

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE OAKWOOD PARK SUBDIVISION**

This DECLARATION, made on the date hereinafter set forth by the Oakwood Park Homeowner Association, Inc., hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, the Declarant is a corporation organized and operating in the State of Mississippi; and

WHEREAS, the Declarant governs the affairs of certain property in the City of Olive Branch, County of DeSoto, State of Mississippi, which is more particularly described as:

Certain Lots Numbered 1 – 77, Oakwood Park Subdivision, in Section 8, Township 2 South, Range 6 West, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 68, Pages 4 - 7, in the Office of the Chancery Clerk of DeSoto County, Mississippi; and

WHEREAS, the Covenants and Restrictions were previously amended and filed with the Chancery Clerk of DeSoto County, Mississippi February 8, 2005 at Book Number 492, Page 159; and

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held and conveyed subject to the following easements, restrictions, covenants, and conditions, 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 properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof; and

FURTHERMORE, this Amended and Restated Declaration of Covenants and Restrictions is made this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by a super-majority vote of the Members, as required by this Declaration. The following Restrictive Covenants shall apply to all of the land in the Oakwood Park Subdivision.

**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 "Oakwood Park", as more fully described above as that certain real property known as Oakwood Park Subdivision located in Olive Branch, Desoto County, Mississippi, and in order to provide for the administration and maintenance of certain portions of said real property and for the enforcement of these amended and restated covenants and restrictions, hereby declares that the aforementioned real property hereof shall be held, used, transferred, sold, and conveyed subject to the Amended and Restated Covenants and Restrictions set forth herein.

**ARTICLE II. DEFINITIONS**

1. "Association" means Oakwood Park Homeowners' Association, Inc., a Mississippi corporation, its successors and assigns.
2. "Board" means the Board of Directors of Oakwood Park Homeowner's Association, Inc.
3. "Bylaws" means the Bylaws of the Association.
4. "Committee" means the Architectural Control Committee, whose functions shall be carried out by the Board of Directors until such time as the Committee is organized and established by the Board.
5. "Common Area" means any real property, land, easements or facilities that the Association owns and/or maintains for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

The Common Area is an Island as shown on the Plat at the entrance of the OAKWOOD PARK SUBDIVISION for Landscaped Entrance; as well as, the entrance monuments, fences, grassy areas between the fence and College Road, including such landscaping at such entrances.

6. "Declarant" means Oakwood Park Homeowners' Association, Inc., a Mississippi corporation, its successors and assigns.
7. "Declaration" means this Declaration of Amended and Restated Covenants, Conditions and Restrictions as the same may be supplemented or amended from time to time.
8. "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 Architectural Control Committee.
9. "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.
10. "Lot" means and refers to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area, upon which a residence may be constructed.
11. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
12. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, as herein provided.

### **Article III. Membership, Voting Rights, and Covenant for Maintenance Assessments**

1. **Membership.** Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.
2. **Voting Rights.** Members shall be Owners and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. No member shall be entitled to vote unless all assessments or dues on the Lot owned are paid current.
3. **Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not is shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interests, costs, and reasonable attorney's fees, 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 interest, cost, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.
4. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated on the Properties.

5. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner (condition met in the year 2001), the maximum annual assessment shall be \$250.00 per year.

- (a) The maximum annual assessment may be increased each year not more than three (3%) percent above the maximum annual assessment for the previous year without a vote of the Membership, but by formal action of the Board.
- (b) The maximum annual assessment may be increased above three (3%) percent in any year by a vote of two-thirds (2/3rds) of Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board may fix the annual assessment at an amount not in excess of the maximum.

6. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in an 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, reconstruction, repair or replacement of a capital improvement upon the Common 'areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at a meeting called for this purpose. It is expressly understood that all streets located on or in the common area shall be maintained by the Association and not be deemed city streets at any time nor be maintained by the appropriate governing body.

7. Notice and Quorum for an Action Authorized Under Sections 5 and 6. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5 or 6 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

9. Date of Commencement of Annual Assessments; Due Dates. The Fiscal Year of the Association shall be April 1 to March 31 of each year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six (6) percent per annum. However, failure to pay said assessments will not constitute a default under any insured mortgage. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provide for herein by non-use or the Common Area or abandonment of his Lot.

11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale for transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became 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.

**Article IV. Architectural Control**

1. Establishment of Architectural Control and Committee Formation. An Architectural Committee ("Committee") is hereby established for all Lots located within the Property, whose duties shall initially be performed by the Board. The Board itself may act as and in the role of the Committee, if it so deems. Thereafter, and if separately established, the Committee shall consist of designees of the Board, such Committee to be composed of at least one (1) but no more than three individual Lot Owner(s). Except for the initial term, these individual(s) shall serve for a period of three (3) years unless they resign from the Committee by written notice to the Board of the Association. The initial appointments to the Committee shall serve as follows: one individual for one year, a second individual for two years, and a third individual for three years; thus establishing staggered terms for the members of the Committee. The Committee may, though is not required to, designate the first single year term representative. Upon the expiration of each individual's term, the replacement designee shall serve for three (3) years. Upon the expiration of a designee's term, or the earlier resignation of the above referenced designees, the Board of Directors of the Association shall then reappoint the unfilled positions on the Committee.

2. Objective of the Committee. It will be the objective of the Committee to reasonably and consistently consider each request for initial home approvals, changes to homes, or additions to properties or the common areas on a fair, balanced and equitable basis within the specifically defined, and deemed reasonable intent of the covenants and restrictions adopted for this Community. While not determinative in and of itself, any Owner proposal for additions to or changes to their property accompanied by an endorsement of such proposal by the surrounding and immediate neighbors shall be considered supportive by the Committee. These inter-neighbor exchanges and endorsements are encouraged by the Committee.

3. Adoption of Rules and Regulations Affecting Committee Action and Responsibilities. The affirmative vote of the majority of the membership of the Committee shall be required to adopt or promulgate any rule, standard or regulation, or to make any findings, determinations, ruling or order, or to issue any permanent authorization or approval pursuant to directives or authorizations contained herein. Any rule, standard, or regulation adopted by the Committee must also be adopted by a majority vote of the Directors, and shall not be inconsistent with this Declaration. Committee adopted procedural rules, standards, and statements of policy may be amended or revoked by the Committee at any time, subject to review and the consent of a majority of the Board. Previous approvals or disapprovals granted based upon previous rules, standards, or policy statements (but now changed or amended) shall not bind the Committee to approve or disapprove a future submission under any doctrine of precedence with regard to the amended rules, standards, and policy statements.

[NOTE: The intent of this provision 3 and 4 below was to allow the Committee to adopt procedural rules, regulations and standards to guide the administration of their work, not to allow modifications of covenants without the consent of the Association. These provisions were redrafted to state this more clearly. The appeal portion was moved to a separate section below.]

4. Application of Architectural Standards and Procedures. No exterior construction, alteration, addition, or erection of any nature whatsoever (including, without limitation, buildings, detached garages, walls, fences, pools, tennis courts, exterior lighting (other than typical landscape lighting), treehouses and play equipment) shall be commenced or placed upon any part of the Community, except as is approved in accordance with this Declaration, or as is otherwise expressly permitted herein. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the Committee in its discretion to disapprove such plans specifications or any features or elements included therein if such plan, specification, features or elements subsequently submitted for use on any other Lot.

5. Plans and Specifications Required and Approvals. No exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing with verified receipt to and approved by the Committee or its designee. The Committee or its designee may promulgate written guidelines for the exercise of this review.

6. Effect if No Submissions Made or Approvals Obtained: Failure to Follow Plans. If any exterior construction as defined in "4" above, or structure, fence, or barrier shall be altered, erected, placed or maintained upon any Lot contained therein or any new use commenced on any Lot, otherwise than in

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*Deleted: Homeowners have a right of appeal of any finding, determinations, rulings, order, or authorization by the Committee to the Directors, such appeal to be made in writing to the Directors within ten (10) business days of the Committee's issuance of such finding, determination, ruling, order or authorization. ¶*

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*Deleted: Such rules and such statements of policy may be amended or revoked by the Committee at any time and no inclusion in or omission from or amendment of any such rule or statement shall be deemed to bind the Committee to approve or disapprove any feature or matter subject to approval granted or permitted prior to such change.*

accordance with plans and specifications approved by the Committee as required herein, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of the restrictions herein and without the approval required herein. Upon written notice (with return receipt or other confirmation of delivery made) from the Committee any such structure, fence, landscaping or barrier so altered, erected, placed or maintained upon any Lot, in violation hereof shall be removed or re-altered, and such use shall be terminated so as to extinguish such violation. If within fifteen (15) days after the notice of such violation, the Owner or Owners of the Lot upon which such violation exists shall not have taken reasonable steps towards the removal or termination of the same, the Association by its officers or directors shall have the right through its agents and employees to enter upon Lot and to take such steps as may be necessary to extinguish such violation. The Owner(s) will be given at least twenty-four (24) written notice of the Association's intent to enter upon such Lot to extinguish such violation, and the costs of such extinguishment thereof shall be a binding personal obligation of such Owner as well as a lien upon the lot in question upon the recording of such with the DeSoto County, Mississippi Chancery Clerk's Office.

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7. Final Opportunity to Come Within Compliance. Notwithstanding the foregoing, upon receipt of the notice of violation, the Owner or Owners may (within five (5) business days of receipt of such notice of violation, submit the offending construction undertaken in violation of these architectural control provisions to the Committee (with return receipt or other confirmation of delivery made) for consideration of approval or modification to come within the architectural standards. The filing of a request for approval subsequent to and under a notice of violation shall serve to stay the removal or termination order until such time as the Committee has ruled on the submission, subject to the timelines defined immediately below.

8. Standard of Review; Inspections; Stop Orders; Deemed Approvals. The Committee or its designee shall be the sole arbiter of such plans and specifications and may withhold approval on any reasonable basis, including purely aesthetic considerations or the governing restrictive covenants, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Committee or its designee or the representative thereof shall have the right, during reasonable hours and with reasonable notice to the Owner, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. If the Committee or its designee fails to approve or to disapprove submitted plans and specifications within twenty (20) days after such plans and specifications have been submitted to it, such plans and specifications will be deemed approved. However, all activities commenced pursuant to plans that have been deemed approved shall be consistent with such plans. As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the Committee or its designee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successor-in-interest.

9. Right of Appeal. Homeowners have a right of appeal of any finding, determinations, rulings, order or authorization by the Committee to the Directors, such appeal to be made in writing to the Directors within ten (10) business days of the Committee's issuance of such finding, determination, ruling, order or authorization.

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10. Liability Limitation Statement. PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS, THE BOARD, ITS MEMBERS, THE COMMITTEE, ITS MEMBERS, THE BOARD OR COMMITTEE'S DESIGNEE, AND THE ASSOCIATION DO NOT ASSUME LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. DECLARANT, ITS PARTNERS AND AFFILIATES, THE ASSOCIATION, THE BOARD, ITS MEMBERS, THE COMMITTEE, ITS MEMBERS, THE BOARD OR COMMITTEE'S DESIGNEE, AND THE OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES AND AGENTS OF ANY OF THEM, SHALL NOT BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS, BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS OR SPECIFICATIONS AND EVERY OWNER AGREE THAT SUCH PERSON OR OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, THE

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ASSOCIATION, THE BOARD, ITS MEMBERS, THE COMMITTEE, ITS MEMBERS, THE BOARD OR COMMITTEE'S DESIGNEE, OR THE OFFICERS, DIRECTORS, MEMBERS SHAREHOLDERS, EMPLOYEES AND AGENTS OF ANY OF THEM, TO RECOVER ANY DAMAGES, AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION, ARISING OUT OF OR IN CONNECTION WITH ANY MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS. ALL SUCH PERSONS AND OWNERS HEREBY WAIVE THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

#### **Article V. Restrictive Covenants-Use and Construction**

In order to provide for a congenial construction and occupation of the homes within the subdivision, and to provide for the protection of the values of the entire development, the use of the residences shall be in accordance with the following provisions, which shall also be used to guide the Committee in its responsibilities. To the extent that any of these covenants and restrictions are less restrictive than any of the City of Olive Branch ordinances or regulations, the City of Olive Branch ordinances or regulations shall govern.

1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions.
  - (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;
  - (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations, which may be promulgated by the Board, not inconsistently with the provisions of this Declaration;
  - (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members.
2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.
3. Restriction Against Use as Rental Property. No Property for which there is a transfer of ownership to a third party non-family member, or family controlled entity after the effective date of the adoption of these Amended and Restated Covenants, Conditions and Restrictions shall be used as rental property, or advertised as rental property. No signs for rental property may be displayed on any Property in the community, or on any Common Area.
4. Use of Lot. All lots in the Subdivision shall be known and described as residential lots except for common open space, which shall be for common area amenities. No Lot shall be used for any purpose except that of a single-family residence. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached, single family dwelling, an attached private garage for not more than three cars, and separate detached buildings (including detached garages for up to two additional vehicles) incidental to such use. Two or more Lots may be combined for use as one Lot and, in such case, the interior lot lines may be disregarded and the utility easements (unless in use) will be automatically revoked. In the event such Lots are combined under one ownership for use as a single lot, no part of the combined lots may be sold or conveyed, except to the original size of the Lots before being combined. No single Lot in the subdivision as recorded can be re-subdivided into two or more Lots.

5. Design Standards and Restrictions: Contractor Approvals. For the purpose of insuring the development of said lots as an area of high standards, and to assure reasonable compatibility of architectural designs, the Committee shall have the power to control all improvements, as well as to make such exceptions to these Covenants (not inconsistent with the City of Olive Branch ordinances or regulations, and to waive particular violations, as the Committee shall deem necessary, appropriate, or proper, subject to review by the Board. The Committee retains the right to approve any and all general or sub-contractors for residential construction in the Oakwood Park Subdivision. No general contractor may pull permits and construct homes without the prior written consent by the Committee. Approvals of such general or sub-contractors upon request shall be approved or denied within ten (10) business days of written request and verified receipt of such request, or by inaction by the Committee otherwise deemed approved.

NOTE: Relevant issues of this provision are covered elsewhere.

6. Construction Standards—Residence. The following general construction standards are adopted for residences in the community.

- (a) No structures shall be erected on any residential lot other than one single-family residence, and a minimum of a two or three car side load enclosed garage, and separate detached buildings (including detached garages for up to two additional vehicles) incidental to such use, unless otherwise provided herein. All attached garages must be side entry with no doors facing the street. Consideration for an attached garage facing the street may be given on corner lots where there is a request to preserve trees or elements of the topography.
- (b) No open carports shall be allowed.
- (c) No buildings or structures shall be moved from other locations to a lot in the subdivision.
- (d) Additional detached structures may be erected in the rear yard, subject to approval as provided in this Declaration, and according to the standards provided in "Construction Standards—Detached Structures" below.
- (e) All residences shall contain a minimum of 2,000 square feet of heating living area. No buildings shall be more than two stories in height, but the floor space for the second story may be included in computing the minimum square footage living area, which is allowable. The heated area of the first floor shall be at least 1,500 square feet. All structures shall generally conform to the existing style of construction utilized in the community.
- (f) Drive culverts must be a minimum of 15 inches in diameter and a minimum of 20 feet long.
- (g) The minimum setback from the front of the property line (not the curb) to building shall be as described on the plat of the subdivision and shall meet the requirements and approval of the Department of Development of the City of Olive Branch, Mississippi. The Committee shall approve the actual setback for each lot, and the Committee may require or permit a setback of a distance more than the minimum setback. However, in no case, shall a building be located nearer than forty (40) feet from any street in the subdivision. For the purpose of this covenant eaves, steps and open porches shall not be considered as part of the building; providing however, that the plat shall not be construed to permit any portion of a building on a lot to encroach upon another lot. See plat for other setback requirements.
- (h) No residence shall be constructed without the construction plans first being approved by the Committee. Said construction plans shall be submitted to the Committee for its review and approval.
- (i) The Committee agrees to issue its decision with regard to approval, rejection, or modification within twenty (20) days after verified receipt of said construction plans. Committee's failure to issue its approval within the twenty-day period shall automatically deem the plans acceptable.
- (j) The construction of any house in the subdivision shall be required to be completed within 12 months from the date the building permit is pulled.
- (k) Each builder is to provide portable toilets for his house during construction.

Deleted: 6. *Temporary Structures.*  
*No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any lot at any time as a residence either temporarily or permanently.*

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7. Construction Standards—Detached Structures. The following general construction standards are adopted for detached structures in the community.

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- (a) No exterior construction detached from the residence, or alteration, addition, or erection of any nature whatsoever (including, without limitation, buildings, detached garages, walls, fences,

pools, tennis courts, exterior lighting (other than typical landscape lighting), treehouses and play equipment) shall be constructed without the construction plans first being approved by the Committee. Said construction plans shall be submitted to the Committee for its review and approval.

- (b) The Committee agrees to issue its decision with regard to approval, rejection, or modification within twenty (20) days after verified receipt of said construction plans. Committee's failure to issue a determination within the twenty-day period shall automatically deem the plans acceptable.
- (c) The construction of any detached building in the subdivision shall be required to be completed within 12 months from the date the building permit is pulled.
- (d) The minimum setback for detached buildings shall be as described on the plat of the subdivision and shall meet the requirements and approval of the Department of Development of the City of Olive Branch, Mississippi. The Committee shall approve the actual setback for each lot, and the Committee may require or permit a setback of a distance more than the minimum setback. However, in no case, shall a building be located nearer the street or property lines than the minimum requirements of the Department of Development of the City of Olive Branch, Mississippi. For the purpose of this covenant eaves, steps and open porches shall not be considered as part of the building; providing however, that the plat shall not be construed to permit any portion of a building on a lot to encroach upon another lot. See plat for other setback requirements.
- (e) Front facing detached garages are permitted; however, must have a setback equal to or behind the rear setback of the side of the residence on which the detached garage will be constructed, or alternatively, a setback no less than is required by the minimum standards required of the Department of Development of the City of Olive Branch.
- (f) All accessory structures on the lot, including storage buildings/detached garages, must be constructed on-site on a slab, and must be of same material (brick, siding, and roof) as the main house, and be of permanent nature. Smaller buildings, under 200 square feet, may be placed on a slab, concrete piers or conventional concrete block foundation, but must otherwise maintain the same standards as listed above. Existing structures previously approved by the Board that are in material compliance with this provision, as determined by application to and approval by the Committee within six (6) months of adoption of this Declaration, shall not be required to come within strict compliance with this provision.
- (g) Front facing detached garages must have a carriage style door made of wood, steel or aluminum, or other materials with a wood-type stain or painted finished. The door shall incorporate an arbor over such door of no less than 18 inches, and the front landscaped to enhance the street appeal of the structure. No such requirements with respect to style or finish of the door, including inclusion of an arbor is made of inward facing garage doors.

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8. General Aesthetics. The following general aesthetic standards are adopted for buildings within the community and shall apply to original construction, replacement construction, modifications, repairs and maintenance of such structures.

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- (a) All homes are to have a minimum of nine (9) foot ceilings downstairs.
- (b) All homes must be constructed with all walls, rafters, and ceiling joists 16 inches on center.
- (c) No building shall be erected on any lot wherein there shall be installed any bronzed window.
- (d) All exterior colors for initial construction and any subsequent re-paintings (or re-colorings) or renovation or restoration must be earth tones.
- (e) All roofs of all buildings erected on a lot shall be comprised of a dimensional shingle material, or tile which has a "dimensional" character, unless otherwise approved in writing by Committee. Re-roofings as to materials, weight, color, and texture must follow same guidelines as initial roofing.
- (f) No awnings on the front or sides of any house will be permitted without the approval of the Committee.
- (g) All screens and storm windows shall be integral window unit and supplied by the window manufacturer. Screen fabrics must be approved by the Committee prior to the purchase or installation of screens. Any screen on windows visible from a street must allow a "transparent" view of the window.
- (h) All flashing facing the street must be copper or painted flashing.



- (i) All siding is to be wood-grained or textured siding (vinyl siding is permitted).
- (j) All driveways are to be of washed aggregate.
- (k) Unless the Lot otherwise is a treed lot, there shall be a minimum of one (1) two (2) inch caliper tree within the front yard of a single-family residence and said tree shall be included on a landscape plan that must approved prior to construction and followed as approved. Landscaping must be in place prior to final inspection unless weather prohibits installation. If so, landscaping must be in place as soon as reasonably possible.
- (l) All areas disturbed during construction must receive a minimum of solid sod.
- (m) Any special landscaping screens including earth berms or embankments, fencing, entryways, and plant material shall remain in place and not be removed.

9. With respect to homes already constructed within the community it is recognized that some homes and presently existing detached structures may not meet the above standards and requirements. As for pre-existing homes, any new, more restrictive requirement as of the effective date of this Declaration shall not apply until or unless the home is replaced due to complete destruction or reconstruction of a home on said lot. With respect to detached buildings that do not presently meet the above referenced standards, following the effective date of this Declaration, upon the material destruction of such structure, or upon transfer of the property to a subsequent purchaser the detached structure must be removed, reconstructed to meet the above applicable standards, or removed from the lot.

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**Article VI. Restrictive Covenants-Use/Rules and Regulations**

In addition to the provisions of Article V, the following additional use rules and regulations are adopted in order to provide for a congenial occupation and use of the homes within the subdivision, and to provide for the protection of the values of the entire development. To the extent that any of these covenants and restrictions are less restrictive than any of the City of Olive Branch ordinances or regulations, the City of Olive Branch ordinances or regulations shall govern.

1. Conveyance. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof and all easements, restrictions and covenants of record in the Chancery Clerk’s Office, Desoto County, Mississippi.
2. Use of Accessory and Detached Structures. No accessory or detached structure erected on any lot shall at any time be used as a residence or business, temporarily or permanently. No ~~transactional~~ business or commercial activity of any kind whatever shall be conducted in any building or in any portion of said Property. Garage doors, particularly those that are front-facing, shall ~~be maintained~~ in a closed position except for when presently in use or accessed. ~~For the purposes if this provision, temporarily shall be defined as for no more than four (4) weeks of any single year.~~
3. Electric Transformers. An electric transformer may be situated on certain lots in the subdivision. If the Owner of such a lot should desire relocation of such a transformer, the Owner may arrange for it's relocation at Owner's expense with the approval of the Committee and the owner of the adjacent property nearest to the proposed new location of the transformer.
4. Nuisance. No obnoxious or offensive trade or activities shall be carried on upon any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood. All lots and houses are to be for residential use only.
5. Animals. The following provisions are adopted with respect to animals in the community.
  - (a) No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, except that dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board, may be kept on a Lot.
  - (b) However, those pets which are permitted to roam free, or, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community may be removed by the Board.

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- (c) No pets shall be kept, bred or maintained for any commercial purpose.
- (d) In all instances household pets shall be restrained within fenced areas or on a leash, or under demonstrated voice command.
- (e) Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash.
- (f) Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.
- (g) The Committee must approve all fencing and/or shelter for animals. Dog runs and/or kennels must be adequately screened from view and may not be located in the front yard, side yard, or within 10 feet of any lot line.
- (h) Pets are not allowed to be confined in the front yard.

6. Gardens. All vegetable gardens must be planted to the rear of any main residence with only landscape materials such as trees, shrubs, and plants allowed in front of the main residence.

7. Signage. All signs, billboards, or advertising structures of any kind are prohibited except for advertising a lot or home for sale during a sales period, or for advertising a garage sale within twenty-four (24) hours either side of the event. No sign is to be permitted that is nailed or attached to trees. All signs must be approved by City of Olive Branch. No rental signs are permitted, as provided elsewhere in this Declaration. Political signs within thirty (30) days prior to an election are permitted within the community and on the Common Areas; however, must be removed within twenty-four (24) hours of the subject election or primary election day.

8. Mailboxes. All mailboxes (and numerals thereon) and the supports and encasements therefore within the subdivision are to be wrought iron and identical in design and will be selected by the Committee. No decorations except for holiday themes may be affixed or adhered.

9. Fencing. All fences are to be of wood, brick, vinyl, wrought iron, or ornamental material or combination thereof, and generally no greater than six (6) feet in height over level spans. No chain link fences will be allowed on the property lines. No fence may be constructed closer to the street than the building setback line. All fences shall be approved by the City of Olive Branch and by the Committee. All wood fencing is to have a 2" minimum clearance under all portions, or alternatively provide for adequate drainage. All brick fences are to have a 4" x 6" open space at ground level 4'-0" on center minimum.

10. Vehicle Parking. No recreational vehicle (RV or Motor Home), boat, or any type trailer may be parked or stored on any lot unless same is in a garage or completely out of the view from any and all streets. All passenger automobiles shall be parked either on the driveway or in a garage. No semi-truck or truck whose capacity exceeds 1-ton or flat bed trailer may be parked on any lot, in the Common Areas or on any streets or open spaces. All vehicles of residents must have a current State of Mississippi license plate and inspection sticker. No motor vehicle or any other vehicle, including, but not limited to, a boat, motor home and boat trailer, lawn mower, tractor, etc., may be stored on any lot for the purpose of repair of same; no A - frame or motor mount may be placed on any Lot nor shall any disabled or inoperable vehicle be stored on any Lot. As for recreational vehicles, upon application to the Committee, use of such vehicles on a lot for no more than four (4) weeks of any single year may be granted as a conditional use by the Committee.

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11. Garbage. All equipment, clotheslines, swimming pool pumps and filters, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view from the streets. Home owners shall make reasonable efforts to conceal garbage cans from street view. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All building debris, stump, tree debris, etc., must be removed from each lot as often as necessary to keep the house and lot attractive. Debris will be removed in accordance with City of Olive Branch regulations. No dumping upon other lots is permitted. Those areas not presently screened on Lots as of the adoption of this Declaration shall have until the end of the year following adoption to complete such screening.

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12. HVAC. No window air-conditioning or heating units that are visible from any street shall be installed in any dwelling. All outside heating or cooling units shall be located to the rear or side of the dwelling.

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13. Damaged or Destroyed Dwelling. The right is given to the Board to require the Owner of a damaged or destroyed dwelling upon any lot to make repairs or replacements in order to restore the dwelling to its condition prior to the damage or destruction, including the right to require that insurance proceeds paid to the Owner because of said damage or destruction be applied to the repair or replacement.
14. Antennas, Satellite Dishes, and Underground Wiring. No structure of any kind, including, but not limited to a television antenna, radio antenna, satellite dish, and the like can be erected which stands past the highest point of the roof of the house and such structure shall not be erected on the street side of a residence or be visible from the street, without the prior application to and approval of the Committee. Every reasonable effort must be made to place such antenna or dish so that it is not visible from a street, however the Committee may consider blockage by trees, corner lot configuration, and satellite access in their consideration. Radio or television transmission or receiving towers or antennas must be approved by Committee and in accordance with the Olive Branch Zoning Ordinances, but in no instance may they be over five feet (5') in height above the ridge line of the roof. Satellite dishes larger than 24 inches cannot be installed without approval by Committee. Placement must conform to the Olive Branch Zoning Ordinance as well as be screened from the other lot owners by a fence or landscaping if ground based.
15. Flags and Flagpoles. No more than one flagpole may be installed on a Lot. The placement of flagpoles shall be in accordance with the applicable City of Olive Branch regulations, and shall require a permit from the City of Olive Branch, if required by such regulations.
16. Playground Equipment. Playground equipment shall be limited to the rear of the main dwelling.
17. Swimming Pools and Spas. Swimming pools and hot tubs/spas and their accessory structures shall be installed in accordance with the ordinances and regulations of the City of Olive Branch. No above ground swimming pools shall be permitted.
18. Exterior Lighting. All exterior lighting on each lot shall be of a consistent style and character as approved by the Committee. All lighting on each lot shall be constructed and maintained to provide illumination for that lot only, and as to avoid illumination of adjacent lots and areas. Burned out bulbs must be timely replaced with bulbs meeting the standards of the initial installation.
19. Maintenance of Property. All lot Owners shall be responsible for maintaining their dwelling and other structures in good repair and keep same safe, clean and orderly in appearance at all times and maintain such structures in an attractive manner, and according to the following standards.
  - (a) Each lot Owner will be responsible for and required to maintain adequate sediment and erosion control for their lot during and after the construction of the home. The site shall be stabilized as soon as possible after earthmoving on the site and the lot Owner is responsible for keeping sediment contained on his/her lot at all times.
  - (b) All yards shall be front and side sodded.
  - (c) Each lot Owner is to maintain adequate erosion control to prevent mud and debris from leaving said lot.
  - (d) All existing surface drainage must be maintained. Swales may be constructed to prevent drainage directly onto buildings, but in no case shall surface drainage be diverted or obstructed to prevent the shared sheet surface drainage from entering into or through any lot by means of fences or on-site grading.
  - (e) Individuals may not store building materials or personal items on vacant lots.
  - (f) Grass, weeds, vegetation and debris on each Lot shall be kept mowed and cleared at regular intervals by the Owner thereof so as to maintain the same in a neat and attractive manner. Wooded areas beyond the building setback requirements may be maintained in a natural state; however areas within the front setback, or on corner lots both street frontages within setback requirements, must be mowed and maintained as if a yard. The Association (through action by the Board) at its option and its discretion, may mow and have dead trees, siltation and debris removed from such lots, and the Owner of such lot shall be obligated to reimburse Association for the cost of such work should Owner refuse or neglect to comply with the terms of this

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section. Failure to reimburse the Association for such work may result in a lien being filed against the property.

- (g) All lot Owners shall be responsible for maintenance of road ditches, drainage swales and drainage structures located upon their lot, that are not otherwise the responsibility of the City of Olive Branch.
- (h) Trees, shrubs, vines, debris and plants on the street side of such Lots, which die, shall be promptly removed from such lots.
- (i) Until a residence constructed on a lot is sold to a Homeowner, the Association (through action by the Board) at its option and its discretion, may mow and have dead trees, siltation and debris removed from such lots, Common Area, if any, and the Owner of such lot shall be obligated to reimburse Association for the cost of such work should Owner refuse or neglect to comply with the terms of this section. Failure to reimburse the Association for such work may result in a lien being filed against the property.
- (j) If the Owner of an occupied residence fails, either by refusal or neglect, to maintain their Lot in accordance with these standards, the Association (through action by the Board) at its option and its discretion, may mow and have dead trees, siltation and debris removed from such lots, Common Area, if any, and the Owner of such lot shall be obligated to reimburse Association for the cost of such work. Failure to reimburse the Association for such work may result in a lien being filed against the property.

20. Future Use/Rules and Regulations Amendments. There shall be no violation of any rules which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in the By-laws authorized to adopt such rules.

#### Article VI. Liability

Absolute liability shall not be imposed upon Owners for damage to the Common Area, if any, or to Lots, including improvements, of others where maintained by the Association, whether caused by themselves, their families, guests or invitees. Their liability shall only be that for which they would be legally responsible under the law of the State of Mississippi.

#### Article VII. General Provisions

- 1. Enforcement. The Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure by the Association or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 2. Association Action. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.
- 3. Severability. Invalidation of any one of these covenants or restrictions, or any portion of such covenant or restriction, by judgment or court order shall in no way affect the enforceable portion of any such partially affected provision or any other provisions, which shall remain in full force and effect.
- 4. Dissolution. The Association may be dissolved; however, no such dedication of assets or dissolution or transfer shall be effective unless an instrument signed by two-thirds (2/3rds) of the Members in good standing agreeing to each dedication, dissolution or transfer, and such instrument properly recorded. In the event the Association is dissolved, the assets thereto shall be dedicated to a public body or conveyed to a non-profit corporation, or other corporation with similar purposes
- 5. Amendment. The covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less

than seventy-five percent (75%) of the lot Owners objects to said automatic extension. This declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the lot Owners. Any amendment must be recorded to be effective.

6. Proceedings at Law or Equity. If an Owner of a Lot shall violate or attempt to violate any of the covenants herein, it shall be lawful for any lot Owner, or the Homeowners' 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 doing so or to recover damages of up to two (2) times the estimated cost to remedy to violation. Any person violating the covenants shall be responsible for all costs, expenses, and attorney fees associated with said violation.

OAKWOOD PARK HOMEOWNERS ASSOCIATION, INC.

BY: \_\_\_\_\_  
Rogers Stephens, President

Deleted: Gregory Ryan

Affirmed:

BY: \_\_\_\_\_  
Board of Director Member

**EXHIBIT "A"**

**APPLICATION FOR ARCHITECTURAL CHANGE**

To: OAKWOOD PARK BOARD OF DIRECTORS/ACC

From: \_\_\_\_\_

Address: \_\_\_\_\_

Subdivision: OAKWOOD PARK SUBDIVISION Lot: \_\_\_\_\_

**Directions:** (Please print or type)

Please use area below to briefly describe all proposed improvements, alterations or changes to your property. Please include details by sketches, drawings, clippings, pictures, catalog illustrations and other data. Show location of item on your property on a copy of the survey.

**Signatures:**

Consent of at least four (4) property owners who are most affected because they are adjacent and/or have a view of your change is required. Should one of your neighbors disapprove, please note the reason for their disapproval the comment section below. Their signatures indicate an awareness of your intent and do NOT constitute approval or disapproval by the Committee.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Lot: \_\_\_\_\_  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Lot: \_\_\_\_\_  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Lot: \_\_\_\_\_  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Lot: \_\_\_\_\_  
Signature: \_\_\_\_\_

**Comment Section:**

**Owner's Acknowledgements:**

I understand and acknowledge that:

- 1. nothing herein contained shall be construed to represent that alterations to land or buildings in accordance with these plans shall violate any of the provisions of building and zoning codes of the City of Olive Branch. Further, nothing herein contained shall be construed as a waiver or modification of any said restriction.
- 2. no work on this request shall commence until written approval of the Architectural Control Committee (ACC) has been received by me or in accordance with the Covenants.
- 3. any construction or exterior alteration undertaken by me or on my behalf before approval of this application is not allowed; and that, if alterations are made, I may be required to return the property to its former condition at my own expense if this application is disapproved wholly or in part and that I may be required to pay all legal expenses incurred with regard to any such enforcement action.
- 4. any approval is contingent upon construction or alterations being completed in a workmanlike manner.
- 5. members of the Architectural Control Committee are permitted to make routine inspections.
- 6. a copy of this application will be returned to me after review by the Architectural Control Committee.
- 7. there are architectural requirements covered by the Covenants and a review process as established by the Board of Directors.
- 8. the alteration authority granted by this application will be revoked automatically if the alterations requested have not commenced within 180 days of the approved date of this application and/or completed by any date specified by the ACC or applicable Covenants.
- 9. all proposed improvements must meet current building codes. My signature indicates that these standards are/will be met to the best of my knowledge. I understand that application for all required building permit(s) are my responsibility.
- 10. any variation from the original application must be resubmitted for approval.

\_\_\_\_\_  
Owner/Applicant Signature

\_\_\_\_\_  
Co-Owner/Applicant Signature

\_\_\_\_\_  
Date

**Attachments:**

- (1) Sketch, photo, catalog illustrations, etc.
- (2) Copy of survey marked with change being requested

**For Committee Use Only:**

Date Received: \_\_\_\_\_ Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_

Comments:

**ACKNOWLEDGMENTS**

STATE OF MISSISSIPPI  
COUNTY OF DESOTO

Before me, a Notary Public, in and for said State and County, personally appeared \_\_\_\_\_, with whom I am personally acquainted and who, upon oath, acknowledged (him/her)self to be member of the Oakwood Park Homeowners Association, Inc., and by placing his/her signature above so states that they agree and consent to the recording of this AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS for the Oakwood Park Subdivision as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ in the Land Records of Desoto County, Mississippi.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

NOTARY PUBLIC

My Commission Expires: