

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, SERVITUDES AND EASEMENTS FOR
HOLES 1-9 OF THE ANDOVER COUNTRY CLUB AND
GOLF COURSE PROPERTY (DEED BOOK 3606, PAGE 136)**

THIS Declaration of Covenants, Conditions, Restrictions, Servitudes and Easements for Holes 1-9 of the Andover Country Club and Golf Course Property (Deed Book 3606, Page 136) (the "**Declaration**") is made as of the 17 day of December, 2018, by Andover Forest Homeowners Association, Inc., a Kentucky non-stock, non-profit corporation ("**Declarant**").

RECITALS

WHEREAS, Declarant was created to further the common good and general welfare of the residents of the development of the common interest community located in Fayette County, Kentucky and commonly known as Andover Forest (the "**Development**");

WHEREAS, the Development consists of certain residential lots (each a "**Lot**") that are identified in and subject to the Declaration of Covenants, Conditions and Restrictions for Brighton Place Subdivision, of record in the Fayette County Clerk's Office at Deed Book 1519, Page 302, and those certain Amendments to the Declaration of Covenants, Conditions and Restrictions for Brighton Place Subdivision submitting additional real property recorded in the Fayette County Clerk's Office as follows: Deed Book 1549, Page 133; Deed Book 1577, Page 38; Deed Book 1599, Page 413; Deed Book 1663, Page 08; Deed Book 1666, Page 747; Deed Book 1682, Page 505; Deed Book 1664, Page 730; Deed Book 1687, Page 564; Deed Book 1758, Page 294; Deed Book 1873, Page 161; Deed Book 1950, Page 17; Deed Book 1754, Page 282; Deed Book 1896, Page 736; Deed Book 2057, Page 612; Deed Book 2004, Page 620; and Deed Book 2110, Page 614 (the "**Restrictions**").

WHEREAS, portions of a golf course formerly known as the "**Andover Golf Course**", were located adjacent to and within the Development;

WHEREAS, the owner and operator of the Andover Golf Course, Andover Golf and Country Club, Inc. defaulted on its loan obligations to Whitaker Bank, the lender holding the mortgage on the Andover Golf Course ("**Whitaker**");

WHEREAS, in 2017, Whitaker foreclosed on the Andover Golf Course and was the highest bidder at the Master Commissioner's foreclosure sale;

WHEREAS, AGCC, LLC, a wholly owned subsidiary of Whitaker, was assigned Whitaker's winning bid interest, and was subsequently deeded the Andover Golf Course Property by Fayette Master Commissioner;

WHEREAS, the members of the Declarant, being the owners of the Lots within the Development (each owner a "**Member**" and collectively the "**Members**"), voted at a duly-noticed, called and held special meeting to purchase the Common Property, as defined herein, to

be used in perpetuity as a golf course, or, if not financially feasible, as green space, open space, common areas, park, trails, and recreational amenities for the use of the Members; and

WHEREAS, Andover Neighborhood Association, Inc., Villas at Andover Homeowners Association, Inc., The Golf Townhomes of Andover, Estates Section, Homeowners Association, Inc., The Golf Townhomes at Andover Homeowners Association, Inc., and The Reserve at Andover Residential Homeowners Association, Inc. (the “*Neighboring Associations*”) are adjacent to or located near the Development and contemporaneously purchased portions of the Andover Golf Course, either individually or through Andover Common Property NFP, Inc. for similar purposes as the Declarant.

NOW, THEREFORE, Declarant desires to record this Declaration to restrict the uses to which the Common Property may be used.

1. **Definition.** As used herein, the term “*Common Property*” shall mean the portion of the former Andover Golf Course commonly known as Holes 1-9, more particularly being that property conveyed to the Declarant by Deed dated August 3, 2018, and filed of record in Deed Book 3606, Page 136 in the Fayette County Clerks’ Office, and more particularly described in **Exhibit A** attached hereto..

2. **Use Restriction.**

a. **Generally.** The Common Property shall only be used and maintained as a golf course. However, if a golf course is not independently financially feasible, as determined by Declarant and the Neighboring Associations, without subsidies from Declarant and the Neighboring Associations or their Members, then the Common Property shall only be used and maintained as green space, open space, common area, park, trail, recreational amenities, or similar uses as determined by the Declarant (“*Permitted Uses*”). Except as permitted by Section 2(b) herein, the Common Property shall not be developed, used or maintained as residential, commercial or other uses, except for the Permitted Uses.

b. **Limited Development Areas.** Those limited areas of the Common Property being Hole 7 and Hole 8 immediately adjacent to Pleasant Ridge Drive, more particularly identified as the “*Limited Development Areas*” on **Exhibit B** attached hereto, may be subdivided into a limited number of single family residential lots, not to exceed 5 lots, and developed in a manner consistent with and submitted into the community wide standard and the covenants, conditions, restrictions, easement, and servitudes set forth in the Restrictions (the “*Community Wide Standard*”). Any lots subdivided or created from the Limited Development Area shall be submitted in and to a deed of restrictions setting forth restrictive covenants providing that said lots are subject to the Community Wide Standard, that the owners of said lots are Members of the Declarant, and shall pay dues and assessments in accordance with the Addendum.

3. Easements, Licenses, and Exceptions

a. Member Easement. Every Member of the Declarant shall have a non-exclusive right of access and enjoyment and an easement in, to and over the Common Property for the purposes for which this Declaration is established, which right and easement shall be appurtenant to and shall pass with the title to every Lot (the "**Member Easement**"). Any Member may license his or her Member Easement to the members of his or her family, lessees, social invitees, as applicable, subject to any Policies, defined herein, adopted by the Declarant. A Member who leases his or her Lot shall be deemed to have licensed its Member Easement rights to the Lot's lessee, and said lessee shall comply with this Declaration and the Policies. This Member Easement is appurtenant to each Member's Lot, and may not be conveyed separately from the ownership or lease of the Lot.

b. Reciprocal Easements. Declarant grants a non-exclusive right of access and enjoyment and an easement, subject to any Policies, defined here, adopted by the Declarant, for golf cart, pedestrian and bicycle passage on, upon and over the paved golf cart paths/walking trails (the "**Paths**") in the Common Property to the members of each Neighboring Association.

c. Licenses. In addition to the easement granted to members of the Neighboring Associations, the Declarant may, at its discretion, grant licenses to access or use the Common Property to others, including members of other nearby common property regime association(s) on terms and conditions it may see fit, including, without limitation, indemnification and the payment of consideration by such common property regime association(s) or its/their members.

d. Golf Course Use. In the event the Declarant and Neighboring Associations agree with a third party to operate the Common Property and other parcels previously constituting the Andover Golf Course as a golf course and to maintain and operate the Common Property as a golf course at no expense to the Declarant (such third party being the "**Operator**"), then in consideration of the Operator's maintenance obligations, the easements defined in Sections 3(a) and 3(b), and any license granted under Section 3(c), shall be restricted in both scope and time so as not to interfere with the operation of the Common Property as a golf course. In particular, the easements granted to the Members of the Declarant and the Neighboring Associations shall be limited to the use of the Paths and during certain times so as not to interfere with the operation of the Common Property as a Golf Course. The Declarant, in conjunction with an Operator shall adopt Policies, as defined herein, concerning the use of the Common Property, which Policies may include, but need not be limited to, defining seasons and times of golf course use, during which time Members of the Declarant and of Neighboring Associations right of access to the Common Property may be further limited. Any Policies shall consider and provide the Operator with reasonable restrictions to provide for the use of the Common Property as a golf course and shall provide the Members of the Declarant and members of Neighboring Associations with reasonable access to and use of the Common Property for uses other than as a golf course as set forth herein.

4. Sale of Common Property. Declarant may sell portions of the Common Property that adjoins a Member's Lot to that Member (a "**Member Parcel**"). Any Member Parcel sold to

a Member will remain subject to the Use Restriction described in Section 2 above and Easements described in Section 3 of this Declaration. Upon the transfer of a Member parcel to a Member, the Member Parcel shall be subject to the Restrictions applicable to the Lot it adjoins. For avoidance of doubt, a Member may not erect a fence, hedge, or other enclosure in or around a Member Parcel, as a fence, hedge, or other enclosure would violate the Use Restriction described in Section 2 and Easements described in Section 3.

5. **Policies, Procedures, Rules, and Regulations; Enforcement.** Declarant may adopt and exclusively enforce reasonable policies, procedures, rules and regulations concerning the Common Property ("***Policies***"). Such Policies shall be binding upon all Members, and their lessees, occupants or users of the Common Property, tenants, guests, licensees, invitees, agents and servants, and any person or persons that shall be permitted to use the Common Property. The Declarant may enforce this Declaration or any Policies against any Member, lessee, occupant or user of the Common Property, the tenant, guest, licensee, invitee, agent and servant of them, and any person or persons that shall be permitted to use the Common Property. The Declarant may enforce this Declaration and the violation or attempted violation of any covenant or restriction through judicial process, or by other methods, including but not limited to limiting or prohibiting access to the Common Property or imposing fines.

6. **Miscellaneous.**

a. **Waiver.** No waiver of any provision of this Declaration is or shall be interpreted to be a further waiver thereof or of any other provision of this Declaration.

b. **Severability.** If any provision of this Declaration is declared invalid or unenforceable by any legislative, administrative or judicial body of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall be unaffected by such determination and the affected provision shall be deemed valid and enforceable to the greatest extent allowed by law.

c. **Runs with Land.** Unless terminated, altered, or amended, this Declaration, and all the provisions hereof, shall run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this Declaration is recorded, after which time this Declaration shall be extended automatically for successive periods of ten (10) years.

d. **Amendment.** This Declaration may be amended or modified only by the recording of an instrument signed by (i) the President and Secretary of the Declarant, verifying that the amendment or modification was approved by the majority of Members voting in person or by proxy at a duly-notice and called meeting of the Members at which a quorum was established, or (ii) a majority of the Members of the Declarant. For purposes of clarification, the majority of Members necessary to amend this Declaration under this Section 6(d)(ii) refers to a majority of all Members of the Declarant and not to a majority of those Members present in person or by proxy at a meeting.

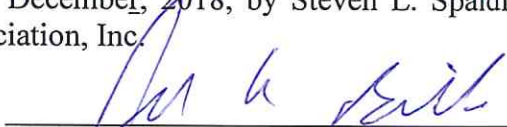
IN WITNESS WHEREOF, this Declaration is executed this 20 day of December, 2018, by the Declarant.

Andover Forest Homeowners Association, Inc.

By: 
Steven L. Spalding, President

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Declaration of Easements and Restrictions was subscribed to, sworn to and acknowledged before me on this the 20 day of December, 2018, by Steven L. Spalding as President of the Andover Forest Homeowners Association, Inc.



NOTARY PUBLIC

My Commission expires: 12/4/20
Notary Number (if any): 568152

THIS INSTRUMENT
PREPARED BY:



John N. Billings
BILLINGS LAW FIRM, PLLC
111 Church Street, Suite 300
Lexington, Kentucky 40507
(859) 225-5240

EXHIBIT A

Legal Description of the Common Property

Being all of Tract 5 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the Office of the Fayette County Clerk, all of Parcels 8 and 9, Tract 9, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571 in the aforesaid Clerk's Office, all of Parcels 6 and 7, Tract 10, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, all of Tracts 11 and 12 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the aforesaid Clerk's Office, all of Tract 13 of the Brighton Place Subdivision as shown on the Corrected Amended Minor Plat of record at Cabinet I, Slide 131, in the aforesaid Clerk's Office, all of Parcels 4 and 5, Tract 15, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, and all of Tract 16 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office.

There is EXCEPTED from the above-described property the following:

Exception 1:

All of that property conveyed by Andover Golf & Country Club, Inc. a Kentucky corporation, to Ball Homes, Inc., a Kentucky corporation, by Deed dated December 17, 1996, of record in Deed Book 1887, Page 494 in the Fayette County Clerk's office. Said property being more particularly described as:

Being all of Parcel "A", as shown on the Consolidation Minor Subdivision Plat of 3209 Brighton Place Drive (Lot 119, Block "A") and a portion of Andover Golf and Country Club Property in the Village of Andover Forest, Brighton Place Subdivision, Unit 6-B, of record at Plat Cabinet K, Slide 167, in the Office of the Fayette County Clerk.

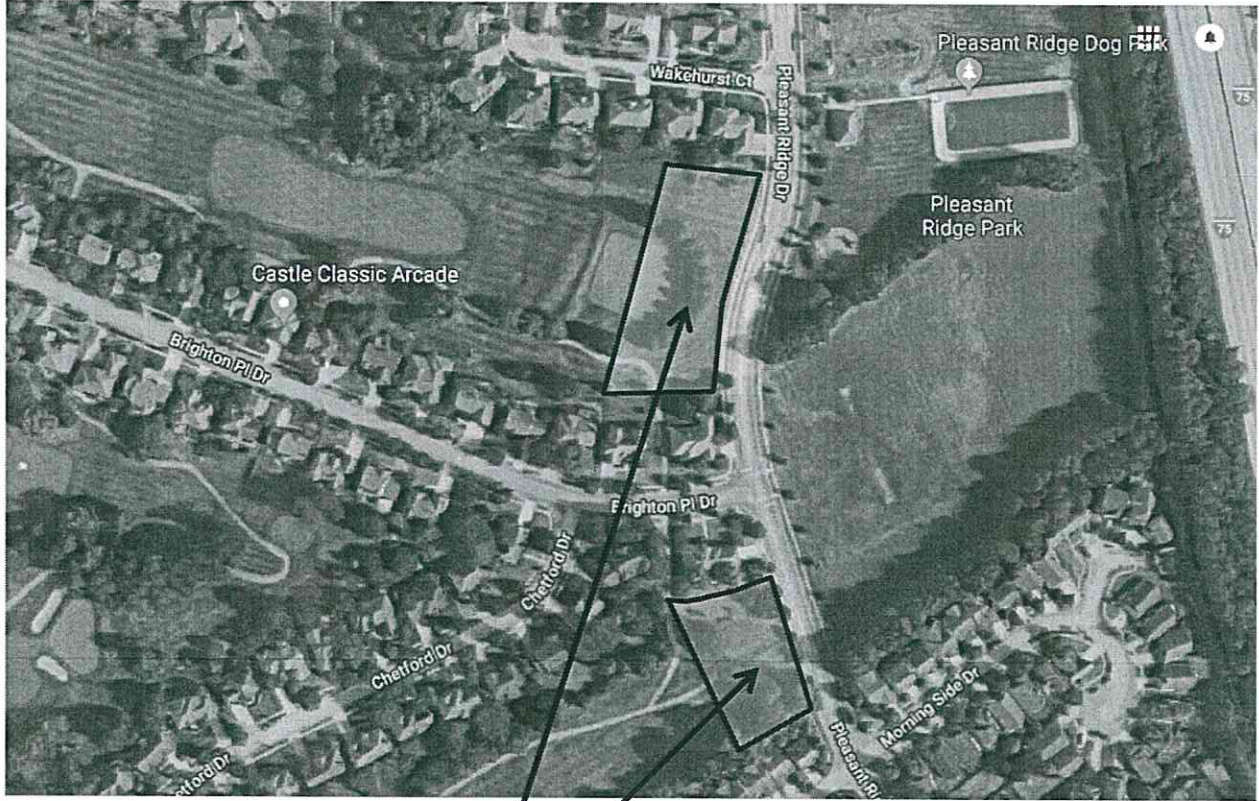
Exception 2:

All of the property conveyed by Andover Golf & Country Club Inc. to Commonwealth of Kentucky for the use and benefit of the Transportation Cabinet, Department of Highways, by Deed dated February 12, 2015, of record in Deed Book 3298, Page 377, of record in the office of the Fayette County Clerk.

Being that same property conveyed to Andover Forest Homeowners Association, Inc., a Kentucky nonprofit corporation, by AGCC, LLC, a Kentucky limited liability company, by Deed dated August 3, 2018, and recorded on August 13, 2018, in Deed Book 3606, Page 136, in the Fayette County Clerk's Office.

EXHIBIT B

Limited Development Areas



LIMITED DEVELOPMENT AREAS

I, Donald W Blevins Jr, County Court Clerk
of Fayette County, Kentucky, hereby
certify that the foregoing instrument
has been duly recorded in my office.



By: PATTY DAVIS ,dc

201812280065

December 28, 2018 10:28:53 AM

Fees	\$25.00	Tax	\$.00
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Total Paid	\$25.00
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8 Pages

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