

**DEED OF RESTRICTIONS**  
**FOR**  
**FOX RUN SUBDIVISION**

This DEED OF RESTRICTIONS, made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2020, by WYNNDALÉ DEVELOPMENT, LLC, a Delaware limited liability company, with an address of 2532 Regency Road, Suite 102, Lexington, Kentucky 40503 (hereinafter "Developer"), for the FOX RUN SUBDIVISION (hereinafter "Subdivision").

WITNESSETH

THAT, WHEREAS, the Developer is the owner of Fox Run Subdivision in the County of Scott, Commonwealth of Kentucky;

WHEREAS, the Developer intends to establish a general plan for the use, occupancy, aesthetics, and enjoyment of the Subdivision; and

WHEREAS, in an effort to maintain uniformity in said use, occupancy, and aesthetics, the Developer desires to create certain restrictions as to the lots in the Subdivision.

NOW, THEREFORE, the Developer does hereby establish the following covenants, conditions, and restrictions as to the use, occupancy, and aesthetics of Fox Run Subdivision, such Subdivision shown on a plat of record in Plat Cabinet \_\_\_, Slide \_\_\_ in the Scott County Clerk's Office.

1. **PRIMARY USE RESTRICTIONS.** No lot in the Subdivision shall be used except for private single family residential purposes. No structure shall be erected, placed or altered, or permitted to remain on any lot except on single family dwelling designed for the occupancy of one family, not to exceed two and one-half stories in height. Any residence constructed upon a lot shall contain an attached or in-basement garage, large enough to accommodate two (2) automobiles.

2. **APPROVAL OF PLANS AND SPECIFICATIONS.** Prior to commence of construction, Developer must review and approve in writing the following.

a. Construction of one (1) single family dwelling per lot. Must provide construction plans to include elevations (front, rear, and side elevations), type of exterior material, and driveway specifications (which must include concrete or brick pavers).

b. Any exterior addition, change, or alteration in any residential dwellings, fences, walls, or other structures. Construction plans and elevations must be provided.

c. Installation or erection of fences, walls, hedges, swimming pools, or any other accessory or similar structure.

3. BUILDING MATERIALS AND DESIGN. The following requirements are hereby imposed with respect to building materials and design:

a. Exterior Materials: All exterior materials shall be of brick, stone veneer, vinyl siding, masonry siding (including fiber cement board) or a combination of the same. The brick or stone veneer shall be extended to the finished grade, and there shall be no exposed concrete, concrete block or stucco foundations permitted unless the Developer shall provide prior written consent. The front of all dwellings must be of at least sixty percent (60%) masonry construction (brick, stone, etc.). In instances where masonry cannot be used (i.e., for construction of a porch or offsetting gables), siding shall be used. Vinyl siding may be used on the side and rear of the dwelling. Other exterior building materials, aside from those listed above, must be approved in writing by the Developer prior to installation. Any and all retaining walls extending beyond the exterior residential structure walls shall be of the same material as the exterior front residential walls (stone or brick). Harde-Board is not an approved masonry product per the terms of this document.

b. Shingles. All roof shingles shall of the “dimensional” (architectural) type with minimum specification standards of thirty (30) years and three-hundred and sixty (360) pounds, and shall be of a dark color, earth tone, or black. No white or light color shades of shingles shall be permitted. All roof shingles, including variation in the minimum specification standards, shall be approved by the Developer in writing.

c. Non-Brick Surfaces. All non-brick surfaces of all houses and other structures must be approved in writing by the Developer.

d. Chimneys. Cantilevered chimneys may be permitted with the written approval of the Developer. The exterior portion of all chimneys shall be constructed of masonry or vinyl, unless otherwise approved in writing by the Developer. “Direct vent fireplace systems” are permitted, and the exterior vent may be visible on the outside of the house, but must be painted to match the exterior masonry of the house. However, if the “firebox” of the fireplace system protrudes out from the exterior wall of the house, a traditional chimney system (constructed of masonry materials) must be installed. The Developer reserves the sole write to approve chimney construction plans, with such approval required in writing.

4. SETBACKS. No structure shall be located on any lot nearer to the front line or the side street line than the minimum building setback line shown on the final record plat for the Subdivision, or any restrictive easement. In the event of conflicting setbacks, the more restrictive of the two shall be used.

5. MINIMUM FLOOR AREAS. The following minimum floor areas shall apply in the Subdivision:

a. All one (1) story houses shall have a minimum of 1,500 square feet on the ground floor, exclusive of the garage and any front or rear porches.

b. All one and one-half (1 ½) story houses shall have a minimum of 1,800 square feet, exclusive of the garage and any front or rear porches. The first floor must have a minimum of 900 square feet, exclusive of the garage and any front or rear porches.

c. All two (2) story houses shall have a minimum of 1,800 square feet, exclusive of the garage and any front or rear porches.

d. A split-foyer or split-level type house must have a minimum of 1,900 square feet, exclusive of the garage and any front or rear porches. No split-foyer or split-level house shall be constructed without the prior written approval of the Developer.

e. Any other type of house not specifically listed above shall have a minimum of 1,900 square feet, exclusive of the garage and any front or rear porches.

f. In computing the total square footage referenced by this Section, the garage(s), front or rear porches, and basement (finished or unfinished) shall not be included.

g. In no case may any construction commence without the express written permission of the Developer. Only Developer, within its sole discretion, may waive provisions of this Deed of Restrictions. The Developer may, but is not obligated to, consider unusual and/or extreme lot dimensions, topography, and elevations in determining whether to waive any aspect of this Deed of Restrictions.

6. ARCHITECTURAL REQUIREMENTS. The following architectural requirements shall apply in the Subdivision:

a. The first floor must have a ceiling height of at least eight (8) feet, and any second floor must have a ceiling height of at least eight (8) feet.

b. All houses must have a front porch of at least 5 feet by 5 feet.

c. The first floor must be located above at least eighteen (18) inches above the grade of the sidewalk. Deviations from this requirement may be granted by the Developer in its sole discretion.

d. The first floor of houses located adjacent to storm water detention and/or retention basins must be located at least two (2) feet above the flood stage as reflected on the final record plat.

e. Any air conditioner, mini split unit must be located to the rear of the dwelling, out of view from public rights-of-way.

f. Any electric meters must be neatly installed and located on the rear or the side of any building.

g. The minimum roof pitch shall be a 6/12 slope. All shingles shall be as specified in Section 3. This requirement shall not apply to a porch roof.

h. Dwelling addresses must be of six-inch minimum height, of metal, and shall be permanently anchored to the dwelling as approved by Developer.

i. All windows must be of clad type. No wood units shall be permitted.

7. NUISANCES; UNSIGHTLY OR UNKEMPT CONDITIONS. No obnoxious or offensive trade or activity shall be conducted on any lot and nothing shall be done which may become an annoyance or nuisance to the residents of the Subdivision. It shall be the responsibility of the owner of each lot to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such lot. The pursuit of hobbies or other activities, including but not limited to the assembly or disassembly of motor vehicles or other mechanical devices which might tend to cause a disorderly or unsightly condition, shall not be undertaken on any lot. No holiday lighting or decorations shall be permitted to be illuminated or placed prior to November 1, nor displayed beyond January 30, of each year.

8. BUILDER RESPONSIBILITIES DURING CONSTRUCTION. During construction, any contractor or builder shall be responsible for the following:

a. All debris, including but not limited to trees, branches, trimmings, clippings, rocks and/or roots resulting from the clearing of a lot shall be promptly removed from the Subdivision. If such debris are not promptly removed, the Developer may remove the same, with the costs of such activity being charged to the responsible builder or contractor.

b. No construction material or equipment, or debris or garbage, including concrete wash-out, shall be placed on any lot other than the lot on which a structure is being built, regardless of whether such lot is vacant or under construction or occupied.

c. Run-off and erosion shall be controlled on site during construction and in accord with the local, state, and federal rules and regulations.

9. OTHER STRUCTURES AND VEHICLES. The following provisions shall apply to the Subdivision:

a. No outbuilding (including but not limited to a storage shed, tool shed, trailers, garages, barns, animal dwellings, or other similar structures) shall be permitted to be constructed unless expressly agreed to by Developer in writing.

b. No temporary structure shall be permitted during construction except as authorized in writing by the Developer.

c. No tractors, trucks, commercial vehicles, or inoperable automobiles shall be parked or kept on any lot at any time unless such vehicle or item is stored within a garage or basement. No inoperable automobiles shall be placed or stored on any public or private rights-of-way.

d. Nothing in this section shall be construed to limit the right of a property owner from conducting routine automobile maintenance on their property, provided, however, that the same must be conducted in the garage or driveway. Such repairs or maintenance should be located as close to the entrance of the garage as reasonably practicable.

10. GARAGES. All garages shall be attached to or in the basement of the main residence, and may be entered from the front, side, or rear in accord with the approved construction plans. Garages are to be given the same architectural treatment and be constructed of the same materials as the primary dwelling. Each residence must have a garage sufficiently large to accommodate at least two (2) automobiles. All garage doors must have 1 panel of glass windows.

11. LANDSCAPING. Seeding of the front and side yards of a property shall not be permitted. Once construction has concluded, the lot owner shall be responsible for grading and sodding of the area of the yard between the front and side street sidewalks and the pavement of any abutting streets. All other areas, including rear yards, shall be strip sodded and seeded. Owners shall keep their yards in a state of repair and conduct appropriate maintenance, including but not limited to keeping the grass neatly mowed, and all having bushes and trees appropriately trimmed. Any air conditioning units located on the side or rear of the dwelling unit shall be screened with landscaping so as to not be visible from any public rights-of-way.

12. DRAINAGE. All storm water, including any water discharged from a sump pump, must drain on to the Lot and not onto any other Lot.

13. DRIVEWAYS, SIDEWALKS, AND CURBS. All driveway and sidewalk areas must be constructed of concrete or brick. In the event that there is damage to any curb or sidewalk during construction or after must be repaired at Lot owner's expense. Each Lot owner shall be responsible for the repair and maintenance of the sidewalks, driveways, and curbs on their Lot. The Developer shall not be responsible for repair or maintenance of sidewalks, driveways, or curbs.

14. HOME OCCUPATIONS/BUSINESSES. No trade or business of any kind (except for home occupations expressly permitted by applicable zoning ordinances that do not alter the residential character of the Subdivision) shall be permitted on any Lot. Notwithstanding this Section or other language to the contrary, a new house may be used by the builder thereof as a model home provided that such use terminates within three (3) years of the receipt of a Certificate of Occupancy for the structure.

15. TREES. Within a reasonable period of time following the completion of the construction of a residence on a lot, the Developer shall be responsible for planting an appropriate number of trees. Said trees shall be planted in the front yard, at least six (6) feet behind the sidewalk and at a distance of approximately thirty-five (35) feet apart. The costs of such trees shall be the responsibility of the builder of the residential dwelling, and shall be collected by Developer at Closing.

16. FENCES. All fencing materials must be wood or metal and be anchored in concrete. No chain-link, wire, or vinyl fence, or walls of any material shall be constructed or permitted on any

lot, including fences or walls intended to enclose swimming pools, dog runs, and/or kennels. No type of fence or wall may be erected without the prior written approval of Developer as to the type and location, and no fence may exceed six (6) feet in height. The “finished” side of any fence shall face away towards the public rights-of-way or adjacent yards. No fence of any nature may be extended toward the front or street side property line beyond the rear corner or side wall of a residence. Further:

a. Whether a builder or homeowner desires to erect a fence, they shall be required to contact the appropriate authorities to have utilities marked prior to digging.

b. All fences and hedges must be installed as to impede vehicular movements, including that there shall be no fences erected in the “sight triangle” as defined in applicable city, county, or state ordinances or laws.

17. CLUSTER BOX UNITS. Mail delivery for all lots will be to centralized cluster box units (“CBUs”). The sum of one hundred seventy-five dollars and zero cents (\$175.00) will be collected for the CBUs from each purchaser of a lot at closing. These funds will be escrowed with the Developer until the CBUs are installed by the Developer in coordination with the United States Postal Service.

18. CLOTHESLINES. No outside clotheslines shall be erected or permitted on any Lot within the Subdivision.

19. DRAINAGE PLAN. Notwithstanding the provisions in Section 12, drainage of each lot shall be in conformity with the overall drainage plan for the Subdivision.

20. EASEMENTS. The following provisions shall apply to easements within the Subdivision:

a. Utility Easements. Easements for the installation and maintenance of utilities may be reserved over a Lot by deed or as shown on a recorded plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, or provision of utilities, or which may change the direction or flow of drainage channels. A Lot Owner shall maintain the easement areas in accord with the provisions of the easement, but shall not be required to maintain improvements that are the responsibility of a public authority or utility company.

b. Monument Signs/Entry. The Developer reserves the right (but is not obligated) to construct a monument sign, landscaping feature, or similar type of improvement upon any lot in the Subdivision to identify or beautify the Subdivision. Any such signage or landscaping feature shall be constructed at the expense of Developer and shall be maintained by the Developer, or once all residences have been constructed in the Subdivision, by the Homeowner’s Association for the Subdivision. Any such signage feature shall be located in front of the building set back line for a Lot in reasonable proximity to the right-of-way. An easement is hereby reserved by the Developer in order to facilitate such construction, at the sole election of Developer.

21. REFUSE DISPOSAL. The following provisions shall apply to garbage/trash within the Subdivision:

a. Construction Refuse. No lot shall be used for disposal or dumping of trash, rubbish, or garbage, and any and all such waste shall be kept in suitable containers for collection. No vacant lot shall accumulate trash, rubbish, or debris at any time. Grass and/or yard waste shall be appropriately disposed in containers. Dumping of such materials on any lot is prohibited. The Developer reserves the right to remove any accumulated trash, rubbish, debris, and/or yard waste from lots at the expense of the owner of the Lot and/or the individual who has violated this provision.

b. Homeowner Refuse. Each home must have an appropriate trash receptacle. Such receptacle shall be stored away from public view, and, if stored outdoors, shall be stored on a level pavement area measuring 3 feet by 5 feet, with appropriate screening. Such area shall be located at the side or the rear of the property, and should not be visible from rights-of-way.

22. FIREWOOD. Any and all firewood stockpiles or storage areas shall be placed as to not detract from the aesthetic appearance of the Lot. If a firewood stockpile is to be covered, that covering shall be of a heavy, non-plastic material which shall be black in color and secured to the pile so as to prevent disturbance by wind or weather.

23. ANIMALS. The following provisions shall apply to animals kept within the Subdivision.

a. No animals of any kind shall be raised, bred, or kept upon any lot, with the exception of dogs, cats, and other domesticated household pets traditionally kept as pets provided that such pets are not kept, bred, or maintained for commercial purposes, and provided further that such pets be kept within an enclosed area and are not able to run at large. Further, when pets are walked, they are to be kept off of medians at all times. No animals are permitted to be permanently chained on any Lot.

b. Pets must be kept on a leash when outside the dwelling unit or outside of a fenced yard.

c. Pet droppings must be removed from Lots and disposed of in trash receptacles.

d. No dug runs, dog houses, or shelters of any type are permitted unless approved in writing by the Developer.

24. DUTY TO MAINTAIN PROPERTY. It shall be the duty of each Lot owner to appropriately maintain their yards and landscaping. If the lot owner fails to maintain the Lot, the Developer, or the Homeowner's Association, may take any action it deems appropriate to bring the lot into a state of good repair and maintenance, and the Lot owner shall reimburse the Developer for such expenses incurred.

25. SIGNS. No signs of any kind shall be displayed on any lot, with the exception of "For Sale" or "For Rent" signs, which shall be no larger than nine (9) square feet, with the exception signs deemed acceptable or necessary to the Developer.

26. UTILITIES. Each owner shall be responsible for preserving and protecting any underground utilities located on their Lot. No utilities may be above ground except for those approved in writing by the Developer.
27. GARDENS. Vegetable gardens must be located in the rear yard, and shall be at least twenty (20) feet away from the right-of-way.
28. SWIMMING POOLS. Only in-ground swimming pools are permitted. Above-ground swimming pools are not permitted. Drainage, fencing, placement, and lighting plans shall be submitted to the Developer, and construction may not commence until the Developer has issued an approval to such plans in writing. There shall be no increase in drainage runoff to other lots permitted as a result of, or during construction of, a pool. Swimming pools must be located behind the primary residential structure on the Lot.
29. BASKETBALL GOALS. No basketball goals (temporary or permanent) will be permitted in the front or side yard or driveway, or within ninety (90) feet of another residence.
30. SATELLITE DISHES. No satellite dish may be erected or placed on any lot that is in excess of 18 inches in diameter. Any dish installed must be installed in such a manner as to minimize its visibility from any rights-of-way. No satellite dish may be mounted to the front plane of the residential structure, or the roof.
31. ALTERNATIVE ENERGY. Propane tanks and/or fuel tanks are prohibited. No solar panels shall be permitted unless authorized in writing by the Developer. The Developer shall consider whether the panels, once installed, would be harmonious with the architectural design of the home.
32. ONE BUILDING PER LOT/ZONING. No additional subdivision of any lot shall occur without the written consent of the Developer and any appropriate governmental bodies. No additional buildings shall be constructed on the lot, aside from the primary residence, unless approved in writing, in advance of construction, by Developer. No zone changes shall be permitted unless approved in writing by the Developer.
33. OBLIGATION TO CONSTRUCT/RESTORE. Every Lot owner, within fifteen months of their purchase of a Lot without a primary dwelling unit constructed, shall commence in good faith the construction of a single family dwelling unit in accord with the foregoing provisions. In the event that construction should not commence, the Developer may elect to repurchase any and all lots on which construction has not commenced for a purchase price of ninety percent (90%) of the agreed upon purchase price for the Lot(s). Should the Developer so elect, the property shall be conveyed to the Developer by a deed of special warranty within forty-five days or receipt of written notice to the Lot owner. The Developer shall likewise possess a right of first refusal on every lot where construction of a primary residential structure has not yet commenced, and prior to conveying such Lot to a third party, must offer the Developer the opportunity to purchase the Lot for the same purchase price as the Owner obtained the Lot. The Developer shall be provided written notice of the intent to sell the Lot to a third party by the Lot owner. The Developer shall



repurchase the Lot within forty-five (45) days of receipt of such written notice. Should the Developer fail to purchase the Lot within that forty-five (45) day period, then the Lot owner may sell the Lot to the third party.

34. SEVERABILITY. Invalidation of any of the foregoing provisions by a Court of competent jurisdiction shall not impact the validity or enforceability of any other provision herein, which shall remain in full force and effect.

35. RUN WITH THE LAND. Unless altered, cancelled, or amended under the provision of this Section or Section 36, these covenants and restrictions shall run with the land and shall be binding on all parties for a period of fifty (50) years from the date of recordation. Thereafter, the document shall automatically renew for two successive ten (10) year periods unless an instrument signed by a majority of the owners of all Lots subject to these restrictions within the Subdivision has been recorded, agreeing to change these restrictions in whole or in part. These restrictions may be altered, amended, or cancelled at any time by an instrument signed by eighty-five percent (85%) of the owners of all Lots subject to these restrictions within the Subdivision.

36. AMENDMENT. These covenants and restrictions may be amended at any time by the Developer, provided that a) the amendment does not discriminate against the owner of any lot in the Subdivision, unless such owner consents to such amendment, and b) written notice is provided to all Lot owners in the Subdivision at least thirty (30) days prior to the effective date of such amendment. No amendment to these covenants and restrictions relating to the construction criteria of houses built upon any Lot in the Subdivision shall be effective to any dwelling unit which commenced construction prior to the date such amendment is recorded.

37. WAIVER AND ENFORCEMENT. Any owner subject to these conditions, the Homeowners Association, or the Developer may bring appropriate action to enforce these covenants and restrictions. Failure of any owner, the Homeowners Association, or the Developer to demand or insist upon adherence to any of these restrictions, or to take action to restraint for such violation, shall not be deemed a waiver of the violation or the right to seek enforcement of any covenant or restriction.

38. ADDITIONAL RESPONSIBILITIES. Lot owners are responsible for all damage any residents of their dwelling should make to construction sites and dwellings within the Subdivision, even if such residents are their minor children.

39. CHOICE OF LAW. This document shall be construed in accord with the laws of the Commonwealth of Kentucky.

40. HOMEOWNERS ASSOCIATION. Every Lot owner shall be a member of the Fox Run Subdivision Homeowner's Association and by acceptance of a deed for any Lot agrees to accept membership in and does thereby become a member of the Association. Such owner and member shall abide by the Homeowners' Association by-laws, rules, and regulations, and shall pay the assessments provided for in such documents when due. The Association shall have three classes of membership, Class "A," Class "B", and Class "C" as follows:

a. Class "A" members shall be the Lot owners with the exception of Class "B" owners. Class "A" members shall be entitled to one equal vote for each Lot in which they hold the interest required for membership pursuant hereto, except that if two Lots are ever combined into one (1) Lot, the number of votes for the owner of the combined Lot will be two (2) votes; there shall be only one vote per Lot owner. In any situation in which more than one person holds the interest in a Lot required for membership, the vote for such Lot shall be exercised as those persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one person seeks to exercise it.

b. Class "B" Members shall be the Developer. The Class "B" Members shall be entitled to, in their sole discretion, appoint the members of the Board of Directors of the Association during the Class "B" control period. The "Class B Control Period" shall be the period of time beginning with the date of recordation of this document and ending on the day the last Lot in the Subdivision has been conveyed to persons other than the Developer, at which time the Class B Control Period shall terminate. Class B members shall have no obligation to pay any assessments or dues to the Homeowners Association.

c. Class "C" Members shall be the owners of Lots that are actively constructing single family residences on their Lot(s). The rights of Class C Members shall be the same as the rights of Class A members, except that Class C members shall have no obligation to pay any assessment or dues to the Association until such time as a Certificate of Occupancy shall be granted for the single family residence on the Lot.

41. ASSIGNMENT OF RIGHTS OF THE DEVELOPER. The Developer may release, assign, and relinquish the rights originally reserved and retained by Developer, including the right to approve the items set forth herein requiring Developer approval, by filing an instrument of record in the Office of the Scott County Clerk evidence the release, assignment, or relinquishment of such rights to the Homeowners Association. In such an event, the owners of the lots to which these restrictions are applicable may prescribe the manner in which approvals may be requested and acted upon, and such action shall have the same force and effect as if taken by Developer.

IN WITNESS HEREOF, the Developer, Wynndale Development LLC, a Delaware limited liability company, has executed this Deed of Restriction on the day and year first written above.

DEVELOPER:

WYNNDALÉ DEVELOPMENT, LLC

By: Steve Perry, its Managing Member

COMMONWEALTH OF KENTUCKY

COUNTY OF FAYETTE

The foregoing instrument was subscribed and sworn to before me on this the \_\_\_\_ day of February 2020, by Steve Perry in his capacity as Managing Member of Wynndale Development LLC, a Delaware limited liability company, for and on behalf of said limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE, KY

My commission expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_  
John Michael Carter, Esq.  
McBrayer PLLC  
201 East Main Street, Suite 900  
Lexington, Kentucky 40507  
(859) 231-8780