

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
McCOY PLACE HOMEOWNERS ASSOCIATION, INC.**

This **DECLARATION OF COVENANTS AND RESTRICTIONS FOR McCOY PLACE HOMEOWNERS ASSOCIATION, INC.**, made effective as of this the 24 day of Feb, 2006, by the undersigned, being the owner of all of the real property presently comprising McCoy Place Subdivision as described in deed of record in Deed Book 898, Page 783, in the office of the Warren County Clerk.

Article I

Definitions

The following words when used in this Declaration, unless the context shall prohibit shall have the following meanings:

- (a) “Developer” shall mean H & D Development of Bowling Green, LLC, its successors and assigns.
- (b) “McCoy Place” shall mean and refer to all lots of real estate as are comprised within the deed and plat as set out above and as further set out under the provisions of Article II below.
- (c) “Lot” shall mean or refer to any plot of land intended and subdivided for residential use shown on the subdivision plat encompassing all or any portion of the real estate described in Deed Book 898, Page 783, in the office of the Warren County Clerk, together with any and all improvements thereon.
- (d) “Owner” shall mean or refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgage or subsequent holder has acquired titled pursuant to foreclosure of any proceeding in lieu of foreclosures.
- (e) “Association” shall mean “McCoy Place Homeowners Association, Inc., a Kentucky non-stock, non-profit corporation.

Article II

Property Subject to This Declaration

Section 1. Legal Description. The real property which is and shall be held, transferred, sold conveyed and otherwise occupied subject to this declaration is located in McCoy Place Subdivision on Three Springs Road in Bowling Green, Warren County, Kentucky and comprises all real property, including building lots, easements and open space as more particularly described in deed of record in Deed Book 898, Page 783, in the office of the Warren County Clerk.

Article III

Land Use and Easements

Section 1. All property within the development is subject to the Statement of Binding Elements of record in Deed Book 896, Page 515, in the office of the Warren County Clerk which are incorporated herein by reference.

Section 2. No inoperable vehicles shall be permitted to be stored outside of the garage.

Section 3. No above-ground pools are permitted with the exception of inflatable pools for children's use which are temporary in nature.

Section 4. No dog or other animal pens are permitted which are larger than eight (8) feet by ten (10) feet, and all dog pens must be landscaped on three sides in order to screen them from adjacent properties.

Section 5. All exterior lighting shall be directed downward or, if decorative, shall be of a low wattage. All exterior lighting shall be designed and maintained in such a manner as to light only the lot upon which the residence is located and shall not light any adjacent lots nor be designed in such a manner as to be intrusive upon any adjacent lots.

Section 6. All mailboxes shall be provided by the Developer and shall be installed in accordance with regulations adopted by the Developer.

Section 7. There shall be no fencing of front or side yards, and no rear yard fencing shall extend past the rear corners of the residence.

Section 8. All open space and easements for drainage shall be maintained by the Association, a non-profit, non-stock corporation, which is incorporated in such a manner as to include as members thereof all owners of Lots, all as more particularly described in Article VI below. Said easement areas and open space shall be kept open at all times, and neither the lot owner nor their respective agents, servants or invitees shall permit the obstruction of any kind to exist in said easement which will, in any way, prevent or obstruct free ingress and egress to said easement for purposes of maintenance.

Article IV

Design Review

Section 1: Design Review Committee. A Design Review Committee consisting of three persons who shall be the President of the Association, its Vice-President and one of its member at large as selected by the Board of Directors of the Association. The Design Review Committee shall be responsible to the Board of Directors and the Association.

Section 2: Purpose. The Design Review Committee shall regulate and refer to the Board of Directors of the Association for approval the external design, appearance and location of the Properties and of the improvements thereon in such a manner as (a) to promote those qualities in the environment which bring value to the Properties and (b) to foster the attractiveness and functional utility of the community as a place to live, including a harmonious relationship among structures, vegetation and topography. It is the intention that the Design Review Committee and the Board of Directors deal with the design concept of McCoy Place Subdivision as a whole, including such matters as signs, landscaping and site layout and such structures as antennas, basketball goals and swing sets, beyond the normal understanding of matters "architectural," in order to benefit the entire subdivision, economically and aesthetically, be fostering the attractiveness of McCoy Place Subdivision.

Section 3: Requirement. No building, fence, wall, residence structure or projecting from a structure (whether of a temporary or permanent nature, and whether or not such structure shall be affixed to the ground) shall be commenced, erected, maintained, improved or altered, nor shall any grading, tree removal, planting, change of exterior color or other work which in any way alters the exterior appearance of any lot or improvement be done, without the prior written approval of the Board of Directors regarding (a) the harmony of its exterior design and location in relation to, and its effect upon surrounding structures, vegetation, topography, and the overall community design of the Properties, (b) the character of the exterior materials and (c) the quality of the exterior workmanship.

Section 4: Procedures. In the event the Board of Directors fails to approve or disapprove in writing an application within thirty days after the plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse decision to the Association which may reverse or modify such decisions by a two-thirds vote of those owners present and voting at a meeting at which a quorum is present.

Section 5: Objectives of Review. The Design Review Committee and the Board of Directors in examining applications for design approval shall consider the various aspects of design, with special emphasis on the following objectives:

(a) Landscape and Environment. To prevent the unnecessary destruction or blighting of the natural landscape or of the achieved man-made environment.

(b) Relationship of Structures and open Spaces. To ascertain that the treatment of build-up and open spaces is designed so that they relate harmoniously to the terrain and to existing buildings that have a visual relationship to the proposed development.

(c) Protection of Neighbors. To protect neighboring owners and users by making sure that reasonable provisions have been made for such matters as surface water drainage, sound and sight buffers, the preservation of views, light and air, and other aspects of design which may have substantial effects on neighboring property.

(d) Circulation. To determine that the proposal facilitates appropriate pedestrian access, servicing and parking for all users including, where applicable, the handicapped, the very young, and the elderly.

Section 6: Guidelines. The Design Review Committee shall, subject to the approval of the Board of Directors of the Association, develop and promulgate policy guidelines for the application of the design review provisions in this Declaration. The policy guidelines shall include (a) review procedures, (b) aspects and objectives of review, and (c) principles and criteria used as standards in determining the achievement of the required objectives. The policy guidelines may also include special design practices that, though optional, are generally acceptable methods for achieving the required objectives in particular design problems frequently encountered in the Subdivision. The policy guidelines are intended to assist the Design Review Committee, the Board of Directors, and the Owners of Lots in the ongoing process of community design. They may be modified and supplemented from time to time by the Board of Directors of the Association.

ARTICLE V

Restrictions

Section 1: All shrubs, trees, grass and planting of every kind shall be kept well maintained, properly cultivated, and free of trash and other unsightly material. Landscaping shall be completed as approved in writing by the Design Review Committee and the Board of Directors. All portions of lots not improved with structures or paving shall be kept as lawns or grass, except those portions planted with trees, shrubs, bushes and other plantings. In addition, all lands forming portions of a public right-of-way between the boundary of a lot and the pavement installed within the right-of-way, shall be grassed by the adjacent and abutting owner and maintained by him as a portion of his lawn. Rock or gravel yards are prohibited.

The Association, acting by and through its Board of Directors, shall have the power and authority to contract for the maintenance and cultivation of the open spaces, recreational areas and easements designated for water retention or drainage. If the Association elects to provide said services, it shall be mandatory that the Owners of all lots utilize said services and provide access to

their premises for the performance of landscape, maintenance and cultivation. The costs for these services shall be paid by the Association as a part of the common expenses of the Association, thereby being paid by the lot owners through payment of their respective proportional shares of the common expenses.

Section 2. Garbage and refuse shall be placed in suitable containers which shall be concealed and contained within buildings or shall be concealed by means of a screening wall or material similar and compatible with that of the building or buildings on the lot or shall be concealed by sufficient landscaping to provide a permanent screen at all times of the year. Unless specifically approved by the Board of Directors, no materials, supplies or equipment shall be stored on any lot except inside a closed building or behind a visual barrier which shall screen such areas so that they are not visible from neighboring streets or lots.

Section 3: No above ground storage tanks, including but not limited to , those used for storage of water, gasoline, oil, or other liquid or gas, shall be permitted on the lot outside of the building except as approved by the Design Review Committee and the Board of Directors

Section 4. No unsightly growth shall be permitted to grow or remain upon any lot and no refuse or any other unsightly object shall be allowed to be placed or remain anywhere thereon. In the event any owner shall fail or refuse after a thirty (30) day notice mailed to his last known address to keep his lot free of such unsightly growths or objects, the Association may enter upon said lot and remove the same at the expense of the owner and such entries shall not be deemed a trespass. Said expense shall be allowed and become a lien on said lot.

Section 5: The Properties shall not be used in any manner to explore for or use commercially any water, hydrocarbons, minerals of any kind, gravel, earth, solid or any other such substances located in or under the ground.

Section 6: All windows, porches, balconies, and exteriors of all buildings on any lot shall at all times be maintained in a neat and orderly manner. Exterior of all homes and other structures must be completed within one (1) year after construction is commenced, except where such completion would result in great hardship to the owner due to strikes, fires, or natural calamities.

Section 7: No poultry or livestock or any animals of any kind shall be raised, kept, bred or maintained except that owners and occupants may have dogs, cats, or other household pets provided that they are not kept, bred, or maintained for any commercial purpose and do not constitute an annoyance or nuisance to the neighborhood.

Section 8: The Association or any lot owner, shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restrictions, to restrain violation, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any lot owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter. The expense of

successful enforcement of these covenants and restrictions shall be chargeable to the owners of the lot or lots violating these covenants and restrictions and shall constitute a lien on said lot or lots, which lien, as with any other lien created herein to secure performance of these covenants and restrictions, shall be enforceable the same as any other involuntary lien by judicial sale of the premises in satisfaction of the indebtedness its secures, provided, however, any such lien shall be inferior to any prior period recorded mortgage, lien or vendor's lien. Any such lien may be evidenced by a notice of lien which may be filed by the claimant in the Warren County Clerk's office.

Section 9: Failure to enforce any of the foregoing restrictions shall not be deemed a waiver of the right to do so thereafter and the invalidation of any one or more of the said restrictions by judgment or court order shall in no way affect any of the remaining restrictions and covenants which shall continue in full force and effect.

Section 10: The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, until December 31, 2030, unless otherwise expressly limited herein, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then owners of two-thirds (2/3) of the lots of the Properties has been recorded, agreeing to the change said covenants and restrictions in whole or in part. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by owners of not less than two-thirds (2/3) of the lots of the Properties at any time. Any amendment must be properly recorded in the Warren County Clerk's office to be effective.

ARTICLE VI

McCoy Place Homeowners Association, Inc.

The administration and supervision of the foregoing covenants and restrictions and all indicated open space or recreational areas and the adoption of rules and regulations governing the use of same shall be by a Kentucky nonprofit, nonstock corporation entitled "McCoy Place Homeowners Association, Inc.," which shall be incorporated so as to include as members thereof all owners of lots of the Properties. The Association shall also provide such other services for the overall benefit of the owners as the Association may elect to provide. The objects and purposes of the Association may include, but shall not be limited to:

- (a) Maintaining all open space and recreational areas in a clean and sanitary condition and observing and performing all laws, ordinances, rules and regulations now or hereafter made by any governmental authority with respect to said areas. Providing for the maintenance and cultivation of the lawns, trees, shrubs, and other plantings located upon the lots of the Co-owner.
- (b) Enforcing design, architectural and environmental guidelines as established by the Design Review Committee under Article V above.

(c) Overseeing the development of recreational, social, cultural and educational programs to meet the needs and interests of the Association members. The owner of any lot, upon acquiring title, shall automatically become a member of the Association and shall remain a member until such time as his ownership of such lot ceases for any reason, at which time his membership in the Association shall automatically cease.

Section 1: The powers and duties of the Association shall be in accordance with this Declaration, the Bylaws of the Association and all Rules adopted by the Association. Specifically, but not by way of limitation, the Association may:

- (a) adopt and amend bylaws and rules and regulations;
- (b) adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from lot owners;
- (c) hire and terminate managing agents and other employees, agents, and independent contractors;
- (d) institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more lot owners on matters affecting the subdivision;
- (e) make contracts and incur liabilities;
- (f) regulate the use, maintenance and repair of all open spaces and recreational areas; provide for the maintenance and cultivation of the landscaped areas of the individually owned lots;
- (g) cause additional improvements to be made as a part of the open space and recreational areas;
- (h) acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property;
- (i) grant easements, leases, license, and concessions through or over the open space and recreational areas;
- (j) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable charges for expenses incurred relative to violations of the declaration, bylaws, and rules and regulations of the Association;
- (k) impose reasonable charges for the preparation and collection of unpaid assessments;
- (l) provide for the indemnification of its board of directors, officers and any executive board and maintain directors' and officer's liability insurance;

- (m) exercise any other powers conferred by the Declaration or Bylaws;
- (n) exercise any other powers that may be exercised in this State by legal entities of the same type as the Association; and
- (o) exercise any other powers necessary and proper for the governance and operation of the Association.

Section 2: All charges, costs, and expenses incurred by the Association for or in connection with its operation; all liability for loss or damage arising out of or in connection with same, all premiums for hazard, liability and other types of insurance; and legal, accounting, management and other services shall constitute common expenses of the Association, of which the lot owners shall be severally liable for their respective proportionate shares.

Section 3: No lot owner may except himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his lot.

Section 4: Any special assessment for the payment of common expenses shall be established by the Association and shall not exceed \$100⁰⁰ a year unless increased in accordance with the By-laws of the Association. Said special assessment shall be payable as determined by the Association.

Section 5: All sums assessed for common expenses shall constitute a lien on the lots prior to all other liens except (1) liens for taxes and assessments lawfully imposed by governmental authorities against such lots and (2) the lien of a first mortgage. Such lien may be enforced by suit by the Association, in like manner as a mortgage of real property, provided that thirty (30) days written prior notice of intention to sue to enforce the lien shall be mailed, postage prepaid, to all persons having an interest in such lot. Suit to recover a money judgment for unpaid common expenses shall be maintainable without judicial lien enforcement and without waiving the lien securing same.

IN TESTIMONY HEREOF, the owner of all of the real property presently comprising McCoy Place Subdivision has executed these on this 24 day of Feb, 2006, effective as of 24 Feb, 2006.

H & D Development of Bowling Green, LLC

BY: 
DONALD E. COOK, Member

COMMONWEALTH OF KENTUCKY

COUNTY OF WARREN

I, the undersigned, a Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that the foregoing Declaration of Covenants and Restrictions for McCoy Place Homeowners Association, Inc. was executed before me by H & D Development of Bowling Green, LLC, by and through its Member, Donald E. Cook, and that Donald E. Cook personally appeared before me, after being first duly sworn, and declared that he is a Member of H & D Development of Bowling Green, LLC and that he executed the foregoing Declaration of Covenants and Restrictions for McCoy Place Homeowners Association, Inc. as a Member of H & D Development of Bowling Green, LLC and that the statements contained therein are the free and voluntary act and deed of H & D Development of Bowling Green, LLC.

Witness my hand on this the 24 day of Feb, 2006.



NOTARY PUBLIC, Ky. State-at-Large

My Commission Expires: 2-11-2010

THIS INSTRUMENT PREPARED BY:

ENGLISH, LUCAS, PRIEST & OWSLEY, LLP
Attorneys at Law
1101 College Street, P.O. Box 770
Bowling Green, KY 42102-0770
(270) 781-6500

BY:



KEITH M. CARWELL

350787-1