

Restrictive Covenants

These restrictive covenants established as of the 15th day of May, 2009 by Rochford Realty & Construction Co., Inc. (a Tennessee corporation, hereinafter the “**Developer**”) for and to run with certain lots platted within that tract of land known as Fall Creek Reserve development (hereinafter called the “**Property**” or “**Development**”) as described in the aggregate in Annex A from this day hence, except as amended from time to time by the Developer or his successor or by homeowners association action defined herein.

These Restrictive Covenants shall apply to only those lots having deed of conveyance by Rochford Realty & Construction Co., Inc. with these Restrictive Covenants specifically referenced as applicable thereto.

1. **Concept and Intent:** These covenants are created to protect the natural beauty and tranquility of the residential community known as Fall Creek Reserve. The Developer exercises administration and enforcement of these covenants until such authority and responsibility may be transferred to a duly organized association of lot owners within the Property or to any other legal successor to the Developer.
2. **General Use Provisions:** The Property is intended only for the following uses:
 - a. Dwellings erected in the Property shall be only for residential use.
 - b. Other structures in the Property are allowed, as necessary, for operation, maintenance and security of the property, or for recreational facilities for common use by Property residents.
 - c. All residences must be built on-site. No modular or mobile homes are allowed.
3. **Non-Commercial Use:** No commercial enterprises will be conducted within the residential lots in the Property except conventional at-home work activities that are not open for general public access. However, any work activities that are intrusive upon the privacy, comfort and tranquility of other property owners, or inherently de-value property values in general, are prohibited. Lots will not be used to externally store or stage equipment or materials used in any enterprise, commercial or hobby, proscribed by this restriction. Rental of homes for long term occupancy or short term lodging is allowed so long as lot owners enforce strict compliance by their tenants with all restrictive covenants herein.
4. **Lot Size:** Generally, there shall be no division of lots purchased in the Property without prior written approval by the Developer or his successor. For larger lots that may be deeded the entitlement to subdivide, such subdivision must have prior approval of the Developer or his successor as to the size, location and configuration of lots to result from the subdivision.
5. **Building Setback and Special Conservation Easement Applicability:** No dwelling or other building structure shall be built within 50 feet of its property boundary lines, except as may be elsewhere specified herein. For certain geographical sectors of the Development special setback requirements are imposed on designated lots in order to preserve the natural wilderness character of the property immediately bordering Fall Creek Falls State Park where private dwellings and other permanent structures in the Development would be visible to Fall Creek Falls visitors and despoil the “forever wild” viewshed of that magnificent public park.
6. **Offensive Acts:** No activities of any kind, private or public, will be conducted that intrude upon the tranquility and natural character of the Property, or that disrupt the peace and quiet, inclusive of, but not limited to the following:

- a. No discharge of fireworks or firearms of any type, at anytime, is permitted.
- b. No off-road recreation vehicles of any type, motorized or non-motorized, (auto, truck, motorcycle, go-carts, all-terrain vehicles, mountain bikes or other off-road mobile machines) are allowed to operate, for sport recreation riding purposes, on any common property or road right of way or in any privately owned lots within the Property. Certain all-terrain vehicles may be employed to serve bona-fide utility purposes and for bona-fide essential personal transportation convenience, so long as they are not operated for sport and recreation purposes. Any use of such vehicles that disrupts the tranquility of the community or despoils the natural forest and stream beds or presents a nuisance to owners and the wildlife will not be tolerated.
- c. Hunting, fishing, killing, trapping, harming or molesting of wildlife in any form are expressly prohibited, except when specifically approved by Developer or his successor in writing.
- d. No junk vehicles or accumulations of equipment, materials or other such unsightly items are allowed. Automotive and machinery repair activities, as a profession, are prohibited. As a hobby, such activities are prohibited if visible or audible outside of private dwelling structures or outbuildings.
- e. No excessive and unsightly accumulation on the property of children's toys, playground equipment or vehicles, playhouses, or other recreational items or facilities is allowed. No tree houses are allowed anywhere.
- f. Pet animals are permitted to the extent that they will not jeopardize the environment or tranquility of the community or present an unsatisfactory appearance or unpleasant odor or cause damage to the land in a manner offensive to the community or contrary to the spirit and intent of these restrictions. Horses and other domesticated livestock, serving family enjoyment purposes rather than commercial purposes, will be permitted upon prior written approval by the Developer or his successor, taking into consideration the specific lot location, lot size and other circumstances that would reasonably permit horse or domesticated livestock keeping on a limited basis not violating the tranquility and environment.
- g. Any animal annoying to or endangering of other lot owners or their pets must be removed from the Property. No commercial kennels are allowed.

7. **Utilities and Environment:**

- a. All utilities running within the individual lots shall be installed underground to dwellings and other structures from common Public Utility connection points within the Property, unless expressly waived by the Developer or his successor due to site of lot.
- b. No trash dumps or hazardous waste sites are allowed. Burning of brush and deadwood debris is allowed, with express prior permission in every case from the Developer or his successor; however any such burn activity must be in small, controlled burns complying with permit requirements and open-air burning regulations of local and regional fire control agencies.
- c. No timber harvesting or clear cutting of live trees will be permitted; however, trees may be selectively cleared for home sites, septic systems, driveways, outbuildings and utilities. In no case will tree clearing be allowed that would open unsightly gaps in the wood line or bluff line of

a lot, as viewed from on or off the bluff or from within or without the property and thus spoil the naturally forested appearance of the property to adjacent land owners, including land owners across the gorges. Tree clearing for the purpose of creating grass lawns in lieu of a naturally forested landscape is prohibited. Cutting of trees and foliage in any common areas, for any reason, is prohibited. Cutting of any live tree with a diameter greater than five (5) inches at a height of five (5) feet above the ground will be subject to prior approval by the Developer or his successor of the Architectural Control Committee as described herein.

- d. No septic system shall be installed which does not comply with jurisdictional health authorities.
 - e. All areas for storage of garbage cans, incinerators, trash burners and the like, and all containers for trash shall be screened so as not to be visible from any driveway or road on the Property or accessible by forest animals. Trash piles for routine burning of trash and garbage on the property are prohibited.
 - f. All lots within the property are subject to fifteen (15) foot wide utility easements running along the inside edge of each property boundary except where a boundary borders the bluff rim or common access roadway or water course or any other environmental factor that mitigates against or renders impractical such utility installations.
 - g. No ponds or lakes may be constructed without prior written approval of the Developer or his successor. Limited vegetation clearing may be allowed, under explicit prior approval of the Developer or his successor.
 - h. Any major land construction activity planned by a lot owner, including, but not limited to, construction of a road, bridge, earth & culvert creek crossing, or major land excavation shall require prior written approval of the Developer or his successor.
- 8. Architectural Control:** The design, style and appearance of a dwelling or of a building and its surroundings are of primary importance. To insure the quality of the community satisfactory to all residents, any building, fence, residence or other improvement to be erected upon or moved onto the Property will require prior approval by the Developer or his successor, upon submission of proposed plans and location thereof. This right of approval may be delegated to an Architectural Control Committee comprised of three or more lot owners/property titleholders when the homeowners association is established.
- a. The principal dwelling on each lot shall have at least 1200 sq. ft. of floor space on its main or ground level.
 - b. Lots may have up to two additional detached buildings, excluding garage, each of which may contain no more than 2000 sq. ft. of floor area; such additional buildings shall be of comparable quality and appearance as the principal residence structure.
 - c. A structure and its appurtenances may not exceed the height above ground of a two story residential dwelling with basement, vaulted ceilings, cupola and chimneys. The primary intent of this requirement, and its interpretation by the Developer and his successor as the architecture approving authority, is to insure that no man-made structure would rise to a height whereby it would become potentially visible at or above the top of the natural forest canopy during any

season of the year. Each planned structure will be judged for compliance with this restricted height on a case-by-case basis.

9. **Construction:** Plans for proposed improvements (house, structure, outbuilding, fence, etc.) must be submitted for approval to the Developer or his successor (or the Architectural Control Committee when established) within 30 days of proposed construction start-up. Plans for dwellings must include a foundation plan, floor plan, exterior elevations of buildings, driveway, septic and utilities locations, and must include appearance after all backfilling and landscaping. Plans for other structures and improvements must include similar information, to the point of applicability. Any significant changes to approved plans must be re-approved before implementation.
 - a. Trees proposed for removal will be marked or tagged for approval by the Developer or his successor. Stumps, felled trees and all other building debris must be removed by the lot builder/lot owner. Debris will not be buried nor dumped on any other area in the Property except as may be formally specified by the Developer or his successor for such purpose.
 - b. All exterior colors and finishes and materials for buildings, outbuildings, garages, fences, gazebos, roofing and roof vent colors, and other functional and decorative structures shall be subject to approval by Developer or his successor. Muted tones of browns, greens, grays and other natural colors will be acceptable, whether brick, wood, stone or other selected and approved building material.
 - c. Mail boxes, newspaper boxes and other such installations will not be erected until approved by the Developer or his successor. Outside radio or TV antennae shall be installed so as not to be visually offensive, and the approval of their design and placement must be obtained with the dwelling/structure application package. No outside clothes lines are permitted. No wire or chain link fences are permitted.
 - d. The cost of repairs for any damages or excessive wear to common properties, including common roadways, that result from vehicles, machinery and equipment involved in construction of a particular lot owner's improvements, will be assessed to the particular lot owner performing or sponsoring such activity.

10. **Homeowners Association and Fees:** A homeowners association will be established by the Developer or his successor, and every lot owner of record shall be required to join the association, subscribe to its Bylaws and pay annual dues and other assessments the association may require.
 - a. **Mandatory Membership:** Association membership shall be mandatory, even if the association is not yet formed or its formal Bylaws not yet fully established at time of lot owner's property purchase. The Bylaws will provide operational details and management processes by which the association will organize, elect its managing members and conduct all business for administering and enforcing these restrictive covenants.
 - b. **Membership Voting Entitlement:** The Association shall have one (1) regular voting membership classification. Each platted Lot in the Development shall entitle the Owner to one (1) vote for the purpose of exercising decision and approval authority of the Association. If a lot is co-owned, then one vote will be valid for each lot, and co-owners shall select the lot owner who shall vote.

Developer shall also be entitled to one (1) vote for each platted Lot in the Development owned by the Developer.

- c. **Association Management:** The Association, managed by a Board of Directors, shall oversee responsibilities of the association to preserve the beauty and tranquility of the community, enforce restrictive covenants, maintain common area right-of-ways, easements, landscaping, community facilities, walking trails, entry gates and fences, pay annual property taxes and liability insurance for common properties, and be responsible for such other expenses as may be required by the association to fulfill its chartered purpose.
 - d. **Association Operation:** Details defining the association's purposes, powers, organization, directorship, meetings, elections, operational procedures, rules and regulations, financial processes, and general business activities will be provided in the association's Bylaws which are established and may be changed from time to time by the Association's Board of Directors.
 - e. **Association Fees and Insurance:** Two homeowner's association fee assessment types will be established:
 - i. **Annual assessments:** This fee is established to provide the homeowner association's general operating budget on an annual basis for routine, recurring and generally predictable expenses for performing the obligations of these restrictive covenants.
 - a. Annual assessments may include, but not be limited to: expenses for maintaining or improving common properties including roadways, any common area security and recreational facilities; preserving beauty of the Property; maintaining liability insurance; maintaining walking trails and viewpoints; and any other expense defined by the association as a common expense.
 - b. Annual assessments shall initiate with the sale of the first lot and accrue from the date of any warranty deed conveying said lot, prorated on a 365 day basis.
 - ii. **Special Assessments:** In addition to annual assessments, the homeowners' association may levy special assessments for the purpose of defraying the cost of any construction or reconstruction or unexpected repair of any improvement upon the Common Properties, the cost of any addition to the Common Properties or any other unexpected expense, provided that such special assessment shall have the written approval of at least a majority of the eligible votes in the association.
 - f. **Liability Insurance Responsibility:** The association will be responsible for maintaining liability insurance covering risk of injury by persons using common properties, common roadways, trails and viewpoints, and any other properties or facilities made available to lot owners for common access and recreation.
11. **Binding Covenants:** All restrictions, covenants and conditions herein contained are hereby declared to be covenants running with the land, and shall be binding on all present and subsequent lot owners of the Property in any capacity whatsoever, until the 31st day of December in the year 2029; and such restrictions shall be extended thereafter in intervals of ten years unless rescinded prior to the beginning of any such ten-year period by a vote of 51% of the then owners of the lots in the Property.

- 12. Amendment:** Any of the restrictive covenants imposed in this instrument may be amended at any time by a recorded instrument, signed and acknowledged by the Developer or his successor and by lot owners of record of 66% of lots within the Property. Additional restrictions and covenants may be placed on the Property by Developer or his successor or the homeowners association of lot owners in the same manner.
- 13. Interpretation and Enforcement:** This document shall be interpreted in accordance with the laws of the State of Tennessee. If any present or future lot owner subject to these restrictions and covenants shall violate or attempt to violate any of the covenants or restrictions contained herein, then the Developer or his successor, or any person or persons owning a lot or lots within the Property may institute any proceeding at law or in equity against the person or persons violating or attempting to violate such restrictions or covenants, and to prevent the same by injunction and/or to recover damages for such violation. The Developer or his successor, including a Fall Creek Reserve owners association when established and properly empowered, shall be responsible for management of the business of operating this Development and enforcing these restrictions. Upon failure of a lot owner to correct violation(s), the Developer or his successor may correct said violation(s) and charge the cost of corrections to the owner in nonconformity.
- 14. Headings; Terminology; Gender; Severability:** Headings contained herein are for reference purposes only and are not to be construed as part of these restrictions. Use of the term "Developer or his successors" shall be construed to include (i) successors in real title to the Property and having Developer authority, or (ii) a successor in management of Fall Creek Reserve operating entity, such as a Fall Creek Reserve owners association when established and so empowered, or (iii) an owner in title of properties created and conveyed as subdivided lots of the Development. The use of words herein requiring selection of any gender, singular or plural, shall be construed so as to best describe the party in question; and if any one or more of the restrictions or covenants herein contained are declared invalid by order of any court having jurisdiction, such invalidation shall in no way effect any other restriction herein contained, all of which shall remain in full force and effect, each provision hereof being treated as a separate instrument.