 2. Title to Common Properties.** The Developer shall convey the Common Properties to the Club after the construction of same is completed, or at an earlier time. **Note: The POA is the deeded owner of Common Properties.**

**Section 3. Extent of Members' and Associate Members' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Developer and/or the Club to borrow money for the purpose of constructing, improving, and maintaining the Common Properties and in aid thereof to mortgage said properties or execute a deed of trust or other trust instrument covering said properties. In the event of default upon any such mortgage the lender shall have a right, after taking possession of such properties to charge service or use charges, admission and other fees as a condition to continued enjoyment by the Members and Associate Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Club and all rights of the Members and Associate Members shall be fully restored; and **Note: the POA has the right to borrow funds to construct, improve, or maintain Common Property. For example, the POA entered into a loan in 2022 to fund the renovation of the Bella Vista Recreation Center.**

(b) the right of the Club to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

(c) the right of the Club to suspend the enjoyment rights of any Member or Associate Member for any period during which any assessment, service or use charge remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and **Note: The POA has the authority to suspend a Member for any infraction for up to thirty days. During a suspension of membership privileges, the Member is prohibited from using any POA amenity. The POA is not allowed to fine Members.**

(d) the right of the Club to charge reasonable service or use charges, admission and other fees for the use, service and enjoyment of the Common Properties; and **Note: The POA has the right to charge reasonable amenity usage fees. For example, the POA can charge members green fees to play golf, a boat registration fee for lake usage, etc.**

(e) the right of the Club to make the golf course and the lakes available by lease, or otherwise, subject to subparagraph (g) hereof, to another country club, which shall be a non-profit corporation with the right of the other country club to charge dues to members and associate members and permit persons who are not members or associate members to become members of the other country club for a membership payment and also for payment of dues, and with the understanding the other country club shall have the right to make rules and regulations which shall be enforceable as to members and associate members; and **Note: Hot Springs Village POA provides a good example of the meaning behind this paragraph. Hot Springs Village was created by Cooper Communities, Inc., and is a sister community of the Bella Vista POA, with similar governance. At Hot Springs Village, they have created a private club within their membership. This private club provides separate benefits to the private club's membership,**

with the authority to charge dues and create rules and regulations. The Bella Vista POA does not offer a similar private club but does have the option to do so.

(f) the right of the Club to limit the number of members or associate members per Lot or Living Unit who may be entitled to the benefit of the easement of enjoyment as to the Common Properties by reason of ownership of contract of purchase of a Lot or Living Unit; and **Note: The POA limits who can enjoy membership privileges to just two designated members per Lot or Living Unit. This limit of two designated members is in place to prohibit a member from designating an unreasonably high number of individuals who can enjoy membership privileges for a single Lot or Living Unit.**

(g) the right of the Developer until all Lots and Living Units located within The Properties shall have been sold to make use of the Common Properties to encourage sales; and **Note: During the developmental years of the POA, the Developer would utilize the Common Properties and amenities to market the sale of lots. The Developer has not exercised this right in a long time.**

(h) the right of individual members and associate members to the exclusive use of parking spaces as provided in Section 4 hereof; and

(i) the right of the Club to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless such action shall be approved by a vote of 51 % of the votes of each class of membership, and unless written notice of the proposed agreement and action thereunder is sent to every member at least ninety (90) days in advance of any action taken. **Note: For the POA to dedicate or transfer Common Property to any public agency, authority, or utility, requires a vote with the approval of the membership by 51%, with proper notice given.**

**Section 4. Parking Rights.** Subject to reasonable rules and conditions, the Club shall maintain and designate at least one parking space conveniently located with respect to each Living Unit for which the Developer may request same and such parking space shall be for the exclusive use of members or associate members residing therein, their families and guests. The use of such space by any other member, associate member, or person may be enjoined by the Club or the members or associate members entitled thereto. The right of the exclusive use of such parking space and to its maintenance and designation by the Club shall be appurtenant to and shall pass with title to each Living Unit. **Note: The Architectural Control Committee (ACC) has governance over such issues as street parking and the restriction against RV/boat parking in driveways. A review of the ACC governing documents is encouraged. The Bella Vista Townhouse Association does have governance over parking in areas controlled by the Townhouse Association. A review of the Bella Vista Townhouse Association governing documents is encouraged.**

## **ARTICLE IX**

### **Property Rights of the Limited Common Properties**

**Note: Limited Common Properties are managed by the Bella Vista Townhouse Association. A review of the Townhouse Association governing documents is encouraged.**

**Section 1. Owners' Easement of Enjoyment.** Lands designated upon plats as "Limited Common Properties", and also as may be so designated from time to time by the Developer, shall be devoted to the common use and enjoyment of the owners of specifically designated Lots and Living Units to the exclusion of the common use and enjoyment of other owners of Lots and Living Units upon The Properties. The owners of the specifically designated Lots and Living Units, subject to ARTICLE IV hereof, shall have a right and easement of enjoyment in and to the particular Limited Common Properties and such easement shall be ap-appurtenant to and shall pass with every such specifically designated Lot or Living Unit.

**Section 2. Title to Limited Common Properties.** The Developer may retain the legal title to the Limited Common Properties until the owners of Lots and Living Units entitled to the easement of enjoyment as to the particular Limited Common Properties shall have constructed the permanent improvements thereon and provided for maintenance of same. At such time the Developer shall convey the title to the particular Limited Common Properties to such entity as the owners shall direct, and on failure of the owners to perform or direct the conveyance of the title as to the particular Limited Common Properties, then the Developer shall convey to the Club and it shall perform as provided in Section 2, ARTICLE VII hereof.

## **ARTICLE X**

### **Covenant for Maintenance Assessments**

**Section 1. Creation of Lien.** The Developer for each Lot and Living Unit owned by it within The Properties hereby covenants and each Owner of any Lot or Living Unit by acceptance of a deed therefor, or by entering into a contract of purchase with the Developer, whether or not it shall be so expressed in any such deed, contract of

purchase, or other conveyance, shall be deemed to covenant and agree to pay to the Club: (1) annual assessments of charges; (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. **Note: Assessments are considered a lien against the property. If assessments are not paid, no additional filing of a lien against the property is required. Whether a buyer has been notified or not notified of the obligation to pay assessments and whether they have been notified or not that the property is part of the Bella Vista POA, they are still obligated to pay assessments and are part of "The Properties" of the POA.**

**Section 2. Purpose of Assessments.** The assessments levied hereunder by the Club shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and the improvements situated upon The Properties, including, but not limited to, the payment of taxes and insurance thereon, and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof. The limitation aforesaid shall not preclude the use of assessments levied hereunder for maintenance of roads and streets within The Properties, even though same have been dedicated to the public. **Note: This paragraph uses very broad language to describe the purpose and acceptable usage of assessments.**

**Section 3. Basis and Maximum of Annual Assessments.** Until the year beginning January 1970, the annual assessment shall be \$60.00 per Lot or Living Unit. From and after January 1, 1970, the annual assessment may be increased by vote of the members, as hereinafter provided, for the next succeeding three years and at the end of each such period of three years for each succeeding period of three years. Unless the annual assessment shall be increased as aforesaid, it shall remain at \$60.00 per Lot or Living Unit. **Note: Prior to 1970, the assessments were \$5.00 per month or \$60.00 per year per Lot or Living Unit. In accordance with the voting requirements of the membership to increase assessments, the assessments have been raised numerous times since the founding of the POA. As of March 1, 2023, the assessments for Living Units (improved Lots) were \$40.00 per month or \$480.00 per year and for unimproved Lots were \$16.00 per month or \$192.00 per year. If the membership approves an increase in assessments, the assessments may not increase for a period of three years. This three-year moratorium applies only in the event of a successful assessment increase vote. If the membership rejects a proposed increase in assessments, the three-year moratorium does not apply and a subsequent vote to seek an increase in assessments within three years would be allowed. The requirements of a membership vote on increasing assessments are covered later in this document.**

The Board of Directors of the Club may, after consideration of current maintenance costs and future needs of the Club, fix the actual assessment for any year at a lesser amount. Likewise, the Board of Directors of the Club may, after consideration of the lack of improvements as to lots in a certain area, fix the actual assessment for any year as to these particular lots at a lesser amount. **Note: While possible, the lowering of assessments would not likely be practical. It would be critical for the Board of Directors to have a full understanding of the future needs of the POA before contemplating lowering assessments. Since determining the future needs of the POA can be highly unpredictable, the Board of Directors would need to proceed with extreme caution to meet their fiduciary responsibilities. Given the ever-increasing impact of inflation, it is doubtful the Board of Directors would vote to decrease assessments. If the Board of Directors were to vote for a decrease in assessments, such vote would be affective for only one year, with assessments automatically increasing to previous levels in the next year. Assessments would increase back to the previous level approved by the membership without an additional vote of the membership.**

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section 3 hereof, the Club may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the roads and streets within The Properties, even though same may have been dedicated to the public, and also a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of 51 % of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least 30 days in advance and shall set forth the purpose of the meeting. The Board of Directors of the Club may, after consideration of lack of improvements as to lots in a certain area, fix the actual assessment for any year as to these particular lots at a lesser amount. **Note: The POA has the right to hold a vote of the membership to approve a special assessment. If approved by the membership, a special assessment would only be in place for a single year, compared to an annual assessment increase which would carry forward into the future. The funds for the special assessment can only be used for a specific capital improvement on Common Properties. At least in recent history, a special assessment vote has not been attempted.**

**Section 5. Change in Basis of Maximum of Annual Assessments.** Subject to the limitations of Section 3

hereof, and for the purpose therein specified, the Club may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change shall have the assent of 51 % of the votes of each Class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least 30 days in advance and shall set forth the purpose of the meeting. **Note: At least 51% of both Class A and Class B Members must vote in favor (“assent”) for a proposed increase in assessments to be approved. Since the requirement to pass is 51% in favor, a vote in favor of increasing assessments could obtain more than 50% of the votes and still be unsuccessful. There are also quorum requirements for such votes which are covered in the following section.**

**If the Board determines that an increase in the assessments is warranted, the Board, within reason, is allowed to endorse and promote a vote to increase the assessments. Additionally, the Board can direct the management team of the POA to endorse and promote an increase.**

**Section 6. Quorum for Any Action Authorized Under Sections 4 and 5.** The Quorum of any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast 50% of all votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than 90 days following the preceding meeting. **Note: For a special assessment or annual assessment vote, there is a quorum requirement of 50% for members in good standing. The quorum requirement can be a significant threshold given the size of the membership. In recent history, annual assessment votes have either narrowly missed or narrowly exceeded the 50% quorum requirement. If the 50% threshold is not met, the quorum requirement is reduced to 25% in a subsequent vote, provided the vote is taken within 90 days. The provision for a subsequent vote to be taken within 90 days, further emphasizes that a subsequent vote can be taken following the failure of an initial vote (Article X Section 3).**

**Section 7. Date of Commencement of Annual Assessments: Due Date.** The annual assessments provided for herein shall commence on the date fixed by the Board of Directors of the Club to be the date of commencement. **Note: The most recent increase in annual assessments approved by the membership went into place on March 1, 2023.**

The first annual assessments shall be for the balance of the calendar year and shall be apportioned over the remaining months of such calendar year, and payments shall be payable on the 1st day, or such other day as may be fixed by the Board of Directors of the Club, of each month for the remainder of the calendar year. The assessments for any year, after the first year, shall become due and payable on the first day, or such other day as fixed by the Board of Directors of the Club, of January of said year, and shall be apportioned over 12 months and the first payment shall be payable on such day of January as fixed aforesaid and the remaining payments payable on the same day of each month thereafter for the remainder of the year. In the event of default as to a monthly payment, and if the default is not remedied within 30 days, the Club shall have the option of declaring the assessment for the entire year due and payable. **Note: After the first annual assessments were paid, subsequent assessments have historically been due on January 1<sup>st</sup> of each year, although the Board of Directors has the authority to change the actual day in January the assessments become due. While the annual assessments may be paid in one lump sum, the POA also allows equal monthly installments of the annual assessments as provided in this section.**

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to The Properties now subject to assessment at a time other than the beginning of any assessment period. **Note: if Lots are added to the POA in the middle of the year, those Lots are not subject to a full year of assessments, only that portion of the assessments proportional to the number of months for which they are a part of the POA.**

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment, and it shall also be payable monthly with the same option on the part of the Club in the event of default. **Note: Special assessments are payable in the same manner as the regular annual assessments.**

**Section 8. Duties of the Board of Directors.** The Board of Directors of the Club shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least 30 days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Club and shall be open to inspection by any



Owner. **Note:** Once the membership has voted and approved a special or annual assessment increase, the next step is for the Board of Directors to formally vote to approve the increase. The last step in the process is for the POA to mail an official notice to the membership at least 30 days in advance of the implementation of the assessment increase.

Written notice of the assessment may thereupon be sent to every Owner subject thereto. The Club shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Club, setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. **Note:** The owner of a Lot or Living Unit is entitled to an official statement signed by a POA officer setting forth whether the owner has paid their assessments.

**Section 9. Delegation of Collection of Assessment.** The Club may delegate the collection for its use and benefit (Club) of the assessments herein provided to the Developer, its successors and assigns. Due to the common interest of the Developer and the Club, the Club in the delegation of the collection of the assessments may agree that the failure on the part of an Owner to pay an assessment as herein provided shall be a reason or ground for which the Developer may rescind a contract of sale as to a Lot or Living Unit. **Note:** The POA does not delegate the collection of assessments to the Developer but could do so under this provision.

**Section 10. Effect of Non-Payment of Assessment; The Lien; Remedies of Club.** If the assessments are not paid on the date when due (being the date specified in Section 7 hereof), then such assessment shall become delinquent as provided in Section 7 hereof and shall, upon the election of the Club to declare the entire assessment due and payable, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon becoming a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. **Note:** A failure to pay assessments is considered a lien on the property. Interest and costs associated with collecting the unpaid assessments are considered part of the lien.

If the assessment is not paid as provided in Section 7 and the Club shall declare the entire assessment due and payable, the assessment shall bear interest from date of delinquency at the rate of 6 % per annum, and the Club may foreclose the lien against said property and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action. **Note:** The POA can charge interest on delinquent assessments of 6% per annum. Interest and costs associated with collecting the unpaid assessments are considered part of the lien.

**Section 11. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be sub-ordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. **Note:** Liens from unpaid assessments are subordinate to a first mortgage or first deed of trust. The sale or transfer of a Lot or Living Unit which has a lien from unpaid assessments is still a lien with the POA which must be settled at or prior to closing. The sale of transfer does not relieve the new owner of this obligation. Buyers are encouraged to confirm the status of assessments on a property they intend to purchase.

**Section 12. Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: **Note:** The below types of properties are not required to pay assessments since the POA would effectively be paying assessments to itself.

Common Properties,  
Limited Common Properties,  
Utility Easements and all other Easements,  
Reserved Properties Utilities,  
Golf Course and Lake or Lakes,  
if constructed by Developer.

## ARTICLE XI

### Party Walls

**Note:** Article XI no longer applies to the POA. Property owners who have a party wall are encouraged to look at the governing documents for the Bella Vista Townhouse Association.

**Section 1. General Rules of Law to Apply.** Each wall which is built as part of the original construction of the homes upon The Properties and placed on the dividing lines between Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of his Articles, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.



**Section 2. Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**Section 3. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

**Section 4. Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 5. Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 6. Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

## **ARTICLE XII**

### **Architectural Control Committee**

**Note:** The Declaration and Protective Covenants are the source documents for the creation of both the POA, the Bella Vista Townhouse Association, and the ACC. While the three entities were created through the same document, the POA, Bella Vista Townhouse Association, and ACC are wholly separate entities. Article XII applies specifically to the ACC. The POA has no authority over the ACC, nor does the POA have the authority to modify the governing documents of the ACC.

**Section 1. Review by Committee.** No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alterations therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of Developer, or by an Architectural Control Committee composed of 3 or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Note: Please take note, the Developer's Board of Directors that is referenced in this paragraph is separate from, and is not the POA's Board of Directors.

## **ARTICLE XIII**

### **Exterior Maintenance**

**Note:** With the creation of the City of Bella Vista in 2007, the monitoring of Lots or Living Units that are in disrepair is divided between the City and the ACC. Individuals are encouraged to view the governing documents of the ACC and the ordinances of the City of Bella Vista to determine which entity should be contacted based upon the infraction. By practice, the POA does not provide exterior maintenance to Lots or Living Units that are in disrepair.

**Section 1.** In the event the Owner of any Lot or Living Unit shall fail to properly provide for exterior maintenance as to buildings or grounds the Developer or the Club may, but shall not be obligated to do so, provide exterior maintenance as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs grass, walks and other exterior improvements.

**Section 2. Assessment of Cost.** The cost of such exterior maintenance shall be assessed against the Lot or Living Unit upon which such maintenance is done and shall be added to and become a part of the annual assessment or charge to which such Lot or Living Unit is subject under ARTICLE X hereof and, as part of such annual assessment or charge, it shall be a lien subject, however, to lien by reason of a first mortgage or first deed of trust, and shall become due and payable in all respects as provided in ARTICLE X hereof. Upon collection by the Club, the cost shall be paid to Developer, if the Developer has performed the work.

**Section 3. Access at Reasonable Hours.** For the purpose solely of performing the exterior maintenance authorized by this ARTICLE XIII, the Developer or the Club through its respective duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day except Sunday.

## **ARTICLE XIV**

## Protective Covenants

Attached hereto as "Exhibit 1" and made a part hereof as fully as though contained herein word for word are the protective covenants relative to The Properties as well as any other lands which may be added as provided in ARTICLE II hereof. Every provision of this Declaration shall apply as fully as to the protective covenants as if same were set forth herein word for word.

## **ARTICLE XV**

### **General Provisions**

**Section 1. Duration.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Club, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of 26 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the then Owners of two-thirds of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. For purposes of meeting the two-thirds requirement, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted. Provided, however, That no such agreement to change shall be effective unless made and recorded 3 years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least 90 days in advance of any action taken. **Note: This section contemplates the steps that need to be taken to change the Declaration, specifically the requirements, timing, and notifications which are required to change the Declaration. Of the steps that need to be taken, the two-thirds requirement is potentially the most challenging to accomplish. Of the approximately 39,000 Members of the Bella Vista Property Owners Association, at least two-thirds or approximately 26,000 Members, must vote yes ("assent") for the vote to amend the Declaration to be approved. Since historically it has been challenging to get more than 20,000 Members to participate in even the most noteworthy of votes, let alone to get 26,000 Members to all vote yes, it would be extremely challenging for a vote to change the Declaration to be successful.**

**Section 2. Notices.** Any notice given or required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member, Associate Member or Owner on the records of the Club at the time of such mailing. **Note: For any votes of the membership or any notice for the membership, the POA is required to mail such information to the last known mailing address of the Member. While it would be more cost effective to electronically send ballots to the membership for voting, this section outlines that a ballot is required to be sent to each Member by US Mail. In accordance with state law, electronically sent ballots may serve as a companion method of voting, provided a ballot is still sent vial US Mail. In 2016, there were only three candidates running to fill three open seats on the Board of Directors. While the results of the election were a foregone conclusion, the POA was still required to mail ballots to the membership.**

**Section 3. Enforcement.** Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Club or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. **Note: Anyone who owns property governed by the Declaration and Protective Covenants, may litigate to enforce the covenants and restrictions contained within the document. While the POA makes a concerted effort to resolve issues amicably, at times the POA uses this authority to enforce its lien for assessments through foreclosure actions.**

**Section 4. Assignment Transfer or Conveyance by Developer.** The Developer reserves and shall have the right to assign, transfer or convey any reservations, rights, or obligations of the Developer hereunder, and upon such assignment, transfer or conveyance the Developer shall immediately be released and discharged as to any and all liability incident to such reservation, right or obligation. **Note: The Developer retains the authority to sell or transfer their rights as Developer to a third party. The POA has no control over the rights the Developer retains.**

**Section 5. Severability.** Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, CHEROKEE VILLAGE DEVELOPMENT COMPANY, INC. joined by BELLA VISTA COUNTRY CLUB for the purposes of indicating its agreement to perform the obligations placed upon it by this instrument, have caused this Declaration to be executed by their respective corporate officers, who are duly authorized to so execute same, in multiple counterparts, any one of which shall be deemed an original, this 18 day of May, 1965.

CHEROKEE VILLAGE  
DEVELOPMENT COMPANY. INC.  
By: JOHN A. COOPER  
President

ATTEST:

MILDRED B. COOPER  
Secretary

BELLA VISTA COUNTRY CLUB  
By: JOHN A. COOPER, JR.  
President

ATTEST:

EDWIN J. PEASE  
Secretary

**ACKNOWLEDGMENT**

STATE OF ARKANSAS  
COUNTY OF BENTON

On this day before me, the undersigned Notary Public, duly commissioned, qualified and acting within and for the said County and State, appeared in person the within named JOHN A. COOPER and MILDRED B. COOPER, to me personally well known, who stated that they were the President and Secretary of Cherokee Village Development Company, Inc., an Arkansas corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 18 day of May, 1965.

JOSEPHINE R. HEYLAND  
Circuit Clerk

By: ELLEN CASEY, D.C.

My commission expires:

Term of office

**ACKNOWLEDGMENT**

STATE OF ARKANSAS  
COUNTY OF BENTON

On this day before me, the undersigned Notary Public, duly commissioned, qualified and acting within and for the said County and State, appeared in person the within named JOHN A. COOPER, JR. and EDWIN J. PEASE to me personally well known, who stated that they were the President and Secretary of BELLA VISTA COUNTRY CLUB, an Arkansas corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 18 day of May, 1965.

JOSEPHINE R. HEYLAND  
Circuit Clerk

By: ELLEN CASEY, D.C.

My commission expires:

Term of office

# PROTECTIVE COVENANTS

Note: The Declaration and Protective Covenants are the source documents for the creation of the POA, the Bella Vista Townhouse Association, and the ACC. While the three entities were created through the same documents, the POA, Bella Vista Townhouse Association, and ACC are wholly separate entities, with separate areas of authority and responsibility. The Protective Covenants apply specifically to the Architectural Control Committee. The POA has no authority over the ACC, nor does the POA have the authority to modify the governing documents of the ACC. Keep in mind, the Protective Covenants were created in 1965, and much has changed since their creation. The primary change which has occurred was the creation of the City of Bella Vista. With the creation of the City, enforcement of some of the below provisions is now administered by the City. Individuals are encouraged to research the ACC's governing documents and the City's ordinances to ensure they have a full understanding of the regulations in place to avoid any confusion.

**1. Application.** These Protective Covenants shall apply to all of the Existing Properties except the Lots referred to under Tract No. 1, ARTICLE II. Same shall also apply to additions to Existing Properties unless the Developer shall specifically except from these Protective Covenants such additions or a portion thereof in the Supplemental Declaration by which the Developer subjects such additions to this Declaration.

**2. Architectural Control Committee.** When the Architectural Control Committee, hereinafter referred to as A.C.C., is alluded to in these Protective Covenants it shall mean either the Board of Directors of the Developer or the Architectural Control Committee appointed by the Board of Directors pursuant to ARTICLE XII of the Declaration. The provisions of ARTICLE XII of the Declaration shall prevail in all respects as to these Protective Covenants, in the event of conflict between these Protective Covenants and ARTICLE XII of the Declaration.  
**Note: Take note, the Developer's Board of Directors is referenced in this paragraph, not the POA's Board of Directors.**

**3. Amendment, Rescission or Additions.** The Board of Directors of the Developer, its successors and assigns, may amend, rescind or add to the Protective Covenants from time to time, but unless the Lots are specifically exempted from the Protective Covenants by the Declaration or a Supplemental Declaration at the time the Lots are subjected to the plan of the Declaration, such Amendment, Rescission or Additions shall not make the Protective Covenants as to those Lots zoned as Residential less restrictive than as provided in the Federal Housing Administration's then current edition of "Minimum Property Standards for Single Living Units". **Note: Take note, the Developer's Board of Directors is referenced in this paragraph, not the POA's Board of Directors. The Developer has the right to transfer their rights as Developer to a successor company or to sell ("assign") their rights to a third party. The POA has no authority to block the Developer from transferring their rights to a successor or assignee.**

**4. Zoning.** The notes upon the recorded subdivision plats shall control as to use of the Lots reflected thereon. Structures upon Lots designated as commercial upon a recorded subdivision plat shall be entirely controlled as to kind, shape, height, materials, et cetera by the A.C.C. As to Lots designated as Residential Lots upon a recorded subdivision plat, the notes upon the recorded subdivision plat shall control regarding the residential structure types (Single Family Detached, Single Family Attached and Multi-family Structure) which shall be permitted. The notes upon the recorded subdivision plat shall also control as to minimum square footage of each Single Family Detached structure, Single Family Attached structure, as well as each Living Unit in a MULTIFAMILY structure. Provisions of ARTICLE XII shall control as to kind, shape, height, materials, et cetera in regard to all structures erected upon or moved upon Residential Lots. **Note: Zoning, minimum square footage, and other such characteristics discussed in this paragraph do not fall under the authority of the POA. Keep in mind, the Declaration and Protective Covenants were written before the creation of the City of Bella Vista in 2007. Individuals are encouraged to review the city's ordinances and the ACC's governing documents to get a full understanding of any requirements.**

**5. Resubdivision.** No lot so designated shall be re-subdivided except upon written approval of the A.C.C.

**6. Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

**7. Setbacks.** No building shall be placed closer to the Roads and Streets than the setback line shown on a recorded subdivision plat, except where such requirement creates an undue hardship upon the Owner, such setback may be modified as necessary to prevent the hardship by the A.C.C.

**8. Side Yards.** Where Lots are zoned as Residential the following shall apply:

(a) A Single Family Detached structure or any building incident thereto shall not be closer to a side lot line than



5 feet, except where such restriction creates an undue hardship upon the Owner the A.C.C. may modify this restriction so as to alleviate the hardship;

(b) A Single Family Attached structure shall not be required to have a side yard, and a common or party wall may be constructed upon the dividing lines between Lots so that the wall may be partially upon one Lot and partially upon the other or said common wall may be entirely upon one of the two lots involved.

(c) There shall be no requirement as to a side yard where Multifamily structures are involved, and subject to approval by the A.C.C., Multifamily structures may be constructed up to or upon the dividing lines between Lots.

The A.C.C. shall decide all questions relative to location of Commercial structures upon Lots where such structures are permitted subject to paragraphs numbered 4 and 7 hereof.

**9. Land Near Lakes, Water Courses, Golf Courses, Permanent Parks, Permanent Recreational Plots.** No building shall be placed nor shall any material or refuse be placed or stored upon any Lot or other Parcel of Land within 20 feet of the property line of any Lake or within 20 feet of the edge of any open Water Course, or within 20 feet of the property line of any Golf Course, Permanent Park or Permanent Recreational Plot. Clean fill may be placed nearer to the property line of a Lake or the edge of an open Water Course in the event the written permission of the A.C.C. is first obtained. Likewise, by written permission of the A.C.C. a boat dock or boat house may be placed closer than 20 feet to the property line of a Lake or the edge of an open Water Course. The decision of the A.C.C. as to the permission aforesaid shall be final and conclusive.

**10. Construction of Buildings.** The contractor, builder, person, or entity constructing a building upon The Properties shall, prior to beginning the construction of any such building, furnish to the A.C.C. proof that a suitable completion bond has been made to insure completion of the building and to indemnify the Owner against material and mechanic liens. At the same time there shall be furnished to the A.C.C. satisfactory proof that builders' risk insurance, including workmen's compensation insurance, if applicable, will be in effect for the construction period. If the Owner is his own builder, he shall furnish to the A.C.C. such credit information and proof of financial ability to complete the building within the time requirements of these Protective Covenants, as shall be required by the A.C.C. In such case, the Owner shall also furnish to the A.C.C. proof of builders' risk insurance, including workmen's compensation insurance, if applicable, being in effect for the construction period.

**11. Time for Completion of Building.** Commercial structures, Single Family Attached structures, and Multi-family structures shall be completed according to plans and specifications both as to exterior and interior within such time as shall be fixed by the A.C.C. when the plans and specifications for the particular structure are approved by the A.C.C. The following shall apply to the construction of a Single Family Detached structure as well as garage and out-buildings permitted:

(a) The exterior of any Single Family detached structure, garage, or outbuildings permitted which shall be erected upon or moved upon any Lot of The Properties covered by these Protective Covenants shall be completely finished within six months of the date of the start of construction.

(b) The interior of any Single Family Detached structure, garage or outbuildings permitted, which shall be erected upon or moved upon a Lot of The Properties covered by these Protective Covenants shall be completely finished within twelve months following the start of construction.

The contractor, builder or Owner will submit all structures to inspection by the A.C.C. as required to determine compliance with completion dates as herein provided or as may be provided by the A.C.C. In the event of non-compliance with completion dates as herein provided the Developer and/or the Club shall have the right, but not the obligation, to hire a contractor and/or contractors to perform the work and furnish the materials necessary for compliance and the particular party acting shall bill the Owner for the amount expended plus 10% for administration. In the event the Owner does not pay same the Developer and/or the Club, as the case may be, shall have the legal right to file a statutory lien against the property involved and proceed in law or equity to sell the property to obtain said charges. All money received over and above said charges and court costs shall be paid over to the Owner.

**12. Electric Wiring and Plumbing.** Electric wiring and plumbing installed in any structure erected upon or moved upon The Properties shall be in accordance with standards prescribed by the A.C.C., and in no event shall such standards be less restrictive than those provided by the Federal Housing Administration.

**13. Sewage Disposal.** No privately owned sewage disposal system shall be permitted upon any Lot or Parcel of Land of The Properties covered by these Protective Covenants unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Arkansas State Health

Department and approved by the A.C.C.

**14. Water Supply.** No privately owned water system shall be permitted upon any Lot or Parcel of Land of the Properties covered by these Protective Covenants unless such system is designed, located and constructed in accordance with requirements, standards and recommendations of the Arkansas State Health Department and approved by the A.C.C.

**15. Outbuildings.** Outbuildings or accessory buildings, such as a garage, servants quarters or guest house, shall be permitted on Lots upon which a Single Family Detached structure has been constructed or is under construction, provided the building and/or buildings are occupied by servants employed on the premises or by guests, and are not occupied otherwise as rental units by nonservant or nonguest occupants, and provided the A.C.C. shall approve the design, plans, specifications, et cetera of such buildings.

Outbuildings or accessory buildings permitted upon Lots or Parcels of Land upon which there is constructed a commercial building, Single Family Attached structure, or Multifamily structure, shall be entirely within the discretion of the A.C.C.

**16. Protective Screening.** There shall be compliance with all protective screening areas as reflected upon any recorded subdivision plat of The Properties. Except as otherwise provided herein regarding street intersections under "Sight Distance at Intersections", shrub plantings, fences or walls shall be maintained throughout the entire length of such areas by the Owner or Owners at their own expense to form an effective screen in order to protect and beautify the area. No building or structure except a screening fence or wall or utility or drainage facilities shall be placed or permitted to remain in such areas. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utility, and drainage facilities.

**17. Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same height-line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**18. Signs.** All signs are prohibited in areas zoned upon any recorded subdivision plat as Residential except:

- (a) Signs erected by the Club for identification of streets, traffic control and directional purposes;
- (b) Signs of a temporary nature advertising property for sale and construction signs, which signs shall not exceed 5 square feet in area;
- (c) Signs erected by Developer in connection with its sales program.

The erection of signs in areas zoned commercial upon any recorded subdivision plat shall require a permit of the A.C.C. and no such sign, except as provided in subparagraph (a) above, shall be erected without the permit of the A.C.C.

**19. Model Houses.** No provision of these Protective Covenants shall preclude the Developer in furtherance of its sales program from erecting and maintaining Model Houses in any area zoned upon a recorded subdivision plat as Residential.

**20. Businesses Prohibited in Residential Areas.** Except for the business of the Developer in furtherance of its sales program the practice of any profession or the carrying on of any business is prohibited within any area zoned as Residential upon any recorded subdivision plat of The Properties.

**21. Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved in the Declaration and will be reserved in any Supplemental Declaration and will also be reserved as indicated upon any recorded subdivision plat of The Properties. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels within the easements, or which may obstruct or retard the flow of water through drainage channels within the easements. The easement area of each Lot and all improvements for which the Club, a public authority or utility company is responsible.

**22. Nuisances.** No obnoxious or offensive activity shall be carried on upon any Lot or Parcel of Land of The

Properties.

**23. Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot or Parcel of Land of The Properties, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

**24. Garbage and Refuse Disposal.** No Lot or Parcel of Land of The Properties shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall be kept in a clean and sanitary condition, and disposition of same shall be prompt.

**25. Oil and Mining Operation.** No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot or Parcel of Land of The Properties, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or Parcel of Land. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or Parcel of Land.

**26.** These Protective Covenants shall be enforced as provided in this Declaration of which the Protective Covenants are a part.

**27.** (AMENDMENT FILED FOR RECORD BY CLERK AND RECORDER, BENTON COUNTY, ARKANSAS, FEBRUARY 8, 1993) To enable the A.C.C. to perform its responsibilities under the Declaration, any Supplemental Declaration, and these Protective Covenants, the A.C.C. may establish and charge such fees to be paid prior to performance of any such responsibilities. **Note: The ACC has the right to charge fees for services. This can be confusing since the City of Bella Vista also charges fees. In some instances, a property owner may be required to pay a fee to the ACC and the City for the same home improvement project.**

## EXHIBIT 1

**NOTE:** This document is recorded in Book 373 at Page 8 et. seq. of the records of Benton County, Arkansas, and Amendment now recorded at Instrument Record No. 93-08028 et seq. on February 8, 1993.