

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR  
CUMBERLAND LAKES AT CUMBERLAND COVE  
UNIT 201 PROPERTY OWNERS ASSOCIATION, INC.**

This Amended and Restated Declaration of Covenants and Restrictions for Cumberland Lakes is made and entered into on this 23<sup>rd</sup> day of March, 2010, by the Cumberland Lakes at Cumberland Cove 201 Property Owners Association, Inc. (the Association).

**WITNESSETH:**

**WHEREAS**, the original Declaration of Covenants and Restrictions for Cumberland Lakes at Cumberland Cove Unit 201 Property Owners Association, Inc. (the Declaration) was executed by General Development Corporation, a Delaware corporation, on June 9, 1988, and was filed for record in Deed Book 358, page 369, and Deed Book 358, page 393, et seq., Register's Office, Cumberland County, Tennessee; and,

*LL4c*

**WHEREAS**, pursuant to Article VIII, Section 1, of the Declaration relating to amendments, an Amended and Restated Declaration of Covenants and Restrictions (the Amended and Restated Declaration) was submitted to the membership of the Association for consideration and approval; and,

BK/PG: 1337/361-377  
10003264

27 PGS: AL - RESTRICTIONS	
REC'D BY: 3/23/10	002226 P#
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	135.00
RECORDING FEE	0.00
DE FEE	2.00
RECORDING FEE	0.00
TOTAL AMOUNT	137.00

STATE OF TENNESSEE, CUMBERLAND COUNTY  
JUDY GRAHAM SWALLOWS

TRANSFERRED ON  
RECORD BOOK  
CUMBERLAND COUNTY

MAR 30 2010

*David W. Smock*  
ASSESSOR OF PROPERTY

**WHEREAS**, under Article VIII, Section 1, to approve the Amended and Restated Declaration required the affirmative vote of two-thirds of the outstanding votes of members; and,

**WHEREAS**, at the time the Amended and Restated Declaration was submitted, there were 517 lots eligible for membership and voting; and,

**WHEREAS**, of the 517 eligible members, 142 submitted proxies authorizing the Board of Directors to cast the ballot for those members, all of which ballots were cast by the designated proxies in favor of the adoption of the Amended and Restated Declaration, 207 ballots were received voting in favor of the adoption of the Amended and Restated Declaration, and 58 ballots were received voting in opposition to the adoption of the Amended and Restated Declaration; and,

**WHEREAS**, accordingly since more than 345 affirmative votes were received for the adoption of the Amended and Restated Declaration, the Amended and Restated Declaration has been duly adopted.

**NOW, THEREFORE**, in accordance with the original Declaration of Covenants and Restrictions, that document stands amended by substituting in its place and stead the hereinafter set out Amended and Restated Declaration of Covenants and Restrictions for Cumberland Lakes at Cumberland Cove Unit 201 Property Owners

Association, Inc. for all of the properties in Cumberland Lakes originally encumbered by the restrictive covenants contained in the original Declaration. The text of the Amended and Restated Declaration of Covenants and Restrictions is as follows:

**PREAMBLE**

The purpose of this Amended and Restated Declaration is to amend, restate, replace, and supersede the Declarations approved on June 9, 1988 by General Development Corporation, recorded at Deed Book 358, page 389, et seq., Deed Book 358, page 393, et seq., and Deed Book 358, page 412, et seq., Register's Office, Cumberland County, Tennessee (collectively the Original Declaration).

**NOW, THEREFORE, Cumberland Lakes @ Cumberland Cove Unit 201 Property Owners Association, Inc. (the Association) hereby declares that the property described herein has been developed as a residential community which may include, but is not limited to, open spaces, greenbelts, parks, lakes, docks, dams, playgrounds, recreational facilities, community centers, administrative offices, emergency fire and water facilities, central potable water facilities, roads and entry features for the benefit of the community; and,**

The Association desires to provide for the preservation of the values of the community, for the maintenance of the open spaces, greenbelts, parks, lakes, docks, dams, playgrounds, recreational facilities, community centers, administrative offices, roads, entry features, any other pertinent structure, and other common facilities, if any, and for services to lots and living units, which may include, but is not limited to, trash and garbage collection, security and lawn maintenance, and to this end, desires to subject the real property described in the Original Declaration at Deed Book 358, page 389, et seq., Register's Office, Cumberland County, Tennessee, together with common properties and additions as may hereafter be made thereto, to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the property and each owner of the property; and,

The Association has deemed it desirable for the efficient preservation of the values of the community, for the Association to have the authority and powers for maintaining and administering the community properties and facilities and administering and enforcing the Covenants and Restrictions and collecting and disbursing the assessments and charges hereinafter created.

The Association hereby declares that the subject property, as hereinafter defined, shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens and charges set forth herein, all of which are created in the best interests of the owners and residents of the subject property, and which shall run with the subject property and shall be binding upon all persons having and/or acquiring any right, title or interest in the subject property or any portion thereof, and shall inure to the benefit of each and every Person, from time to time, owning or holding an interest in the subject property, or any portion thereof.

C:\Ab\declaration\cumberland lakes (8-11-08) (clean)

1. **DEFINITIONS.** The words and phrases listed below, as used in this declaration, shall have the following meanings, unless the context otherwise requires:

1.1 **Assessments** means the amount of money which may be assessed against an Owner for the payment of the Owner's share of common expenses, and/or any other funds which an Owner may be required to pay to the Association as provided by this Declaration, the Charter or the Bylaws.

1.2 **Association** means the Cumberland Lakes @ Cumberland Cove 201 Property Owners Association, Inc. (the Association), and any Person or Entity who may be assigned the rights of the Association pursuant to a written assignment executed by the then present Association and recorded in the public records of each county in which the subject property is located. In any event, any subsequent Association shall not be liable for any actions or defaults of, or obligations incurred by, any prior Association, except as same may be expressly assumed by the subsequent Association.

1.3 **Board** means the Board of Directors of the Association.

1.4 **Bylaws** means the Bylaws of the Association, as amended from time to time.

1.5 **Charter** means the Charter of the Association, as amended from time to time.

1.6 **Common Expenses** mean all expenses of any kind or nature whatsoever properly incurred by the Association, including, but not limited, to the following:

1.6.1 Expenses incurred in connection with the ownership maintenance, repair, improvement or operation of the common properties, or any other property to be maintained by the Association as provided in this declaration, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements and alterations.

1.6.2 Expenses of obtaining, repairing or replacing personal property owned by the Association.

1.6.3 Expenses incurred in connection with the administration and management of the Association.

1.6.4 Expenses declared to be common expenses by the provisions of this Declaration or by the Charter or Bylaws.

1.7 **Common Properties** means the property described as Common Property in the Original Declaration, including, but not limited to, and any other real property and properties on any recorded plats, whether improved or unimproved, or any easement or interest therein, now or hereafter owned by the Association, or which is intended by the Association, to be owned by the Association, or which is dedicated to the Association any recorded plat of any portion of the subject property, or which is declared to be a common property by this declaration. Common properties shall be dedicated and set aside for the following uses, including but not limited to, parks, open areas, greenbelts, lakes, docks, dams, recreational facilities, community centers, administrative offices, any other pertinent structure, roads,

entranceways, playgrounds, drainage areas, emergency fire and water facilities, central potable water facilities, ingress and egress and other similar properties, provided that the foregoing shall not be deemed a representation or warranty that any or all of the foregoing types of common properties will be provided. Use of the common properties shall be restricted and devoted to the common use and enjoyment of the owners of the Subject Properties.

1.8 **Common Surplus** means the excess of all receipts of the Association over the amount of the common expenses.

1.9 **Declaration** means this declaration, as it may be amended from time to time.

1.10 **Factory-Built Homes** - Factory-Built Homes as defined by the Manufactured Housing Institute are as follows:

1.10.1 **Modular Homes** - applies to factory-built housing that is ordinarily 85 to 95 percent complete when the unit leaves the factory. Modular homes usually consist of two or three-dimensional boxes that are shipped complete (or nearly complete) from the factory and are connected together on the site. Units may be single or double sections. These units are required to conform to state regulations and local building codes that are in effect where the unit will be located. The advantage of modular homes is reduced construction time on the site and lower costs than conventional homes.

1.10.2 **Panelized Homes** - applies to factory-built housing that is composed of prefabricated panels built in a factory. The panels contain whole walls including interior wiring and exterior siding. State regulations and local building codes that are in effect where the unit will be located govern construction. The advantage of panelized homes is the quality control provided by factory assembly and faster completion time of the unit.

1.10.3 **Pre-cut Homes** - applies to factory-built housing that is constructed on site from material cut-to-fit and finished in a factory. Pre-cut homes include kit, log and dome homes. These units are required to conform to state regulations and local building codes. The advantage of the pre-cut home is the quality control provided by factory assembly and faster completion time of the unit.

1.10.4 **Mobile Homes** - applies to manufactured housing units built before the Federal Manufactured Home Construction and Safety Standards, also known as the HUD Code, went into effect in June 1976.

1.10.5 **Manufactured Homes** - applies to factory-built housing that is 98 percent complete when transported to the home site. Housing units are produced in single or double sections. On average, it takes 108 hours to build a single manufactured home. Manufactured homes are required to comply with the HUD Code. Manufactured houses are preempted from following state and local building codes because of the chassis substructure that enables transportation and allows interstate travel. In contrast to state regulations and local building codes, which typically prescribe material systems for certain construction types, the HUD Code is performance based and provides only standards for strength, transportability, fire resistance, energy efficiency and quality for conformance. No manufactured home may be shipped from the factory unless it

complies with the HUD Code and is released for shipment by an independent third-party inspector certified by HUD. Of the factory-built housing, 68 percent is manufactured housing.

1.11 **Institutional Lender** means the holder of a mortgage encumbering a lot, which holder in the ordinary course of business makes, purchases, guarantees, or insures mortgage loans, and which is not owned or controlled by the Owner of the lot encumbered. An Institutional Lender or mortgage investment trust, pension or profit sharing plan, mortgage company, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, an agency of the United States or any other governmental authority, or any other similar type of lender generally recognized as an institutional-type lender. For definitional purposes only, an institutional Lender shall also mean the holder of any mortgage executed by or in favor of the Association, whether or not such holder would otherwise be considered an institutional lender.

1.12 **Living Unit** means any portion of a building situated upon a lot designed and intended for use and occupancy as a residence by a single family.

1.13 **Lot** means any lot shown on any recorded plat of any portion of the subject property or any other portion of the subject property which contains or is intended to contain a living unit. The term lots shall include any other improvements located upon or within the lot. Lots grouped together in accordance with amendments 3 and 4 (attached) are considered a single lot for purposes of this declaration, provided, however, that this definition is subject to the terms and provisions of the Fourth Amendment to Declaration of Covenants and Restrictions at Deed Book 358, page 369, et seq., which Fourth Amendment is dated December 4, 2000, and is of record at Book 1067, page 1029, et seq., Register's Office, Cumberland County, Tennessee, and further provided, however, that this definition is subject to the terms and provisions of the Third Amendment to Declaration of Covenants and Restrictions at Deed Book 358, page 393, et seq., which Third Amendment is dated June 9, 1998, and is of record at Book 1023, page 752, et seq., Register's Office, Cumberland County, Tennessee.

1.14 **Member** shall mean a person who owns at least an undivided one-half interest in a lot at Cumberland Lakes, provided that any person or entity which holds such interest merely as a security for the performance of an obligation shall not be a Member. There shall be no more than two (2) members per lot. The memberships associated with lots owned by a corporation, partnership, limited liability company, limited partnership, or an entity other than a natural person, shall designate up to two (2) persons who shall enjoy the privileges of membership for a lot so owned.

1.15 **Owner** means the record owner(s) of the fee title to any lot but notwithstanding any applicable theory concerning a mortgage encumbering any lot, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.16 **Person** means an individual, corporation, partnership, trust or any other legal entity.

1.17 **Roads** mean roads as shown on the recorded subdivision plats for the subject property.

1.18 **Subject Property** means all of the property which is subject to this declaration from time to time, which as of the execution and recording of this Declaration is the property

described in the Original Declaration, and includes any property that is hereafter added to this declaration, and excludes any property that is hereafter withdrawn from this declaration, by an amendment, provided, however, that this definition is subject to the Amendments to the Declaration of Covenants and Restrictions at Deed Book 358, page 369, which Amendment is of record at Book D455, page 603, and Book D456, page 476, et seq., Register's Office, Cumberland County, Tennessee, and provided further, however, that this definition is subject to the Amendments to the Declaration of Covenants and Restrictions at Deed Book 358, page 393, et seq., which Amendment is of record at Book 1015, page 1784, et seq., Register's Office, Cumberland County, Tennessee.

1.19 Living Unit Owner means the record holder(s) of the fee title to a living unit.

1.20 Guests and Renters means anyone using the Common Properties with the permission of an owner.

1.21 Members Voting means only members of record current in the payment of Assessment Fees.

## **2. COMMON PROPERTIES, DUTIES AND OBLIGATIONS OF THE ASSOCIATION.**

2.1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Cumberland County, Tennessee, and is more particularly described all of that property described in the original Declaration (specifically including approximately 11.79 acres in Putnam County, Tennessee, identified in the records of the Assessor of Property of Putnam County as Map 74, Parcel 12.00), all of which property and lots shall hereinafter be referred to as the "Properties".

2.2. Common Properties. The properties described in the original Declaration as Common Properties and those properties shown on the plats of Cumberland Lakes other than residential lots shall be referred to as "Common Properties" and shall be dedicated as open spaces, greenbelts, lakes, docks, dams, parks, playgrounds, recreational facilities, emergency fire and water facilities, central potable water facilities, roads and entry features, for drainage purposes, and for ingress and egress and that the use of said Common Properties shall be restricted and devoted to the common use and enjoyment of the owners of "The Properties" as herein defined.

2.3 Use and Benefit. All Common Properties shall be held and dedicated as open spaces, greenbelts, lakes, docks, dams, parks, playgrounds, recreational facilities, for drainage purposes and for ingress and egress by the Association for the use and benefit of the Association, the Owners and residents of the subject property, and their respective guests, renters, and invitees, the holders of any mortgage encumbering any lots from time to time, and any other persons authorized by the Association, and for all proper and reasonable purposes and uses for which the Common Properties are reasonably intended, subject to the terms of this declaration, subject to the terms of any easement, restriction, reservation or limitation or record affecting the Common Property or contained in the deed or instrument conveying the Common Property to the Association, and subject to any rules and regulations adopted by the Association. An easement and right for such use is hereby created in favor of all Owners, appurtenant to the title to their Lots.

**2.4 Additions, Alterations or Improvements.** The Association shall have the right to make additions, alterations or improvements to the Common Properties, and to purchase any personal property as it deems necessary or desirable from time to time, provided however that the approval of a majority of the votes cast by the Members voting at a meeting called for this purpose, or on a ballot submitted for this purpose, shall be required if any recreational facility, community centers, administrative offices, or any other structure is removed or substantially and adversely affected.

Should the cost of additions, alterations or improvements, or any purchases of personal property exceed one and one half times the total annual assessments in any given fiscal year for common expenses payable by all of the Owners, such expenditure must be approved by a majority of the votes cast by the members voting at a meeting called for this purpose, or on a ballot submitted for this purpose. Approval shall not be required with respect to (i) expenses incurred in connection with the maintenance or repair of existing common properties; (ii) expenses incurred in connection with the maintenance or repair of personal property presently owned by the Association; and, (iii) the replacement of personal property, or repair and maintenance of Common Property, the expenditures for which do not exceed one and one-half times total annual assessments.

The Association shall further be allowed to incur debt, the principal amount of which may exceed one and one half times the total annual assessment, provided that the annual payments required to amortize and pay said indebtedness does not exceed one and one half times the total annual assessment.

**2.5 Utilities.** The Association shall pay for all utility services for the Common Properties, or for any other property to be maintained by the Association, as a Common Expense.

**2.6 Taxes.** The Association shall pay all real and personal property taxes and assessments for any property owned by the Association as a Common Expense.

**2.7 Insurance.** The Association shall purchase insurance as a Common Expense, as deemed necessary and appropriate by the Board as follows:

**2.7.1 Hazard Insurance.** protecting against loss or damage by fire and all other perils customarily covered for similar types of projects, including those covered by the standard all-risk endorsement, excluding land foundations, excavations and other items normally excluded from insurance coverage. The Association shall not use hazard insurance proceeds for any purpose other than repair, replacement or reconstruction of any damaged or destroyed property.

**2.7.2 Comprehensive General Liability Insurance.** protecting the Association from claims for bodily injury, death or property damage providing for coverage of at least \$1,000,000 for any single occurrence. Notwithstanding the foregoing, if the Board determines that it is impossible or unduly expensive to obtain \$1,000,000 of general liability insurance, then the Board may obtain a lower amount of general liability insurance.

**2.7.3 Blanket Fidelity Bonds** for anyone who handles or is responsible for



funds held or administered by the Association, covering the maximum funds that will be in the custody or control of the Association or any managing agency.

**2.7.4 Such other insurance** as may be desired by the Association, such as flood insurance, errors and omissions insurance, workman's compensation insurance, or any other insurance.

**2.7.5 All insurance** purchased by the Association must include a provision requiring at least ten (10) days written notice to the Association before the insurance can be cancelled or the coverage reduced for any reason.

**2.8 Damage or Destruction.** In the event any improvement (other than landscaping) within any Common Property is damaged or destroyed due to fire, flood, wind or other casualty or reason, the Association may restore, repair, replace or rebuild (hereinafter collectively referred to as a "repair") the damaged improvement to the condition the improvement was in immediately prior to such damage or destruction. If any landscaping within any common property or any other property maintained by the Association is damaged or destroyed, the Association shall only be obligated to make such repairs to the landscaping as is determined by the Board in its discretion. Any excess cost of repairing any improvement over insurance proceeds payable on account of any damage or destruction shall be a Common Expense, and the Association shall have the right to make a Special Assessment for any such expense.

**2.9 Maintenance of Common Properties and Other Property.** The Association shall maintain all Common Properties and property owned by the Association, and all improvements thereon, in good condition at all times. If pursuant to any easement, the Association is to maintain any improvement within any property, then the Association shall maintain such improvement in good condition at all times. Without limitation, the Association shall have the right to assume the obligation to operate and/or maintain any walls or fences on or near the boundaries of the Subject Property, and, including, but not limited to, any pavement, recreation building, waste removal, landscaping, sprinkler systems, other improvements, in or near any public or private road right-of-ways within or contiguous to the subject property. The Association, as determined by the Board, may establish a reserve for future maintenance, repairs, and replacements. If any property owned by any governmental authority benefits the Owners, the Association may maintain such property (subject to any requirements imposed by such governmental authority) if the Association determines such maintenance would be in the best interests of the Owners.

**2.10 Sale of Common Properties.** Except for minor boundary adjustments, the grant of easements, and gifting of minor portions, the Association shall not sell or transfer any common property owned by the Association without the approval of a majority of the votes cast of the Members voting. The Association's governing board shall have full authority to lease or mortgage common properties. If ingress or egress to any lot is through any common property, any conveyance or encumbrance of such common property shall be subject to an appurtenant easement for ingress and egress in favor of the Owner(s) of such lots unless alternative ingress and egress is provided to the Owner(s).

## **PROPERTY RIGHTS IN THE COMMON PROPERTIES**

### **3. PROPERTY RIGHTS IN THE COMMON PROPERTY.**

**3.1 Members' Easements of Enjoyment.** Subject to the provisions of Paragraph 3.2, every Member subject to assessments as provided in Article 5, shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

**3.2 Use of Common Properties for Drainage.** Some of the Common Properties may be used for drainage and the temporary retention of storm water run-off from the subject property and other contiguous property, as well as for open space, recreation, rights of ingress and egress and other related activities. No structure, planting or other material shall be placed or permitted to remain in the Common Properties which might impair or interfere with the drainage or temporary retention of storm water run-off of the subject property or other contiguous property.

**3.2.1** As provided above, the obligation to maintain the Common Property for drainage purposes shall be an obligation of the Association unless and until the area is transferred to a governmental authority for maintenance and control thereof at which time the Association shall relinquish control and each Member of the Association shall be required to make payments as established by the governmental authority.

**3.2.2** In the event the Association is dissolved or otherwise ceases to exist, then in such event the Association shall have the right to assign, transfer and deliver over to a governmental authority or to any other like organization the powers herein reserved to the Association.

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

**3.3.1** It is the right of the Association, in accordance with its Charter and Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties, if needed.

**3.3.2** The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure.

**3.3.3** The right of the Association, as provided in its Charter and Bylaws to suspend the voting rights of any Property Owner for any period during which any Assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

**3.3.4** The right of the Association to charge reasonable admission and other fees for the maintenance of the Common Properties.

**3.3.5** The drainage and temporary retention of storm water run-off uses of the Common Properties referred to in Paragraph 3.2, and elsewhere herein.

**3.4 Utility and Other Easements.** There is reserved unto the Association the right to grant easements for the installation and maintenance of public utilities and temporary roads on the common properties in addition to those already reserved. No such grant shall require the removal or relocation of any improvements existing on the common properties on the date of the grant. The grant of easement shall not require member approval.

**3.5 Grant and Modification of Easements.** The Association shall have the right to grant, modify or terminate easements over, under, upon and/or across any property owned by the Association, and shall have the further right to modify, relocate or terminate existing easements in favor of the Association.

**3.6 Right to Grant Permits, Licenses and Easements.** The Association has the right to grant permits, licenses and easements over the Common Properties for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance of operation of the project.

**3.7 By Any Person** Any Person may convey title to any property within the subject property owned by such Person, or any easement or interest therein, to the Association as a Common Property, but the Association shall not be required to accept any such conveyance, and no such conveyance shall be effective to impose any obligation for the maintenance, operation or improvement of any such property upon the Association, unless the Board expressly accepts the conveyance by executing the deed or other instrument of conveyance or by recording a written acceptance of such conveyance in the public records of the county in which the property conveyed is located.

**4. ASSOCIATION.** In order to provide for the administration of the Common Property and this Declaration, the Association has been organized under the Laws of the State of Tennessee.

**4.1 Membership.** Member shall mean a person who owns at least an undivided one-half interest in a lot at Cumberland Lakes, provided that any person or entity which holds such interest merely as a security for the performance of an obligation shall not be a Member. There shall be no more than two (2) members per lot. The memberships associated with lots owned by a corporation, partnership, limited liability company, limited partnership, or an entity other than a natural person, shall designate up to two (2) persons who shall enjoy the privileges of membership for a lot so owned.

**4.2 Members' Voting Rights.** Each lot upon which maintenance fees are being paid shall be entitled to one vote in the affairs of the Association. If lots have been combined or grouped so that only one maintenance fee is being paid for multiple lots, the owner of the combined or grouped lots shall be entitled to only one vote in the affairs of the Association. Only members in good standing shall be allowed to vote. Members in good standing are defined as those members who are current in all obligations to the Association.

If more than one person owns an interest in a lot, the owners shall designate the voting member. If a lot is owned by a corporation, limited liability company, partnership, or other legal entity, that entity shall designate the voting member. The votes of the Members shall be established and exercised as provided in the Declaration and Bylaws.

**4.3 Powers of the Association.** The Association shall have all the powers indicated or

incidental to those contained in its Charter and Bylaws. In addition, the Association shall have the power to enforce this Declaration and shall have all powers granted to it by this Declaration. By this Declaration, the Subject Property is hereby submitted to the jurisdiction of the Association.

**4.4 Approval or Disapproval of Matters.** Whenever the decision, consent or approval of the Owners is required upon any matter, whether or not the subject of a Association meeting, such decision shall be made in accordance with the Charter and Bylaws, except as otherwise provided herein, and shall be deemed given upon the affirmative vote of a majority of the votes cast by Owners, unless a greater voting requirement is required by this Declaration, or the Bylaws, as to the matter being voted upon.

**4.5 Acts of the Association.** Unless the approval or action of the Members and/or a certain specific percentage of the Board is specifically required by this Declaration, the Charter or Bylaws, or by applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board, without the consent of the Members, and the Board may so approve an act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken, such action or approval may be conditioned in any manner the Association deems appropriate, or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.

**4.6 Management and Service Contracts.** The Association shall have the right to contract for professional management or services on such terms and conditions as the Board deems desirable in its sole discretion, provided, however, that any such contract shall not exceed three (3) years and shall be terminable by either party without cause and without payment of a termination or penalty fee on ninety (90) days or less written notice.

## **5. ASSESSMENTS FOR COMMON EXPENSES.**

**5.1. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular for the improvement, operation and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties including but not limited to, the payment of taxes and insurance on the Common Properties, and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, as well as for the purpose of payment for drainage maintenance and, where applicable, taxes assessed by a governmental entity.

**5.2. Determination of assessments for common expenses.** Not less than thirty (30) days prior to the beginning of each fiscal year, the Board shall adopt a budget for such fiscal year which shall estimate all of the common expenses to be incurred by the Association during the fiscal year. In determining the budget for any fiscal year, the Board may take into account Common Properties, lots and additions to the subject property anticipated to be added during the fiscal year. The Board shall then establish the assessments for common expenses per lot, which shall be equal to the total amount to be assessed for common expenses pursuant to the budget, divided by the total number of lots within the subject property. The Association shall

then promptly notify all Owners, in writing, of the amount, frequency, and due dates of the Assessments for Common Expense per lot.

**5.3 Determination of Special Assessments.** Subject to the provisions of Section 2.4 of this Declaration, if an expenditure of funds is required by the Association in addition to funds produced by the regular assessments for Common Expenses, the Board may make special assessments for common expenses, which may include assessments to provide funds to pay for an existing or proposed deficit of the Association, or for any additions, alterations or improvements to any Common Property, or for any other purpose (Section 2.4 of this Declaration limits the Association's ability to expend funds without member approval). Special assessments for Common Property shall be levied in the same manner as hereinbefore provided for regular assessments for common expenses and shall be payable in one lump sum or as otherwise determined by the Board in its sole discretion as stated in the notice of any special Assessments for Common Expenses.

**5.4 Responsibility and Purpose.** The Owner(s) of each Lot shall be responsible for the payment of assessments for common expenses or other assessments to the Association as hereinafter provided. Said assessments shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the subject property and in particular for the improvement, operation and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the common properties including, but not limited to, the payment of taxes and insurance on the common properties, and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, as well as for the purpose of payment for drainage maintenance, and where applicable, taxes assessed by a governmental entity.

**5.5 Notice and Due Dates.** The notice to all Owners, of the regular or special assessment and due date for common expenses per lot, should be mailed first class to the last address supplied to the association by the owner(s). In no event shall any regular or special assessment for common expenses payable by any owner be due less than 30 days from the date the notification is mailed to the owner(s).

**5.6 Payment of assessments for common expenses.** On or before the date each Assessment for common expenses is due, the Owner(s) of each lot shall be required to and shall pay to the Association an amount equal to the Assessment for common expenses per Lot, multiplied by the number of lots owned by the Owner. The Association shall, upon demand at any time, furnish to any Owner liable for said Assessment a certificate in writing signed by an officer of the Association setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

**5.7 Enforcement.** If any Owner fails to pay any Assessment for common expenses when due, the Association shall have the rights set forth in Paragraph 7.1, including, but not limited to the charging and collection of interest, the recording of a Claim of Lien and the foreclosure of the same.

**5.8 Maximum assessments.** Notwithstanding anything contained herein or to the contrary, the regular Assessment for common expenses per Lot may not be increased by more than twenty-five (25%) percent over the prior year's regular Assessment, without the approval of a

majority of the votes cast by the members voting.

## **6. MAINTENANCE & SERVICES**

**6.1 Exterior Maintenance.** Should an owner fail to maintain the appearance of their property, including any structure, in accordance with the general standards of the community of Cumberland Lakes, the Association, acting through the Architectural & Environmental Compliance Committee (AECC), may take the following actions: 1) The Architectural & Environmental Compliance Committee shall give the owner written notification of the deficiency(ies). The owner will be given thirty (30) days to comply or appeal to the Board. 2) After thirty (30) days, the Board will provide written notification to the owner giving the owner thirty (30) days to correct the deficiency (ies). 3) If, after the 30 day period allowed by the Board, the owner has neglected or refused to begin correcting the deficiency(ies), the Board, at the owner's expense, may, but is not required to take remedial action as may be necessary and/or levy a fine (See Section 10.4 for Enforcement).

**6.2 Assessment of Cost.** The cost of such exterior maintenance shall be assessed against the lot or living unit upon which such maintenance is done and shall be added to and become part of the Assessment or charge to which the Lot or living unit is subject under Article 5 hereof and, as part of this Assessment, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article 5 hereof. Provided that, the Board, when establishing the Assessment against each lot or living unit for any assessment year as required under Article 5 hereof, may add to the Assessment the estimated cost of the exterior maintenance for that year but, thereafter, shall make such adjustment with the Owner as is necessary to reflect the actual cost hereof. There shall be included in the maintenance charges the costs of exterior painting and repairing or replacing of roofs and exterior building surfaces as may be required under paragraph 6.1 above, and of facilities located on the Common Property.

**6.3 Access at Reasonable Hours.** For the purpose solely of performing the exterior maintenance authorized by paragraph 6.1, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or the exterior of any living unit at reasonable hours on any day except Sunday.

**6.4 Services provided to Lots and Living units.** As shall be determined by the Board, services which the Association may provide to individual Lots and Living units may include, but are not necessarily limited to security, such as guard patrols, and other miscellaneous services which, in the opinion of the Board, are consistent with the purposes of the Association. Costs for such services, if any, provided by the Association shall be assessed as a common expense against Members as provided in Article 5. (Provided that, at the discretion of the Board, individual Members may contract with the Association to provide any or all such services.)

**6.5 Common Property Maintenance.** As shall be determined by the BOARD, common property maintenance may include, but is not necessarily limited to, the following items:

- a. Grounds maintenance of the Common Property including mowing, fertilizing, insecticides, landscaping, plant material, etc.
- b. Maintenance of recreation buildings, community centers, administrative offices, and

- other pertinent facilities, including air conditioning equipment.
- c. Parking lot cleaning and maintenance, if any.
  - d. Waste removal from the Common Property.
  - e. Maintenance of perimeter feature, if any, and/or signs if any.
  - f. Maintenance of streets and roads and street lights and signs, if any.
  - g. Utilities for the Common Property including water, sewer and electricity.
  - h. Taxes and insurance including real and personal property taxes for the common property and liability and fire insurance.
  - i. Other miscellaneous items which may be included such as exterminating services, Security system maintenance and fire extinguisher services.
  - j. A reserve for future maintenance and repairs.

## **7. COLLECTION OF ASSESSMENTS, DEFAULT AND ENFORCEMENT**

### **7.1 Monetary Defaults and Collection of assessments.**

**7.1.1 Late Fees.** Late Fees will be assessed as of July 1st or sixty (60) days after the assessments are mailed, whichever is later, for the assessed year. Fees will be at the rate of ten percent (10%) of unpaid assessment(s) and interest shall accrue at the maximum rate allowed by law. The late fee will be assessed after July 1st until all assessments are current.

**7.1.2 Collection.** In the event any Owner fails to pay any Assessment or other moneys due to the Association within thirty (30) days the Association may take any action deemed necessary in order to collect such assessments or moneys including, but not limited to, retaining the services of a collection agency or attorney to collect such assessments or moneys, initiating legal proceedings for the collection of such assessments or moneys, recording a claim of lien as hereinafter provided, and foreclosing same in the same fashion as mortgage liens are foreclosed, or any other appropriate action, and the Owner shall be liable to the Association for all costs and expenses incurred by the Association incident to the collection of any Assessment or other moneys owed to it, and the enforcement and/or foreclosure of any lien for same, including reasonable attorneys' fees whether or not incurred in legal proceedings, and all sums paid by the Association for taxes and on account of any mortgage lien and encumbrance in order to preserve and protect the Association's lien. The Association shall have the right to bid, in the foreclosure sale of any lien foreclosed by it for the non-payment of any assessments or monies owed to it. If the Association becomes the Owner of any lot by reason of such foreclosure, it may offer such lot for sale. If the Association decides to sell such lot within ninety (90) days after the foreclosure closing, it need not comply with Section 2.12; however, any future sale must comply with the approval requirements of Section 2.12. The sale of any lot must be publicly advertised.

All payments received by the Association on account of any assessments or moneys owed to it by any Owner, shall be first applied to payments and expenses incurred by the Association, then to any unpaid assessments or moneys owed to the Association in the inverse order that the same were due.

**7.1.3 Lien for Assessment and Moneys Owed to Association.** If the assessments are not paid on the date when due (being the dates specified in Section 7.1.1 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hand of the then Owner, his heirs, devisees, personal representatives and assigns. The Lot Owner agrees that it shall be liable for and promptly pay as and when due to the Association all assessments and special assessments as provided in the Article of the Association and the By-Laws. The Lot Owner agrees and understands that in the event that a Lot Owner fails to make payment as and when due, the Association shall have the right to record a lien against the Lot Owner's Lot in the form of a statement signed by the President, Vice President, or Attorney of the Association in recordable form. The Association shall have the right to enforce the lien in the manner provided under Tennessee law for foreclosure of mortgage liens. The Lot Owner shall pay interest on the amount owed at the highest rate permitted by law and all court costs and attorneys' fees incurred in collection, as well as all fees incurred in foreclosure of such lien.

**7.1.4 Transfer of Lot After Assessment.** The Association's lien shall not be affected by the sale or transfer of any lot, and in the event of any such sale or transfer, both the new Owner and the prior Owner shall be jointly and severally liable for all assessments, interest and other costs and expenses owed to the Association which are attributable to any lot purchased by or transferred to such new Owner.

**7.1.5 Subordination of the Lien to Mortgages.** The lien of the Association for assessments of other moneys shall be subordinate and inferior to the Institutional Lender or Mortgage holder recorded prior to the recording of a Claim of Lien by the Association. The sale or transfer of any lot by the foreclosure of a first mortgage or by deed in lieu thereof, shall extinguish the lien of the Association as to any assessment, interest, expenses or other moneys owed to the Association which became due prior to such sale or transfer, unless a Claim of Lien for same was recorded prior to the recording of the mortgage, and neither the mortgagee, nor any purchaser at a foreclosure sale, nor their grantees or successors, shall be responsible for said payments but they shall be liable for any assessments due after such sale or transfer.

**7.1.6 No Set-Offs.** No Owner shall have the right to set-off or reduce any assessments for common expenses by any claims that such Owner may have or may claim to have against the Association.

**7.1.7. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- a. All properties to the extent any easement or other interest therein is dedicated and accepted by any local governmental authority and devoted to the public use; and



b. All Common Properties as defined in Section 1.7 hereof.

**7.2 Certificate as to Unpaid Assessments.** Within fifteen (15) days after written request by any Owner or institutional lender holding a mortgage encumbering any lot, the Association shall provide such Owner or institutional lender with a written certificate as to whether or not the Owner is in default with respect to the payment of assessments.

## **8. TERM OF DECLARATION.**

**8.1 Term of Declaration.** All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all Owners, their successors, heirs or assigns, regardless of how the Owners acquire title, for a period of fifty (50) years from the date of this declaration, unless within such time, Members representing sixty six and two thirds (66 2/3%) percent of the votes of the entire membership of the Association execute a written instrument declaring a termination of this declaration (as it may have been amended from time to time). After such fifty (50) year period, unless sooner terminated as provided above automatically extended for successive periods of ten (10) years each, until Members representing one hundred (100%) percent of the votes of the entire membership of the Association execute a written instrument declaring a termination of this declaration (as it may have been amended from time to time). Any termination of this declaration shall be effective on the date the instrument of termination is recorded in the public records of each county in which the subject property is located.

## **9. UNIFORM GENERAL REQUIREMENTS**

**9.1 The Subject Properties.** No structures other than one single-family dwelling unit and those buildings ordinarily appurtenant thereto shall be built on any of the Subject Properties. Each of the Subject Properties shall be used solely for residential purposes, except as hereafter set forth; commercial use shall be permitted inside of any dwelling unit so long as the business activity (1) is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling unit; (2) does not involve door-to-door solicitation of residents of the Subject Properties; (3) conforms to all zoning requirements for the Subject Properties; (4) does not increase insurance premiums paid by the Association or otherwise affect the ability of the Association to obtain insurance coverage; and (5) is consistent with the residential character of the Subject Properties and does not constitute a nuisance, hazard or an offensive use, and does not threaten the security or safety of the other residents of the Subject Properties. Except for the foregoing, no commercial activities of any kind shall be permitted or conducted upon any of the Subject Properties.

**9.2 No Resubdivision.** No lot may be resubdivided, nor lot lines altered or relocated without the prior written consent of the AECC.

**9.3 Prohibited Residential Structures.** No mobile or manufactured home or any of those structures described in Section 1.10 herein shall be placed on any lot at any time. No mobile or manufactured home may temporarily or permanently be used as a residence. This prohibition covers any structure transportable in one or more sections and designed to be used as a dwelling. The phrase "mobile home" or "manufactured home" shall mean and refer to the type of dwelling commonly referred to as a "single wide" or "double wide", regardless of

whether the above mentioned homes contains any axle or wheels and regardless of whether the above mentioned homes have been placed on a permanent building foundation. Modular, Panelized or Pre-Cut homes (see definitions for descriptions of "modular, panelized or pre-cut homes") may be considered, on an individual basis, by the AECC. No variance will be allowed for mobile or manufactured homes.

**9.4 Recreational Vehicles.** No travel trailer, recreational vehicle, boat, tent, storage building, garage, barn or out buildings erected on any Lot shall at any time be used as a permanent residence and no person may remain in any of the foregoing for more than thirty (30) days except with AECC approval. The phrase "recreational vehicle" shall mean every licensed vehicle and conveyance designed, used or maintained primarily as a travel trailer, motor home, camper, boat and boat trailer or other similar use. With the consent of the AECC, and subject to any conditions that the AECC may impose in connection with its granting of any consent in its sole discretion, any lot owner may keep or construct any of the before mentioned vehicles or structures on his lot and reside in the same during such time as the Owner is diligently pursuing construction of a single-family dwelling unit upon his lot, which dwelling unit has been approved by the AECC. In any event such exception shall terminate when the construction of the single-family dwelling is completed. No recreational vehicle shall be permitted on any lot unless the lot contains a residential dwelling.

**9.5 Parking** No commercial vehicles shall be parked within the Subject Properties, unless the vehicle is being on a temporary basis in connection with new construction. Vehicles parked within the Subject Properties must have a valid current registration unless such vehicles are kept inside a garage. Any vehicle parked on a Subject Property must not be a nuisance and must conform with the communities' standards for sight, sound, and smell. If a reasonable complaint is filed, by an adjacent neighbor, that a truck, piece of equipment, or other vehicle is a nuisance, then the vehicle must either be put into a garage, moved to an out of sight location, or removed from the subject property, if the complaint is upheld by the AECC. A special purpose variance may be requested from the AECC.

**9.6 Set Backs.** No permanent structure hereafter erected upon the Subject Properties shall be closer than forty (40) feet from any property line running adjacent to a county road and no closer than twenty-five (25) from a property line on all other sides of the property. The AECC may grant a variance, if a proven need arises. Written notice must be given to all adjacent neighbors that a variance has been requested and that they are invited to comment. Written response must be received within thirty (30) days from the date of notice from the adjacent neighbor affected by any side or rear set back before variance can be approved by the AECC.

**9.7 Minimum Square Footage Requirements.** No structure shall be erected upon the Subject Properties in violation of the size restrictions contained in the recorded plat, as it may be amended from time to time. In addition to such size restrictions any living unit constructed on any lot within the Subject Properties shall have a minimum twelve hundred (1200) square feet of heated living space, exclusive of porches, garages, carports, patios and similar external features. No variance will be allowed on the minimum square foot requirement.

**9.8 Lake Conservation & Access Easements.** There are hereby reserved Conservation Easements surrounding all lakes, ponds and similar bodies of water within the Subject Properties, as they are shown on the recorded plat. No structure, planting or other material

shall be placed or permitted to remain within an area two and one-half (2½) feet above the normal water level of said bodies of water within any of the Subject Properties, including any portion of lots, parcels or tracts, which may damage, impair or interfere with the aquatic maintenance of said bodies of water, or which may have a negative environmental impact on them. The Association is hereby reserved an access easement across all lots, tracts or parcels fronting said bodies of water so that said Conservation Easements and the lakes may be maintained continuously by the Association. Boating docks may be constructed over the Conservation Easement, subject to approval by the AECC. Owners utilizing lots for personal access to Common Properties shall restrict access to unauthorized non-members.

**9.9 Motorized Boating.** No boat or other aquatic vehicle which uses gasoline or other fossil fuels or lubricants is allowed to be operated on the lakes, ponds or similar bodies of water within the subject properties. Boats or other aquatic vehicles that do have gasoline, fossil fuels or lubricating motors must cover the lower unit (shaft and propeller) with a plastic bag so as to not let oil and/or gasoline drain in the subject properties waters. Boats or other aquatic vehicles may be used which are manually powered or powered by electric motors or other similar motors provided that such aquatic vehicles do not pose a threat of environmental or noise pollution.

**9.10 Signs.** No commercial sign of any kind shall be displayed to the public view on any single family residence lot, except signs used by a builder to advertise the property during the construction and sales period, customary "for sale" signs not exceeding two (2) feet in height and three (3) feet in width, security related signs, and any official signs of the association.

**9.11 Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other animals normally considered to be domestic pets may be kept. No pet should at any time be a nuisance to neighbors or the community. All pets are subject to the communities' standards for sight, sound, and smell. Any applicable state or county laws, ordinances, or regulations must be fully complied with. Complaints regarding animals should be addressed to the appropriate state or county governmental officials. The AECC may grant a variance for the type of pet that may be kept, but written approval, from all adjacent Property Owners, must be obtained before the variance is granted.

**9.12 Trash Storage.** No lot shall be used or maintained as a dumping ground for rubbish. Household garbage must be kept in sanitary containers and placed in the trash enclosures. No lot on which improvements have been constructed or erected shall be allowed to become or remain unsightly.

**9.13 Planting.** No hedge or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street property line and the edge of a driveway.

**9.14 Tree Preservation.** In constructing any residential dwelling or other improvement on a Lot, same shall be accomplished in a manner which will minimize the destruction of trees. It is the intent of the Association to assure the maximum preservation of trees in the Subject

Properties. Existing live trees on the subject property will not be removed unless their removal proves to be necessary i.e. due to the location of the structure or structures, disease or damage.

**9.15 Oil Gas and Mineral Operations.** No operations with respect to oil, gas and minerals, including, without limitation, drilling, development, refining, exploration, quarrying, mining or extractions of any kind shall be permitted upon any Lot nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick, drilling rig or other structure designed for use in drilling for oil or gas shall be erected, maintained or permitted on any Lot or Parcel.

**9.16 Easements.** Easements for the installation and maintenance of public utilities and drainage facilities are reserved as noted on the recorded plat. Within these easements, or any easement granted by the Association pursuant to Paragraph 3.4, no structure, planting or other material shall be placed or permitted to remain which may damage, impair or interfere with the installation and maintenance of utilities. The easement area of each Lot, tract or parcel and all permitted improvements within said easement areas shall be maintained continuously by the Owner of the Lot, tract, or parcel, except for those improvements for which a public authority or utility company is responsible.

**9.17 Encroachment on Lots.** In the event that any portion of any roadway, drainage way, water lines, sewer lines, utility lines, or any other structure as originally constructed by Developer or its designee, successor or assign encroaches on any Lot, it shall be deemed that the Owner of such lot has granted a perpetual easement to the utility company or the Association as the case may be, for continuing maintenance and use of such encroaching roadway, water line, sewer line, utility line or structure. The foregoing shall also apply to any replacements of any such roadway, drainage way, water lines, sewer lines, utility lines or structure if same are constructed in substantial conformance to the original. Other encroachments may be maintained as herein provided. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

**9.18 Custodial Care.** It is understood and agreed that said premises may not and shall not be used for convalescing or custodial care or child care as a home occupation.

**9.19 Prohibition of Firearms, Hunting and Fireworks.**

9.19.1 No firearms may be discharged within the Subject Properties except when necessary for personal protection. In addition, no hunting is permitted within the Subject Properties.

9.19.2 No fireworks shall be set off within the Subject Properties due to the possibility of starting a wildfire.

**9.20 Additional Rules and Regulations.** The Board may establish such reasonable additional rules and regulations as may be deemed to be for the best interest of the Association and its Members, with a positive vote of at least two thirds (2/3) of the total current number of Board members. Such rules and regulations shall be included in the Bylaws or a published policy statement.

**9.21 Burning.** Since wildfire is a major concern and threat to this area, no burning shall be conducted on any of the properties, except as specifically allowed by state law, and after receiving appropriate permits from the appropriate local, state, or federal authority. Any Owner causing damages to other Owner's property as a result of burning, whether properly permitted or otherwise, shall be responsible for damages resulting therefrom.

**9.22 Complaints.** Complaints concerning violations of the restrictions listed in Section 9 should be referred to the AECC for handling as specified in Section 10.4 of this Covenant.

## **10. ARCHITECTURAL & ENVIRONMENTAL COMPLIANCE COMMITTEE (AECC).**

**10.1 Appointment of Committee.** There shall be appointed by the Board of Directors of the Association, an Architectural & Environmental Compliance Committee (AECC), which committee shall consist of three or more members. The committee shall have the power to review and request compliance with all provisions of Article 6, Article 9 and this Article 10 of this Declaration, under procedures established by and in consultation with the Board, as the Board may deem necessary.

**10.2 Review by Committee.** The Committee shall review all proposed construction, modifications, or alterations to existing structures, and shall be guided by the following standards of environmental control:

### **10.2.1 The Uniform General Requirements Included in Article 9 herein.**

**10.2.2 Architectural Control.** No living unit, building (permanent or portable), fence, wall, addition, or modification to existing structures shall be commenced or erected, upon the Subject Properties, without prior approval of the AECC. Plans drawn to appropriate scale, and specification, showing the nature, kind, shape, height, material and location of the building, addition, or modification including exterior color scheme and a plot plan, showing access and size of culvert at the street, must be submitted to and approved in writing by the AECC prior to any work beginning. The harmony of the external design and location in relation to surrounding structures, topography, and vegetation will be considered by the AECC. Approval or disapproval of the same shall be made by the Committee and returned to the applicant within a reasonable time, not to exceed forty five (45) days after receipt of same. Disapproval of said construction may be appealed to the Board.

**10.2.3 Evidence of Financial Resources.** As a condition of obtaining the above-described approval from the Committee, the owner of the lot shall furnish evidence satisfactory to the Committee that said owner has the financial resources to complete construction, which evidence shall include estimates as to the total cost of construction. The Committee may require execution of standard "Pledge Agreement" as part of the evidence of financial resources.

**10.2.4 Completion of Construction.** Once AECC approval has been obtained, and any required governmental permits issued, the owner has twelve (12) months to complete the exterior construction. However, if at the end of the twelve-month period,

construction has been continuous and is on going, the owner will be automatically granted a six (6) month extension upon requesting the same in writing to the AECC.

**10.2.5 Approval of Plans; Disclaimer.** No approval of plans, specifications, or request for permission to make improvements to property and no publication of design standards pursuant to the terms of the Declaration of Covenants and Restrictions for Cumberland Lakes (the Declaration) by the Architectural Environmental Compliance Committee (AECC) shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Living Unit or other improvement built in accordance therewith will be built in a good workmanlike manner. The Cumberland Lakes @ Cumberland Cove Unit 201 Property Owners Association, Inc. (the Association) and the AECC shall not be responsible or liable for (i) any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Declaration; (ii) any loss or damages to any person rising out of the approval or disapproval of any plans or specifications; (iii) any loss or damage arising from the non-compliance of such plans and specifications as with any governmental ordinances and regulations; (iv) any loss or damage arising from failure of the Association to inspect the permitted improvement; nor (v) any defects in construction undertaken pursuant to such plans and specifications. The Cumberland Lakes building rules are not intended and shall not create any rights in any third party.

**10.3 Attorneys' Fees.** In all litigation involving architectural control, environmental control, or the enforcement of these Covenants, Restrictions, or the Uniform General Requirements, the prevailing party shall be entitled to collect and shall be awarded attorneys' fees and court costs.

**10.4 Enforcement and Complaint Handling.** As stated in 10.1, the AECC has the power to request compliance with all provisions of Article 6, Article 9 and this Article 10 of this declaration. Complaints received by the Association that covenants in this declaration are being broken will be referred to the AECC to investigate the complaint. Should the AECC determine that a violation has occurred, the Owner will be given 30 days written notice to correct the violation or appeal to the Board. After 30 days, the Board will provide written notification to the owner giving the owner thirty days to correct the deficiencies. If, after the thirty day period allowed by the Board, the owner has neglected or refused to begin correcting the deficiencies, the Board, at the owner's expense, will take such remedial action as may be necessary and/or levy a fine. This section is not intended to impair the right of individual owner(s) to seek enforcement of these restrictions.

**10.5 Variances.** The Board of Directors of the Association or the AECC appointed by the Board may, with the approval of the appropriate governmental authority, if any, approve variances to the requirements of Sections 9 and 10.

## **11. AMENDMENT**

**11.1** This declaration may be amended upon the approval of a majority of the votes cast at duly called meeting with a set quorum, but not less than fifty one (51%) affirmative votes of the Members of the Association. In order to be effective, any amendment to this Declaration must first be recorded in the public records of each county in which the subject property is located,

and such amendment shall contain a certification by the President and Secretary of the Association that the amendment was duly adopted.

## **12. MISCELLANEOUS.**

**12.1 Conflict with Charter or Bylaws.** In the event of any conflict between the Charter or the Bylaws and this Declaration, this Declaration, the Charter, and the Bylaws, in that order, shall control.

**12.2 Severability.** The invalidation in whole or in part of any of these covenants, conditions, reservations and restrictions, or any section subsection, sentence, clause, phrase, word or other provision of this declaration shall not affect the validity of the remaining portions which shall remain in full force and effect.

**12.3 Validity.** In the events any court shall hereafter determine that any provisions as originally drafted herein violate the rule against perpetuities, the period specified in this declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law.

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

**12.5 Enforcement.** The Board must take appropriate action to enforce its written request (see Section 11.4) to correct violations. The two options available are to impose a fine and/or initiate legal action.

**12.5.1** The Board may enforce these Covenants by imposing a fine against the Owner for failing to comply with the Boards' written request to correct any violations of these Covenants or Restrictions. The Board may fine an Owner up to three (3) times for refusing to correct a violation. The amount of any potential fines must be included in the initial letter, from the Board, to the Owner. The Owner must be given 30 days written notice to correct a violation. After the 30day period expires the Owner will be sent a second (2nd) letter giving notice that a fine has been levied. The Board has the option to levy two (2) additional fines after giving 30 days advanced notice. The amounts of each of the three fines must be established at the beginning of the Board's term for the year, and cannot be changed. No fines may be imposed without the positive vote of the Board. Fines are secured and enforced under same terms as assessments. The Board will file a lien after the third fine for any one violation on any Lot of any Owner for unpaid fines.

**12.5.2** Enforcement of these Covenants and Restrictions may also be by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain the violation or to recover damages, and against the land to enforce any lien created by these covenants.

**12.5.3** Failure by the Association or any Owner to enforce any covenant or

restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter. No delay, failure or omission on the part of the Association or any aggrieved Owner in exercising any right, power or remedy thereafter shall, as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, bar or effect its exercise or enforcement.

12.5.4 The Association shall have the right, whenever there shall have been built on any lot any structure which is in violation of these covenants and restrictions, to enter upon the property where such violation exists and, summarily abate or remove the same at the expense of the Owner.

12.6 **NO RIGHT TO GRANT WAIVERS.** No Owner has any right, either explicit or implied, to give permission to guests, renters, nonresidents, or any other persons permission to violate or ignore any of the Uniform General Requirements, Covenants, or Restrictions.

**13. RESERVATIONS.**

13.1 The Association reserves to itself the right to levy assessments against all Owners for the purpose of operating and maintaining the Common Properties and specified easement areas and in connection therewith, reserves to itself the lien rights as provided herein.

EXECUTED this 23rd day of March, 2010.

**CUMBERLAND LAKES AT CUMBERLAND  
COVE UNIT 201 PROPERTY OWNERS  
ASSOCIATION, INC.**

By *Judith K. Connors*  
Judith K. Connors Secretary

**ATTEST:**

*J. D. Glass*  
President Joseph D. Glass



**SECRETARIAL CERTIFICATE**

The undersigned Secretary of Cumberland Lakes at Cumberland Cove Unit 201 Property Owners Association, Inc. certifies that the foregoing is a true, full, and correct copy of the Amended and Restated Declaration of Covenants and Restrictions, adopted by the membership of Cumberland Lakes at Cumberland Cove Unit 201 Property Owners Association, Inc. by ballot. Of the 517 lots eligible to vote on the question of amendment of the Declaration, 207 affirmative votes were received. In addition 142 proxies were received by the Board of Directors, all of which were voted in favor of the adoption of the Amended and Restated Declaration, for a total number of votes in favor of adoption of 349 votes. The number of votes received exceeds two-thirds of the votes eligible to vote and is sufficient under the original Declaration for adoption of the Amended and Restated Declaration.

This 23rd day of March, 2010.

**CUMBERLAND LAKES AT CUMBERLAND  
COVE UNIT 201 PROPERTY OWNERS  
ASSOCIATION, INC.**

By Judith K. Conover  
Secretary

Attest:

[Signature]  
President

State of Tennessee )  
 )  
County of Cumberland )

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared **Judith K. Connors and Joseph D. Glass**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be **Secretary and President of Cumberland Lakes at Cumberland Cove Unit 201 Property Owners Association, Inc.**, a corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by themselves as such officers.

WITNESS my hand and seal of office on this the 23<sup>rd</sup> day of March, 2010.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 8/17/2013

