

# Fairway Hills

PREPARED BY:  
PIETRANGELO COOK  
BY BRYAN SMITH  
6410 PODLAR AVE  
SUITE 190  
MEMPHIS, TN 38119

## DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR FAIRWAY HILLS SUBDIVISION PHASE I – SECTION 'A'

WHEREAS, the Declarant is the fee simple owner of real property described as Fairway Hills Subdivision, Phase I, Section 'A' in Oakland, Fayette County, Tennessee; and

WHEREAS, the Declarant has caused to be prepared a plan for the development of the Property, to be known as Fairway Hills Subdivision, Phase I, Section 'A' into residential lots; and

WHEREAS, the Declarant has caused a plat of the Property to be prepared and recorded at Plat Book 9, Page 171 in the Register's Office of Fayette County ("Plat"); and

WHEREAS, it is to the benefit, interest and advantage of the Declarant, the Lot Owners, and of each and every person or other entity hereafter acquiring any interest in the Property that certain conditions, restrictions, covenants, reservations and easements be established, fixed, set forth and declared as covenants running with the land;

NOW, THEREFORE, in consideration of the premises, the Declarant does hereby publish and declare that all or any portion of the Property described as Fairway Hills Subdivision, Phase I, Section 'A' shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations (and subject to all easements, conditions, restrictions, etc., as set out in the Plat), all of which are declared and agreed to be in furtherance of a plan for the development and improvement of the said Property, and the said covenants, conditions, restrictions, uses, limitations and obligations shall run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns, and any person or legal entity acquiring or owning any interest in any portion of the said Property or any improvements thereon, their grantees, successors, heirs, executors, administrators, devisees and assigns.

### ARTICLE I DEFINITIONS

1. "Declarant" shall mean BancorpSouth – 2910 West Jackson St, Tupelo, Mississippi 38801, their successors and assigns for purposes of this Declaration.
2. "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions, and any supplementary declaration filed hereto, as this Declaration may, from time to time, be amended in accordance with its terms.
3. "Lots" shall mean and refer to the lots of land designated and shown on the recorded Final Plan of subdivision of Fairway Hills Subdivision, Phase I, Section 'A' as recorded in Plat Book 9, Page 171, in the Register's office of Fayette County, Tennessee, and any correction, re-recording or revision thereto.
4. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of Fairway Hills Subdivision, Phase I, Section 'A', but excluding those having such interest merely

as security for the performance of an obligation, provided, however, that the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

5. "Association" shall mean and refer to Fairway Hills Home Owner's Association, Inc., a nonprofit, non-stock corporation incorporated under the laws of the State of Tennessee, its successors and assigns. The Association's Charter and Bylaws are, or shall be, recorded in the Register's Office of Fayette County, Tennessee.
6. "Person" means and individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.
7. "Property" or "Properties" shall mean that real property being each lot contained within Fairway Hills Subdivision, Phase I, Section 'A' as recorded in the Register's office of Fayette County.
8. "Improvements" shall mean the structures, walls, pavement, plantings and other additions built or placed on the Lots.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THESE PROTECTIVE COVENANTS AND RESTRICTIONS**

#### **Existing Property**

The real property described as Fairway Hills Subdivision, Phase I, Section 'A', as platted and recorded in the Register's office of Fayette County, located in Fayette County, Tennessee, which is, and shall be, held, conveyed, transferred and sold subject to the conditions, restrictions, covenants, reservations and easements herein contained. Such lots contained in Fairway Hills Subdivision, Phase I, Section 'A' together with any common areas or elements are referred to hereinafter collectively as the "Development".

#### **Potential Property Subject to this Declaration**

Additional real property may be annexed by Declarant. Declarant presently owns adjacent real property and contemplates further development of such real property to the end that all or a portion of such adjacent real property may ultimately be configured as generally shown on Exhibit "A" attached hereto and incorporated herein by reference. Such annexation of all or a portion of the property described in Exhibit "A" may be accomplished by the filing of an Amended And Restated Declaration of Covenants, Conditions and Restrictions which shall incorporate the terms, covenants, conditions, and restrictions of this Declaration. Provided that the terms, covenants and conditions of the Amended And Restated Declaration of Covenants, Conditions and Restrictions are substantially identical to this Declaration, Declarant shall have the right to record such instrument and impose the terms thereof on the Subdivision without the consent or joinder of the Lot Owners.

## **ARTICLE III**

### **PURPOSE OF PROTECTIVE COVENANTS AND RESTRICTIONS**

The conditions, restrictions, covenants, reservations and easements herein contained are made and imposed upon said Subdivision and each Lot contained therein to insure the best use and the most aesthetically appropriate development and improvement of each Lot; to protect each Owner of each Lot against improper use of surrounding Lots; to preserve, so far as practicable, the unique character of said Subdivision; to encourage and secure the construction of attractive homes on such Lots; and in general, to provide adequately for a superior quality of improvements on such Lots, and thereby enhance the value of investments made by purchasers of such Lots. Restrictive Covenants and similar documents are private in scope and are not subject to governmental approval or enforcement.

## **ARTICLE IV**

### **DURATION OF PROTECTIVE COVENANTS AND RESTRICTIONS**

The conditions, restrictions, covenants, reservations and easements herein contained shall run with and bind each and all of the lots of said subdivision and shall be binding on all parties and all persons claiming under them until January 1, 2035, at which time said covenants shall be automatically extended for successive periods of ten (10) years each. These conditions, restrictions, covenants, reservations and easements, or any one or more of them may be amended, prior to and on such date, by an

instrument duly executed and notarized by not less than a 75% majority of the then owners of such lots (one vote per lot) and recorded in the Office of the Fayette County Register; subject to the rights of Declarant noted in this document.

## ARTICLE V ENFORCEMENT OF PROTECTIVE COVENANTS AND RESTRICTIONS

The Declarant, Association and / or any Owner of any Lot in said Subdivision shall have the right to enforce, by any proceedings at law or in equity, all conditions, restrictions, covenants, reservations and easements herein or hereinafter contained or otherwise contained in any deed to any lot in said subdivision against any person or persons violating or attempting to violate any of said conditions, restrictions, covenants, reservations and easements; either to restrain violation or to recover damages for any such violation including, but not limited to, reasonable attorney fees and court costs. Failure by the Declarant or any Owner to enforce any of such conditions, restrictions, covenants, reservations and easements shall in no event be deemed a waiver of the right to do so thereafter. In the event of the violation of any of the covenants and restrictions contained herein which provides for monetary damages or which the Declarant or other party incurs costs or expenses to enforce these covenants and restrictions as provided herein, such monetary damages, costs and expenses shall become a lien upon the Lot to which they are attributable. Invalidation of any one or more of the covenants or restrictions or other provisions herein or hereinafter contained by judgment or court order shall in no way affect any of the other covenants and restrictions herein or hereinafter contained which shall remain in full force and effect.

## ARTICLE VI RIGHTS OF DECLARANT

1. The Declarant reserves unto itself the right to impose additional specific restrictions upon any Lot in said Subdivision at the time of sale by said Declarant of any of such Lots. Such additional restrictions may be made by appropriate provision in the deed, without otherwise modifying the covenants and provisions contained herein. Such additional restrictions as are so made shall apply to the Lot or Lots on which they are specifically imposed. Any additional restrictions or any variations imposed by the Declarant do not set a precedent for future construction.
2. Notwithstanding anything herein contained to the contrary, Declarant or its successors or assigns, reserves the right for a period of ten years from the date of the official recording hereof to unilaterally amend the covenants and restrictions contained in this plat and to re-record said plat for any reason Declarant or its successors or assigns, in its sole discretion, deems necessary, including, but not limited to, to meet the requirements of any governmental agency, on the federal, state or local level; for the requirements of any mortgage lender; or for any reason Declarant or its successors or assigns, deems advisable for the orderly development of the subdivision, including, without limitation, the reduction of the minimum heated floor area of any single family residence, exclusive of porches and garages, to be constructed on a Lot, the deletion or reconfiguration of any one or more Lots then owned by Declarant or any of its members, its successors or assigns, and the realignment, and/or the relocation of easements for utilities or drainage purposes. No Lot owner shall be required to execute or ratify the amendment and re-recording of the plat which Declarant or its successors or assigns amends and re-records for any purpose it deems fit. This provision cannot be amended for a period of ten years without the consent of Declarant or its successors or assigns. This paragraph is not assignable to the Association, but is assignable, at Declarant's election, to any other party who purchases all or a majority of Declarant's Lots in the Subdivision.
3. Neither Declarant nor the Association shall be required to pursue enforcement of any alleged violation by an Owner of a Lot of a use restriction set forth herein. Any failure to so pursue by Declarant or the Association shall not serve as a waiver by Declarant or the Association of such violation, and Declarant or the Association shall have the right to enforce any use restriction herein which is violated by an Owner of a Lot, regardless of any prior election to not pursue enforcement thereof.
4. Except as otherwise specifically provided herein, the powers and duties of Declarant hereunder shall cease by written notice to the Association, on and after the commencement of construction on the last Lot of this subdivision (including any adjoining Lots owned or developed by Declarant in adjacent phases), or thirty (30) years after the recording of the Plat, or when Declarant relinquishes its powers and duties to the Association, whichever occurs first, at which time the powers and duties previously vested in Declarant shall automatically be vested in the Association (unless otherwise noted) and, notwithstanding any provision contained herein regarding the termination of the powers and duties vested in Declarant, all powers transferred to the Association shall not terminate so long as the Association is in existence.

5. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant to maintain, during the period of the sale of said Lots, upon such portion of the Development as Declarant deems necessary, such facilities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the sale of said Lots, including, but without limitation, a business office, storage area, construction yard, signs, model units, and sales office.

6. The Declarant reserves the right to place such signs, billboards, posters, and other advertising devices as it deems appropriate within the Subdivision in accordance with Town of Oakland Zoning Regulations, until all lots in the Subdivision have been sold by said Declarant.

## ARTICLE VII ARCHITECTURAL CONTROL

1. **Formation.** The Declarant or their assignee will function as the Architectural Control Committee until those powers are assigned to the Association, or until the last house is constructed in the subdivision, at which time these powers will be exercised by the Homeowner Association Board of Directors, or a subset thereof.

2. **Intent.** Architectural control - to promote architectural compatibility and to preserve the value of homes and land within the subdivision, all improvements to the Lots within Fairway Hills Subdivision shall be reviewed and approved by The Fairway Hills Architectural Control Committee (referred to herein as "Architectural Control Committee"), its representative, or committee duly appointed by said Architectural Control Committee. This covenant shall not be construed to govern the interior design of dwellings nor shall any approval be unreasonably or arbitrarily withheld. In the event that the Architectural Control Committee, or its representative, fails to approve or disapprove such design and site plan within thirty (30) working days after said plans have been submitted, such approval will not be required and this covenant shall be deemed to have been fully complied with. For the purpose of this provision, the term "working days" shall mean Monday through Friday, but excluding any Federal Holidays. The Architectural Control Committee may, at its sole discretion, delegate its obligations, duties, and functions to a third party and in the event of such delegation, said third party shall be vested with the same authority and powers as the Architectural Control Committee as set out herein. The Architectural Control Committee may, at its discretion, retain the services of a third party to assist in the performance of its obligations, duties and functions arising hereunder.

3. **Powers.** The Architectural Control Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on the Lots including, without limitation, the exterior lighting, landscaping and planting and may issue statements of policy with respect to approval or disapproval of the architectural styles or details or other matters which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Architectural Control 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 Architectural Control Committee to approve or disapprove any feature or matter subject to approval or to waive the exercise of the Architectural Control Committee's discretion as to any such matter, but no change of policy shall affect the finality of the Lot of any plans or specifications previously submitted to and approved by the Architectural Control Committee but such approval shall not be deemed a waiver by the Architectural Control Committee in its discretion to disapprove such plans or specifications or any features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to the Lot and such approval may not be revoked or rescinded thereafter provided that the plans and specifications as approved and any condition attached to any such approval have been adhered to and complied with in regard to all structures, fences, hardscapes or barriers on the uses of the Lot in question.

With the exception of the Declarant, no structure of any kind or nature, or any fence, entranceway, gate or barrier shall be commenced, erected, placed, or permitted to remain on any of the Lots within Fairway Hills Subdivision, nor shall any existing structure, fence or barrier upon any Lot be altered in any way which substantially changes the exterior appearance thereof without the written consent of the Architectural Control Committee; nor shall any new use be commenced on any Lot unless plans and specification shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. Such plans and specifications shall be professionally prepared to industry standards and shall contain such information as may be required by the Architectural Control Committee, but in any event shall include:

- a. **Submission Standards.** A site plan of the Parcel showing the overall nature, materials, color and location of all improvements; including front, sides and rear setbacks of all structures, fences, gates or

- barriers, and location of driveways, turnarounds, parking spaces, decks, air conditioning equipment, refuse storage and screening; and
- b. Proposed landscaping and hardscaping plans for the Lot; and
  - c. Mailboxes and front yard exterior light standards if desired, the design, material and location to be specified by the Architectural Control Committee, said light standards to be operated by a photo cell; and
  - d. Architectural plans shall include floor plans, all exterior elevations, building sections and details of cornice, front entrance, porches, rails, and other details, etc. of special or unique importance or character. Said plans shall include adequate data and detail as to the overall exterior materials, and color scheme and the overall kind, style, shape, height, materials and quality of the proposed structure and other improvements. Architectural plans shall also include a plan and elevations of any planned lot entranceway and/or gate structure of either automatic or manual function. All entrance improvements shall be subject to the review and approval of the Architectural Control Committee even if said improvements are not done concurrently with home construction.

NOTE: The Architectural Control Committee may require additional data or more detailed plans should the items noted above not be adequately covered or should a design of unique quality or merit require such for full review and approval.

4. **Initial Approval.** In the event the Architectural Control Committee fails to approve or disapprove any plans and specifications as herein provided within thirty (30) working days after submission thereof, the same shall be deemed to have been approved as submitted and no further action shall be required.
5. **Subsequent Approval.** Any subsequent changes, after the initially approved plans, (including existing structures or new structures), to the exterior colors and/or materials of any improvement located on each lot, including, but not limited to, paint color, trim color, siding color, painted brick color, roof color, shutter materials and shutter color, must be approved in advance by the Architectural Control Committee or its designated representative.
6. **Violation.** If any structure, fence, or barrier shall be altered, erected, placed or maintained (including exterior maintenance) upon any Lot or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the Architectural Control 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, and unless deemed acceptable or appropriate upon written notice from the Architectural Control Committee any such structure, fence, hardscape 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 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 Declarant or the Association by its officers or directors shall have the right through its agents and employees to enter upon such Lot and to take such steps as may be necessary to extinguish such violation, and the costs 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 Office of the Register of Fayette County, Tennessee.
7. **Right of Entry.** Any agent of Declarant or of the Architectural Control Committee may, at reasonable times, with notice, enter upon and observe any Lot and any improvements thereon for the purposes of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of structures thereon are in compliance with the provisions of these restrictions, and no such persons shall be deemed to have committed a trespass or other wrongful acts by reason of such entry or observation.
8. **Liability.** The Architectural Control Committee shall use its best efforts in the exercise of its duties; however, neither the Architectural Control Committee, its members nor the Association shall be liable for any decision made in the exercise of its duties, or for any comments, suggestions and/or redesigns resulting from the Design Review Process.
9. **Enforcement.** The Association, acting through the Architectural Control Committee shall have the right to enforce by any proceeding at law or in equity all architectural conditions and restrictions placed upon any Lot against any person or persons violating or attempting to violate any of said conditions or restrictions; either to restrain violation or to recover damages for any such violation including, but not limited to, reasonable attorney fees and court costs. Failure by the Architectural Control Committee to enforce any of such proceedings shall in no event be deemed a waiver of the right to do so thereafter.

Unless otherwise defined or directed by the Architectural Control Committee on an individual basis, the following clauses are enforceable between the Architectural Control Committee and the Lot Owners, but not from one lot owner to another. These clauses are subject to change by the Architectural Control Committee without notice to Lot Owners, and include other rights as assigned by the Declarant

10. **Building Standards.** No garage or accessory building door openings shall be taller than ten (10) feet. No accessory buildings of any type (storage, shed, shop, etc.) may be constructed or placed on any lot without written approval of the Architectural Control Committee. All buildings and accessory structures erected upon said property shall be of new construction, no buildings or structures shall be moved from other locations onto said property and no subsequent buildings or structures, shall be constructed without the approval of the Association or its designated representative. Any structures permitted to be built on site must be of the same materials as the home and, to the extent applicable, the roof, brick, siding, paint color, trim Color, and all other aspects of the accessory building must exactly match those of the home.

11. **Building Material Storage.** No building material of any kind or character shall be placed or stored upon any lots until the owner is ready to commence construction. Building materials shall not be placed or stored in the street right-of-way. Contractors performing work shall have placed on the lot a commercial refuse container, once framing of the structure has begun, for holding all construction refuse. Construction sites shall be cleaned prior to each weekend during all phases of building construction or remodeling.

12. **Parking.** No recreational vehicles, including, but not limited to, trucks, boats, campers, and trailers, and no passenger vehicles and vans, which are not used on a daily basis, shall be parked on the public streets and must be kept in the rear yard or garage and screened from view of all adjoining property owners and must also be in compliance with the Oakland zoning ordinance. Only passenger vehicles (excluding recreational vehicles containing sleeping space) used on a daily basis may be parked on those parts of driveways not in the rear of the property. No vehicle of any type or nature with a "for sale" sign affixed thereon or therein may be parked on the public streets or on those parts of the driveways not in the rear of the property. No vehicle of any nature or type that is not in operating condition or appropriately licensed may be parked on the public streets or on those parts of the driveways not in the rear of the property. These vehicles are subject to being towed at the owner's expense.

13. **Screening.** All equipment, utility meters, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighbors or the roads. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

14. **Accessory Structures.** If a recessed swimming pool is built on a lot, then the entire rear yard or the swimming pool must be enclosed by a privacy fence with latching gates which can be locked pursuant to the local Building Code or Ordinance. Above ground swimming pools and metal storage buildings are approved or rejected on case by case basis.

Accessory buildings, recreational structures including, without limitation, pool houses, swings, jungle gyms, doll houses, dog houses, dog pens, dog runs, and swimming pools must be constructed in accordance with the ordinances of the Town of Oakland and shall be screened from the street by a 6' tall (min.) privacy fence (or evergreen screen as approved by the Architectural Control Committee), and must be approved prior to commencement of construction by Architectural Control Committee. Among other factors, the location, type and size of the requested accessory building, recreational structure, or swimming pool will be taken into account when determining whether same will be approved or disapproved. Each lot owner will be responsible for maintaining all drainage patterns as set out in the approved construction drawings for this subdivision located at the Town of Oakland public works office.

In ground basketball goals must be approved by the Architectural Control Committee

15. **Landscaping.** Each Lot owner shall be responsible for planting a minimum of one deciduous tree (three inches in caliper) between the front of the residence and the road prior to taking occupancy of the residence.

16. **Pets.** All permitted pets shall be kept on leashes at all times when any such pet is not confined by a fence or pen. A lot owner shall promptly remove all pet waste from such lot owner's lot and from any other lot owner's lot. Violation of

either of the foregoing restrictions shall result in a penalty/additional assessment against the lot of such lot owner in the amount of One Hundred and no/100 Dollars (\$100.00) for each occurrence.

17. **Erosion Control.** It shall be the sole responsibility of the lot owner or owner's agents, employees, contractors, sub-contractors, or assignees to determine if erosion control measures including, but not limited to, silt fencing may be required to comply with all local, state and federal ordinances, laws, rules and regulations. If such erosion control measures are required then, in that event, it shall be the sole responsibility of the lot owner, or its agents or contractors to take all steps necessary to insure that all erosion control measures are fully complied with and maintained prior to, during and after construction of the referenced property. The Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control requires the owner of property to maintain adequate drainage and erosion control measures at the property and to maintain such measures throughout construction of the improvements upon the property. If the Lot Owner is a builder or contractor, intending to construct a home for resale, it will, within fifteen (15) days following the date it takes title to the Lot contact TDEC and file the Notice of Intent for Construction Activity and Storm Water Pollution Prevention Plan (SWPPP) and furnish such other forms and information as may be required by TDEC to obtain a new tracking number for the Lots purchased by Buyer. Otherwise, the Lot Owner will require its builder or contractor, when selected, to file a Notice of Intent for Construction Activity with TDEC no less than ten (10) days prior to the commencement of construction or disturbance of the Property. The lot owner shall initially establish and maintain a fully sodded property at the time of construction completion.

18. **Christmas Lights.** All exterior Christmas decorations may be placed on the residence and on the lot no earlier than thirty (30) days before Christmas and must be removed within thirty (30) days after Christmas. Exterior decorations for all other holidays, including without limitation Halloween, may be placed on the residence and on the lot no earlier than two (2) weeks prior thereto and must be removed within one (1) week thereafter.

#### ARTICLE VIII PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS

1. **Builder Approval.** In order to promote architectural compatibility, overall construction quality and to preserve the value of homes and land within the subdivision, all builders must be approved by the Declarant.
2. **Uses Allowed.** All lots in Fairway Hills Subdivision are hereby restricted to private residential dwellings for residential use except for the lots designated on the Plat as Common Open Space. All of such lots shall be known and described as single family residential lots and are not to be re-subdivided into smaller lots. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other building of temporary character shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.
3. **Square Footage.** The minimum square footage for a residence shall be determined by the Architectural Control Committee, which may set different standards depending on lot configuration and other factors.
4. **Building Standards.** No structure shall be erected, placed, altered, or permitted to remain on any lot in this subdivision other than one single-family detached dwelling of not more than two (2) stories in height plus roof, with a minimum of one private 2-car garage. Carports and freestanding canopies of any kind are not permitted. Accessory structures are allowed to the extent that the Town of Oakland allows same once a house has been built on the lot and the structure has been approved in writing by the Association or its designated representative.
5. **Uncompleted Construction.** Any dwelling shall have a certificate of occupancy issued by the Town of Oakland Department of Code Enforcement or other entity which may possess the legal authority to issue such a certificate within two hundred seventy (270) days from the date an engineering firm performs the pre-pour inspection of the foundation, and failure to comply with this condition shall result in a payment by the Lot Owner of \$50.00 per day as liquidated damages to the Declarant until the dwelling is issued a certificate of occupancy. If such pre-pour inspection of the foundation is not obtained, the 270-day time period shall commence to run on the date the building permit is issued to construct improvements upon the Property. The Architectural Control Committee shall, in its sole discretion, have the ability to lengthen the time for issuance of a certificate of occupancy to be issued.
6. **Trash.** It shall be the sole responsibility of the lot owner to prevent the blowing, dumping or placement of trash, refuse, etc. on an adjacent lot. If a lot owner fails to comply with this condition within ten (10) days after written notice to the last known

address of such lot owner, the Declarant may perform such maintenance and recover the cost thereof from the lot owner, including reasonable collection and attorney's fees. Owner's conducting remodeling operations or construction operations shall use commercial steel refuse bins. The burning or burying of household trash or refuse is prohibited. Burning of trees, brush and construction materials is prohibited.

7. **Drainage.** Each lot owner will be responsible for maintaining all drainage patterns as set out in the approved construction drawings for this subdivision located at the Town of Oakland public works office.
8. **Location of Accessory Structures.** All buildings, including any freestanding buildings or other structures erected, shall conform to the applicable setback requirements of the zoning law having jurisdiction, provided, additionally, that on no lot shall any structure or accessory building be located nearer to the street than the side or front building line of the principal building without the prior written consent of The Fairway Hills Architectural Control Committee.
9. **Electric Service.** All secondary electric service lines shall be run underground from its primary source to the residence and/or any outbuildings at the owner's sole expense. Electric meters shall be placed adjacent to the residence and not located at the public streets.
10. **Satellite Dishes.** Without prior written approval and the authorization of the Architectural Control Committee, no exterior television or radio antennas or satellite dishes of any sort with the exception of a satellite dish no larger than 24" in diameter, if located out of public view, shall be placed, allowed, or maintained upon any Lot or upon any portion of the improvements located upon the Property nor upon any structure situated upon the Property.
11. **Flagpoles.** Any flagpole erected upon an owner's property may not exceed fifteen (15) feet in height and must conform to the ordinances of the Town of Oakland. No other type of pole will be allowed to be erected or placed upon an owner's property. The location of the flagpole must be approved by the Association or its designated representative.
12. **Exterior Lighting.** All exterior lighting on a lot, including, but not limited to, landscape lighting, is subject to the rules of the of the Architectural Committee. Said lighting on each lot shall be constructed and maintained so as to provide such illumination as is necessary for that lot only, and shall be installed/directed so as to avoid glare and excessive spillage on adjacent properties or streets.
13. **Fencing.** No fences, walls or other such features shall be erected on any lot without the prior written approval of the Architectural Control Committee. Fences are to be constructed in accordance with the ordinances of the Town of Oakland and with the Association. The Association will provide a wood fence detail upon request. No chain-link or wire fence is allowed between Lot Owners. Generally, fences may be no closer to the street than ten (10) feet behind the front building setback line, except for corner lots, which may have fences up to the front building setback line.
14. **Driveway Material.** All driveways shall be of a washed aggregate concrete surface unless otherwise allowed by the Architectural Control Committee.
15. **Tree Removal.** No tree larger than eight (8) inches in diameter measured twelve (12) inches from the grade shall be removed, unless it is dead or poses a threat to the safety and health of the occupants of a Lot or the adjacent Lots, without the approval of the Architectural Control Committee.
16. **House and Lot Maintenance.** Each lot owner shall be responsible for the interior and exterior maintenance of his lot and improvements, including, but not limited to, all exterior walls of dwellings, doors, windows, roofs, patios, garages, light fixtures, irrigation systems, parking surfaces, landscaping, driveways, painting, mailboxes, street lights, private drives, plumbing and electrical repairs. All grass, weeds, vegetation and/or 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. All lots shall, at all times, be kept free and clear of dead trees, shrubs, vines, plants and other vegetation. In the event an owner of any lot shall fail to maintain his or her lot and the improvements thereon in a manner as required by these covenants, as reasonably determined by the Association, the Association shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and the exterior of the improvements erected thereon. The cost of such repair, maintenance and restoration shall be added to and become part of the assessment of that lot. Additionally, each owner shall be responsible for the maintenance and repair of the public curb and gutter adjoining or contiguous to the owner's lot which may be damaged during any construction or improvement activity on said lot. The cost of said maintenance, expenses and attorney's fees shall be a binding obligation of the owner, as well as a lien on the lot in question upon recording of a notice



of lien with the Register's Office of Fayette County, Tennessee. Any lien so recorded shall at all times be subordinate to any prior recorded deed of trust. In addition to the costs as set forth herein, the owner shall be responsible for all court costs, reasonable attorney's fees and interest from the date of any expenditure at the maximum legal rate of interest.

17. **Warranties.** The purchaser of a vacant lot, or in the case of the common open space the Association, shall accept same in its existing condition, no warranties or representations having been made by the Declarant or its designated representative which are not expressly stated herein. The Declarant shall convey the Lots and the common open space as is, where is, and with all faults. The acquirer of any property within the Development agrees to indemnify and hold the Declarant, its successors or assigns harmless against any claim, liability, damage or cost in connection with the development of the property or any Lot. The owner of any property within the Development shall, in the development of the property or Lot and thereafter, provide adequate drainage so as not to adversely affect such property or Lots adjacent thereto before, during and after construction. The Development may be filled land or partially filled land. The Declarant shall not be responsible for any trees that die. The Declarant shall not be responsible or liable for any claims of any kind or character related to the fill or soil conditions of said Development. The Declarant makes no warranty concerning the degree of rainwater inundation that may result on the aforementioned Lots since said inundation can be expected with rainfall which exceeds the design standards.

18. **Easements and Surface Drainage.** Perpetual easements for utility, sewer and drainage are reserved as shown on the Plat. No owner shall, within any such easement areas or at other locations whether within or without designated areas, place or permit any structures, fencing, plants or other materials which may damage or interfere with the installation and maintenance of utilities and/or interfere with the positive natural drainage established by the Declarant. Further, no owner shall install any improvements or modify any existing grades in such a manner as would impair the positive natural flow of water from or onto the owner's lot. The easement area and drainage facilities on each lot shall be maintained continuously by the owner of such lot.

19. **Garden Location.** All vegetable gardens shall be located no closer to the street than the rear of the house.

20. **Statuary.** All statuary, monuments and similar decorations intended to be placed in a yard or wherever they can be seen from off the property upon which they are located must be approved in advance by the Association or its designated representative.

21. **Sidewalks.** Sidewalks shall be installed by the lot owner in accordance with the ordinances and regulations of the Town of Oakland and are to be installed when the residence is constructed. Should a lot owner not have installed the required sidewalk(s) when required by the Association, then the Association will collect from the lot owner the cost required to ensure the future construction of the sidewalk. Should the lot owner refuse to do so, then the Association shall have the right to file a lien on the property or sue for ten (10) times the cost of the sidewalk. Upon the lot closing, the owner shall be responsible for the maintenance and repair of the curb and gutter along the frontage of their lot. If the owner fails to maintain or repair the curb and gutter in a timely manner, then the Association or its designated representative shall have the right to file a lien on the property and/or sue for ten (10) times the cost of the curb and gutter.

22. **Signage.** No commercial sign of any kind or in any form shall be located on any lot or in the street right-of-way without the express written consent of the Architectural Control Committee – at its sole discretion, except a single sign not larger than six (6) square feet advertising real estate for sale or rent, said real estate signs must meet the sign requirements of the Architectural Control Committee. No political sign, poster or other standard or banner shall be placed in a visible location on any lot that is larger than six (6) square feet in total area. Political signs may be placed in lots no earlier than 45 days prior to the event of election and shall be removed within 48 hours of the completion of the event of election and shall not exceed one per current elective race. No sign advertising the property "for rent" or "for lease", or any other sign, of any nature, may be placed upon an owner's property or in an owner's property except for the standard size signs used by Realtors.

23. **Prohibited Uses.** No commercial use shall be made of any lot except a discreet and incidental home occupation conforming to all applicable provisions of the zoning law having jurisdiction. No lot may be used for incidental or principal outdoor storage, maintenance or repair of any equipment used in the conduct of a business elsewhere. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, parking or storage of any large commercial vehicles, excessive noise from barking dogs, equipment or trailers, except while engaged in construction on a lot. No animals, livestock or poultry of any kind shall be permitted on any of said lots, except dogs, cats or other household pets may

be kept, provided they are not kept, bred or maintained for any commercial purpose. In all instances, household pets shall be restrained within fenced areas or under leash.

24. **Lot Transfer.** 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 set out in the Plat and the terms of these Protective Covenants & Restrictions.

25. **Easement Rights.** Declarant hereby reserves for itself and the Association a perpetual easement over and upon the Lots within Fairway Hills, for the purpose of erecting, maintaining, repairing or replacing the entrance structures, subdivision identification features, decorative fencing, landscaping, screenings, or irrigation. The easement will be located where the entrance structures, subdivision identification features, and decorative fencing are constructed by the Declarant.

26. **Full Force.** Invalidation of any of these covenants, limitations, or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

27. **Obligation of Declarant and Association.** Neither the Declarant nor the Association shall be required to pursue enforcement of any alleged violation by an owner of a lot of a use restriction set forth herein. Any failure to so pursue by the Declarant or the Association shall not serve as a waiver by the Declarant or the Association of such violation, and the Declarant or the Association shall have the right to enforce any use restriction herein which is violated by an owner of a lot, regardless of any prior election to not pursue enforcement thereof.

ARTICLE IX  
ASSOCIATION

The Owners of any and all Lots shall automatically become members of the Association, which shall maintain all walls (unless noted), entrance structures, fencing, landscaping and all improvements and appurtenances located within all landscape easements, common open spaces, lighting and irrigation, together with any and all drainage or storm-water detention facilities which serve the Development and are shown on a recorded plat for Phase 1, or later phases that might be included under the Association as described in Exhibit A. The by-laws for the Association will be recorded by a separate instrument.

Declarant

BancorpSouth

By:

*[Handwritten Signature]*  
Bryant Cashion, Senior Vice President

State of Mississippi

County of DeSoto

On this \_\_\_\_\_ day of June, 2012, before me personally appeared Bryant Cashion, to me known to be the person described in and who executed the foregoing instrument, and who acknowledged himself to be the Senior Vice President of BancorpSouth, a Mississippi banking corporation, the within named bargainer, and who further acknowledged that, being duly authorized, he executed the foregoing instrument for the purposes therein contained on behalf of said corporation by signing the name of the corporation, by himself as such officer.

Witness my hand and official seal at office, this the 11<sup>th</sup> day of June, 2012.

Notary Public:

*[Handwritten Signature]*  
Kathy S. Davidson

My Commission Expires: 04-09-2016





## DESCRIPTION:

Description of the BancorpSouth Bank property recorded in Instrument No. 11004945 and part of Instrument No. 10006792 in the 8th Civil District of Fayette County, Tennessee:

Beginning at a found pk nail in the centerline of existing pavement in Wirt Road, said point being the northeast corner of said property recorded in Instrument No. 11004945, the southeast corner of Villages of Riverwood Subdivision, Section A recorded in Plat Book 8, Page 184 and being on TSC 1983 (N-350807.49, E-917649.84); thence south 03 degrees 50 minutes 17 seconds west along the east line of said property recorded in Instrument No. 11004945 and along a portion of the centerline of existing pavement in said Wirt Road, 318.42 feet to a found iron rod at a break point in the east line of said property recorded in Instrument No. 11004945 and at the northwest corner of said property recorded in Instrument No. 10006792; thence south 86 degrees 49 minutes 03 seconds east along the north line of said property recorded in Instrument No. 10006792, 110.11 feet to a point in the centerline of existing pavement in said Wirt Road; thence southeastwardly along the north line of said property recorded in Instrument No. 10006792 and along the centerline of existing pavement in said Wirt Road the following calls: southeastwardly along a curve to the right having a radius of 12358.88 feet, delta angle of 02 degrees 27 minutes 48 seconds, chord bearing of south 85 degrees 35 minutes 09 seconds east, chord distance of 531.28 feet and a curve distance of 531.32 feet to a point; southeastwardly along a curve to the left having a radius of 7535.68 feet, delta angle of 02 degrees 44 minutes 40 seconds, chord bearing of south 85 degrees 43 minutes 36 seconds east, chord distance of 360.92 feet and a curve distance of 360.96 feet to a found pk nail in the northwardly projection of a west line of the Fairway Hills Subdivision, Phase I - Section 'A' recorded in Plat Book 9, Page 92; thence south 03 degrees 45 minutes 40 seconds west along said northwardly projection, 34.79 feet to a found iron rod in the south line of said Wirt Road, said point being the northwest corner of said Subdivision recorded in Plat Book 9, Page 92; thence southeastwardly and southwestwardly along the south and west line of said Wirt Road the following calls: southeastwardly along a curve to the left having a radius of 7569.68 feet, delta angle of 00 degrees 33 minutes 25 seconds, chord bearing of south 87 degrees 19 minutes 56 seconds east, chord distance of 73.59 feet and a curve distance of 73.59 feet to a point; southeastwardly along a curve to the right having a radius of 1022.76 feet, delta angle of 05 degrees 55 minutes 47 seconds, chord bearing of south 84 degrees 38 minutes 45 seconds east, chord distance of 105.80 feet and a curve distance of 105.85 feet to a point; southeastwardly along a curve to the right having a radius of 75.00 feet, delta angle of 84 degrees 00 minutes 56 seconds, chord bearing of south 39 degrees 40 minutes 24 seconds east, chord distance of 100.38 feet and a curve distance of 109.98 feet to a point; south 02 degrees 20 minutes 04 seconds west, 355.52 feet to a point; south 03 degrees 01 minutes 56 seconds west, 440.43 feet to a point; south 03 degrees 43 minutes 04 seconds west, 175.19 feet to a set 1/2" rebar with plastic cap, said point being an exterior corner of said Subdivision recorded in Plat Book 9, Page 92; thence south 23 degrees 16 minutes 22 seconds west along the southeast line of said Subdivision recorded in Plat Book 9, Page 92, 181.06 feet to a set 1/2" rebar with plastic cap at the southeast corner of said Subdivision recorded in Plat Book 9, Page 92; thence north 86 degrees 15 minutes 24 seconds west along the south line of said Subdivision recorded in Plat Book 9, Page 92, 294.10 feet to a found iron rod with metal t-post at the southern most southwest corner of said Subdivision recorded in Plat Book 9, Page 92; thence north 03 degrees 40 minutes 47 seconds east along a west line of said Subdivision recorded in Plat Book 9, Page 92, 315.88 feet to a found iron rod with metal t-post at an internal corner of said Subdivision recorded in Plat Book 9, Page 92; thence north 86 degrees 16 minutes 30 seconds west along a south line of said Subdivision recorded in Plat Book 9,

Page 92 and along a south line of said property recorded in Instrument No. 10006792, 910.38 feet to a point in an existing 32" tree at the southwest corner of said property recorded in Instrument No. 10006792 and in the east line of said property recorded in Instrument No. 11004945; thence south 04 degrees 28 minutes 32 seconds west along the east line of said property recorded in Instrument No. 11004945, 374.97 feet to a set 1/2" rebar with plastic cap at the southeast corner of said property recorded in Instrument No. 11004945 and the northeast corner of the Wilson Family Partnership property recorded in Instrument No. 07005051; thence north 86 degrees 13 minutes 12 seconds west along a south line of said property recorded in Instrument No. 11004945 and along the north line of said property recorded in Instrument No. 07005051, 1202.62 feet to a set 1/2" rebar with plastic cap at an internal corner of said property recorded in Instrument No. 11004945 and the northern most northwest corner of said property recorded in Instrument No. 07005051; thence south 04 degrees 45 minutes 01 seconds west along an east line of said property recorded in Instrument No. 11004945 and along a west line of said property recorded in Instrument No. 07005051, 336.36 feet to a found iron rod with metal t-post at the southern most southeast corner of said property recorded in Instrument No. 11004945 and an internal corner of said property recorded in Instrument No. 07005051; thence north 87 degrees 14 minutes 15 seconds west along the south line of said property recorded in Instrument No. 11004945 and along a north line of said property recorded in Instrument No. 07005051, 456.39 feet to a found iron rod at a break point in the south line of said property recorded in Instrument No. 11004945, at the western most northwest corner of said property recorded in Instrument No. 07005051 and the northeast corner of The Oakland Subdivision, Section 'E' recorded in Plat Book 7, Page 57; thence north 85 degrees 58 minutes 42 seconds west along the south line of said property recorded in Instrument No. 11004945, 465.25 feet to a set 1/2" rebar with plastic cap at the southwest corner of said property recorded in Instrument No. 11004945; thence north 03 degrees 38 minutes 47 seconds east along the west line of said property recorded in Instrument No. 11004945 and along an east line of the Villages of Riverwood Subdivision, Section B recorded in Plat Book 9, Page 32, 1671.70 feet to a found metal t-post at the northwest corner of said property recorded in Instrument No. 11004945 and an internal corner of said Subdivision recorded in Plat Book 9, Page 32; thence eastwardly along the north line of said property recorded in Instrument No. 11004945, along a south line of said Subdivision recorded in Plat Book 9, Page 32 and along the south line of said Subdivision recorded in Plat Book 8, Page 184 the following calls: south 85 degrees 56 minutes 56 seconds east, 203.14 feet to a found iron rod with metal t-post; north 72 degrees 02 minutes 20 seconds east, 852.38 feet to a found iron rod; south 85 degrees 52 minutes 42 seconds east, 1143.67 feet to the POINT OF BEGINNING and containing 112.84 acres of land.



Less and except the following described property:

Description of part of the Harvey Neil Jenkins and wife Omega Jenkins property recorded in Book D717, Page 470 and part of the Mary E. Morris property recorded in Book D717, Page 473, Book D761, Page 17 and Instrument No.'s 06000243, 08000261, 08000826, 09000206, 10000311 & 11000335 in the 8th Civil District of Fayette County, Tennessee:

Commencing at a found pk nail in the centerline of existing pavement in Wirt Road, said point being the northeast corner of said property recorded in Instrument No. 11004945, the southeast corner of Villages of Riverwood Subdivision, Section A recorded in Plat Book 8, Page 184 and being on TSC 1983 (N-350807.49, E-917649.84); thence south 48 degrees 04 minutes 40 seconds west across the BancorpSouth Bank property recorded in Instrument No. 11004945, 458.53 feet to a set 1/2" rebar with plastic cap, said point being on TSC 1983 (N-350501.14, E-917308.67) and being the POINT OF BEGINNING; thence across said property recorded in Instrument No. 11004945 the following calls: south 03 degrees 21 minutes 44 seconds west, 300.17 feet to a set 1/2" rebar with plastic cap; south 33 degrees 15 minutes 43 seconds west, 170.19 feet to a set 1/2" rebar with plastic cap; south 03 degrees 57 minutes 48 seconds west, 186.59 feet to a set 1/2" rebar with plastic cap; north 86 degrees 57 minutes 24 seconds west, 145.02 feet to a set 1/2" rebar with plastic cap; south 59 degrees 04 minutes 25 seconds west, 523.51 feet to a set 1/2" rebar with plastic cap; south 75 degrees 54 minutes 19 seconds west, 115.82 feet to a set 1/2" rebar with plastic cap; north 87 degrees 15 minutes 47 seconds west, 345.87 feet to a set 1/2" rebar with plastic cap; north 02 degrees 44 minutes 13 seconds east, 842.93 feet to a set 1/2" rebar with plastic cap; north 71 degrees 26 minutes 07 seconds east, 348.34 feet to a set 1/2" rebar with plastic cap; north 82 degrees 20 minutes 24 seconds east, 132.42 feet to a set 1/2" rebar with plastic cap; south 86 degrees 45 minutes 19 seconds east, 52.11 feet to a set 1/2" rebar with plastic cap; north 44 degrees 27 minutes 16 seconds east, 32.68 feet to a set 1/2" rebar with plastic cap; north 22 degrees 00 minutes 48 seconds east, 106.13 feet to a set 1/2" rebar with plastic cap; south 86 degrees 47 minutes 41 seconds east, 243.57 feet to a set 1/2" rebar with plastic cap; southeastwardly along a curve to the right having a radius of 275.00 feet, delta angle of 37 degrees 49 minutes 00 seconds, chord bearing of south 67 degrees 53 minutes 51 seconds east chord distance of 178.23 feet and a curve distance of 181.51 feet to a set 1/2" rebar with plastic cap; south 48 degrees 59 minutes 23 seconds east, 80.41 feet to a set 1/2" rebar with plastic cap; southeastwardly along a curve to the left having a radius of 310.92 feet, delta angle of 19 degrees 31 minutes 37 seconds, chord bearing of south 58 degrees 45 minutes 12 seconds east, chord distance of 105.45 feet and a curve distance of 105.97 feet to the POINT OF BEGINNING and containing 22.12 acres of land.

Leaving a net area of 90.72 acres of land.

All bearings are based on the Tennessee Coordinate System of 1983.

And less and except the portion of the above legal description contain under the Plat recorded as Fairway Hills Subdivision, Phase I, Section 'A' recorded at Plat Book 9, Page 171 in the Register's office of Fayette County, Tennessee.



**12003415**

14 PGS : AL - RESTRICTIVE COVENANTS	
ED BATCH: 58074	
<b>06/13/2012 - 12:16 PM</b>	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	70.00
DP FEE	2.00
REGISTER'S FEE	0.00
<b>TOTAL AMOUNT</b>	<b>72.00</b>

STATE OF TENNESSEE, FAYETTE COUNTY  
**EDWARD PATTAT**  
REGISTER OF DEEDS