

DECLARATION OF SUBDIVISION RESTRICTIONS,  
PROTECTIVE COVENANTS AND EASEMENTS,  
KINZEL SPRINGS SUBDIVISION

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THIS DECLARATION is made by Kinzel Springs Partnership, which is the owner and developer (the "Developer") of all Lots comprising Kinzel Springs Subdivision, which subdivision is of record in the Register's Office of Blount County, Tennessee, in Plat Book \_\_\_\_\_ Page \_\_\_\_\_. Kinzel Springs Partnership holds the title to said Lots.  
MAP FILE NUMBER 1870A

WHEREAS, it is desirable for the mutual benefit of all future owners of any lot or parcel within said Kinzel Springs Subdivision of record, in said Register's Office, that there be certain restrictions, or protective covenants on said Lots regarding the use, the development, and the improvements to be erected upon said Lots.

NOW, THEREFORE, the undersigned, Kinzel Springs Partnership does hereby declare the following restrictions and covenants to be impressed upon and to apply to all Lots located within said Kinzel Springs Subdivision of record in Plat Book \_\_\_\_\_ Page \_\_\_\_\_ in the Register's Office of Blount County, Tennessee, to wit: F1870A

These Covenants, exclusive of provisions providing for maintenance of Roadways, Private Driveways and Detention Facility as herein defined, may be amended at any time by an instrument signed by the Declarant or by not less than seventy-five (75%) percent of the owners of lots within all phases of Kinzel Springs.

ARTICLE I

DEFINITIONS

Section 1. The following words and terms, when used in this Declaration, (unless the context clearly indicates otherwise) shall have the following meanings:

- A. "Association" shall mean and refer to the Kinzel Springs Property Owner's Association, a Tennessee nonprofit Homeowners Association to be formed.
- B. "Lot" shall mean and refer to any improved or unimproved plot of land shown on any recorded final subdivision map of any part of the Property.
- C. "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Section 8 of Article II hereof.
- D. "Owner" shall mean and refer to the record owner, whether one or more persons, firms, associations, corporations, or other legal entities, of the fee simple title to any Lot situated upon the Property but, notwithstanding any applicable theory of a mortgage or pledge, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired legal title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure; nor shall the term "Owner", mean or refer to any lessee or tenant of an Owner.
- E. "Plat" shall mean and refer to the subdivision Plat for The Kinzel Springs Subdivision, of record in Map Book \_\_\_\_\_, Page \_\_\_\_\_, of the Register of Deeds Office for Blount County, Tennessee. F1870A
- F. "Property" shall mean and refer to the existing real property as shown and described on the above-mentioned Plat, but does not include the Tract (as defined below).
- G. "Roadways" shall mean and refer to any private roads within the Property intended for the joint use and benefit of the Owners as shown on the Plat.
- H. "Tract" shall mean and refer to that certain parcel of real property described in Warranty Book 692, Page 815 of the Register of Deeds Office for Blount County, Tennessee.
- I. "Business Activity" and "Commercial Use" shall mean any activity or use of any dwelling or other permitted structure for a business or for commercial purposes in any manner as to be visible from outside the building, but specifically excluding rentals. "Visible from outside the building" shall include,

For witness see Mini 201 Pg 769  
For Declaration Kinzel Springs Ph II See Assoc 22 3 pg 240

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REGISTER OF DEEDS BLOUNT CO. TN

but not be limited to, a material increase in traffic or persons to and from any dwelling or other permitted structure over that which would normally and routinely take place in a permanent, full-time occupied dwelling.

- J. "Detention Facility" shall mean the pond common area detention and detention maintenance area as shown on the referenced Plat.
- K. "Private Driveways" shall mean the common drive easements as shown on the referenced Plat.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be, held, transferred, sold, conveyed, leased, and occupied, subject to this Declaration, is located in the County of Blount, State of Tennessee, and is more particularly described on the Plat which description is incorporated herein by reference, and shall include no other or further property except as may be included by amendment to these Covenants.

## ARTICLE III

### RESTRICTIVE COVENANTS

**Section 1.** EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS. All Lots shall be used exclusively for single family residential purposes, which shall be deemed to include rentals for single family residential use, as that term is used by the U. S. Department of Housing and Urban Development. No lot shall be used for any commercial or industrial purpose or for any commercial husbandry or agricultural activity. This shall not prohibit the rental of residences within the Property nor shall it prohibit the maintenance of a household garden or household pets; provided that any pets shall at all times be kept under the close supervision of the Owner. No structure, except as hereinafter provided shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single family dwelling and one (1) one-story accessory building which may include a detached private garage, provided the use of such dwelling or accessory building does not include any business or commercial activity.

**Section 2.** KINZELS SPRINGS ARCHITECTURAL CONTROL COMMITTEE

- A. All plans and specifications for any structure for improvements whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the construction material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations, or additions thereto on any lot shall be subject to and shall require the approval in writing before any such work is commenced of the Kinzel Springs Architectural Control Committee (the "Committee"), as the same is from time to time composed.
- B. The Committee shall be composed of three (3) members. The Board of Directors of the Kinzel Springs Property Owners Association, Inc. (the "Association") shall have the right to appoint and remove members of the Committee.
- C. There shall be submitted to the Committee two (2) complete sets of the final plans and specifications for any and all proposed improvements of any kind and no such improvements shall be erected, altered, placed or maintained upon any lot unless and until the final plans, elevations, and specifications therefor have received written approval as herein provided. Such plans shall include plot plans showing the location on the lot of the building, wall, fence, or other structure proposed to be constructed, altered, placed or maintained, together with the proposed construction material, color schemes for roofs and exteriors thereof and proposed landscape planting and enough parking space to accommodate the family's current cars.

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- D. The Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt thereof One (1) set of said plans, specifications and details with the approval or disapproval endorsed thereon shall be returned to the person submitting them and the other copy thereof shall be retained by the Committee for its permanent files.
  - E. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with any of the provisions of these Restrictions.
  - F. All homes and other structures shall be constructed by contractors licensed by the State of Tennessee or contractors from other states with reciprocal agreements with the State of Tennessee, and approved by the Committee.
  - G. Neither the Committee nor any architect or agent thereof or the Association shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

**Section 3.** SIZE AND PLACEMENT OF RESIDENCES AND STRUCTURES

- A. Every residence dwelling constructed on a lot subject to these Restrictions shall contain at least 1,500 square feet of fully enclosed floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, garages, carports and other outbuildings); at least 1,000 square feet must be on the ground floor. A guest suite or like facility with a kitchen may be included as part of the main dwelling, or as a part of the single permitted accessory structure.
- B. Each dwelling shall be a maximum of two and one-half (2 1/2) story construction (together with a roof of a minimum 8-12 pitch).
- C. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Subdivision all fences and walls must have the written committee approval as to location, size, and materials. No fences shall be permitted on any lot or lot lines unless, in the sole opinion of the Committee, a fence or other enclosure will contribute to and be in keeping with the character of the area.
- D. No above-grade structure (except approved fences or walls) may be constructed or placed on any lot in the Subdivision except within the building lines shown on the recorded plat, and for any front, side, or rear building lines not so shown, the building lines, in addition to those shown on the recorded plat, shall be twenty (20) feet from the rear, side, and thirty (30) feet from the front Lot lines (or as otherwise shown on the Plat), with the exception of a driveway not to exceed fourteen (14) feet in width, per lot.

**Section 4.** GENERAL PROHIBITIONS AND REQUIREMENTS.

- A. The following general prohibitions and requirements shall prevail as to the construction or activities conducted on any lot in the Subdivision:
  - a. No house trailer or mobile home shall be used, stored, or placed on any Lot. No bus, heavy equipment, tractor trailer rig (separate or in combination), houseboat, wrecked vehicle of any kind, vehicle in disrepair of any kind, or building materials not for immediate use on the Lot, shall be placed, stored, or parked on any Lot unless stored completely within the dwelling or garage.
  - b. Construction of improvements must be commenced no later than sixty (60) months from the closing of the Lot by the Owner and once construction of improvements is commenced, the improvements must be completed in accordance with plans, specifications and details, as approved, within twelve (12) months from commencement.
  - c. No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications and a certificate of occupancy has been issued by the Committee.

- d. All structures constructed or placed on any lot shall be built of substantially new material (unless specifically authorized in writing by the Committee) and no structures shall be relocated or placed on any such lot.
- e. No animals or livestock of any description, except the usual household pets in reasonable number, shall be kept on any lot. All household pets must be maintained on a leash at all times when such household pets are allowed to leave the lot.
- f. No sign of any kind, other than a small wooden sign not more than six inches high by three feet wide denoting home ownership or identification shall be displayed to the public view on any lot without the written permission of the Developer, or, in the event the Developer has recorded an instrument delegating authority to the Association, the Association.
- g. No stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any street or lot.
- h. Every fuel storage tank shall be buried below the surface of the ground to the satisfaction of the Committee. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed and kept as not to be visible from any street, lake or recreational area.
- i. All outdoor poles, clothes lines and similar equipment shall be so placed or screened by shrubbery as not to be visible from any street, lake or recreational area.
- j. All lots, whether occupied or unoccupied, shall be well-maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted. No planting or landscaping shall be placed on the corner line or lines of Lots or at intersections in such a way and manner as to obstruct, partially or wholly, the visibility of traffic. Developer or, in the event Developer has recorded an instrument delegating such authority to the Association, the Association, shall have the right, in its sole discretion, to remove any planting or other obstruction it deems violative of this provision.
- k. No noxious, offensive, or illegal activities shall be conducted on any lot nor shall anything be done on any lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.
- l. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.
- m. No vehicle shall be parked on any street in the Subdivision. No dual wheel truck shall be parked for storage overnight or longer, on any lot, in such a manner as to be visible to the occupants of other lots or the users of any street, lake, or recreational area.
- n. Any dwelling or outbuilding on any lot which may be destroyed in whole or in part by fire, windstorm, or for any other cause or act of God, must be rebuilt or all debris removed and the lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than six (6) months.
- o. No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on any lot or upon any recreational area in the Subdivision. No outside burning of wood, leaves, trash, garbage, or household refuse shall be permitted.
- p. All outdoor lighting (except for emergency lighting, and except for lighting affixed directly to the principal residence, used as porch lights, deck lights, or floodlights for the immediate area surrounding the principal residence) shall be of low wattage (no greater than 40 watts if AC powered), shall be turned toward the ground or directly upward, and shall be shielded completely or by frosted (translucent) glass or plastic in all directions so that no light shines directly from one house to another house or illuminates any other lot. Additionally, each Owner, at the time of construction of any dwelling, and at Owner's sole cost and expense, shall, at the intersection of such Owner's driveway with the road on which the dwelling is located, at the location designated by Developer, erect the signpost, light fixture, and signage described in Exhibit A to these Restrictions. No dwelling shall be complete

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until this provision has been satisfied. No other signpost, light fixture, or signage will satisfy the requirements of this Section 4. In the event the items described on Exhibit A are no longer available, Developer shall have the right, in Developer's discretion, to designate additional or alternative fixtures.

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- q. There shall be no access to any lot on the perimeter of the Subdivision except from designated roads within the Subdivision.
- r. No trees, measuring six (6) inches or more in diameter at a point three (3) feet above ground level, may be removed unless located within twelve (12) feet of the main dwelling or accessory building or the approved site therefore or are located in the septic drain field area. Developer shall not be constrained by this Section 4, and may clear any trees the removal of which is deemed, in the sole discretion of Developer, to be in the best interest of the Subdivision. No tree shall be removed from any Lot by the Owner of said Lot until the Owner is ready to begin construction, has clearly marked all trees designated for removal, and has secured the prior written approval of the Developer or, in the event Developer has recorded an instrument delegating such authority to the Association, the Association. During construction, all trees, brush, and stumps resulting from cutting and clearing activities must be removed from the Lot. Notwithstanding any other provision of these restrictions, an Owner may request removal of specific trees the removal of which is otherwise prohibited by these restrictions. Permission to remove shall be granted or withheld in the sole discretion of Developer.
- s. No lot or parcel within the subdivision shall be used, nor shall any road, street, or right-of-way be placed upon such lot or parcel for the purpose of ingress or egress to or from adjoining property without the express written consent of the Developer or, in the event Developer has recorded an instrument delegating such authority to the Association, the Association. Notwithstanding any other provisions of these restrictions, Developer, or its assigns, shall have the right to reconfigure one or more lots including for the purpose of access, streets, roads, rights-of-way, or otherwise.
- t. No satellite dish greater than thirty-six (36) inches in diameter may be placed on any lot or on any structure, without the express written consent of the Developer, or, in the event the Developer has recorded an instrument delegating authority to the Association, the Association.
- u. Every lot must maintain a 16" culvert at the location where the driveway onto the lot intersects with the road.

#### **Section 5.** SUBDIVIDING LOTS.

Any subdividing or re-subdividing of Lots other than with the express written consent of Developer, which may be granted or withheld in Developer's sole discretion, or the Association in the event Developer has assigned its rights to the Association, is strictly prohibited; provided, however, Developer, or its assigns, shall have the option to subdivide or re-subdivide any Lot, which option is exercisable in Developer's sole discretion.

#### **Section 6.** EASEMENTS

A perpetual non-exclusive easement five (5) feet wide on each side of all Lot lines and 10 feet along any lot line contiguous with a street, road, or right-of-way, is reserved for drainage and utilities, including, but not limited to electricity, telephone, telegraph, fiber-optics, cable television, co-axial cable, internet service, or any other regulated or unregulated service commonly accepted to be in the nature of a utility. No structure of any kind except fencing shall be erected or maintained upon or over said easement; provided, however, that if a Lot is joined to another Lot for the purpose of creating a larger Lot and such joinder is recorded in the Register of Deeds Office for Blount County, Tennessee, any unused portion of this easement shall terminate as to the interior lot lines of the Lots so combined.

**Section 7. VARIANCES**

Notwithstanding any other provision contained herein, the Developer, or, in the event the Developer has recorded an instrument delegating authority to the Association, the Association, shall have the right to permit variances to the foregoing restrictions upon written request by any Owner if the Developer, in its sole and absolute discretion, or the Association, makes a determination that because of the topography of a particular Lot or because of other circumstances beyond the control of such Owner and not created by the actions of such Owner, a strict enforcement of a particular restriction would create a substantial hardship on such Owner; provided, however, that in no event shall any variance be granted permitting any use of the Property for any Business or Commercial activity, specifically excepting from this prohibition any activity or use connected or affiliated with Developer, or any use which is otherwise prohibited by these restrictions. Any variances permitted under this Section shall be subject to the regulations of Blount County including zoning and subdivision regulations.

**Section 8. MAINTENANCE OF COMMON DRIVE EASEMENTS**

- A. Developer desires to construct, solely at his expense, common drive easements as shown by aforementioned Plat of record, to enable Lots 14, 15 and 16; Lots 17 and 18; and Lots 23, 24, 25 and 26 to have access to each of their lots, respectively. Developer shall complete the said common drive easements with material and workmanship satisfactory to the Blount County Planning Commission and shall pass the inspection of the proper official for said Commission.
- B. The Kinzel Springs Property Owners Association, Inc. shall maintain the common drive easements shown on the Plat of record, and pay the expense of maintenance and repair and to keep the common drive easements in a safe and neat condition.

**Section 9. KINZEL SPRINGS PROPERTY OWNERS ASSOCIATION, INC.**

- A. Every person upon acquiring title, legal or equitable, to any lot in the Subdivision shall become a member of the Kinzel Springs Property Owners Association, Inc., a Tennessee not for profit corporation (the "Association"), and as long as he or she is the Owner of any such lot, he or she must remain a member of the Association.
- B. The Association shall be responsible for the maintenance, repair, and upkeep of amenities owned by it and the roadways and Private Driveways, Detention Facility, parks and common areas located within the Subdivision. The Association shall also promulgate and enforce all regulations necessary for the use and enjoyment of such parks, common areas and such other properties as it may from time to time own.
- C. The Association shall have all the powers that from time to time are set out in its Articles of Incorporation and all other powers that belong to it by operation of law. The Association shall levy against every member of the Association a uniform annual charge per single family residential lot within the Subdivision or per association member; the amount of said charge to be determined by the Board of Directors of the Association in order to provide for the current and future maintenance, repair and upkeep of the roadways, Private Driveways, Detention Facility, parks, and common areas located in the Subdivision. The Association may also charge any user or member fees for the use of any amenities owned or operated by it, including charges for individual services or goods provided members through such facilities.
- D. In addition to the uniform annual charge set forth in paragraph C, in the event of a natural disaster of "acts of god", the Association shall have the power to levy special assessments in the amounts necessary to make repairs or alterations as a result of such events.
- E. Payment of the annual charge per lot is due on the 1st day of January of each year.

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- a. The Board of Directors of the Association shall fix the amount of the annual charge per lot on or before the first day of January of each year, and written notice of the charge so fixed shall be sent to each member.
  - b. If any annual charge shall not be paid when due, it shall bear interest from the date of delinquency at the rate of twelve per cent (12%) per annum.

The annual charge shall become an automatic, continuing lien against each lot for the payment thereof which may be foreclosed upon if the annual charge is not timely paid. The annual charge shall become a lien or encumbrance upon the land and acceptance of each deed, not including acceptance by mortgagee, shall be construed to be a covenant to pay the charge. The Association may publish the names of the delinquent members, and every such lien may be foreclosed at any time. Any lot acquired is taken subject to the lien for any unpaid prior charges, and every person who shall become the owner of the title (legal or equitable) to any lot in the Subdivision by any means shall be held conclusively to have agreed to pay the Association or its designee all such charge or charges.

Notwithstanding anything contained herein to the contrary, in no event shall the Developer, or any firm, person, corporation, or other entity which is a subsidiary of or affiliated with the Developer, be in any manner, held liable or responsible by any person or entity, either directly or indirectly, for the enforcement of or for any violation of these covenants and restrictions. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2032, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by a vote of the majority of the owners of the lots it is agreed to change said covenants in whole or in part. Notwithstanding the foregoing, the responsibility for maintenance of the Roadways, Private Driveways and Detention Facility shall continue as a joint responsibility of owners.

If an owner of a lot shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning real property, or the Homeowner's Association in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

There shall likewise be impressed upon said Lots, all easements, setback lines, restrictions, or covenants, whether implied or otherwise, as set forth in Plat Book \_\_\_\_, Page \_\_\_\_, in the Register's Office of Blount County, Tennessee.

IN WITNESS WHEREOF, the undersigned has executed this instrument on this 9 day of December 2002.

Jeff Bailey  
JEFF BAILEY  
GENERAL PARTNER  
KINZEL SPRINGS PARTNERSHIP

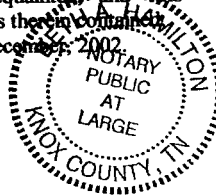
Richard Maples  
RICHARD MAPLES  
GENERAL PARTNER  
KINZEL SPRINGS PARTNERSHIP

STATE OF TENNESSEE  
COUNTY OF BLOUNT

Personally appeared before me, a Notary Public in and for said County, the within named bargainer, Jeff Bailey, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained. Witness my hand and official seal at office this 9th day of December, 2002.

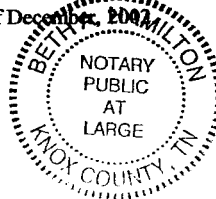
Beth A. Nemillon  
NOTARY PUBLIC

STATE OF TENNESSEE  
COUNTY OF BLOUNT



Personally appeared before me, a Notary Public in and for said County, the within named bargainer, Richard Maples, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained. Witness my hand and official seal at office this 9th day of December, 2002.

Beth A. Nemillon  
NOTARY PUBLIC



This Instrument Prepared by and Return to:  
Colman B. Hoffman  
7011 Brickton Way  
Knoxville, TN 37919  
(865) 769-7540

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