

Prepared by:
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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND EASEMENTS FOR
FOX VISTA**

THIS DECLARATION, made as of the _____ day of _____, 2003, by **HEARTLAND DEVELOPMENT, LLC**, a Tennessee Limited Liability Company (hereinafter referred to as the "Declarant").

ARTICLE I
STATEMENT OF PURPOSE AND
IMPOSITION OF COVENANTS

1.1. Imposition of Covenants. The Declarant hereby makes, declares, and establishes the following covenants, conditions, restrictions, and easements (these "Covenants") which shall affect all of the Lots in Fox Vista as shown on plat of record in Map Book _____, at page _____, Sevier County, Tennessee, Register's Office, and as shown on future plat recordings for additional sections in Fox Vista if added hereto by recorded amendment. From this day forward, subject to the terms of this instrument, the Property shall be held, sold and conveyed subject to the Covenants. The Covenants shall run with the land and shall be binding upon all persons or entities having any right, title, or interest in said Lots, including Declarant, and its successors or assigns, and their tenants, employees, guests, and invitees, and these Covenants shall inure to the benefit of each owner of the said Lots. The term "Property" as used herein shall mean all of the Lots as shown on the above referenced recorded plat and future plats for additional sections of said subdivision. The term "Owner" or "Owners" shall refer to the owner or owners of the Lots that are the subject of this Declaration.

1.2. Statement of Purpose. These Covenants are imposed to ensure the attractiveness of the individual Lots developed within the Property; to prevent any future impairment of the Property; and to preserve, protect, and enhance the values and amenities of the Property.

ARTICLE II
PROPERTY USE RESTRICTIONS

General Restriction. The Property shall be used only for the purposes set forth in these Covenants unless a specific use is stated on the initial recorded plat for a given Section, as permitted by the applicable ordinances of Sevier County, Tennessee, and the laws of the State of Tennessee and the United States not in contradiction herewith, and as set forth in this Document, any amendments thereto, or specific recorded covenants affecting all or any part of the Property. Subdivision roads as shown on the plat can be used to access any adjoining property of Heartland Development, LLC.

Any lake access easement reserved by deed or as shown on this or any future plat shall be for the use and enjoyment of all Lot owners in the Subdivision and their invited guests.

2.1. Structures, Dwelling Minimum size, Etc. No residence shall be permitted on any lot which is less than 1,000 square feet of heated living space per residential unit. For purposes of this minimum square foot requirement, porches, decks, garages and basements shall not be considered heated living space. No temporary structure, camper, mobile home (either single or double wide) modular home or factory built house, shall be permitted to be placed or maintained upon any lot within the subdivision; provided however, recreation vehicles shall be allowed on unimproved Lots for a period of 7 continuous days if occupied, or continuously during construction. Once a house is constructed on the Property, the owner may park a recreational vehicle on the property, but it cannot be occupied for more than seven continuous days. No exposed block shall be allowed. No T1-11 siding is allowed. All residential structures must have a roof pitch of at least 8/12. All structures must be connected to a subsurface septic system approved by the Sevier County Health Department.

2.2. **Outside/Inside Burning.** With the exception of masonry constructed barbecues and fireplaces, there shall be no exterior fires, braziers, or incinerator fires contained within facilities or receptacles located on the Property. Properly installed wood and/or coal stoves shall be permitted only if in compliance with Sevier County building and fire codes. No Owner shall permit any condition within a building that creates a fire hazard or is in violation of fire prevention regulations.

2.3. **Garbage and Refuse Disposal.** None of the Property shall be used or maintained as a dumping ground for rubbish or refuse, toxic or otherwise. Trash, garbage or other waste shall not be kept except in sanitary containers. Each Owner shall provide suitable receptacles for the temporary storage and collection of refuse. There shall be no burning or other disposal of refuse on the lot.

2.4. **Nuisances.** No noxious, offensive or illegal activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or Improvements shall be placed or used on any portion of the Property. No firearms are to be discharged inside the subdivision.

2.5. **Residential Use Only.** The Property shall be used solely for single family residential use. No commercial or other business use or industrial facilities and/or activities shall be conducted on the Property, provided that over-night rentals are permitted and deemed to be a residential use.

2.6. **Re-Subdivision.** In the event that an owner desires to re-subdivide a lot into smaller lots, then the owner shall first obtain the approval of the Sevier County Planning Commission.

2.7. **Water and Sanitation.** Each structure designed for occupancy or use by humans shall connect with approved water and sewer facilities. Occupancy of a structure that is not in compliance with this section is prohibited.

2.8 **Animals.** No animals, livestock, or poultry of any kind shall be kept, raised, or bred on any portion of the Property, other than domesticated household pets, such as dogs and cats. Any household pet permitted on the Property shall be under leash at all times except when the animal is inside the building or inside a fenced area. Excessive barking shall constitute a nuisance.

2.9 **Drainage.** No Owner shall do or permit any work, construct any Improvements, place any landscaping, or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Property.

2.10 **Abandoned or Inoperable Vehicles.** Abandoned or inoperable automobiles or vehicles of any kind shall not be stored or parked on any portion of the Property. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer.

2.11 **Continuity of Construction.** All Improvements commenced on the Property shall be prosecuted diligently to completion and shall be completed within 12 months of commencement. If an Improvement is commenced and construction is then abandoned for more than 90 days, or if construction is not completed within the required 12-month period, then a fine of not less than \$100 per day shall be imposed upon the Owner of the Lot until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the court that such abandonment is for circumstances beyond the Owner's control.

ARTICLE III **ENFORCEMENT OF COVENANTS**

3.1. **Violations Deemed a Nuisance.** Every violation of this Declaration is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants shall be available.

3.2. **Compliance.** Each Owner or other occupant of any part of the Property shall comply with the provisions of this Declaration as the same may be amended from time to time.

3.3. **Failure to Comply.** Failure to comply with this Declaration shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both.

3.4. **Who May Enforce.** Any action to enforce this Declaration may be brought by the Declarant or by one or more Owners.

3.5. **Nonexclusive Remedies.** All the remedies set forth herein are cumulative and not exclusive.

3.6. **No Waiver.** The failure of the Declarant, or any aggrieved Owner to enforce this Declaration shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of this Declaration at any future time.

3.7. **No Liability.** Neither the Declarant, or any Owner shall be liable to any other Owner for the failure to enforce any of this Declaration at any time.

3.8. **Recovery of Costs.** If legal assistance is obtained to enforce any of the provisions of this Declaration, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of this Declaration or the restraint of violations of this Declaration, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees as may be incurred, or if suit is brought, as may be determined by the court.

ARTICLE IV DURATION OF THESE COVENANTS AND AMENDMENT

4.1. **Term.** This Declaration and any amendments or supplements hereto shall remain in effect from the date of recordation until July 1, 2013. Thereafter these Covenants shall be automatically extended for five successive periods of ten years each, unless otherwise terminated or modified as provided below.

4.2. **Amendment.** This Declaration, or any provision of it, may be terminated, extended, modified, or amended, as to the whole or any portion of the Property, upon the written consent of Declarant (if an owner) and Owners representing more than 60 percent of the Lots in the Property. Amendments made pursuant to this Section shall inure to the benefit of and be binding upon all Owners of any part of the Property, their family, tenants, guests, invitees, and employees, and their respective heirs, successors, and assigns. A certificate of a licensed abstract or title company showing record ownership of the Lots shall be evidence of such ownership for the purposes of any such amendment.

4.3. **When Modifications Permitted.** Notwithstanding the provisions of 4.2, no termination, extension, modification or amendment of this Declaration shall be effective in any event prior to July 1, 2008, unless the written approval of Declarant is first obtained.

4.4. **Amendment by Declarant.** Notwithstanding 4.2 or any other provisions of this Declaration, Declarant, acting alone, reserves to itself the sole right and power to modify and amend this Declaration by executing and recording an instrument setting forth the amendment. This right and power of the Declarant, acting alone, to amend this Declaration in whole or in part, at any time and from time to time, shall be effective only with respect to any amendments recorded on or before December 31, 2006. Declarant shall also be entitled to grant a waiver of any particular provision hereof, if Declarant believes a waiver is appropriate or necessary. Declarant reserves the unilateral right to withdraw any Lot from this Declaration at any time prior to the sale or conveyance of that Lot by the Declarant. Such withdrawal shall be accomplished by recording a declaration of withdrawal in the records of the Sevier County Register's Office, describing the real property to be withdrawn. Such declaration of withdrawal shall not require the consent of the Owners. Any such withdrawal shall be effective upon the filing for record of such declaration of withdrawal except as provided therein. The withdrawal may be accomplished in stages by successive declarations or in one declaration of withdrawal.

4.5. **Notice of Amendment.** Except in the case of amendments made by Declarant pursuant to 4.4 above, no amendment of this Declaration shall be effective unless a written notice of the proposed amendment is sent to every Owner at least 60 days in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto.

4.6. **Effective on Recording.** Any modification or amendment shall be immediately effective upon recording a copy of such amendment or modification, executed and acknowledged by the necessary number of Owners (and/or by Declarant, as required), accompanied by a certificate of a licensed abstract company, attorney, or a title company as to ownership, or upon the recording of a copy of the amendment or modification together with a duly authenticated Certificate of the licensed abstract company or attorney stating that the required number of consents of Owners and said certificate were obtained and are on file

in the office of the Sevier County Register of Deeds. A licensed abstract company, attorney, or a title company may be entitled, but not required, to rely on the records of the Sevier County Trustee in determining ownership of the Lots.

**ARTICLE V
MISCELLANEOUS PROVISIONS**

5.1. **Severability.** Invalidation of any of these covenants or restrictions, or any portion of any such covenant or restriction, by judgment or court order shall in no way affect any of the other provisions, or any portion thereof, which shall remain in full force and effect. To this end the provisions of these Restrictive Covenants are declared to be severable.

5.2 **Compliance With Laws.** Subject to the rights of reasonable contest, each Owner shall promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Property.

5.5. **Notice.** All notices or requests required shall be in writing. Notice to any Owner shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by certified mail, return receipt requested, to the address of such Owner on file in the records of the Sevier County Trustee's Office at the time of such mailing. General notices to all Owners or any classification thereof need not be certified, but may be sent regular first class mail.

5.9. **Assignment.** Declarant may assign all or any part of its rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor shall be identified, the particular rights being assigned shall be specified, and, to the extent required, concomitant obligations shall be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Register's Office for Sevier County, Tennessee.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day first above written.

Declarant:

HEARTLAND DEVELOPMENT, LLC
a Tennessee Limited Liability Company

Barry L. Shular, Chief Manager

STATE OF TENNESSEE

COUNTY OF SEVIER

Personally appeared before me, the undersigned, a Notary Public, **Barry L. Shular**, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the **Chief Manager** of the maker, **HEARTLAND DEVELOPMENT, LLC, A Tennessee Limited Liability Company**, or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

WITNESS my hand, at office, this ____ day of _____, 2003.

NOTARY PUBLIC

My Commission Expires: _____