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DOCUMENT NO: 379729
RECORDED ON: SEPTEMBER 29, 2006 12:52 PM
TOTAL FEES: \$55.00
GROUP : 4009
COUNTY CLERK: MARILYN K ROUSE
COUNTY: BOONE COUNTY CLERK
DEPUTY CLERK: DONNA COLLINS
BOOK MC1061 PAGES 721 - 737

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR VILLAGE TERRACE PHASE 2

THIS DECLARATION, made this 25th day of September, 2006, by **TERRACE DEVELOPMENT COMPANY, LLC**, a Kentucky Limited Liability Company, hereinafter referred to as the "Declarant".

WITNESSETH

WHEREAS, the Declarant is the owner of the property described in Exhibit "A" hereof and desires to develop said real estate into a single family subdivision to be known as "Village Terrace Phase 2"; and

WHEREAS, the Declarant plans to develop Village Terrace Phase 2 and to create a planned residential community with permanent common areas for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas; and to this end, desires to subject the real property described in Exhibit "A" hereof to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Property and the subsequent owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed "**The Village Terrace Phase 2 Homeowners' Association, Inc.**" as a non-profit Kentucky corporation for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that all of the real property described in Exhibit "A" and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, and any subdivision plat which includes the Property, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

1. Definitions. The following words when used in this declaration shall have the following meanings:

A. "Articles" and "Articles of Incorporation" shall mean those Articles, filed with the Secretary for the Commonwealth of Kentucky, Incorporating The Village Terrace Phase 2 Homeowners' Association, Inc., as a corporation not for profit under the provisions of Kentucky Revised Statutes, as the same may be amended from time to time.

B. "Association" shall mean and refer to The Village Terrace Phase 2 Homeowners' Association, Inc., and its successors and assigns.

C. "Board" and "Board of Trustees" shall mean the Board of Trustees of the Association as provided in the Articles of Incorporation and By-Laws of the Association. The Board of Trustees shall also be known as the "Board of Directors".

D. "By-Laws" shall mean the By-Laws of the Association, as same may be amended from time to time.

E. "Village Terrace Phase 2" shall mean and refer to a single-family subdivision situated on the real property described in Exhibit "A" together with such portions of any real property as may hereafter be annexed pursuant to Article II.

F. "Common Areas" shall mean and refer to all real property, or any interest therein, including greenbelt or landscape easements, together with improvements located thereon, for the benefit, use and enjoyment of all of the Members of the Association. The "Common Areas" shall also include any areas that have been specifically designated by the Declarant on a recorded plat as "Common Areas". The "Common Areas" could include, but shall not be limited to, any and all: greenbelt easement areas, entryways, entrance pillars, walls, signs and surrounding landscaping, landscape mounds, roadway islands and the undedicated portion of any roadway or street conveyed to the Association.

G. "Declarant" shall mean and refer to **TERRACE DEVELOPMENT COMPANY, LLC, a Kentucky Limited Liability Company**, and its successors and assigns.

H. "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of (a) seven (7) years from the signing of this document, or (b) the day next following the day on which the Declarant owns no part of the Property.

I. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property or recorded resubdivision thereof with the exception of the Common Areas and dedicated right of ways.

J. "Multi-Family Structure" shall mean any building containing two (2) or more attached single-family living units either under one roof or having a common unit wall as part of their individual structure, or specifically designated by the Declarant as a multi-family structure, even though such units may be located on more than one lot.

K. "Unit" shall mean and refer to the improvements located on a Lot.

L. "Member" shall mean any one of those owners who are members of the Association as provided in Article IV.

M. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

N. "Property" and "Properties" shall mean and refer to that certain real property hereinafter described, and such additions thereto as may hereafter be annexed pursuant to Article II.

O. "Trustee" and "Trustees" shall mean that person or those persons serving, at the time pertinent, as a Trustee or Trustees of the Association, and mean that same person or those persons serving in the capacity of a member of the Board of Trustees of the Association. Such individuals shall also be known as "Directors".

ARTICLE II

PROPERTY DEVELOPMENT - ANNEXATION

1. **Property Subject to Declaration.** The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in the County of Boone, Commonwealth of Kentucky, and is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof. The real estate described in Exhibit "A" shall be developed as a single-family subdivision to be known as Village Terrace Phase 2.

2. **Annexation of Additional Property.** Except as hereafter provided, for a period of seven (7) years from and after the date this Declaration is filed for record, additional property may be annexed to the property described in Exhibit "A" by the Declarant without the assent of Members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of fifty-one (51%) percent total votes of Members of the Association.

Any annexations made pursuant to this Article, or otherwise shall be made by recording a supplement to this Declaration with the Clerk of Boone County, Kentucky, which supplementary declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such supplementary declaration may contain such additional covenants, conditions, restrictions, easements, charges and liens as the Declarant shall deem appropriate for the purpose of completing the development of the property.

3. **Additional Common Areas.** Declarant shall have the right, from time to time, during the Development Period, to convey to the Association for nominal or other appropriate consideration, and the Association shall accept conveyance of any property or interest in property owned by Declarant along with any structure, improvement, or other facility including related fixtures, equipment and furnishings located thereon.

4. **Community Facilities.** Declarant shall have the right, from time to time, during the Development Period, to convey to the Association for nominal or other appropriate consideration community facilities which shall be constructed solely for the benefit of the residents of Village Terrace Phase 2 and not for other persons. All costs associated with the maintenance, use and operation of such facilities shall be funded by the annual General Assessment set forth in Article V.

Notwithstanding any other provision of this Declaration, Declarant does not warrant or represent that any community facilities will be constructed by or on behalf of Declarant. In determining whether to construct any community facilities for Village Terrace Phase 2, Declarant may consider whether the construction at the time of making the decision would be economically feasible in light of the then existing economic conditions, whether such Declarant has sufficient funds available for the construction and whether the operation, maintenance and repair of the community facilities as constructed will be adequately funded by the Annual Assessments.

ARTICLE III

PROPERTY RIGHTS

1. **Owners' Right of Enjoyment in the Common Areas.** Every Owner and, in the case of rented residences, such owner's tenants, shall have a right to an easement for the enjoyment of, in, and to the Common Areas, and such right and easement shall be appurtenant to and shall pass with title to every lot, subject to the following:

A. The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas.

B. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration.

C. The right of the Association or the Declarant to grant utility easements (including cable television), greenbelt easements, sign easements or roadway easements over the Common Areas.

D. The right of the Association to have an unfettered and unrestricted easement to build, care for, maintain, repair and replace any improvements on the Common Area, including but not limited to all entrance pillars, walls, signs and surrounding landscaping at or near the entranceway to Village Terrace Phase 2.

E. The right of the Association to adopt, enforce, and from time to time, amend reasonable rules and regulations pertaining to the use of the Common Areas.

F. The right of the Association to suspend, for any period during which any assessment remains unpaid, the voting rights of the delinquent Member and the rights of the delinquent Member to use of the Common Areas. The Association may also suspend, for up to sixty (60) days, the same rights of any Member for each violation by that Member of the rules of this Declaration or of the Association's published rules and regulations.

G. The right of the Association to dedicate or transfer all or any part of the Common Areas or Community Facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration, provided, however, that no such dedication or transfer shall be effective unless an instrument signed by fifty-one percent (51%) of the total number of votes held by Class A Members and fifty-one percent (51%) of the total number of votes held by Class B Members of the Association has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed agreement and action thereunder is sent to each member at least ninety (90) days prior to the taking of any action. Provided further, that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association should

not be deemed a transfer within the meaning of this Article and such action requires only the approval by the Board of Directors of the Association.

H. The right appurtenant to each lot to a perpetual easement for reasonable ingress and egress over the Common Areas to and from the lot, including both for pedestrians and for vehicles, and to a perpetual easement to maintain, repair and replace forever any original improvement made to the lot by the Developer which encroaches upon or overhangs either the Common Areas or any adjoining lot.

2. **Delegation of Use.** Any Owner may delegate, in accordance with the applicable By-Laws of the Association, his right of enjoyment in and use of the Common Areas to the members of his family, guests, and his tenants or contract purchasers who reside on the Property.

3. **Title to Common Areas.** The title to any portion of the Common Areas that is to be owned by the Association shall be conveyed to the Association; provided, however, that the Declarant shall have the right from time to time to reserve for the purpose of development of the Property all or any portion of the Property for various easements and rights of way, together with the right to dedicate or grant the same where necessary and customary and the right of ingress and egress across the Common Areas in connection with the development of the Property

4. **Parking Rights.** Appurtenant to each Lot is the right to allow persons visiting the Lot, including guests, service persons, trade persons, and delivery persons, to reasonably use for parking the automobile parking area on the Common Areas, together with the right of ingress and egress in, to, and upon the common parking areas within that section. The Association may make such other reasonable rules and regulations to limit or control the use of and/or access in, to, and upon the common or private parking areas. No vehicles shall be regularly parked or kept on any open parking space. An open parking space is a parking space in the Common Areas which has not been assigned to a particular unit and is intended for temporary use by non-residents of the community who have a legitimate reason, including social or business, to be in the community.

5. **Overhang Encroachment Easement.** Certain Lots may be developed such that part of a unit extends over the property line on an adjoining Lot. In that case, the Lot with the encroachment is taken subject to an easement for encroachment which easement runs in favor of the adjoining Lot with the overhanging unit. The easement runs with the land and includes the right to maintain, repair and replace the encroaching improvements, and the right to use the unit on the adjoining Lot for support, but there is no right to expand the encroachment.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

1. **Members.** Every Lot Owner shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Development Period, the Association shall have Class A Members (being all Owners except Declarant) and a Class B Member (Declarant). At such time as the Class B membership shall terminate, the Declarant, if it is then an Owner, shall become a Class A Member and continue as such so long as it shall remain an Owner.

2. **Voting Members.**

A. With the exception of Declarant (until Class B membership has terminated as provided), every person, group of persons or entity who is an Owner of a fee interest in any Lot which is or becomes subject by covenants of record to assessment by the Association shall be a Class A Member of the Association. Class A Members, except Declarant when Class B membership has terminated as provided shall be entitled to one vote per each Lot in which they hold the interest required for membership.

B. Class B Member shall be the Declarant which shall be entitled to five (5) votes for each Lot in which the Declarant holds the interest or each Lot proposed by the Declarant to be located on the Property, provided, however, that such Class B membership shall terminate at the end of the Development Period.

C. At such time as Class B membership shall terminate, the Declarant which, for any Lot, holds an interest therein otherwise required for Class A membership, shall be deemed a Class A Member with reference to such Lot or Lots and entitled to the voting and all other rights of such Class A Member. If more than one person, group of persons, or entity is the record Owner of a fee interest in any Lot, then the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

D. The Association does not issue stock certificates. No member will have a stock certificate as evidence of membership in the Association. The Member's deed, properly recorded, is the evidence of membership for that Member.

E. This instrument shall be considered notice from the Association to each Member of the following facts:

(1) The name of the corporation is the same as the name of the Association.

(2) The grantee in any deed to a unit, which deed is properly recorded, becomes automatically a Member of the Association as of the date of recording of the deed.

3. **Board of Trustees.** The Board of Trustees shall be elected in accordance with the By Laws except that during the Development Period, the Board of Trustees shall be appointed solely by the Declarant.

ARTICLE V

ASSESSMENTS

1. **Covenant for Assessments.** The Declarant for each Lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a Lot in Village Terrace Phase 2, by virtue of the acceptance of a deed for such Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual General Assessments, (2) Special Assessments and (3) Individual Assessments.

All assessments referred to above shall be fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as herein provided shall also be the personal obligation of the person, group of persons, or entity who was the Owner of such property and Lot at the time when the assessment fell due.

2. **Annual General Assessments; Purposes.** The Annual General Assessments levied by the Association are for the purpose of promoting the enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the aesthetic and scenic qualities of the development and maintaining same.

The uses of the Annual General Assessment include, but are not limited to:

A. providing for grass cutting, landscaping maintenance, and snow removal of Common Areas, including undedicated roadways, and on Lots as determined by the Board of Trustees;

B. repair and replace streets (not dedicated to the public), common parking areas and walkways;

C. providing all necessary or desirable insurance coverage for the Association, including the Board, and for the real property and the personal property of the Association, including all insurance coverage required by Article VI;

D. providing trash and garbage pickup or other public services, to the extent determined reasonably necessary by the Board of Trustees of the Association;

E. providing and paying for administrative management and professional expenses of the Association.

F. providing for the maintenance, repair, and replacement of all improvements on Common Areas;

G. providing for and paying all of the obligations of the Association, including taxes, utilities and operating expenses; and

H. providing such additional matters, consistent with the general purposes of the Annual General Assessment as may be approved by the numbers as set out in this Declaration.

3. **Capital Contribution.** Upon the initial closing on each lot, the new Lot Owner shall pay the sum of Three Hundred Fifty and 00/100 Dollars (\$350.00) to the Association as a capital contribution. In the event of a subsequent sale, transfer or conveyance of such lot, the capital contribution shall become the capital contribution of the grantee.

4. **Annual General Assessments, Initial Amount.** The Maximum Annual General Assessments for Lots in Village Terrace Phase 2 for the general purposes provided in Section 2 of this Article V shall not exceed Six Hundred and 00/100 Dollars (\$600.00), per lot, per year, the first year this Declaration is of record with the Boone County Clerk's office.

If closing occurs on a unit on a date other than the first of the month, then the first month assessment shall be prorated.

The assessments may be billed in advance on a monthly, quarterly, semi-annual or annual basis. The Board of Trustees may fix the Annual General Assessments for any amount after the first year this Declaration is of record.

5. **Individual Assessments.** If an owner of any Lot shall fail to maintain the improvements on the Lot in a manner reasonably satisfactory to the Board of Trustees, and the maintenance is not to be provided by the Association for which assessments are provided, then the Association, after approval by sixty-six and two-thirds percent (66-2/3%) of all members of the Board of Trustees, shall have the right through its agents and employees, to enter upon the Lot and to repair and/or maintain the Lot and the exterior of the buildings and any other improvements. The cost of such exterior maintenance and repair (including charges incurred by the Association in gaining access to the Lot or unit, including court costs and reasonable attorneys' fees) shall be added to and become part of the total assessment on the Lot. This remedy is in addition to any other remedy of the Association.

6. **Special Assessments.** In addition to the Annual General Assessments authorized by this Article, the Association may levy, in any assessment year, a Special Common Area Assessment and/or Special Maintenance 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 a described capital improvement located upon the Common Areas or the facilities situated in Village Terrace Phase 2 which cost has not otherwise been provided for in full as part of the applicable Annual General Assessment, including the necessary fixtures and personal property related thereto. Any Special Common Area Assessment enacted pursuant to this paragraph shall have the approval of fifty-one (51%) percent of the total number of votes held by Members. Any Special Maintenance Assessment enacted pursuant to this paragraph shall have the approval of fifty-one percent (51%) of the total number of votes held by the Members. Any Special Common Area Assessments levied by the Association pursuant to the provisions of this section shall be fixed at a uniform rate based upon the number of applicable lots. Any Special Maintenance Assessment levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon the number of Lots in Village Terrace Phase 2. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of such Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly, semi-annual or annual basis. Special Common Area Assessments shall be used solely for the benefit of the Common Areas and related expenses and Special Maintenance Assessments shall be used solely for the benefit of the facilities situated in Village Terrace Phase 2.

7. **Assessments to Village Terrace Community Commercial Association.** The Village Terrace Phase 2 Homeowners' Association, Inc will be required to pay twelve percent (12%) of the Village Terrace Community Commercial Association expenses. This is collected as part of the annual general assessment.

8. **Commencement of Assessments.** The Special Common Area Assessment, the Special Maintenance Assessment and any Individual Assessment shall commence at such time as determined by the Board. The first assessment for any such membership may be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of Trustees of the Association to periodically fix the amount of an assessment against each Lot for such assessment period and the Board of Trustees shall make reasonable efforts to fix the amount of an assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at the time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association or its agent and shall be opened to inspection by any owner upon reasonable notice to the Board. Written notice of an assessment shall thereupon be sent to the Owner of any Lot subject thereto. Any Annual Assessment subsequent to the first Annual Assessment shall become a lien on January 1 of each year; and any Special Assessments and Individual Assessments shall become a lien at the time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice thereof.

9. **Assessment of Declarant.** Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, Declarant, while there exists a Class B Member, shall be required to pay an assessment for any recorded, improved but unsold Lot in which such Declarant has the interest otherwise required for Class A membership only in an amount equal to ten percent (10%) of the Annual General Assessment, Special Assessment and Special Individual Assessment, which the Association levies for any purpose under this Declaration. Notwithstanding the foregoing, Declarant may pay but is not required to pay, additional sums in excess of the assessment set out in this Section to meet budgetary requirements or to fund specific projects.

10. **Assessment Certificates.** The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of an assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered.

11. **Non-Payment of Assessment.** Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his heirs, devisees, person representatives and assigns. The personal obligation of the then Owner to pay any assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of Association.

If any assessment is not paid within fifteen (15) days after due date, such assessment shall bear interest at the rate of ten percent (10%) per annum, and Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorney's fees shall be added to the amount of such assessment. No owner shall waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or common facilities or abandonment of his Lot.

In addition to the ten percent (10%) per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of an assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the assessment which is delinquent by fifteen (15) days.

12. **Priority of Association Lien.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which become due prior to such sale or transfer. The lien of the assessments provided herein may be foreclosed in the same manner as a mortgage on real estate in an action brought by the Association. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

13. **Purchaser at Foreclosure Sale Subject to Declaration, By-Laws, Rules and Regulations of the Association.** Any purchaser of a unit at a foreclosure sale shall automatically become a member of the Association and shall be subject to all of the provisions of this Declaration, the By-Laws and Articles of the Association and the rules and regulations of the Association.

14. **Liability for Assessments Upon Voluntary Conveyance.** The personal obligation of each owner to pay the assessment against the lot shall pass to any subsequent grantee who takes title through contract, operation of law, or through any other method or instrument other than a commissioner's deed or other court ordered deed in a foreclosure or other deed to a mortgagee in lieu of foreclosure. The original owner shall not be released from the obligation of the assessment, but instead, will be jointly and severally liable with the subsequent grantee. However, any such grantee or proposed grantee shall be entitled to an assessment certificate as described elsewhere in this Article, and such grantee shall not be liable for, nor shall the unit be conveyed subject to a lien for, any unpaid assessment made by the Association against the Grantor in excess of the amount set forth in the assessment certificate for the period reflected in the assessment certificate. This section shall not prejudice the right of the grantee to recover from the grantor the amounts paid by the grantee for the assessment which was also the obligation of the grantor.

15. **Common Area Assessment at Closing.** Within sixty (60) days after the date of closing, each purchaser of a Lot shall be required to pay a pro rata share of the annual Common Area Assessment for the balance of the current year to the extent that such assessment is not otherwise being collected by the Association. Declarant shall be exempt from the assessments collected pursuant to this section.

16. **Payment of Assessment.** Unless the Board otherwise directs, any type of assessment shall be paid in monthly installments, in advance, with each installment due on the first day of each month. Payment shall be made to such person or place as

the Board directs. Failure of the Board to send out notice of any assessment does not relieve the owner or Lot for liability for that assessment.

17. **Miscellaneous.**

A. The owner has the sole responsibility of keeping the Association informed of the owner's current address. Notice sent by the Association to the owner at the address of the lot shall always be considered sufficient.

B. The lien under this Article V arises automatically and no notice of lien need be recorded to make the lien effective.

C. The assessment lien includes all collection costs, including, demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, and any other expenses incurred by the Association in enforcing or collecting the assessment.

D. If any Common Area or unit is intentionally or negligently damaged or destroyed through the act or omission of any owner, the Association may make an Individual Assessment against the owner and the owner's lot for the expenses involved in making repairs or in making and/or enforcing the assessment, including reasonable attorneys' fees.

ARTICLE VI

INSURANCE

1. **Insurance Company.** Insurance should be placed with reputable companies which have a general policy holder rating of no less than A, as determined by the latest edition of the Best's Insurance Reports or its successor or equivalent guide or rating service. The Board should take particular care to avoid any conflict of interest in the placing of the insurance, between the Association and the members of the Board or any employee of any management company managing the project. This section is not intended to prevent the Board from buying insurance through the management company, since the management company, through volume buying, can often obtain coverages and/or prices that would not otherwise be available to the Association.

2. **Liability Insurance.** Association shall obtain and maintain a Comprehensive policy of public liability insurance covering the Common Areas and any other facilities insuring the Association, Trustees, and Owners and members and their respective families, tenants and occupants in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a residential Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

3. **Casualty Insurance.** The Association shall obtain and maintain fire, lightning and extended coverage or similar insurance in an amount of not less than one hundred percent (100%) of the replacement cost thereof on all Common Areas and any community facilities. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. Said insurance shall be payable to the Association and the proceeds from which shall be used to restore or replace any Common Area or community facility damaged or destroyed by any peril covered by said insurance.

4. **Other Insurance; Allocation.** The Association shall hold the Trustees and Officers harmless for any acts performed in furtherance of their duties and shall hold them harmless from all liability. In addition, the Association may obtain and maintain Trustees' and Officers' liability insurance and such other insurance as the Board may deem desirable from time to time.

5. **Insufficient Insurance.** In the event the improvements forming a part of the Common Areas, any community facilities or any portion thereof shall suffer damage or destruction from any cause or peril which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for whose benefit the amount was so advanced, and such assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

6. **Fidelity Bonds.** The Board or Management Company shall obtain fidelity bond coverage, naming the Association or Management Company as an insured, with respect to any person or agent handling Association funds in an amount not less than Five Thousand and 00/100 Dollars (\$5,000.00) or as determined by the Board or Management Company.

ARTICLE VII

COMMITTEES

1. **Finance and Maintenance Committee; Other Committees.** The Board of Trustees may appoint a Finance and Maintenance Committee consisting of not more than five (5) members of the Association. This Committee shall prepare the annual budget of the Association for submission to the Board of Trustees. The Committee shall also make recommendations to the Board of Trustees as to the amount of Annual Assessments to be levied by the Board of Trustees. Additionally, the Committee shall make recommendations to the Board of Trustees as to the needs, repairs and monetary requirements for the Common Areas and any community facilities.

The Board, at its discretion, shall have the right to appoint other committees, including an Architectural Control Committee, as provided in Article VIII.

ARTICLE VIII

ARCHITECTURAL CONTROL

1. **Approval Required.** Except for original construction of residences, Common Areas, community facilities or other structures by Declarant or builders, 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 alteration therein be made until the plans and specifications showing the nature, kind, shape, height, material, and location of the same shall have been submitted to and approved in writing by an Architectural Control Committee appointed by the Board of Trustees of the Association. Such plans and specifications shall be reviewed by the appropriate Committee as to harmony of external design and location in relation to surrounding structures and topography in accordance with the requirements hereinafter set forth. Except as otherwise provided for in the Declaration, in the event such Committee fails to approve or disapprove said plans and specifications (associated with the remodeling of a dwelling and related improvements) within thirty (30) days after submission, approval will not be required and this Article shall be deemed fully complied with. In the event that no such committee has been designated or elected, then the Declarant shall act as the Architectural Control Committee.

2. **General Requirements.** Except as otherwise provided, the following requirements shall be applicable to all Lots in Village Terrace Phase 2:

A. **General Conditions.** Except for improvements constructed by Declarant in connection with the development of the Property, no improvement of any kind shall be erected, altered, placed or permitted to remain on the Common Areas (including areas designated as "Open-Space easements"). Additionally, no improvement constructed by Declarant in connection with the development of the Property shall be removed from the Common Areas (including areas designated as "Open-Space easements") without the prior written consent of Declarant or the Architectural Control Committee.

B. **Building Placement and Yard Grading.** Residences shall conform to grade and drainage patterns existing at the time of the recording of the record plat for the subject Lot. Existing grades and Lot lines shall not be unreasonably altered without the written consent of the Declarant/Association. Each Lot Owner and/or builder shall endeavor to retain as much of the natural woods as is practical.

C. **Underground Houses and Log Houses.** Underground and log structures are prohibited.

D. **Driveways.** All driveways shall be surfaced with concrete and kept in good condition and repair.

E. **Water Discharge.** Storm water must be disposed of in accordance with drainage plans established by the Declarant or the Architectural Control Committee.

F. **Radio and Television Antennas.** All television and radio antennas, including CB radio antennas, must be enclosed within the residence located on the Lot. A satellite dish shall not exceed 18" in diameter and shall be attached to the rear of the building. Only one satellite dish shall be attached to a unit.

- G. Air Conditioning and Heat Pump Equipment. Such equipment shall be located only in side or rear yards.
- H. Awnings. Awnings may be installed only on the rear of a unit. No metal or plastic awnings for windows or doors may be erected or used. Canvas awnings may be used on the rear of a unit subject to prior written approval of the Declarant or the Architectural Control Committee.
- I. Fences. No fence or wall of any kind, specifically including the use of a hedge or other growing plants as a fence, and for any purpose, shall be erected, placed or suffered to remain upon any Open-Space easement or upon any Lot
- J. Exterior Carpeting. No exterior carpeting shall be allowed if it is visible from the street.
- K. Lighting Exterior. Modifications or additions to exterior lighting on the front of a unit is not permitted. Mercury vapor yard lights in excess of 50 watts are prohibited, except for street lights installed in a right-of-way by a utility company.
- L. Mailboxes. Individual mail boxes will not be permitted. "Cluster" type mailboxes as required by the United States Postal Service will be provided. Style and location to be determined by the United States Postal Service and the Declarant.
- M. Snow Emergency. During a snow emergency as declared by the City of Florence, parking will only be allowed in the owners driveway. Common area parking spaces may be used for snow emergency vehicles, material and the piling of snow during such snow emergency events.

3. Variances. In order to avoid unnecessary hardship and/or to overcome practical difficulties in the application of certain provisions of the Declaration, the Board shall have the authority to grant reasonable variances from the provisions of Article VIII, Section 2. Additionally, so long as Declarant owns one or more Lots on the Property, Declarant may grant reasonable variances from the provisions of Article VIII, Section 2 with respect to Lots owned or sold by Declarant. No variance shall materially injure or materially adversely affect any other part of the Property or any other Owner or occupant. No variance granted pursuant to the authority of this Section 3 shall constitute a waiver of any provision of the Declaration as applied to any other party or other part of the Property, and no variance may be granted to permit anything that is prohibited by applicable law. All provisions of the Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Property.

ARTICLE IX

PARTY WALLS; EASEMENTS

- 1. Party Walls. Each wall which is built as part of the original construction of the units upon the property and placed on the dividing line between lots or units shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, 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.
- 2. 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.
- 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. If the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in such proportion to such use; except that each owner is still fully liable for damages caused by that owner's negligent or intentional acts or omissions. Unless otherwise agreed by owners of all units in a multi-unit structure damaged or destroyed by fire or other casualty, such structure shall be rebuilt and all proceeds of insurance available therefore shall be used to restore the structure .
- 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 and repairing the damages and paying for the losses caused by the exposure.
- 5. Right of Entry. For purposes of making inspections and repairs under this Article, an owner, his agents or contractors shall have the right to enter upon the premises of the other Owners of a party wall upon the giving of reasonable notice and at a reasonable time.

6. **Joint Driveway Easement.** The multi-unit structure to be constructed on Lots 1 through 5, inclusive, shall have the benefit of a mutual driveway easement across the Lots upon which said structure is located, and each such Lot shall be subject to the driveway easement across it for the benefit of the other Lots upon which said structure is located, for ingress to and egress from the individual Lots and units located thereon.

The cost of reasonable repair and maintenance of any joint driveway or walkways shall be shared by the Owners who make use of the same in equal amounts, unless such repair and maintenance is provided by the Association through assessment.

Unless provided by the Association through assessment, in the event any joint driveway or walkway is destroyed or damaged, any Owner who has used the same may restore it, and if the other Owners thereafter make use of the same, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

7. **Right to Contribution Runs with the 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.

8. **Control of Utility Lines.** Notwithstanding provisions otherwise contained herein, all of the following utility lines designed to serve more than one unit shall be under the exclusive control of and shall be maintained by the Association (subject to the rights and duties of the utility company providing the service):

- A. storm sewer system;
- B. sanitary sewer lines extending from the main or sub connector sewer line to the point at or near the unit where common usage by more than one unit stops; and
- C. any other wire or line extending from the service of supply delivered by the supplier of the service to the point at or near the unit where common usage by more than one unit stops.

9. **Rights Not Subject to Suspension.** The rights and easements created in this Article shall not be suspended by the Association for any reason.

ARTICLE X

USE RESTRICTIONS AND MAINTENANCE

1. **Restrictions – VILLAGE TERRACE PHASE 2.** All Lots in Village Terrace Phase 2 shall be subject to the following restrictions:

A. **Purpose of Property.** All Lots shall be used only for residential purposes and common recreational purposes auxiliary thereto. The Declarant shall have the right to use unsold residences as model homes or sales offices.

B. **Nuisance.** No obnoxious or offensive activity of any kind shall be engaged in on any Lot nor shall any Owner or occupant thereof engage in any activities that interfere with the quiet enjoyment, comfort and health of the occupants of adjacent neighboring Lots. This paragraph shall not apply to any Lots owned by Declarant and held for sale.

C. **Animals and Pets.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. All pets shall be leashed. All pet owners shall be held responsible for any and all damage caused by such pet. All pet owners shall clean up after their pets in all common areas or green spaces. No animal shall be chained or confined outside of the unit for any period of time.

D. **Signage.** No sign of any kind shall be displayed to the public view on any Lot except (a) one Professional sign of not more than two (2) square feet; (b) one sign of not more than four (4) square feet advertising the property for sale; (c) and any size signs used by Declarant to advertise the property during the construction or sale period.

E. **Trash.** No burning of any trash and no accumulation or storage of litter, new or used building materials or trash of any kind shall be permitted on any Lot. Trash and garbage shall be in sanitary containers and shall not be permitted to remain in the public view except on days of trash collection. This paragraph shall not apply to any Lot owned by Declarant and held for sale.

Trash receptacles shall be stored inside the unit except on collection days. Trash receptacles can be on the street from 6:00 pm on the day prior to collection and until 6:00 pm on the day of collection.

F. Prohibited Accessory Structures. No permanent or temporary building, tent, storage shed, free standing greenhouse, or above ground pool or pool designed for above ground use shall be erected or permitted to remain upon a Lot. This paragraph shall not apply to any Lots owned by Declarant and held for sale.

G. Automobiles, Recreational Vehicles, Boats, Travel Trailers. No recreational vehicle, mobile home, motor homes, boat, or travel trailers or any other similar vehicle, shall be parked or stored on any Lot, for a period in excess of forty-eight (48) hours during any calendar month, unless the same is in an enclosure or garage and completely out of view. Trucks exceeding a three-quarter (3/4) ton rating are prohibited.

No vehicle in inoperable condition shall be stored on any Lot for a period in excess of five (5) days unless the same is in an enclosure or garage and completely out of view. This paragraph shall not apply to any Lots owned by Declarant and held for sale.

H. Garages. Garage shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, e.g., family room(s), recreation room(s), etc.

I. Garage and Yard Sales. There shall be no more than two (2) garage or yard sales held by the Owner or residents of any Lot during any twelve (12) month period.

J. Obstruction of Easements and Drainage. No structure, planting or other material other than, driveways, or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement or the installation or maintenance of utilities, or which may change, obstruct or retard direction or of any drainage channels in easement area. The easement area of each Lot and all improvements in the easement shall be maintained by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible. Unless otherwise designated on the record plat, a ten (10) foot wide private drainage easement shall exist along all common lot lines, the common lot line being the center line of said easement.

K. Leasing. Every lease on every unit in the project is subject to the following rules and regulations, whether in the lease or not:

- (1) the lease must be in writing;
- (2) the lease must be for the entire unit;
- (3) the lease must be for a minimum period of not less than twelve (12) months. Renewals can be for any length;
- (4) the use of the premises is subject to the Declaration, the By-Laws, and the rules and regulations of the project;
- (5) within thirty (30) days of occupancy by the tenant, the name and telephone number of the tenant, together with a clear and complete copy of the lease must be furnished to the management company or to an officer or director of the Association.
- (6) the unit cannot be used as a motel or hotel or otherwise for transient tenants;
- (7) if any Owner (landlord) or tenant is in violation of any of the provisions of the Declaration, By-Laws, including any rules and regulations, the Association may bring an action in its own name and/or in the name of the Owner to have the tenant evicted and/or to recover damages. If the court finds that the tenant is or has violated any of the provisions of the Declaration, the By-Laws of the Association or the rules and regulations, the court may find the tenant guilty of forcible detainer notwithstanding the facts that the Owner is not a party to the action and/or that the tenant is not otherwise in violation of tenant's lease or other rental agreements with the Owner. For purposes of granting the forcible detainer against the tenant, the court may consider the Owner a person in whose name a contract (the lease or rental agreement) was made for the benefit of another (the Association). The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies which the Association has. If permitted by present or future law, the Association may recover all of its costs, including court costs and reasonable attorney's fees, and such costs shall be a continuing lien upon the unit which shall bind the unit in the hands of the then unit Owner and the unit

Owner's successors and assigns. The Association will give the tenant and the Owner notice in writing of the nature of the violation of the rules, and thirty (30) days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

(8) by becoming a tenant, each tenant agrees to be bound by the Declaration, the By-Laws and other rules and regulations of the project, and recognizes and accepts the right and the power of the Association to evict the tenant for any violation by the tenant of the Declaration, the By-Laws or the other rules and regulations of the project.

L. Ponds, Lakes, Etc. No swimming, wading, bathing, fishing, or similar activity, and no boat, pontoon, raft, or other flotation device, shall be permitted in or on any pond, lake, or similar body of water on any lot or any Common Area, unless otherwise approved and/or authorized by action of the Board of Directors of the Association.

2. **Maintenance.** The exterior of each and every unit shall be maintained by the unit owner in a reasonable manner in accordance with the general standards of maintenance prevailing throughout the Property. All landscaping on the Lots shall be maintained in good condition. Installation and maintenance of landscaping at the front of a Lot and five (5) feet from unit shall be the responsibility of the unit owner. Maintenance of landscaping installed by the Owner at the rear of a unit is the responsibility of the Owner. All Lots, including any areas designated as "Open-Space Easements" or "Landscape and Signage Easements" on such Lots, shall be kept free of debris and clutter and shall be kept mowed. This paragraph shall not apply to any Lots owned by Declarant and held for sale.

3. **Right of Association to Levy Fines and to Remove or Correct Violations of this Article.** The Association may, in the interest of the general welfare of all of the Owners, and after reasonable notice to the Owner, enter upon any lot or the exterior of any unit at reasonable hours on any day for the purpose of removing or correcting any violation or breach of any attempted violation of any of the covenants and restrictions contained in this Article or for the purpose of Association or by the Architectural and Maintenance Committee. All charges incurred by the Association in enforcing this subparagraph and all charges incurred by the Association in correcting the violations hereunder, including court costs and reasonable attorneys' fees, shall constitute a lien against the offending lot and a personal obligation of the owner thereof, the lien to be governed by the same rules and priority as the annual assessment lien.

ARTICLE XI

MISCELLANEOUS

1. **Declarant's Reservation of Entry Rights.** The Declarant reserves the right for a period of two (2) years after the sale of a lot to an owner to enter upon the lot for purposes of correcting grade and drainage patterns for the benefit of the entire Property, provided that the Lot shall be restored with any pavement, grass or sod which shall have been removed.

2. **Declarant's and Association's Right to Grant Easements.** Notwithstanding the provisions of Article 3 or other provisions of this Declaration, the Declarant, as long as the Declarant owns a lot or as long as the project has not been fully expanded, and thereafter the Association is authorized without consent of the Members to grant above, through or under any lot or Common Area any utility easement, including television cable easement, deemed by the granting party to be necessary or convenient in the development or enjoyment of the community, provided that no easement shall be granted above, through or under any unit which materially restricts ingress and egress to such unit.

3. **Quit Claim Deeds and Correction Deeds.** The Association may execute and make in respect to the Common Areas (common property) quitclaim deeds and/or correction deeds in order to correct typing or surveying errors in legal descriptions or to reflect a lot as actually laid out or to correct any other error by which the Association was granted real estate or an interest in real estate by a mistake of any kind. Such conveyances by the Association shall also convey all right, title, and interest that each member of the Association has in the real estate conveyed, by reason of the Declaration and any amendment thereto. The Association may so act upon resolution of a majority of its Board of Trustees, if any, and if the Board does not exist, then by agreement of the majority of the Members of the Association. The executing and/or making of quitclaim deeds and/or correction deeds shall not constitute and shall not be deemed to be the abandoning, partitioning, subdividing, encumbering, selling or transferring of common property within the meaning of this Declaration.

4. **Declarant's Easements.** Until such time, if ever, that all of the real estate described in Exhibit "A" has been annexed into the project and has been made subject to the Declaration, the Declarant hereby retains and reserves easements and right-of-ways of every kind and variety, including for utilities and access, in, on, over and through the Common Areas. These easements are for the benefit of and run with such of the real estate described in Exhibit "A" that has not actually been annexed into the project and made subject to the Declaration. Specifically, these easements include the right of the Declarant and the successors and assigns of the Declarant to use the streets and right-of-ways on the Common Areas as access to the real estate that has not been annexed into the

project. All of these easements do run with the land and the owners of the lots benefited by these easements must pay a proportionate share of the cost of maintaining any improvements on the easements used by the owners of the benefited lots or real estate. The Declarant may go upon common ground in a reasonable and safe fashion to develop this unannexed real estate but must repair promptly any damage done and must not interfere substantially with the use of any unit in the project. Also, notwithstanding any other Section of this instrument, the Declarant reserves the right and easement to place advertising signs or other displays on the common areas and on units owned by the Declarant.

5. **Duration.** Except as otherwise provided and except where permanent or perpetual easements or other permanent rights or interest are herein created, the terms and provisions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument signed by the then Owners of two-thirds (2/3) of the Lots have been recorded, agreeing to terminate the Declaration.

6. **Amendment.** The Declaration may be amended, from time to time as follows:

A. **By Declarant.** The Declarant reserves the right and power, and each Lot Owner by acceptance of a deed to a Lot is deemed to consent to and does with an interest, which shall run with the title to the Lot, and is irrevocable except by Declarant for a period of five (5) years from the date hereof, to amend this Declaration to the extent necessary to conform to the original intent of this document, or to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, (including the U.S. Department of Housing and Urban Development, the U.S. Veteran's Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Environmental Protection Agency or similar agency), without the approval of the Lots Owners, or to the extent necessary to enable Declarant, in the Declarant's sole-discretion, to meet any other reasonable need or requirement in order to complete the development of the Property or to facilitate the making and marketing of first mortgages upon any of the Lots. Any amendment must be recorded and shall take effect only upon recording.

Additionally, the Declarant shall have the right to amend the Declaration as provided in Article II, Section 3 in order to annex additional property to the terms of this Declaration.

B. **By Lot Owners.** Except as otherwise provided in this Declaration, this Declaration may be amended at any time by an instrument executed by persons or entities enabled to exercise seventy-five (75%) of the voting power of the Association; provided, however, that Declarant's rights hereunder may not be amended or altered without Declarant's prior written consent. Any amendment must be recorded and shall take effect only upon recording.

7. **Personal Liability.** Nothing in this Declaration, the Articles or the regulations of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any Member of the Board of Trustees or any officer of the Association acting in his capacity as such, for the maintenance, repair or replacement of any part of the Common Areas and/or community facilities or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct and each person who becomes an Owner or Member hereby releases and discharges all liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such said person is covered by insurance and in such event the amount of recovery shall be limited to the amount of insurance.

8. **Notices.** Any notice required to be sent to any Member or Owner under the provisions of Declaration shall be deemed to have been properly sent when mailed, by first class mail, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

9. **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 covenants or restrictions, either to restrain or to enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants; and the failure or forbearance by the Association 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.

10. **Severability.** Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

11. **Conflicts.** In the case of any conflict between this Declaration and either the Articles of Incorporation or the By-Laws of the Association, the Declaration shall control.

12. **Condemnation.** In the event any Common Area and/or any community facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the appropriate Members.

13. **Professional Management Contracts and Other Contracts.** The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee on ninety (90) days or less written notice.

14. **Non-Liability of Declarant.** Neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration or the By-Laws, whether or not such claims shall be asserted by an Owner, Occupant, the Association, or by any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof, arising out of repair or by reason of any act or neglect of any Owner, Occupant, the Association and their representative agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to furnish or repair any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.) except as provided by any written warranty provided by the Declarant to an Owner or the Association.

15. **Action by Declarant.** Any provision in the Declaration or the By-Laws which requires or permits any action to be taken by Declarant shall only be effective in the event such action is evidenced in writing and signed by Declarant or its respective successors or assigns.

16. **Gender and Grammar.** The singular, whenever used shall be construed to mean plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other forms of business organizations, or individuals, men or women, shall in all cases be assumed as though in such case fully expressed.

IN WITNESS WHEREOF, the said **TERRACE DEVELOPMENT COMPANY, LLC, a Kentucky Limited Liability Company**, has hereunto set its signature on the day and year first written above.


TERRACE DEVELOPMENT COMPANY, LLC
A Kentucky Limited Liability Company

By: **TRIANGLE DESIGN GROUP, INC.**
A Kentucky Corporation (its Manager)

By: 
PHILIP A. DREES (its President)

STATE OF Kentucky)
COUNTY OF Kenton)

The foregoing instrument was acknowledged before me, this 25 day of SEPTEMBER, 2006 by **TERRACE DEVELOPMENT COMPANY, LLC, a Kentucky Corporation**, by and through **TRIANGLE DESIGN GROUP, INC., a Kentucky Corporation**, its Manager, by and through **PHILIP A. DREES**, its President, and the same is his voluntary act and deed.



Notary Public
Comm. Expires: 10/25/08

THIS INSTRUMENT PREPARED BY:


MICHAEL M. SKETCH
ADAMS, STEPNER, WOLTERMANN
& DUSING, P.L.L.C.
40 West Pike Street
P.O. Box 861
Covington, Kentucky 41011
(859) 394-6200

EXHIBIT "A"

[Legal Description]

Group Number: 4809
Plat Cabinet 5, Slide 293

Being all of Village Terrace, Phase II, being a Replat of Lot 7, Village Terrace Subdivision P.C. 5, Slide 182, as shown on plat recorded in Plat Cabinet 5, Slide 293 of the Boone County Clerk's records at Burlington, Kentucky.

RETURN TO
AFTER RECORDING, PLEASE RETURN TO:
Dennis R. Williams
Adams, Stegner, Woltermann & Dusing P.L.L.C
P.O. Box 861
Covington, Kentucky 41012

GROUP NO.: 4889

**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VILLAGE TERRACE PHASE 2**

This First Amended Declaration of Covenants, Conditions and Restrictions for
VILLAGE TERRACE PHASE 2 is made this 29 day of March, 2007 by **TERRACE
DEVELOPMENT COMPANY, LLC**, a Kentucky Limited Liability Company (hereinafter
referred to as "Declarant") on behalf of itself, its successors and assigns.

WITNESSETH

WHEREAS, the Declarant previously established Covenants, Conditions and
Restrictions for **VILLAGE TERRACE PHASE 2** which are recorded in Miscellaneous Book
1061, Page 721-737 of the Boone County Clerk's records at Burlington, Kentucky; and

WHEREAS, the Declarant reserved in Article XI paragraph 6 of the Declaration the
right to amend the Declaration of Covenants, Conditions and Restrictions; and

WHEREAS, the DEVELOPER has sufficient votes necessary for this Amendment and
desires to amend such Declaration of Covenants, Conditions and Restriction.

NOW, THEREFORE, the Covenants, Conditions and Restrictions for **VILLAGE**

TERRACE PHASE 2 are hereby amended as follows:

A. Article V, paragraph 2 is amended to read as follows:

2 Annual General Assessments; Purposes. The Annual General Assessments levied by the Association are for the purpose of promoting the enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the aesthetic and scenic qualities of the development and maintaining same.

The uses of the Annual General Assessment include, but are not limited to:

A. providing for grass cutting and landscape maintenance of Common Areas and on Lots;

B. snow removal from common areas, including undedicated roadways. Lot Owners are responsible for individual driveways, sidewalk(s) to the unit and sidewalk(s) in front of and/or to the rear of their unit and parallel to the street(s)

C. repair and replace streets (not dedicated to the public), common parking areas and walkways;

D. providing all necessary or desirable insurance coverage for the Association, including the Board, and for the real property and the personal property of the Association, including all insurance coverage required by Article VI;

E. providing trash and garbage pickup or other public services, to the extent determined reasonably necessary by the Board of Trustees of the Association;

F. providing and paying for administrative management and professional expenses of the Association.

G. providing for the maintenance, repair, and replacement of all improvements on Common Areas;

H. providing for and paying all of the obligations of the Association, including taxes, utilities and operating expenses; and

I. providing such additional matters, consistent with the general purposes of the Annual General Assessment as may be approved by the numbers as set out in this Declaration.

B. Article X, paragraph 2 is amended to read as follows:

2. Maintenance. The exterior of each and every unit shall be maintained by the unit owner in a reasonable manner in accordance with the general standards of maintenance prevailing throughout the Property. All Lots, including any areas designated as "Open-Space Easements" or "Landscape and Signage Easements" on such Lots, shall be kept free of debris and clutter. This paragraph shall not apply to any Lots owned by Declarant and held for sale.

C. Continuing Validity. Unless otherwise modified or amended herein, all terms, conditions and provisions of the Declaration are hereby confirmed, ratified and shall remain in full force and effect.

Terrace Development Company, LLC.
a Kentucky limited liability company,
by its managing member,
Triangle Design Group, Inc.
a Kentucky corporation

By: Phil Drees
Phil Drees, President

COMMONWEALTH OF KENTUCKY)
COUNTY OF Kenton)

SS

The foregoing instrument was acknowledged before me this 30th day of March, 2007, by **TERRACE DEVELOPMENT COMPANY, LLC, a Kentucky limited liability company**, by Triangle Design Group, Inc., its managing member, pursuant to authorizing resolution, by and through its President, Phil Drees.

Keum Carter
NOTARY PUBLIC
COMM. EXP. 12/29/09

CONSENT

NVR, Inc., a Virginia Corporation, being the owner of certain lots in Village Terrace Phase II, executes this instrument to give its consent to the foregoing amendments.

Dated this 30 day of March, 2007.

NVR Inc.,
a Virginia Corporation;

By: [Signature]
John MacCauley III
General Manager

STATE OF Ohio)
COUNTY OF Butler) SS

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, this 30th day of March, 2007 by NVR, INC., a Virginia Corporation, by and through John MacCauley III, its general manager.

[Signature]
NOTARY PUBLIC
My Comm. Exp. May 1, 2011



SUSAN R. BREHM
Notary Public, State of Ohio
My Commission Expires
May 1, 2011

This Instrument Prepared By:

[Signature]

DENNIS R. WILLIAMS
Adams, Stegner, Woltermann
& Dusing, P.L.L.C.
40 W. Pike Street
P.O. Box 861
Covington, Kentucky 41012
(859) 394-6200

DOCUMENT NO: 421316
RECORDED ON: APRIL 02, 2007 09:39:03AM
TOTAL FEES: \$16.00
GROUP : 4889
COUNTY CLERK: RENAY PING
COUNTY: BOONE COUNTY CLERK
DEPUTY CLERK: ELIZABETH BROWN
BOOK MC1074 PAGES 835 - 838