

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE VILLAGES AT GARRISON COVE SECTION II

21ST CIVIL DISTRICT OF RUTHERFORD COUNTY, TENNESSEE

THIS DECLARATION, made on the date hereinafter set forth by OLE SOUTH PROPERTIES INC, a Tennessee Corporation, hereinafter referred to as "Declarant," the Developer of The Villages at Garrison Cove, Section II.

WITNESSETH:

WHEREAS, Declarant is the owner of a certain tract of real estate that has been subdivided and named The Villages at Garrison Cove, according to a plat of same made by Huddleston-Steele Engineering, Inc., which plat is of record in Plat Book 24 page 158 all in the Register's Office of Rutherford County, Tennessee, and which plat is made a part hereof by reference.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above 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, 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

- A. **Association.** Association shall mean and refer to The Villages at Garrison Cove Homeowner's Association, its successors and assigns.
- B. **Owner.** Owner shall mean and refer to the record owner, (including Declarant whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- C. **Property.** Property (whether singular or plural) means all the land, property and space which is the subject of this instrument (by amendment or otherwise), and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the owner.
- D. **Common Areas.** Common areas shall mean all real property and the improvements thereon owned or maintained by the Association for the common use and enjoyment of the owners. Common area to be owned by the Association at the time of the conveyance of the first lot is as described on the plat of record in the Plat Book, and on the page as set forth hereinabove shall also include, but not be limited to, the swimming pool, pool house, playground, decorative entrances into the subdivision, and street islands.
- E. **Lot.** Lot shall mean and refer to any numbered plot of land shown upon any recorded subdivision map for the properties with the exception of the common areas and dedicated streets, if any. Title to lots will be held by an Owner or Owners in fee simple. Proposed lots in future sections which are added shall become part of the Association when the first lot is sold in the new Section. An Amendment to this Declaration and a new or amended Plat shall be recorded simultaneously.
- F. **Residence or Unit.** Residence or Unit shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by a single family.
- G. **Member.** Member shall mean and refer to every person or entity who holds legal or equitable title to a lot located within the Subdivision.
- H. **Declarant** Declarant successors or assigns should acquire more than one undeveloped lot from the Declarant for the shall mean and refer to Ole South Properties, Inc., its successors and assigns, if such purposes of development. Declarant shall be synonymous with developer for the purpose of this declaration.
- I. **Common Expenses.** Common expenses mean and include (a) expenses of administration, operation, management, repair or replacement of the common Areas of the project, (b) expenses declared common by the provisions of the instrument or the Charter, or by-laws of the Association, (c) all sums lawfully assessed by the Board and (d) expenses as provided in any duly authorized management agreement.

J. Plat. Plat means the plat of survey of the Property of record in the said Plat Book and on the said page as recited hereinabove, showing the number of each Lot and expressing its area, location and other data necessary for identification and any new or amended plats added pursuant to this Declaration. Developer is authorized and empowered irrevocably to amend the Plat (without joinder of any Lot Owner) to reflect as-built construction, to correct mistakes and to more clearly define common elements.

K. Majority or majority of the Lot Owners. Majority or Majority of the Lot Owners Means the owners of more than fifty (50%) percent of the undivided membership in the Association present and then eligible to vote. Any specific percentage of Lot Owners means that percentage of Lot Owners who in the aggregate own such specified percentage of the entire undivided membership in the Association, present and then eligible to vote.

ARTICLE 11 THE ASSOCIATION

Section 1. Every owner of a lot that is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member (s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

Section 3. The Association shall annually elect Officers to carry out the business affairs of the Association. The officers shall at a minimum include a President and a Secretary.

ARTICLE III CONVENANTS FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's 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 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and specifically for the purpose of maintaining the Common Areas and paying for the Common Expenses.

Section 3. Maximum Annual Assessment. The maximum quarterly assessment shall be set by the Association and shall bear a reasonable relationship to the actual expenses of the Association, to include, but not be limited to capital costs and expenses.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including turn lanes, fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No much subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a semi-annual basis.

Section 7. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall be billed by the Association on a quarterly basis, and commence as to all Lots on the first day of the month following the conveyance of the lot. The first quarterly assessment shall be adjusted according to the number of months remaining in the quarter. The Board of Directors shall fix the amount of the assessment against each Lot on an annual basis, at least thirty (30) days in advance of the first calendar quarter of each year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be March 31, June 30, September 30, and December 31. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall 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 payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV ARCHITECTURAL CONTROL

The Association, under the guidance of its Officers, shall have architectural control over the Property only so far as set forth herein.

The Association's architectural control as set forth herein exists in order to assure maximum protection to all lot owners, to assure continuity and to have conformity to high aesthetic and environmental standards, and to have the initial but non-exclusive right to enforce these covenants. The Association shall have the powers and duties necessary for the proper care and control of any common areas in said subdivision, such as entrances, undeveloped lots and buffer zones and may do all acts as set forth herein or as delegated by the lot owners of the subdivision. Such powers and duties of the Association shall be limited to, the following:

(a) Construction plans and specifications for any outbuildings to be erected on any lot must be submitted to the Association for its approval. No outbuildings or fences shall be commenced or constructed prior to receiving approval by said Association in writing. The Association shall ascertain that the exterior design and exterior finishes of any outbuilding are in harmony with the above-stated goals and standards to the end that the dwellings located in the subdivision are uniform and aesthetically pleasing, without the utilization of garish colors or architectural design. In fact, the Association shall be the sole arbitrator of said exterior design and finish and may withhold approval for any

reason, including purely aesthetic considerations. The Association shall designate any changes or alterations which shall be necessary for approval. Plan approval or a statement of changes or alterations shall be forwarded in writing to the lot owner. Failure by the Association to approve or reject within a 30 day period of time shall constitute approval.

(b) Meetings of the Association may be held at such time and place as the members shall determine, and provided a majority of the whole Association is present, no prior notice is necessary. At all meetings of the Association, a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute a decision of the Association. Said Association shall elect a chairman to preside and a secretary to take minutes and communicate with interested lot owners. *Robert's Rules of Order* will be followed in the conduct of business of the Association.

(c) There shall be a general right-of-way and easement for the benefit of the Association, its officers, agents and employees to enter upon lots or buildings to perform their respective duties and to exercise their powers as enumerated in these covenants or future construction.

2. No lot may be used for any purpose except for the construction and maintenance of a residential building, and no such residential structure on any such lot shall be designed, constructed or used for more than one family. Group homes of any kind are expressly prohibited.

3. No lot shall be resubdivided, but shall remain as shown on the recorded plat, and not more than one residence building may be constructed or maintained on any lot. A slight variance in the property lines may be made by adjacent owners, but not for the purpose of subdivision into more lots.

4. No noxious or offensive operation shall be conducted or maintained on any lot, and nothing shall be done on any lot which may constitute an annoyance or nuisance to the neighborhood.

5. No animals of any kind shall be allowed or maintained on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept for commercial purposes. Horses and goats are expressly prohibited.

6. No trailer, basement house, tent, garage, barn or other outbuilding shall be erected or used as either a temporary or permanent residence on any lot.

7. No building shall be constructed or maintained on any lot closer to the street than the setback line as shown on the recorded plat; provided, however, unclosed porches, either covered or uncovered, bay windows, steps, or terraces shall be permitted to extend across the setback lines; provided further, however, that the main structure does not violate the setback line.

8. The minimum interior heated living area of any single family dwelling, exclusive of open porches and garages, shall be 1,600 square feet.

9. All dwelling houses shall have an attached garage.

10. All outbuildings shall be constructed so as to blend and be comparable in structure to the residence on any lot. All outbuildings must be approved by the appropriate governmental authority and the Association before construction may begin. All such outbuildings shall be "stick built" on site. No prefabricated outbuildings shall be permitted.

11. No fence shall be permitted between any rear corner of the dwelling and the street. The use of hedges, shrubbery or evergreens as a fence, or in lieu of a fence, and extending to the front or sides of any lot is permitted provided that such hedges, shrubbery or evergreens are not in excess of forty-two (42) inches in height. Subject to the foregoing, no fence may be located closer than five (5) feet from any side lot line or closer than ten (10) feet from the rear lot line. All fences must be approved by the Association as to materials, construction and location. The Association shall have the administrative authority, on a case by case basis to grant exceptions to this Paragraph # I I for the sole purpose of allowing fence construction contrary to this Paragraph #I I when, due to the unusual shape or size of a Property owner's lot, this Paragraph would otherwise preclude the construction of a fence.

12. No lot shall be used as a dumping ground for rubbish or trash. All lots shall be kept in a clean and sanitary condition and free and clear of all litter. Each owner shall be responsible for the safe, clean and attractive maintenance of all land, buildings, improvements and landscaped areas of any lot. No inoperative or junk automobiles shall be permitted on any lot or street in the subdivision.

13. The Developer or its assigns reserves the right to enter upon any lot for the purpose of cutting grass and cleaning up such lot if the same reasonably requires, charging the expense thereof to the lot owner, which expense shall become a lien upon the lot

14. No sign of any kind shall be displayed on any lot without approval of the Association, except for small realty signs 4 square feet maximum) advertising the property "For Sale."

15. Unlicensed vehicles shall not be parked in the driveway of any lot or operated within the subdivision.

16. Children of residents or their guests shall not be permitted in drainage ditches during wet weather.

17. Developer reserves a perpetual easement for utility installation, maintenance and drainage five feet in width along each side and rear lot line.

18. Developer further reserves unto itself, its successors and assigns, the following easements and rights of way in, on, over, under and through all lots, and each building located thereon, for so long as Developer owns any lot or building primarily for the purpose of sale, to-wit:

(a) For the installation, construction and maintenance of conducts, lines and necessary or property attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, television cables and other utilities;

(b) For the construction of buildings and related improvements;

(c) For the installation, construction and maintenance of storm water drains, public and private sewers and any other public or quasi-public utility facility;

(d) For the use of any sales office, model units or buildings and parking spaces in connection with its efforts to market lots and/or dwelling houses;

(e) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of lots and/or dwelling houses.

19. Exterior television and radio antennas shall not extend more than two feet in height above the ridge line of the dwelling house roof. Satellite dishes shall not exceed twenty-four inches in diameter.

20 No outside clotheslines or other apparatus for the drying of clothes shall be permitted.

21. All building setback lines required by the controlling governmental authority shall be strictly observed and followed.

22. Lot owners are prohibited from obstructing the free flow of storm surface water drainage and/or diverting, and/or changing such drainage flow in any manner resulting in damage or hazard to any other lot owner.

23. All driveways shall be surfaced with poured concrete.

**ARTICLE V
GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by 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.

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

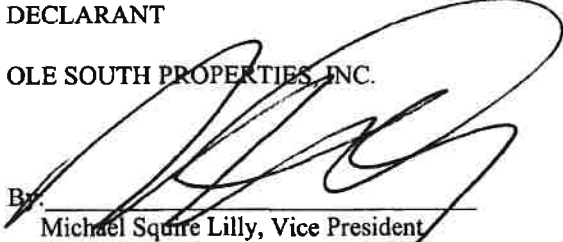
Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by a majority vote of the Homeowners' Association as provided in article III of this Declaration of Covenants, Conditions and Restrictions. Voting shall be as provided in said Article III and any amendment filed hereto certified by the secretary of the corporation indicating said amendment was duly authorized shall effectively amend the Declaration of Covenants, Conditions and Restrictions herein contained.

Section 4. Annexation. Additional adjacent land may be annexed by the Declarant without the consent of the members within ten (10) years of the date of this instrument.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 17th day of October, 2001.

DECLARANT

OLE SOUTH PROPERTIES, INC.

By: 

Michael Squire Lilly, Vice President

STATE OF TENNESSEE)

COUNTY OF RUTHERFORD)

Before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, MICHAEL SQUIRE LILLY, whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Vice President of OLE SOUTH PROPERTIES, INC., the within named bargainor, a corporation, and he as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such Vice President.

WITNESS MY HAND and official seal at my office on this the 17th day of October, 2001.



My commission expires: 21 Oct 2001

Prepared by:
Jack E. Gritton, Atty.
752 South Church Street
Murfreesboro, TN 37130

Jennifer M Gerhart, Register
Rutherford County Tennessee
Rec #: 273827 Instrument 1087700
Rec'd: 25.00 NBk: 62 Pg 25
State: 0.00
Clerk: 0.00
EDP: 2.00
Total: 27.00
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10/17/2001 at 2:30 PM
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