

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

020558

CHERRY HILL-ESTATES SECTION FIVE (5)  
PLAT AND SUBDIVISION <sup>Cabinet</sup> ~~BOOK~~ 3, PAGE 125

BULLITT COUNTY, KENTUCKY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for CHERRY HILL-ESTATES SECTION FIVE [5] {"Declaration"}, is made on April 2, 2007 by PHILLIP W. LEIGH, SR. located at 4518 Portico Ct., Louisville, Kentucky 40299 ["Developer"].

WHEREAS, Developer is the owner of certain real property in Bullitt County, Kentucky, which is to be developed as a residential subdivision:

NOW, THEREFORE, Developer hereby declares that all of the property described in this instrument, and such additional property as may be hereafter made subject to this Declaration pursuant to Article I, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the real property. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I PROPERTY SUBJECT TO THIS  
DECLARATION; AND ADDITIONS

Section 1. Existing Property. The real property which is subject to this Declaration is located in Bullitt County, Kentucky and is more particularly described as follows:

BEING lots SIXTY-THREE [63] through EIGHT-THREE [86] CHERRY HILL-ESTATES SECTION FIVE [5] CHERRY HILL inclusive as shown on the plat of CHERRY HILL, of record in Plat and Subdivision book \_\_, page \_\_ in the office of the clerk of Bullitt County, Kentucky.

BEING part of the same property purchased by Phillip W. Leigh and Martha R. Leigh by Deed dated January 11, 1997 of record in Deed Book 433, Page 77, and Deed dated March 27, 2007 of record in Deed Book 0690, Page 0179 both recorded in the office of the Clerk of Bullitt County, Kentucky.

Section 2. Additions to Existing property. Additional residential property and common areas may become subject to this Declaration, or may be annexed to the real property subject to this Declaration, as follows:

(a) Additions in Accordance With a General Plan of Development. Developer intends to make this section containing 24 lots a part of a larger community that is known as CHERRY HILL and will be developed in accordance with current plans and future plans known as CHERRY HILL.

Additional land now owned by Phillip W. Leigh, Sr. and Martha R. Leigh described in instrument recorded in Deed Book 433, Page 77, in the Office of the Clerk of Bullitt County, Kentucky, and any additional land that may be purchased in the future that is contiguous to the above mentioned land may be included by Developer as other sections of CHERRY HILL.

Developer reserves the right to create cross easements and to restrict all the properties according to the terms of this

Declaration. The common area's and landscaping easements initially covered by this Declaration shall inure to the benefit of the owners of any new lots in CHERRY HILL which may become subjected to this Declaration or a similar set of deed restrictions and any additional lots on other real estate which may hereafter be annexed to and made part of CHERRY HILL and subjected to this Declaration or a similar set of deed restrictions, and the common area allocatable to the owners of all such lots shall inure to the benefit of the owners of lots recorded earlier, each to enjoy the common area of the other and to have and to hold the same as if each new lot had been developed and subjected to this Declaration simultaneously.

All additions shall be made by filing with the Office of the Clerk of Bullitt County, Kentucky, a Supplementary Declaration of Covenants, Conditions and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. The Supplementary Declaration may contain 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 and as are not inconsistent with the scheme of this Declaration.

(b) Other additions. Additional residential property and common area which are not presently a part of the general plan of development of CHERRY HILL may be annexed to CHERRY HILL by Developer.

## ARTICLE II -- USE RESTRICTIONS

Section 1. (a) Primary Use Restrictions. No lot shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one single family dwelling designed for the occupancy of one single family ( including any domestic servants living on these premises), not to exceed two and one half stories in height in the front elevation and three and one half stories in height in the rear elevation and containing an attached two or three car garage for the sole use of the owner and occupants of the lot. A garage may be located in the basement area. One additional auxiliary building for storage of boats or cars etc. may be approved by the developer if it conforms and is harmonious with the surrounding buildings and homes and meets architectural requirements of CHERRY HILL and is no larger than 40 feet wide and 30 feet deep and 21 feet tall with doors no taller than 10 feet 2 inches.

{b} There shall be no further subdividing of the lots in CHERRY HILL, unless approved in writing by the developer.

{c} No portion of any lot in CHERRY HILL shall be used for ingress or egress to another lot unless approved in writing by the developer.

Section 2. Nuisances. No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

### Section 3. Use of Other Structures or Vehicles.

(a) No structure of a temporary character shall be permitted on any lot except temporary tool sheds, field offices, or sales offices used by a builder or Developer, which shall be removed when construction or redevelopment is completed.

(b) No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a lot shall at any time be used as a residence, temporarily or permanently.

(c) No trailer, truck, motorcycle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time unless housed by a garage, basement, or parked on a concrete pad at least 20 feet behind the rear of the house. No mobile home, commercial vehicle, or school bus shall be parked or kept on any lot at any time. No automobile which is inoperative shall be habitually or repeatedly parked or kept on any lot ( except in the garage ) or on any street in the subdivision for a period in excess of twenty-four hours in any one week.

(d) No automobile shall be continuously or habitually parked on any street or public right-of-way in the subdivision.

Section 4. Animals. No animals including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning the domestic pet traditionally recognized as household pets in this geographic area) may be kept, provided they are not kept, bred or maintained for any commercial or breeding purposes.

Section 5. Clothes Lines; Fences and Walls; Tennis Courts; Swimming Pools; Antennae and Receivers/Transmitters.

(a) No outside clothes line shall be erected or placed on any lot.

(b) No fence or wall of any nature shall be extended toward the front or street side property line beyond the front or side wall of the residences.

(c) No tennis court shall be constructed on any lot in the subdivision.

(d) No above ground swimming pools, except small one piece Childs pool shall be erected or placed on any lot. In ground pools may be approved, approval shall be within the sole and absolute discretion of the Developer and may be arbitrarily and unreasonably withheld.

(e) No antennae (except for standard small television antennae) or microwave and other receivers and transmitters (including those currently called " satellite dishes") shall be erected or placed on any lot unless its design and placement are approved by the Developer, which approval shall be within the sole and absolute discretion of the Developer and may be arbitrarily and unreasonably withheld.

(f) All mail boxes and columns must be CH1. If for any reason this box is not available a substitute box must be approved in writing by the Developer, which approval shall be within the sole and absolute discretion of the Developer and may be arbitrarily and unreasonable withheld.

Section 6. Duty to Maintain Lot.

(a) From and after the date of purchase of a lot until construction of a single family residence is started, Developer shall have the exclusive right to perform all the required maintenance on the lot, including but not limited to mowing. Each owner shall be assessed an annual fee payable in January at the rate of \$ 100.00 per year for the first (2) years following the date the lot owner acquires title to a lot; thereafter, Developer may assess the lot owner at an amount Developer determines necessary to maintain the lot until a residence is started.

(b) From and after the date construction of a single family residence on a lot is started, it shall be the duty of each lot owner to keep the grass on the lot properly cut, to keep the lot free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Should any owner fail to do so,

then the Developer shall take such actions it deems appropriate, including mowing, in order to make the lot neat and attractive, and the owner shall, immediately upon demand, reimburse Developer or the performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer shall have a lien on that lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that lot and the improvements thereon, but such lien shall be subordinate to any first mortgage thereon. All construction should be completed within six months of the starting date.

Section 7. Duty to Repair and Rebuild.

(a) Each owner of a lot shall, at his sole cost and expense, repair his residence, keeping the same in condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

(b) If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then owner shall, with all due diligence, promptly rebuild, repair, or reconstruct such residence in a manner which will substantially restore it to its apparent condition immediately prior to the casualty.

Section 8. Business; Home Occupations. No trade or business of any kind (and no practice of medicine, beauty shop, dentistry, chiropody, osteopathy and other like endeavors) shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Section 1 of this Article II, a new house may be used by a builder thereof as a model home for display or for the builders own office provided said use terminates within eighteen months from completion of the house or at the expiration of such additional period of time as may be expressly agreed to in writing by Developer.

Section 9. Signs. No sign for advertising or for any other purposes shall be displayed on any lot or building or a structure on any lot, except one sign for advertising the sale or rent thereof, which shall not be greater in area than six square feet; provided, however, Developer shall have the right to (i) erect larger signs when advertising the subdivision, (ii) place signs on the lot designating the lot number of the lots, and (iii) following the sale of a lot, place sign on such lot indicating the name of the purchaser of that lot. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

Section 10. Drainage. Drainage of each lot shall conform to the composite grading and drainage plan for the subdivision prepared by the developer's engineer and approved by the City of Mt. Washington. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system or graded away to adversely impact the adjacent properties. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing requirements. The responsibility of Drainage and the cost to be bring the drainage to Mount Washington Sewer District design standards will be the property owner's at the time of construction of the dwelling.

Section 11. Disposal of Trash. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers.

Section 12. Underground Utility Service.

(a) Each lot owner's electric utility service lines shall be underground throughout the length of service line from Salt River Rural Electric's point of delivery to customers residence, and title to the service lines shall remain in and the cost of the installation and maintenance thereof shall be borne by the respective lot owner upon which said service line is located.

Appropriate easements are hereby dedicated and reserved to each lot owner, together with the right of ingress and egress over abutting lots or properties to install, operate points. Electric service lines, as installed, shall determine the exact location of said easements.

The electric, gas and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment thereon and no change in the grade or elevation thereof shall be made by any person or lot owner without the expressed written consent of SRECC, LG&E and Alltell Telephone Company and their respective successors and assigns. b) Easements for overhead transmissions and distribution feeder lines, poles and equipment appropriate in connection therewith are reserved over, across and under all spaces (including open and drainage space area) outlined by dash lines and designated for underground and overhead facilities.

Aboveground electric transformers and pedestals may be installed at appropriate points in any electric easement.

In consideration of bringing service to the property subject to this Declaration, SRECC is granted the right to make further extensions of its lines from all overhead and underground distribution lines.

(c) The electric and telephone easements hereby dedicated and reserved to each lot owner, as shown on the recorded plat of CHERRY HILL-ESTATES SECTION 5, shall include easements for the installation, operation and maintenance of cable television service to the lot owners, including the overhead and/ or underground installation and service of coaxial cables, cable drop wires, converters, home terminal units and other necessary or appropriate equipment, as well as easements for the installation, operation and maintenance of future communication, telecommunication and energy transmission mediums.

Section 13. Rules for Landscaping areas and Lighting Maintenance. The CHERRY HILL Home Owners Association, Inc. of Bullitt County (the "Community Association") is authorized to adopt rules for the use and maintenance of the Landscaping areas and such rules shall be furnished in writing to the lot owners.

Section 14. Rules for Sidewalk Construction. All sidewalk construction shall conform the Mount Washington County Public Works rules and regulations concerning width, side slope and forward slope. Any cost of correction to meet the above conditions shall be at the expense of the owner of record at the time of correction. All legal expense to enforce and collect monies to pay for the corrections shall be at the owner of records expense.

### ARTICLE III-- ARCHITECTURAL CONTROL

#### Section 1. Approval of Construction and Landscape Plans.

(a) No structure shall be erected, placed or altered on any lot until the construction plans and building specifications and a plan showing (i) the location of

improvements and pavement on the lot; (ii) the grade elevation (including rear, front and side elevations); (iii) the type of exterior material (including delivery of a sample thereof if necessary); and (iv) the location and size of the driveway (which shall be concrete), shall have been approved in writing by the Developer in his sole discretion. A copy of all plans shall remain with the Developer until construction is completed.

(b) In addition to the plans referred to in the subparagraph (a) of this Section 1, a landscape plan shall be submitted to the Developer for its approval in writing, which plan shall show the trees, shrubs and other plantings then existing or to be planted on the lot. Required landscaping shall be completed by the of the dwelling at the time the house plans were approved. Each landscape plan shall have the following:

(a) a minimum of two six foot deciduous trees with a minimum 2 inch caliper in the front yard and in the case of a corner lot two additional trees of at least the same size.

(b) a minimum of one 5 foot deciduous flowering tree with a minimum 1 inch caliper in the front yard (not to be included in the foundation plantings)

(c) a minimum of one five foot evergreen tree of at least two inch caliper in the front yard (not to be included in the foundation plantings)

(d) a minimum of ten evergreen scrubs at least 18 inches high.

(e) a minimum of fifteen flowering scrubs at least 12 inches in height.

(f) all lots to be fully sodded in front of the home and side if corner lot at the end of construction phase.

(c) References to "Developer" shall include any entity, person or association to whom Developer may assign the foregoing right of approval or his heirs. References to "structure" may include garage, fence, wall, antennae (except for standard small television antennae), microwave and other receivers and transmitters including those currently called "satellite dishes", swimming pools, tennis courts, auxiliary buildings and fencing.

#### Section 2. Building Materials; Roof; Builder.

(a) The exterior building materials of all structures shall extend to ground level and shall be either brick, stone, brick veneer or stone veneer or a combination of same. Developer recognizes that the appearance of other exterior building materials (such as wood siding) may be attractive and innovative and reserves the right to approve in writing the use of other exterior building materials which consent may be arbitrarily and unreasonably withheld by Developer. No 4 'X 8 'wood panel siding may be used for siding on the house, garage or outbuilding. The use of vinyl siding for architectural purposes may be approved by the Developer, which approval shall be within the sole and absolute discretion of the Developer and may be arbitrarily and unreasonably withheld.

(b) The roof pitch of any residential structure shall not be less than a plane of 8 inches vertical for every plane of 12 inches horizontal for structures with more than one story, provided, however that dormers on one and one-half story houses may have a roof pitch of less than 5 inches vertical for ever 12 inches horizontal with the prior written consent of Developer in his sole discretion, which consent may be arbitrarily and unreasonably withheld by Developer.

(c) All windows designs and materials must be approved by the Developer which approval may be arbitrarily and unreasonable withheld by the Developer

(d) The general contractor constructing the residential structure on any lot shall have been in the construction business

for a period of one year and must have built a minimum of three homes. Developer makes this requirement to maintain a high quality of construction within the subdivision, and reserves the right to waive these standards of experience.

Section 3. Minimum Floor Areas. The following shall be the minimum floor areas for homes to be constructed after this instrument is recorded:

(a) The ground floor area of a one story house shall be a minimum of 2,100 square feet, exclusive of the garage, basement and porches.

(b) The ground floor area of a one and one half story house shall be a minimum of 1600 square feet, exclusive of the garage, basement and porches.

(c) The total floor area of a multi-level house shall be a minimum of 2,300 square feet, exclusive of the garage, basement and porches.

(d) The ground floor area of a two story house shall be a minimum of 1,250 square feet, exclusive of the garage, basement and porches.

(e) Finished basement areas, garages and open porches are not included in computing floor areas under this Section 3.

(f) All houses must be a minimum of fifty-five (55) feet in length at the foundation with or without an attached garage, exclusive of overhangs and cantilevers.

Section 4. Setbacks. No structure shall be located on any lot nearer to the front lot line than the minimum building setback lines shown on the recorded plat, except bay windows and steps may project into such area, and open porches may project into such area not more than 3 feet. No structure shall be located on any lot nearer any side lot line or side street line than the distance of nine (9) feet on one side and nine (9) feet on the other, except bay windows and steps may project into said areas. Developer may vary the established building lines, in its sole discretion, to the extent the same will not conflict with applicable zoning regulations.

Section 5. Garages and fencing.

(a) Garages, as structures, are subject to prior plan approval under Section 1 of this Article III. See size requirements

(b) No carport shall be constructed on any lot unless approved in writing by the Developer, such approval may be withheld arbitrarily and unreasonably by the Developer at his sole discretion.

(c) No fence shall be more than 48 inches in height nor made of a solid surface around the entire rear yard however, the Developer may approve a taller or solid fence around a pool, patio, deck or some extremely special circumstance. No fence may be erected unless approved in writing by the Developer, such approval may be withheld arbitrarily and unreasonable by the Developer at his sole discretion.

Section 6. Landscaping; Sidewalks; Trees; Driveways, alignment, size, material, location

(a) After the construction of a residence, the lot owner shall grade and sod that portion of the lot between the front and street side walls of the residence and the pavement of any abutting streets.

(b) Each lot owner, as required by the Mount Washington Department of Public Works, shall cause a sidewalk to be constructed on his lot at the time of construction of the residence. Each empty lot owner shall cause a sidewalk to be constructed on his lot within 60 days from the date construction was completed on 80% of the lots in CHERRY HILL-Estates Section 5 whether or not the lot owner has begun construction on that particular lot.

(c) No tree shall be removed from any lot without the prior written approval of Developer.

(d) Each lot owner shall concrete the driveway at the time of construction of the dwelling, however in the case of extreme weather or a need to have the ground settle for a time, a maximum extension of four months for completion of the concrete may be granted upon written request to the developer. Driveways shall be no wider than 32 feet inside the front property line. The approach shall be no wider than 24 feet.

(e) No pavement (whether parking area or driving area) shall be located closer than two feet to side property line.

No pavement shall be closer than 2 feet to the side property line at the intersection of driveway and street right of way line.

NOTICE\*\*\*\*\*ALL SIDEWALK AND DRIVEWAY LOCATIONS MUST BE APPROVED DURING THE PLAN APPROVAL PROCESS

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NOTICE OF SPECIAL EASEMENT

There are easements recorded on the plat of CHERRY HILL-ESTATES SECTION 5. The purpose of the easement is to permanently provide for drainage and water control required by City of Mount Washington. To insure these easements either remain in the original developed state the following rules shall become part of the restrictions and covenants:

1. No dumping of grass clipping, trash, or storage of materials of any kind shall be allowed in these area's.
2. No construction of any type (except an approved fence) shall be allowed in these area's
3. Planting of trees, shrubs, wild flowers, ivy, herbs, and these kinds of natural vegetation are encouraged and welcomed in these area's by the Developer.
4. No clearing of, grass, trees, vines, ivy or any natural vegetation shall be allowed at any time except by or for City of Mount Washington for drainage control.
5. During construction of a residence or garage all equipment , manpower, storage materials including excess dirt will not be allowed in these areas either temporarily or permanently.

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THESE REGULATIONS WILL BE VIGOROUSLY ENFORCED. IF YOU DO NOT AGREE WITH THESE TYPE REGULATIONS AND RULES, PLEASE DO NOT PURCHASE LOTS IN THIS SECTION.  
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(d) Upon an owners failure to comply with the provisions of this Section 6, Developer may take such action as shall be necessary to cause compliance therewith, and the owner shall immediately, upon demand, reimburse Developer or other performing party for all expenses incurred in so doing, together with allowable statutory interest, and Developer shall have a lien against that lot and the improvements thereon to secure the repayment of such amounts. Such lien may be enforced by foreclosure against that lot and improvements thereon, but such lien shall be subordinate to any first mortgage thereon.

ARTICLE IV -- COMMUNITY ASSOCIATION



Section 1. Owners' Easements of Enjoyment. Any landscaped easements, or landscaped roadway islands, Bridge and lighting, and common nature preserves shall become part of the common area subject to maintenance by the CHERRY HILL Homeowners Association. The right of enjoyment is subject to the following provisions:

(a) No common area shall be dedicated to a unit of local government without the acceptance of the unit of local government and the Bullitt County Planning Commission.

(b) The right of the Community Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Community Association. Developer may dedicate utility or service easements at his sole discretion so long as there is in existence the Class B membership in accordance with Section 13 of this Article IV, and so long as additions are permitted under Article I, Section 2.

Section 2. Delegation of Use. Any lot owner may delegate, in accordance with the Bylaws, his right of enjoyment to the common area to the members of his family or to his tenants or contract purchasers who reside on the property. Membership in the Community Association may not be conveyed separately from ownership in the lot.

Section 3. Community Association's Right of Entry. The authorized representative of the Community Association or the Board shall be entitled to reasonable access to the individual lots as may be required in connection with the preservation of property on a individual lot or in the event of an emergency or in connection with the maintenance of, repairs or replacements within the common area, or any equipment, facilities or fixtures affecting or serving other lots or the common area or to make any alteration required by any governmental authority.

Section 4. Assessments; Creation of the Lien and Personal Obligation. Each lot owner, except Developer, by acceptance of a deed for the lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Community Association (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article IV. Developer shall be responsible for the maintenance costs of the Community Association, incurred over and above assessed amounts payable to the Community Association by lot owners, until Developer transfers control of the Community Association. The annual and special assessments, together with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 5. Purpose of Assessments.

(a) The assessments levied by the Community Association shall be used exclusively for the acquisition, improvement and maintenance of landscaping, lighting and road and subdivision signage, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, payment of taxes assessed against the common area, the procurement and

maintenance of insurance in accordance with Bylaws, the employment of attorneys to represent the Community Association when necessary and such other needs as may arise, and for the improvement and maintenance of the common area. The Community Association shall maintain, operate and repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the common open spaces, landscaped easements, entrances, medians, bridge veneers and common lighting, and dedicated landscape easements that will be shown on this plat or granted to the association of Estate Section Two (2) CHERRY HILL and any future plats of CHERRY HILL and any landscaped easements or common area that may be added.

(b) Until Class B membership ceases and is converted to Class A membership pursuant to Section 13 of this Article IV, Developer or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting CHERRY HILL, as permitted in this Declaration.

Section 6. Maximum Annual Assessment.

(a) The annual assessment will be prorated in the first year based on the then current assessment. Thereafter on January 1 of each following year, the annual assessment will be \$125.00 per year. the assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of two-thirds of each class of member pursuant to the Bylaws.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. The Board of Directors shall determine when the assessment shall be paid.

Section 7. Uniform Rate of Assessment. Annual assessments shall be fixed at a uniform rate for all lots except those owned by Developer who is permanently exempt or SPECULATIVE BUILDERS who have a 12 months exemption.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The full annual assessments provided for in this Article IV shall begin as to any lot subject to the assessment the January following the date of conveyance. The annual assessment shall be prorated in the initial year of conveyance.

Section 9. Effect of Non-payment of Assessments; Remedies of the Community Association. Any assessment not paid by the due date shall bear interest from the due date at the maximum rate of interest then allowable by Kentucky law. The Community Association may bring an action at law against the owner personally obligated to pay the assessment, or foreclose the lien against the property, and interest, costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessments. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 10. Membership. Developer and every owner of a lot which is subject to an assessment shall be a member of the Community Association. Such owner and member shall abide by the Community Association's Bylaws, Articles of Incorporation and rules and regulations, shall pay the assessments provided for in this Declaration when due, and shall comply with decisions of the Community Association's Board of Directors. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 11. Classes of Membership. The Community Association shall have two classes of voting membership:

Class A. Class A members shall be all lot owners, with the exception of Developer, and shall be entitled to one vote per lot owned.

Class B The class B member shall be the Developer. Developer shall be entitled to ten votes for each lot owned. The class B membership shall cease and be converted to class A membership on the happening of either of the following events, whichever occurs earlier:

(i) Transfer of control by Developer no later than 10 years from the date of sale of the first lot to a lot owner other than Developer for this section.

(ii) When ninety per cent of the lots which may be developed in CHERRY HILL have been sold by Developer.

#### ARTICLE V -- GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceeding at law or in equity, brought by an owner or by Developer against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages including cost and reasonable attorney fees, failure of any owner or Developer to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions Run With Land. Unless cancelled, altered or amended under the provisions of this Section 3, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten years, unless an instrument signed by a majority of the then owners of the front footage of all lots subject to these restrictions has been recorded agreeing to change these restrictions and covenants in whole or in part. These restrictions may be cancelled, altered or amended at any time by the affirmative action of the owners of 85 per cent of the lots subject to these restrictions including the Developers lots.

Section 4. Limitation upon Power of Amendment. Notwithstanding the power of amendment of this Declaration and of the covenants and restrictions contained herein as set forth in Section 3 of this Article, no amendment of this Declaration which accomplishes any of the following may be undertaken without the consent and approval of the Bullitt County Planning Commission or its successor agencies:

(a) Additional Land. The addition of additional residential property or common area to the real property subject to this Declaration other than those additions permitted by Section 2 (a) of Article I of this Declaration.

(b) Landscape Requirements. Alteration of the landscape plan requirements set forth in Section 1 (b) of Article III of this Declaration.

(c) Common Area Rights and Easements. Alteration of the rights and obligations concerning the Rights and Easements of Enjoyment of the Common Areas as established by Section one of Article IV of this Declaration or alteration of the rights and obligations regarding maintenance of the Common Areas.

(d) Extent of Common Areas. Diminution or elimination of the Common Areas as described in Section 1 of Article VI of this Declaration. Anything to the contrary herein notwithstanding, the Homeowners Association (and the lot owners) shall be responsible for the maintenance of all common open space, private roads, islands in the right-of-way, and signature entrances, so long as the subdivision is used as a residential subdivision or until properly dedicated to a unit of local government. This provision shall not be amended.

Section 5. Non-Liability of the Directors and Officers. Neither Developer nor the directors and officers of the Community Association shall be personally liable to the owners of the lots for any mistake or judgment or for any other acts or omissions found by a court to constitute gross negligence or actual fraud. The owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successors and assigns in accordance with the Bylaws of the Community Association.

Section 6. Board's Determination Binding. In the event of any dispute or disagreement between any owners relating to the property subject to this Declaration, or any questions of interpretation or application of the provisions of this Declaration or the Bylaws, the determination thereof by the Board shall be final and binding on each and all such owners.

IN WITNESS WHEREOF the undersigned, being the Developer herein has hereunto set his hand this 30th day of April 2007.

PHILLIP W. LEIGH, SR.

*Phillip W. Leigh, Sr.*  
\_\_\_\_\_  
Phillip W. Leigh, Sr.

STATE OF KENTUCKY  
COUNTY OF Bullitt

I, the undersigned Notary Public, within and for the State and County aforesaid do hereby certify that the foregoing instrument was produced to me in said State and County and signed, acknowledged by, and sworn to by PHILLIP W. LEIGH, SR., DEVELOPER.

WITNESS my signature this 30th day of April 2007

CHESTRES.DOC

*Phillip W. Leigh*

Prepared by:  
Phillip Leigh  
4518 Portico Ct.  
Louisville, Ky 40299  
502-267-1297

Beverly Y. Bowley  
Notary Public, State at Large, Kentucky  
My Commission expires: 3-25-2008

DEED TAX  
LOOKED AND RECORDED THIS  
2007 APR 30 PM 3:34  
REVIN MONEY  
BULLITT COUNTY CLERK  
BY *B. Bowley* D.C.

FEE PD. ST. 400 CLK 4100