

21843

DEDICATION AND RESTRICTIONS
OF NORTH ARBORS OF HEARTLAND
PHASE 1

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The undersigned, Jagoe Development Corporation (the "Developer") of 4215 Benttree Drive, Owensboro, Kentucky, is the owner of Lots 200 through 208 ^{and 230-240} (collectively, the "Lots") of a subdivision in Daviess County, Kentucky, known as North Arbors of Heartland, Phase 1, as shown on Plat of record in Plat Book 28, page 442, in the Office the Daviess County, Kentucky, Court Clerk (the "Subdivision").

For the enjoyment of the residents and the purpose of promoting the development of the Subdivision, the undersigned does hereby dedicate for public use the streets and easements shown upon the recorded Plat of the Subdivision.

In addition to the restrictions imposed under and by all existing zoning ordinances of the City of Owensboro, Kentucky, and the rules and regulations of the Owensboro Metropolitan Planning Commission, the undersigned does hereby establish and place upon the lots in the Subdivision, including the recorded Phase and all later Phases, the following restrictions:

Section 1. Dedication. The Developer hereby dedicates to the City of Owensboro the streets, greenbelts, pocket parks, parks, and retention basins as shown on said Plats. Any dedicated areas on said Plats of additional Units will be shown on the Plats.

Mail: Jagoe Development Corp.
4215 Benttree Dr.
42301

Section 2. Exterior Materials. In order to further enhance the future property values of the Subdivision Lots, the Developer and/or Builder has color coordinated certain exterior materials on the new homes built or to be built thereon. As these products need replacing, repairing or repainting, the original colors and type materials must be used or colors and materials as near the original as possible may be substituted providing the original is not readily available. Exterior trim shall be off white or as originally installed. Siding and roofing colors and design shall remain as similar as possible to the original. Fences along East 26th Street, along Arbor Park and all painted fences connecting the homes shall remain of the same type and color as the original. Unpainted fences shall remain natural except that a clear preservative may be used. See Section 22.

Section 3. Building Location. All buildings erected in the Subdivision shall conform to the building setback lines for front, rear and side yards and the public utility easements where established on the recorded Plat. (See Section 16).

Section 4. Dwelling Quality and Size. The ground floor area for a one or one and one-half story residence shall be 500 square feet or more. For a two-story residence the ground floor area shall be 400 square feet or more. Such minimums shall be exclusive of open porches, breezeways and attached garages. No building shall be constructed to more than two stories in height.

Section 5. Fences and Walls. Fences or walls erected at the rear and side yards shall not be higher than eight (8) feet

or as allowed by the Owensboro Metropolitan Planning Commission. No fences or walls shall be permitted in the front yards except such fences or walls used for decorating or ornamental purposes installed by the Developer or initial Builder. Any fences connecting homes which were originally erected by the Developer or initial Builder for side yards privacy from the street shall not be removed, destroyed or materially altered and shall be maintained in good condition and repair by the owner of the lot upon which the fence sits. Fences must be constructed to permit reasonable access to utilities, or they must have gates to allow access. Fencing added after initial construction of a home must conform to the same style as that of the connecting fences at the time of construction or shall be a six-foot high stockade-type fence. Fences along side streets must remain at the distance from the street of the original fence.

Section 6. Driveways. All driveways shall have a permanent constructed surface of concrete or bituminous asphalt.

Section 7. Trellises and Arbors. Sideyard trellises or arbors shall not have solid roofs over them unless permitted by the applicable zoning ordinances.

Section 8. Privacy Wall. In the event a home is destroyed, moved or for any other reason, does not provide a privacy wall along its "zero lot line" (as hereinafter defined), the owner of that lot shall, within seven (7) days of the removal of or destruction of such privacy wall, construct a six (6) foot high solid fence of the same style as the side fence connecting the

homes along the zero lot line where the house wall was formerly located.

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Section 9. Care of Property, Drainage and Easements.

A good turf shall be established and maintained and each lot owner shall be responsible for maintenance and grade elevation of the drainage swales. The Developer has established certain grades for the Subdivision as required by the Planning Commission. Accordingly, it shall be the sole responsibility of each lot owner to maintain their drainage easements and swales to provide proper surface water drainage for the Subdivision. If a lot owner does not maintain its drainage easement and swales to provide proper surface water drainage, either the Developer, Builder, Homeowners Association or any lot owner, the drainage on whose lot is adversely affected by the failure to maintain drainage easements and/or swales, may bring suit to compel the lot owner to perform said maintenance and shall be entitled to its reasonable attorney's fees for bringing the suit. If at any time access to an easement by any utility or public agency is necessary, the lot owner shall be responsible for removal of any obstruction at the lot owner's expense.

All areas upon the recorded Plat of the Subdivision which are designated as easements thereon are hereby reserved for the use of any and all public utilities and for the installation of water, sewer and gas mains, for drainage above or underground, electric facilities and surface water drainage, subject at all times to the proper authorities. No structures or other improvements, planting

or other materials shall be erected or permitted to remain within said easements which may damage or interfere with the installation and maintenance of the utilities and drainage. The easement area of each lot shall be maintained continuously by the owner of said lot so as not to change the intended direction of flow of surface water within said easement as said direction of flow is set forth in the site plan for the Subdivision filed with the Planning Commission. Any existing creeks, spillways, storm inlets, outflow structures, or other drainage way within the Subdivision shall be maintained by each lot owner affected thereby in its present condition so as to maintain thorough and clear surface water drainage along said waterway at all times, such lot owner being responsible to maintain that portion of said waterway which is located upon said owner's respective lot. Water from downspouts or other surface water drainage systems shall not be drained into or connected with the sanitary sewer system serving the lots in the Subdivision.

Section 10. Utility Access. Any public utility which has an easement over any lot shall, in addition to the easement shown on the Plat, have the right to enter the lot at any necessary location for the purpose of repairing, maintaining or moving utility wires, pipelines or any other equipment. If, at any time, access to an easement by any utility or agency of the City of Owensboro is necessary, the lot owner shall be responsible for removal of fences and other such obstructions at the lot owner's expense.

Section 11. Appearance of Lots. The front yard areas shall be kept neat and clean. All trash containers, junk, immobilized autos, bicycles and any other items must be stored in the side or back yard and out of view from the street. Basketball goals placed in front yard shall be 20 feet or more from street curb, not attached to the home.

Section 12. Vehicles. The owners of lots in the Subdivision shall not park or permit others to park vehicles or trailers which total over eight (8) feet in height or more than twenty (20) feet in length or any immobile motor vehicles on a permanent or regularly reoccurring basis in the drives, front yards, streets or alleys in the Subdivision. The vehicles referred to in this section include, but are not limited to, semi-trucks and trailers, large vacation vehicles, two-ton or larger trucks, boats and trailers and similar vehicles. No minibikes, go-carts, or vehicles of similar noise or speed shall be operated on sidewalks or any other property covered by this Dedication and Restrictions, nor shall any such vehicles be operated upon any vacant land within said Subdivision.

Section 13. Residential Purposes. All lots shall be used for purposes allowed by the Owensboro Metropolitan Planning Commission in the residential zone for the Subdivision, except that model homes, sales or construction buildings or trailers of the Developer or its designated builders may be placed upon the lots. No building shall be erected, altered, placed or permitted to remain on any lot other than (i) one detached single-family

residence; (ii) one storage building not to exceed one hundred twenty (120) square feet with exterior walls not to exceed eight (8) feet in height, as measured from the surface of the floor, excluding gables. All structures on a lot shall be color coordinated with one or more of the same colors as the dwelling, including siding and roofs.

Section 14. Temporary Structure. No trailer, garage, garage-apartment, barn, tent, shack or other buildings in the Subdivision shall at any time be used as a residence, nor shall any structure of a temporary character be used as a residence. This restriction shall not be construed to prohibit the building of a detached garage to be used as a garage or storage building.

Section 15. Trade or Activity. Except as set forth herein and except for development and promotion of The Heartland and home construction activities, no noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 16. Residential Location and Sideyard Easements. The home on each lot may be built by the Developer or Builder on or at any distance from the side boundary lines, which boundary line shall be known as the "zero setback line". A Sideyard Easement shall serve each home. The Sideyard Easement shall be on the adjoining lot and immediately adjoining the lot along the zero setback line. The Sideyard Easement shall be five (5) feet wide and shall begin at the front street and extend to the

rear line. Further, there will be a minimum of ten (10) feet separation between residence buildings. BOOK 712 PAGE 145

The five (5) foot Sideyard Easements serving a home shall be known as the Dominant Estate. The lot across which the five (5) foot Sideyard Easement lies shall be known as the Servient Estate.

The Sideyard Easement shall be used for maintenance and repair purposes by the owner of the Dominant Estate, and neither the whole or any part thereof, nor any right to use and enjoy the whole or any part thereof shall be sold, mortgaged, leased, rented or otherwise granted and conveyed separate and apart from the Dominant Estate.

The owner of the Dominant Estate shall not:

(a) permit eaves, gutters or overhangs of the house to extend more than twelve inches into the Sideyard Easement;

(b) suffer or permit any waste upon the Sideyard Easement;

(c) undertake any use of or affix any object to any wall, fence or other structure on the Servient Estate which abuts, adjoins or crosses the Sideyard Easement;

(d) undertake any grading that would tend to prevent proper drainage of the Sideyard Easement, or to promote soil erosion or to undermine support for the foundation of any wall, fence or other structure on the Servient Estate which abuts or adjoins the Sideyard Easement;

(e) place or permit the accumulation of any soil or fill material against any wall, fence or other structure on the

Servient Estate which abuts, adjoins or crosses the Sideyard Easement to a height which exceeds original grade;

(f) cause, suffer or permit any damage to any utility lines located within the Sideyard Easement or interrupt or interfere with the maintenance and repair thereof;

(g) construct, erect or install any structure upon, across, over, under or within the Sideyard Easement or undertake any grading or fill or any other activity upon the Sideyard Easement which is in violation or which would result in a violation of any applicable governmental statute, ordinance, rule or regulation.

There shall be reserved to the owner of the Dominant Estate with respect to the Sideyard Easement the right to:

(a) cause or permit the foundations of the dwelling constructed upon the Dominant Estate to extend under the Sideyard Easement (below finish grade) and to cause or permit the eaves and gutters, if any, of the dwelling constructed on the Dominant Estate to extend over the Sideyard Easement at heights no less than such eaves and gutters are originally constructed; and extensions no greater than 12"; provided that no such gutters shall be permitted which cause or lead to excess water run-off and drainage upon the Sideyard Easement that results in erosion of the surface thereof;

(b) enter upon the Sideyard Easement at reasonable times and under reasonable circumstances for the purpose of constructing, reconstructing, maintaining and repairing any

connecting fence, wall or other structure on the Dominant Estate which abuts, adjoins, lies near, or crosses the Sideyard Easement.

(c) permit reasonable drainage of water from the Dominant Estate over, upon and across the Sideyard Easement.

(d) in exercising the right of entry upon the Sideyard Easement as provided for above, the owner of the Dominant Estate agrees to utilize reasonable care not to damage any landscaping or other items existing in the Sideyard Easement area; provided, however, the owner of the Dominant Estate shall not be responsible for damage to such landscaping or other items to the extent such damage could not be reasonably avoided in connection with such entry upon the Sideyard Easement area for authorized purposes and shall not be liable for damage to structures if they are built upon the Sideyard Easement so as to unreasonably interfere with repairs, maintenance or reconstruction of the wall, fence or the home on the lot having the Dominant Estate.

The owner of the Servient Estate may use the Sideyard Easement for the purposes of planting, landscaping, installation and use of general landscape-type structures, including such structures as benches, ponds, walks, patios, decks, fences or trellises, general recreation, access, drainage and other visual, aesthetic and recreational purposes and it shall be maintained by the owner of the Servient Estate. The owner of the Servient Estate further shall maintain the landscaping on any land lying between the Dominant Estate's building foundation and their mutual property line.

The owner of the Servient Estate shall not:

(a) place any structures on the Sideyard Easement in such a manner or such a location that the structure would unreasonably interfere with repair, maintenance or reconstruction of any wall, fence or the house on the lot having the Dominant Estate. If the structure does interfere, the owner of the Dominant Estate will not be liable for any damage to a structure which is done in the course of repair, maintenance or reconstruction work done by the Dominant Estate.

(b) permit trees, shrubbery or other vegetation to grow on the Sideyard Easement which would cause damage to or interfere with the maintenance and repair of any wall, fence or the house on the Dominant Estate;

(c) cause or permit any offensive contact (including without limitation thereto, any pounding or bouncing of objects) with any wall of the residence on the Dominant Estate which abuts, adjoins or crosses the Sideyard Easement);

(d) suffer or permit upon the Sideyard Easement any activity by household pets or other animals which would tend to cause damage to or undermine support for any wall, fence or other structure on the Dominant Estate which abuts, adjoins or crosses the Sideyard Easement;

(e) cause or permit to exist any open, uncontained fire on the Sideyard Easement;

(f) construct, erect or install any structure upon, across, over, under or within the Sideyard Easement or undertake

any grading or fill or any other activity upon the Sideyard Easement which is in violation or which would result in a violation of any applicable governmental statute, ordinance, rule or regulation.

The owner of the Dominant Estate shall not construct, install or otherwise cause to be made any door, window, duct, vent or aperture of any kind in the residence on the Dominant Estate which abuts or adjoins the Sideyard Easement.

In the event of any dispute arising concerning the right and obligation created by this Section, the owner of the Servient Estate and owner of the Dominant Estate shall each choose one (1) arbitrator, and such arbitrators shall choose one (1) additional arbitrator, and the decision of a majority of all the arbitrators shall be binding upon such owners.

Section 17. Plat Changes. Except as hereinafter provided, no lot or lots shall be subdivided (a) except as such may become necessary in order to correct minor changes resulting from errors of survey in the platting of the Subdivision or (b) unless the lot or lots resulting from such subdivision shall have a minimum of not less than that allowed by governmental bodies. In either of the events described in this section, the Developer may (a) subdivide or resubdivide lots without the consent of any other lot owners; and (b) make other modifications to the recorded Plat of the Subdivision, including modifications to building setback lines or easements as may be permitted by applicable zoning ordinances without the consent of other lot owners.

Section 18. Yard Signs and Mailboxes.

(1) Advertising signs may be placed in front of homes only. No real estate signs (except for signs designating the name of the Subdivision), yard sale, political or other signs shall be placed on East 26th Street or in the dedicated sign easements, islands or rights-of-way. Any signs so placed may be confiscated and disposed of in any way by anyone.

(2) Replacement of mailboxes shall be with mailboxes which are as nearly similar to the original boxes and supporting installation in construction and color as practicable.

Section 19. Subdivision Signs and Landscaping. The Heartland directional and informational wood and/or vinyl signs will remain until the Developer or its successor removes them. Easements for the installation and maintenance of brick entrance signs and other Subdivision signs (the "Signs") are reserved and are as shown on the recorded Plat of the Subdivision (the "Sign Easements"). No structure, improvement or driveway, except for originally-installed signs, lighting and landscaping related structures shall be located in or on the Sign Easements without the written consent of the Design Review Committee or its assignees. The Signs and landscaping located within the Sign Easements shall not be changed or altered without the express written consent of the Design Review Committee or its assignee. The obligation to remove debris and cut grass from the Sign Easements shall be the obligation of the owner of the lot upon which any Sign Easement is located. The Signs, trees and shrubs which are located in the Sign

Easements shall be maintained, repaired and replaced by The Heartland Homeowners Association, Inc. except trees and shrubs behind a brick wall shall be maintained by the homeowner. The Homeowners Association shall replace trees behind the brick entrances which die or have enough dead growth that they are unsightly, except that it is not required to replace trees if the remaining trees have reached sufficient size that it is not practicable to plant more trees and shrubs in the particular area.

Section 20. Homeowners Association. All record owners of lots in the Subdivision shall automatically be members of and subject to the obligations, rules, regulations, assessments and Bylaws of The Heartland Homeowners Association, Inc., which shall include all subdivisions of Heartland whether now established or hereafter established (the Association). The Association shall be responsible for repair, maintenance, improvement and replacement of the following in Sign Easements: Heartland signs; lighting; and for trees, shrubs and flower beds in front of Signs and for replacement of trees behind Signs. The Association may perform other maintenance work along East Byers Avenue and East 26th Street as it sees fit. By Contract dated March 18, 1997, and approved in Municipal Order No. 13-97, the Developer agreed that the Subdivision should be annexed into Owensboro and the City of Owensboro agreed to maintain greenbelt areas, all areas within rights-of-way of East 26th Street, parks, pocket parks, street islands shown on drawings attached to the Contract and retention basins. If the City fails to maintain these areas in accordance with the Contract

between the City of Owensboro and Developer, then the Homeowners Association shall be responsible for maintaining them and/or performing maintenance in addition to that done by the City of Owensboro. The Homeowners Association may supplement the maintenance performed by the City of Owensboro.

The Developer shall look after the Homeowners Association's duties, including collecting fees and maintaining properties, until it gives written notice, forwarded by United States First Class Mail to each resident of each lot in the Unit notifying them that management of the Homeowners Association shall thereafter become the responsibility of the owners and that they should call a meeting to organize the Homeowners Association.

Each lot owner in the Subdivision shall have one vote in the Association. The Association is a non-profit corporation and shall be governed by the Bylaws of the Association and any properly passed rules and regulations of the Association. If a lot is sold on installment contract, the owner, for purposes hereof, shall be the purchaser under the installment contract rather than the record title owner. The Association may meet once a year, or more frequently, and may elect such officers as it sees fit at said meeting. The annual meeting shall be held on the first Saturday after Labor Day each year at 7:00 p.m., prevailing time, at the Heartland Park gazebo, or at such inclement weather location as is posted at Heartland Park gazebo at least one hour before meeting, unless a different location is stated in the written notice of the meeting. No further notice shall be required for annual meetings.

The Association shall give notice of special meetings to members by United States First Class Mail deposited in the mails at least 20 days before a meeting.

The Developer may add other Phases to The Arbors and/or other Subdivisions to the overall development known as Heartland, and may add all such Phases and/or Subdivisions to The Heartland Homeowners Association, Inc. as plats are approved by the Owensboro Metropolitan Planning Commission and recorded for the Phases and/or Subdivisions. The Developer may fix initial assessments for any Phase and/or Subdivision.

The Association may make assessments against the lots for performance of the duties required of the Association and in this document. Assessments for The Arbors shall not exceed the sum of \$50.00 per year first due April 1, 1998, and every year thereafter, except that such amount may increase by no more than 10% per year beginning with April 1, 1999. Assessments may exceed 10% per year if approved by a vote of the majority of the members attending a duly noticed meeting of The Heartland Homeowners Association, Inc. each year thereafter, or if the Homeowners Association is required to perform any of the responsibilities of the City of Owensboro. The assessment shall apply to all lots, whether owned by the Developer or whether owned by others.

The Association shall have a lien for any unpaid assessments. All assessments shall be subordinate to any mortgage lien on any lot.

The Association may bring suit to enforce any lien. Each assessment shall bear interest at the rate of 18% per annum, and the Association may recover reasonable attorney's fees required in the collection of any assessment.

Section 21. Design Review Committee. The Design Review Committee shall have the absolute right, in its unquestioned discretion, to make all decisions regarding compliance with the restrictions of Sections 24 and 21 as pertaining to lots adjoining East 26th Street and the greenbelt.

The Developer shall have the right to determine all designs and landscaping prior to the sale of a lot to a builder and first occupant along East 26th Street. The Design Review Committee shall act, pursuant to this section, after a lot is sold to an occupant (as distinguished from a Builder). The Developer or its successors shall be the Design Review Committee until it gives notice to the current residents of the Unit by United States First Class Mail notifying them that The Heartland Homeowners Association, Inc. shall call a meeting of the members to elect a Design Review Committee. The notice shall state the names of the Subdivisions to which said notice has been sent and shall state the street address and telephone number of the office of the Developer where there is maintained a list of the addresses which such notices should be sent. It shall also state any other Subdivisions of Heartland which have already elected members to the Design Review Committee and the names of such committee members. Until Heartland has been completely developed by the Developer, The

Heartland Homeowners Association, Inc. shall notify the Developer of the names and addresses of each member of the Design Review Committee. The members of the Design Review Committee shall serve for one (1) year and new members shall be elected by a majority vote of the members of The Heartland Homeowners Association, Inc. attending a duly noticed meeting each year thereafter. There shall be one Design Review Committee member from each Subdivision within Heartland.

The Design Review Committee's approval or disapproval as required in these Restrictions shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove, within thirty (30) days after plans and specifications have been submitted to it, approval shall not be required and the related Restrictions shall be deemed to have been fully complied with. If an owner fails to submit plans and specifications but proceeds to construction, then approval need not be granted until plans and specifications have been submitted.

Section 22. Additional Restrictions for Lots Adjoining East 26th Street. This restriction applies to Lots 200 and 240, which adjoin East 26th Street.

(a) Fences along East 26th Street may not be higher than six (6) feet. They shall be cedar and dog-eared or dog-eared-shadow-box style. They must be left natural, except a clear preservative may be applied. The fences must be the same design and location as constructed by the Developer or original Builder.

Fences constructed by owner on Lots 200 and 240 must be approved by the Design Review Committee, which Committee may impose more restrictive location, design, and setback requirements for said Lots.

(b) The owner of the Lot must maintain and replant shrubs and trees along the East 26th Street side of the Lot or fence. If the City of Owensboro fails to perform any maintenance of shrubs and trees in the East 26th Street right-of-way, the owner of the Lot adjoining same must maintain them. If they die or if a portion of a hedge dies, then the owner shall replant them with the same species and variety and the planting shall be during the optimum planting season which first occurs after the tree or shrub dies or becomes unsightly. Trees must be at least 1-1/2 inch caliber or larger. If a disease or insect which kills the trees or shrubs spreads through the region killing all or a majority of like trees or shrubs, according to and verified by the University of Kentucky, College of Agriculture, Cooperative Extension Service, a similar tree or shrub may be planted which is resistant to the disease or insect.

(c) Grass and mulched areas along East 26th Street shall be kept in pristine condition up to the line of maintenance by the City of Owensboro which is the line for street rights-of-way, parks, and greenbelt. If the City of Owensboro does not perform its responsibility of maintaining any adjoining rights-of-way for streets, islands or greenbelt, then the Lot owner shall maintain the area by cutting grass, trimming shrubs and trees, removing

debris, fertilizing, herbiciding, treating for pests, watering, etc.

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(d) Houses adjoining East 26th Street must use neutral, earth-tone-colored brick, siding, exterior trim, accent colors and roofing. Whites, reds, blues, yellows or bright primary or secondary colors may not be used. Browns, grays, blacks, dark green, dark red, blue-gray or neutral or muted colors which do not draw your eye to and detract from the landscaping along East 26th Street may be used. Exterior trim shall be off white or as originally installed. See Section 2.

(e) Any additional landscaping by the owner in the back or side yards adjoining East 26th Street shall have a natural, informal scheme complementing the Developer's installed landscaping. Any landscaping seen from East Byers Avenue shall not be in formal, straight lines. Any hedges installed by the Developer or original Builder shall be retained. All hedges shall be planted to form a continuous screen and shall be allowed to grow together. They shall be minimally pruned to maintain a natural shape. They shall not be heavily sheared into a tightly growing hedge or balls.

(f) No storage shed, above-ground pools, detached garage or unsightly structures shall be placed in sight of automobile traffic along East 26th Street. If approved, fences and/or landscaping shall shield the structures from view from six (6) feet above the sidewalk. Such fences must not be in violation of any other provision of this instrument and their location must be approved by the Design Review Committee.

Section 23. Amendment by Developer. At any time before a lot or lots are sold, the Developer may amend this Dedication and Restrictions so as to add restrictions for any unsold lot or lots. The consent of any other lot owners shall not be required for the Developer to add restrictions as provided in this section.

Section 24. Binding Effect. The restrictions set forth herein shall run with the land and shall be binding upon all persons claiming interest therein.

Section 25. Invalidation of Restrictions. In the event any one of the restrictions set forth herein shall be declared void by the judgment of a court of competent jurisdiction, such judgment shall in no wise affect any other restrictions herein contained.

Section 26. Injunctive Relief. Each and all of the covenants, restrictions and conditions contained herein shall inure to the benefit of all owners of lots in this Subdivision, jointly and severally, and may be enforced by them or by any of them, in any court of competent jurisdiction by injunction or other appropriate legal remedy. The party adjudged to have violated any of said restrictions shall be liable to the aggrieved party for reasonable attorney's fees and court costs, which shall be fixed by the court hearing said matter. The owner of any lot in this Subdivision shall have the right to enforce said covenants, conditions and restrictions without proof of pecuniary damage to their own property in this Subdivision or otherwise.

Section 27. Remonstrate or Petition. By acceptance of title to any lot in this Subdivision, the lot owner agrees that he, she or it shall not object, remonstrate or petition against the Developer in any undertaking which the Developer deems beneficial to developing the Subdivision.

Section 28. Termination of Restrictions. These restrictions set forth herein shall continue in full force and effect for a period of thirty (30) years from the date this Dedication and Restrictions is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The restrictions, conditions, covenants and agreements may be terminated at the end of the thirty (30) years or each of the successive ten (10) year periods by vote of not less than seventy-five (75%) percent of the lot owners in North Arbors, Phase 1, except that all provisions regarding Sections 20, 21, 22 and 23 shall survive unless so terminated or amended by vote of seventy-five (75%) percent of the total members of all Subdivisions of Heartland. Any such amendment must be recorded in the Office of the Daviess County, Kentucky, Court Clerk.

IN WITNESS WHEREOF, said Jagoe Development Corporation has caused this instrument to be executed by its duly authorized officer, this 14th day of December, 1999.

JAGOE DEVELOPMENT CORPORATION

By: W. R. Jagoe, III
W. R. Jagoe, III, President

COMMONWEALTH OF KENTUCKY
COUNTY OF DAVIESS

The foregoing instrument was signed and acknowledged before me by W. R. Jagoe, III, President of Jagoe Development Corporation, for and on behalf of said corporation, on this the 14 day of December, 1999.

Sharon Gayle Crisp
Notary Public, By State of Laury
My Commission Expires: 4-2-2001

THIS INSTRUMENT PREPARED BY:

Ralph W. Wible
Ralph W. Wible
Attorney At Law
326 St. Ann Street
Owensboro, Kentucky 42303
(502) 684-3522

LEGISLATIVE
AND RECORDED THIS
99 DEC 15 12 52
DAVIESS COUNTY CLERK
BY DC

18302

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AMENDMENT TO DEDICATION AND RESTRICTIONS
OF NORTH ARBORS OF HEARTLAND PHASE 1
TO STATE AMENDED RESTRICTIONS FOR PHASE 2
AND TO ADD RESTRICTIONS
FOR LOTS 214 THROUGH 223 IN PHASE 2

The undersigned, Jagoe Development Corporation (the "Developer"), the address of which is now 4215 Bentree Drive, Owensboro, Kentucky, is the owner of land which is to be developed and subdivided and to be known as North Arbors of Heartland Phase 2 as shown on Plat of record in Plat Book 29, page 381, Office of the Daviess County, Kentucky, Court Clerk.

The undersigned does hereby dedicate for public use the streets and easements shown on the recorded Plat of Phase 2 of North Arbors of Heartland.

Phase 2 of North Arbors of Heartland is subject to the Dedication and Restrictions of North Arbors of Heartland Phase 1 recorded at Deed Book 712, page 138, Office of the Daviess County, Kentucky, Court Clerk, and the following Section 29 is added:

Section 29. Erosion Cover for Lots 214 through 223. The Developer has planted Crown Vetch as erosion cover for the high bank at the back of Lots 214 through 223. In order to best prevent erosion, the Crown Vetch should not be mowed or the height otherwise reduced. However, each homeowner may do whatever they wish with the high bank of their respective lots, but shall not by any means require the other lot owners to eliminate their Crown Vetch.

IN TESTIMONY WHEREOF, said Jagoe Development Corporation has caused this instrument to be executed by its duly authorized officer, this 19 day of December, 2000.

JAGOE DEVELOPMENT CORPORATION

By: W.R. Jagoe, III
W. R. Jagoe, III, President

Mail
W.R. Jagoe, III
P.O. Box 23019
42304

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COMMONWEALTH OF KENTUCKY
COUNTY OF DAVIESS

The foregoing instrument was signed and acknowledged before me by W. R. Jagoe, III,
President of Jagoe Development Corporation, for and on behalf of said corporation, on this the
19th day of December, 2000.



Notary Public
My commission expires: 1-8-2011

THIS INSTRUMENT PREPARED BY:



Ralph W. Wible
Attorney at Law
326 St. Ann Street
Owensboro, KY 42303
(270) 684-3522

DAVIESS COUNTY CLERK
BY BS DC
DEC 19 10:56
LOUJIA FORRELL
AND RECORDED THIS