



\* This document prepared by: Richard Grant , Member Maplebrook LLC, notarized affidavit attached.  
Return to: City of Olive Branch Planning & Building 9200 Pigeon Roost, Olive Branch 38654. N/A

**RESTRICTIVE COVENANTS AND RESTRICTIONS**  
**For**  
**PARKVIEW HEIGHTS AREA 2 PHASE 3A**

Whereas, declarant is the owner/developer of certain property located in the City of Olive Branch, County of DeSoto, State of Mississippi, which is more particularly described as Lots 1 thru 27, Phase 3A Parkview Heights Planned Development, situated in Section 33, Township 1 South, Range 6 West, DeSoto County, Mississippi. Now, therefore, declarant hereby declares that the property described above shall be held and conveyed subject to the following covenants, conditions and restrictions, 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 property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

The following Restrictive Covenants shall apply to all of the land in Area 2 , Phase 3A of Parkview Heights Planned Development.

This declaration of Covenants and Restrictions made this the 25 day of MAY 2010 by Maplebrook, LLC, a Mississippi Corporation, 177 Crescent Drive, Collierville, Tennessee 38017, hereinafter referred to as "Declarant".

PLAT BOOK 109/34-36

**ARTICLE I. PURPOSE**

Declarant, in order to provide for the preservation of the values, amenities, attractiveness and desirability of the real property to be known as "Maplebrook" being Phase 3A, Area 2 of Parkview Heights as more fully described in Article III hereof, and in order to provide for the administration and maintenance of certain portions of said real property and for the enforcement of these covenants and restrictions, hereby declares that the real property described in Article III hereof shall be held, used, transferred, sold, and conveyed subject to the covenants and restrictions set forth herein.

**ARTICLE II. DEFINATIONS**

- A. "Association" means Maplebrook Homeowners's Association, Inc., a Mississippi non-profit corporation.
- B. "Board" means the Board of Directors of Maplebrook Homeowners Association, Inc.
- C. "Lot" means the parcels of land in the Properties upon which a residence may be constructed.
- D. "Bylaws" means the Bylaws of the Association.

- E. "Committee" means the Architectural Control Committee.
- F. "Common Area" means any land, easements or facilities which the Association owns and/or maintains.
- G. "Declarant" means Maplebrook, LLC, a Tennessee Limited Liability Company, its successors and assigns.
- H. "Declaration" means this Declaration of Covenants and Restrictions as the same may be supplemented or amended from time to time.
- I. "Improvement" means all buildings, outbuildings, sheds, driveways, parking areas, fences, swimming pools, tennis courts, lights and utility poles and lines and any other structure of any type or kind. Improvements to be placed on any building site require the approval of the Committee.
- J. "Living Area" means those heated and/or air-conditioned areas which are completely finished as a living area, and shall not include garages, carports, porches, patios, or storage areas.
- K. "Member" means any member of Maplebrook Homeowner's Association, Inc.
- L. "Owner" means any person who owns fee simple title to any lot within the development, and shall not mean a mortgagee unless and until such mortgagee has acquired title through foreclosure or any proceeding in lieu of foreclosure.
- M. "Properties" shall mean and refer to the real property described in Article III hereof.
- N. "City" shall mean the incorporated City of Olive Branch, Mississippi and its elected governing authority.

### **ARTICLE III. PROPERTY SUBJECT TO DECLARATION**

The real property which is subject to this Declaration is that certain real property known as Maplebrook located in Section 33, Township 1 South, Range 6 West, Olive Branch, Mississippi. Real property is meant to contain, but not limited to, streets, common area, and lots.

### **ARTICLE IV. MAPLEBROOK HOMEOWNER'S ASSOCIATION, INC.**

Section 1. General. Declarant has deemed it desirable for the efficient preservation of the values and amenities in Maplebrook to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter established, and for the purpose of promoting the common interest of property owners in Maplebrook. Pursuant thereto, Declarant has caused to be incorporated under the laws of the State of Mississippi, as nonprofit corporation, Maplebrook Homeowner's Association, Inc., for that purpose of exercising the aforesaid powers. The association shall have such powers in the furtherance of its purposes as are set forth in its Articles of Incorporation and Bylaws, and shall include, but not be limited to, maintenance of entrance, payment of any utility fees associated with the operation and upkeep of the entrance, common areas, and

easements. The association may engage in any other activity or assume any responsibilities that may be considered as promoting the common interest of residents.

The association shall operate and maintain at its costs, in neat and good order, and of the use and benefit of the owners of property in Maplebrook, all land owned by the Association. If Declarant conveys any property to the Association other than streets and other designated common areas, such conveyance shall not be effective until and unless it is approved by two-thirds (2/3) of the members present and voting at any meeting of the homeowners at which due notice of consideration of such conveyance has been given to all the members; and further provided that Declarant shall not be entitled to vote for or against the acceptance of such conveyance.

Section 2. Membership in the Association. Each record owner of a fee or undivided interest in any lot which is subject to this Declaration shall be a member of the Association and shall abide by the Association's articles, bylaws, rules and regulations and this Declaration and shall be liable for the payment of all assessments levied, provided that a person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

Section 3. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners as defined in Section 2, with the exception of Declarant. Class A members shall be entitled to one vote for each lot owner. When more than one person holds such interest in any lot, all such persons shall collectively be entitled to one vote per lot, which vote shall be exercised by the consent of a majority of the owners of record of such lot. For the purpose of exercising voting rights, the owner of a lot which has a residential dwelling on it may designate the occupant to vote; provided said designation shall be made in writing and shall remain in effect until cancelled in writing and delivered to the Association.

Class B. Class B member shall be the Declarant. The Class B member shall be entitled to cast twenty-five votes for each building site in which he holds the interest required for membership by the entire development; provided that the Class B membership shall cease and become converted to Class A membership when one hundred percent (100%) of the building sites are owned by persons or entities other than Declarant, or when Declarant elects in writing to terminate Class B membership, whichever occurs first.

No member shall be entitled to vote unless such member has fully paid all assessments as provided herein as shown by the books of the Association.

## ARTICLE V. ASSESSMENTS

Section 1. Creation of lien and Owner's Obligation Each Owner of a lot by the acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association monthly assessments and special assessments to be fixed, established and collected from time to time as herein provided. The monthly and special assessments, together with such interest thereon and costs of collection thereof as herein provided, 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 such interest and costs of collection thereof as herein provided, shall

also be the personal obligation of the person who is the record owner of such property at the time when the assessment becomes due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents of Maplebrook, and in particular for the improvement and maintenance of properties, services and facilities devoted to the purpose and related to the use and enjoyment of the common area and of the homes situated upon lots, including but not limited to, the payment of taxes, insurance, repair, replacement, additions thereto, maintenance, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Annual Assessments. The annual assessment per lot shall be established by the Declarant and can be changed by the Board when they take control of the Association. The person or persons placed in charge of the financial transactions of the Homeowner's Association shall be required to be bonded in such a manner as to protect the interests of the Homeowner's Association. The annual assessment may be increased or decreased by the Board not more frequently than annually; provided, however, that the maximum annual assessment shall not exceed the sum approved by the members of the Association in accordance with Section 4 below.

Section 4. Change in Maximum Annual Assessment. The Association may change the maximum amount of the annual assessment fixed by Section 3 above prospectively for any annual period, provided that any such change shall be approved by two-thirds (2/3) of the voters of Class A & B members who are voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be sent to all members at least fifteen (15) days in advance of said meeting and which notice shall set forth the purpose of the meeting.

Section 5. Special Assessments In addition to the annual assessments authorized by Section 3 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 or reconstruction, unexpected repair or replacement of a capital improvement on the entrance, common areas, including necessary fixtures and personal property relating thereto, and any extraordinary expense of operation or maintenance, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Class A & B members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance of said meeting and which notice shall set forth the purpose of the meeting.

Section 6. Quorum. The quorum required for any action authorized by Sections 4 and 5 above shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of members, or of proxies, entitled to cast twenty-five (25) percent of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at said meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5 hereof, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Effect of Nonpayment of Assessments. If the assessments are not paid on the date when due then such assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereof, including reasonable attorneys' fees, as hereinafter provided, thereupon becoming a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs,

devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessments, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within sixty (60) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen (18) percent per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of such action, including attorney fees.

Section 8. Rights of Declarant. Notwithstanding anything contained herein to the contrary, Declarant shall be exempt from the payment of assessments against lots owned by Declarant and held for sale in the normal course of business.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for above shall be subordinate to the lien of any first mortgage of an institutional mortgagee and to the lien of any purchase money mortgage held by Declarant, its successors and assigns. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any building site pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to payments which become 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.

For the purpose of this Declaration, "Institutional Mortgagee" means (a) any lending institution having a first mortgage lien upon a lot including any of the following institutions; a federal or state savings and loan or building and loan association, or bank or real estate investment trust, or mortgage banking company doing business in the State of Mississippi; or (b) any "Secondary Mortgage Market Institutions" including the Mississippi National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institutions as the Board shall thereafter approve in writing which has acquired a first mortgage upon a lot; or (c) any and all investing or lending institutions, or the successors and assigns of such lenders herein referred to as the "Lenders") which has loaned money to Declarant to acquire, or construct improvements upon, the property and which holds a mortgage upon any portion of the property securing such a loan.

## ARTICLE VI. ARCHITECTURAL CONTROL COMMITTEE

Section 1. Membership. The Board shall appoint the members of the Architectural Control Committee which shall initially consist of **Maplebrook, LLC**.

- (a.) All approvals or disapprovals, either complete and final, conditional, or qualified, shall be in writing and signed by an Architectural Committee representative. Until further notice, submittals should be delivered or mailed to:

**Maplebrook, LLC**  
**Mr. Keith Grant**  
**177 Crescent Drive**  
**Collierville, TN 38017**

Section 2. Successors. Membership of the original membership in the Architectural Control Committee shall expire on December 31, of the year following the calendar year in which sixty-seven (67) percent of the total lots are sold; or upon the death or resignation of any of the above-named

individual. In either case, the Board shall appoint successor committee member(s) as required to maintain a minimum committee size of at least three members.

Section 3. Purpose. No building, fence, structure, alteration, addition or improvement of any kind, other than interior alteration not affecting the external appearance of a building or structure shall be commenced, erected, placed or maintained upon any portion of any lot unless and until the plans and specifications therefore shall have been approved in writing by the Committee in its sole discretion as to harmony of external design and location in relation to surrounding structures and topography and as to aesthetic quality.

Section 4. Approval Procedures. Any approval requested of the Committee shall be requested in writing and shall be submitted to the Committee at the principal office of the Association. In the event the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, approval shall be deemed to have been given.

Section 5. Administration. The Committee shall have the power to adopt rules and establish procedures not inconsistent with the provisions of this Declaration, including, but not limited to construction and development standards as may be deemed necessary by the Committee to insure a quality development, and to insure preservation of the aesthetic qualities of the property and to insure that there will be no pollution of the pond. The written request and submittal of plans and specifications required pursuant to Section 2 hereof shall include, but not be limited to a specific site plan; floor plans with elevations, accessory structures, landscaping plan and a comprehensive color scheme designating the precise color of all exterior surfaces and exterior materials to be used. The Committee may disapprove a plan for lack of artistic style or aesthetic quality. For example, the committee may disapprove a plan because it is too square or "boxlike", because the roof is too flat, because there is not sufficient landscaping, or for any other reason that the Committee in its sole discretion, may deem appropriate. In addition to the basic roof and wall colors, the rendering or color scheme shall include, but not be limited to, the color of the trim, gutters, windows, shutters, decks, porches, and all other exposed surfaces. The Committee, in its sole discretion, may disapprove a color scheme on the grounds that it is not in conformance with the aesthetic character of the development. The Committee shall also disapprove any aluminum windows, doors, or similar structures using aluminum, except anodized aluminum. No pipes, wires, or other appurtenances underneath or adjoining a structure shall be exposed, but shall be encased or housed as part of the overall construction project.

#### **ARTICLE VII. GENERAL STANDARDS**

1. All numbered lots are to be used for residential use only and are not to be re-subdivided into other lots.
2. Ownership by any individual, partnership, or corporation shall be limited to no more than two (2) contiguous or non-contiguous dwelling units, with the exception of home building entities.
3. An unattached accessory building not for living purposes may be erected in the rear yard as long as it meets the city building codes. Such an accessory building shall be located or erected to the rear of the main residence. Accessory buildings shall be constructed in the same manner as the home including but not limited to: type of foundation, shingles, brick, and paint. Colors of all accessory buildings, regardless of size, shall match the colors of the home. In no case will metal buildings or metal roofs will be allowed. No outbuildings larger than 24' x 30' will be allowed. All residential structures shall be constructed of a minimum of sixty-seven (67) percent brick exterior. All homes shall have enclosed garages. All driveways shall be constructed of concrete.

Roofs shall be pitched at a minimum ratio of 8 to 12. Unit design and style shall be approved by the developer. All homes shall have architectural shingles. Upon completion of the home, one 2 1/2-inch deciduous tree shall be planted in the front yard, placed as a "street tree".

Areas adjacent to streets and pedestrian walkways, as well as interior landscape areas, shall be treated with grass and/or other types of vegetative ground cover. Such areas shall be sodded prior to building occupancy. Sod shall completely cover all yards. The sod shall extend to the side property lines.

Area 2: R3 SFR . Minimum finished heated floor area of 1,600 square feet, with a minimum heated floor area of 1,200 square feet for the first floor for multi-story residences, exclusive of open porches and garages, for single-family detached dwellings.

4. The landscape package must be equal to that of the FHA requirements. All houses shall have a minimum of a two-car garage, no carports allowed. All garages must open from the side or rear of the house, unless the lot is otherwise specifically called by number within the restrictive covenants. Driveways, sidewalks, and porches must be washed aggregate concrete.
5. The construction of any house in the subdivision shall be required to be completed within eighteen (18) months from the date that the construction begins. Each lot shall be kept neat and in an orderly manner at all times. No propane tanks allowed, except for those used with barbeque grills and other such uses.
6. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats and other pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. The maximum allowable pets per lot are two. No horses allowed.
7. No noxious or offensive trade or activity shall be carried on upon any lot in the subdivision nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood. No trailer, tent, basement, shack, garage, barn or other structure of a temporary nature is to be used as a residence at any time nor shall any type of shell house be built on any lot nor shall any house be permitted that has been moved from another location. No above ground swimming pools or basketball goals will be allowed on any lot.
8. Any type of permanent fencing erected on the lots must be approved by the developer of the subdivision. Said developer will approve or disapprove the fence within ten (10) days after the fence plan is submitted or the failing to act on the plan will thus waive the right of the developer to object to the fence construction. No fence shall be erected on any lot other than brick, wooden or wrought iron fences. No fence may be erected on any portion of any lot between the front of the residence and the street and between the side of the residence and the street on the corner lots, unless same is a two or three rail split cedar fence. No fences shall exceed six (6) feet in height.
9. Only landscape materials such as trees, shrubs and plants allowed in front of the main residence.
10. All passenger vehicles in use shall be parked either on the driveway or in the garage. No motor vehicles or any other vehicles, including, but not limited to: a boat, motor, boat trailer, lawn mower, tractor or other similar vehicles may be stored on any lot for the purpose of repair of

same, and no A- frame or motor mount may be placed on any lot. No disabled automobiles or other vehicles may be stored on any lot or in the street.

11. No vehicles, including, but not limited to: recreational vehicles, camping trailers, house trailers, motor homes, boats or any accessory trailers can be parked or stored on any lot. No tractor-trailers can be parked on any lot or on the street, and no trailer without a tractor can be parked on any lot or on the street.
12. No lot shall be used or maintained as a dumping ground for trash or rubbish. Trash-garbage or other waste garbage shall not be kept, except in sanitary containers, which must be located to the rear of the main residence and in a location that will not be offensive to others.
13. All types of television antennae, including dish antennae, shall be located to the rear of the main structure on the lot.
14. All fencing shall meet the permit requirements of the "City" and shall not be erected until such permits have been lawfully issued. No fence will be allowed which would restrict the designed overland flow of storm water or other drainage infrastructure.
15. All mailboxes shall be of uniform design and color from a single manufacturer specified by the developer.

#### **ARTICLE VIII. RESTRICTED OR PROHIBITED ACTIVITIES.**

Section 1. Business or Commercial Activity. No business, trade or commercial activity shall be conducted on any lot.

Section 2. Signs. No signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than five square feet advertising the property for sale or rent, or customary signs used by a builder or developer to advertise the property during the construction and sale.

Section 3. Livestock and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Dogs must be kept on a leash, be fenced in a yard, or kept in the house. Any dog creating a nuisance in the neighborhood be it from excessive barking, chasing cats, chasing people, or the like, shall constitute a nuisance and shall result in the Association taking whatever action is appropriate to remove such nuisance.

Section 4. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or tend to damage or destroy either private or public property.

Section 5. Vehicle Parking. With the exception of temporary parking for visitors, maintenance vehicles or delivery vehicles, there shall be no on-street parking whatsoever of any vehicles including, but not limited to, boats, motor homes, automobiles, trucks or trailers. Temporary parking as used above is defined as not including over-night parking.

Section 6. Storage of Personal Property. All personal property kept on the premises of a lot, shall be either kept and maintained in a proper storage facility, or shall be stored at the rear of the home. However, nowhere on the property shall this provision be construed to permit junk cars, old appliances, or the like from being kept anywhere on the property, including in the front, on the side, or to the rear of the

property. Any personal property, if it is to be stored on the lot, is to be stored in a completely enclosed structure approved by the Committee. Among other remedies, and after thirty (30) days notice to owner, the Association may come upon the lot to remove property being stored in violation of this provision, all at the expense of the owner, which shall constitute a lien against said property. An automobile or other vehicle shall be considered "junk car, under this provision if it is immobile for a period of thirty (30) days or longer, or does not have a current license tag.

Section 7. Drying Areas. No clothes lines or outdoor laundry shall be permitted.

Section 8. Use of Fill. No owner or person acting for an owner shall bring any fill material onto a lot without the prior written approval of the Committee, which approval shall be given only upon a showing that the use of such fill is necessary to a particular construction project, and upon a showing that the use of such fill will not change or adversely affect the drainage pattern within Maplebrook.

#### ARTICLE IX. COMMON AREAS

Section 1. Member's Easements of Enjoyment. Subject to the provisions of Section 3, every member shall have a right and easement of enjoyment in and to the common areas and such easement shall be appurtenant to and shall pass with the title to every site.

Section 2. Title to Common Areas. The Declarant may retain the legal title to the common areas until such time as he has completed improvements thereon, notwithstanding any provision herein, Declarant hereby covenants, for himself, his successors and assigns, that he shall convey title to the common areas to the Association no later than the recording of the plat for each phase.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Association to suspend the enjoyment rights of any member for a 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; and,
- (b) the right of the Association to dedicate or transfer all or any part of the common properties to any public agency authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedications or transfer, determination as to the purpose or as to the conditions thereof shall be effective, unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes irrespective of class of membership has been recorded, agreeing to maintain so as to prevent erosion. (Solid Block Sod Zoysia, Centipede, Common Bermuda, or Hybrid Bermuda) is required in all front yards.
- (c) the landscape buffer area located adjacent to the YMCA site is to be maintained by the individual lot owner. Installation and/or replacement of plant material or fencing is the responsibility of the Homeowner's Association.

#### ARTICLE X. EXTERIOR MAINTENANCE

Section 1. Structures. All owners must maintain structures in good repair and keep the same safe, clean, and orderly in appearance at all times, and to maintain such structures in an attractive manner. The Committee shall be the judge as to whether the structures are safe, clean, orderly in appearance at all times, and to maintain such structures in an attractive manner. The Committee shall be the judge as to whether the structures are safe, clean, orderly in appearance, and property painted or preserved, and

where the Committee notifies the particular owner in writing that said structure fails to meet acceptable standards, said owner shall thereupon remedy such conditions within ninety (90) days to the satisfaction of the Committee and that failing to remedy such condition, the owner of tenants hereby covenant and agree that the Association may perform such necessary maintenance, but is not obligated to perform the same or take such actions as will bring the said structure up to acceptable standards, all such repairs and actions to be at the sole expense of the owner.

Section 2. Vacant Lots and Lawns. The Committee or Declarant as referenced in Section 1 will have the authority to perform maintenance to a vacant lot and/or lawns which may include the mowing of grass and weeds, the trimming of trees and shrubs, and the removal of trash and litter if lot owner fails to remedy such conditions of lot within fifteen (15) days of written notice. All such maintenance and actions to be at the sole expense of the owner.

Section 3. Common Area Maintenance. The Maplebrook Association shall maintain all common areas within Maplebrook, including the entrance and payment of any utility fees associated with the operation and upkeep of the entrance, easements, drainage areas and green areas.

#### ARTICLE XI. UTILITY EASEMENTS

Declarant reserves unto itself, its successors and assigns and the City, a perpetual easement and right on, over and under the common areas and each lot to erect, maintain and use pipes, wires, cables, conduits, sewers, water mains and other suitable equipment, for the conveyance and use of electricity, telephone equipment, community antenna television service, gas, sewer, water drainage facilities, or other public conveniences or utilities on, in or over those portions of each lot or the common areas as may be reasonable required for utility line purposes, provided, however, that no such easement shall be applicable to any portion of such lot, parcel or tract, as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these Declaration, or (b) such portion of a lot as may be designated as the site for a building on a plot plan for erection of a building which has been approved in writing. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonable necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee of Declarant, but this reservation shall not be considered an obligation of Declarant to provide or maintain any such utility or service.

In the event such operation in any way harms the grounds or improvements, the utility operator shall cause said grounds and/or improvements to be re-installed to the same appearance and structure as were before said operation.

In the event such operations in any way harm the grounds or improvements, the utility operator shall cause said grounds and/or improvements to be reasonably re-installed to the same general appearance and structure as were before said operation. Where such operations are conducted by the City, the determination of the prior status of the appearance and structure of the grounds and/or improvements and the sufficiency and reasonableness of any repairs shall be made solely by the City.

#### ARTICLE XII. ENFORCEMENT

All covenants contained in this Declaration concerning the collection of assessments may be enforced only by the Association or Declarant by action at law or in equity to enforce the personal obligation of an owner for the payment of delinquent assessments or foreclosure of the lien against the lot; provided, however, that any such action taken by Declarant shall be commenced in the name of the Association and

on its behalf and all recovery of property or money damages shall be for the benefit of the Association. All remaining covenants and restrictions herein contained may be enforced by the Association, Declarant or any owner in any judicial proceeding seeking any remedy provided herein or recognizable at law or in equity, including damages, injunction, or any other appropriate form of relief against any person violating any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of the same or of the right of such party to thereafter enforce the same. The party bringing any such action to enforce the covenants, restrictions or provisions hereof shall, if said party prevails be entitled to all costs thereof, including, but not limited to reasonable attorneys' fees. No liability shall attach to Declarant for the failure to enforce the terms of this Declaration.

### ARTICLE XIII. DECLARANT'S DEVELOPMENT RIGHTS

Nothing contained in this Declaration shall be interpreted or construed to prevent Declarant, his transferees, or his or their contractors or subcontractors from doing or performing on all or any part of Maplebrook actually owned or controlled by Declarant or his transferees or upon the common areas, whatever they determine to be reasonable necessary or advisable in connection with the completion of the development of the property, including, without limitation:

- (a) erecting, constructing, and maintaining thereon such structures and vehicles as may be reasonably necessary for the conduct of Declarant's business of completing and establishing the property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or
- (b) conducting thereon his or their business of completing and establishing the property as a residential community and disposing of the property in parcels by sale, lease, or otherwise; or
- (c) maintaining such sign or signs thereon as may be reasonably necessary in connection with the sale, lease, or other transfer of the lots;
- (d) provided, however, that operations being conducted under subparagraphs (a), (b), and (c) immediately above shall be permitted upon only those parts of Maplebrook owned or controlled by the party causing or conducting said operations, and the common areas. As used in this Section the term "its transferees" specifically does not include purchasers of lots improved as completed residences.

### ARTICLE XIV. AMENDMENTS

Section 1. By Declarant. Until Declarant's Class B membership in the Association is terminated as herein provided, all amendments or modifications shall only be made by Declarant, without the requirement of the Association's consent or the consent of the owners; provided, however, that the Association shall, forthwith upon request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request, and subject to approval of any amendments proposed by the Declarant being approved by the City of Olive Branch.

Section 2. By Owners. Except as provided in Section 3 of this paragraph after termination of Class B membership in the Association, this Declaration may be amended (i) by the consent of the owners of two-thirds (2/3) of the entire development together with (ii) the approval or ratification of the majority of the Board and (iii) approval of any proposed amendments by the "City" upon the majority vote of the

governing authority for efficient implementation of the law. The aforementioned consent of the owners may be evidenced by a writing signed by the required number of owners or by the affirmative vote of the required number of owners at any regular or special meeting of the Association called and held in accordance with the Bylaws, and evidenced by a certificate of the Secretary or an assistant secretary of the corporation.

Section 3. Scrivener's Errors and Nonmaterial Changes. Amendments for correction of scrivener's error or other nonmaterial changes may be made by Declarant along until his Class B membership is terminated and by the Board thereafter and without the need of consent of the owners.

Section 4. Limitations. Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant, or of any Institutional Mortgagee under this Declaration without the specific written approval of the Declarant, or Institutional Mortgagee affected thereby. Furthermore, notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which would increase the liabilities of a then owner or prejudice the rights of a then owner or his family, guests, invitees, and lessees to utilize or enjoy the benefits of the then existing common areas unless the owner or owners so affected consent to such amendment in writing or unless such amendment is adopted in accordance with the procedures of Section 2 required for adoption of an amendment to the Declaration.

Section 5. Effective Date of Amendments. Any amendment to this Declaration shall become effective upon a Certificate of Amendment to the Declaration setting forth the amendment or modification being recorded in the Public Records of DeSoto County, Mississippi.

#### **ARTICLE XV. DURATION OF COVENANTS AND RESTRICTIONS**

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of Declarant of owners and the Association, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds (2/3) of the lots has been recorded, agreeing to change said covenants and restrictions in whole, or in part, provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken, and subject to the approval of said change by the City of Olive Branch.

#### **ARTICLE XVI. MISCELLANEOUS**

Section 1. Severability. In the event any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law. Further, the invalidation of any of the covenants or restrictions or terms and conditions of this Declaration or reduction in the scope or term of the same by reason of judicial application of the legal rules against perpetuities or otherwise shall in no way affect any other provision which shall remain in full force and effect for such period of time and to such extent as may be permitted by law.

Section 2. 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.

Section 3. Interpretation of Declaration. The Board shall have the right and responsibility to determine all questions arising in connection with this Declaration and to construe and interpret the provisions of this Declaration in good faith. All such interpretations shall be binding on the owners.

Section 4. Captions Headings and Titles. Article and paragraph captions, headings and title inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit, or in any way affect the subject matter or any of the terms and provisions thereunder nor the terms and provisions of this Declaration.

Section 5. Context. Whenever the context so requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

Section 6. Attorney's Fees. Any provision in this Declaration for the collection of recovery of attorneys' fees shall be deemed to include, but not be limited to, attorneys' fees for the attorneys' services at all trial and appellate levels and, unless the context clearly indicates a contrary intention, whether or not suit is instituted.

Section 7. HUD/VA Approval. Annexation of additional properties, dedication of common area and amendment of this declaration of covenants, conditions and restrictions require HUD/VA prior approval as long as there is a Class B membership.

Section 8. Contractor. Must keep lot clean during construction.

In witness whereof, the undersigned, being Declarant herein, has set its hand and seal on this 12 Day of MAY, 2010.

**MAPLEBROOK, LLC**  
A TENNESSEE LIMITED LIABILITY COMPANY

BY: Richard Grant  
Richard Grant  
Member, Preparer

**STATE OF MISSISSIPPI**  
**COUNTY OF DESOTO**

Personally appeared before me, the undersigned authority in and for the said County and State, on this 12<sup>TH</sup> day of MAY, 2010, within my jurisdiction, Richard Grant, who acknowledged he is the Member of Maplebrook, LLC, a Limited Liability Company corporation, and that for and on behalf of the said company, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said company so to do.

[Signature]  
Notary Public

4/28/2011  
My Commission Expires  


This document prepared by: