

Prepared by Joe B. Goode, Attorney
Cleveland, Tennessee 1

PINHOOK ESTATES OF THE HIWASSEE SUBDIVISION

PINHOOK ESTATES OF THE HIWASSEE HOMEOWNERS ASSOCIATION, INC.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration is made on the date executed by WARD L.
EXLINE and MICHAEL A. EXLINE, herein referred to as "Declarants".

WITNESSETH:

WHEREAS, Declarants are the Owners of certain property in
Polk County, Tennessee, which is more particularly described as
follows:

Being land and improvements designated and shown on the Plat
known as Pinhook Estates of the Hiwassee consisting of 23
lots with certain community properties, a Plat of which is
recorded in the Register's Office for said County in Plat
Book 7, page 201. This Declaration applies to all
lots numbered and "community" shown on said recorded Plat.

WHEREAS, Declarants intend to create certain easements for
the benefit of the owners of Lots which may be conveyed by
Declarants hereafter.

NOW THEREFORE, Declarants hereby declare that all of the
properties owned by them described above shall be held, sold and
conveyed subject to the following easements, restrictions,
covenants, conditions, charges, and liens, which are for the
purpose of protecting the value and desirability of, and which
shall run with the real property and be binding upon all parties
having any right, title or interest in the described properties
or any part thereof, their heirs, successors, and assigns, and
shall inure to the benefit of each Owner thereof; and

Declarants further declare that all of the Pinhook Estates
of the Hiwassee properties sold by them shall be subject to the
easements, conditions and restrictive covenants applicable to the
Plat of Pinhook Estates of the Hiwassee Subdivision as described
herein and shall also be held, sold and conveyed subject to the
following easements, restrictions, covenants, conditions, charges

and liens, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof, the consent of each such property owner to such easements, restrictions, covenants, conditions, charges and liens to be evidenced: by the use by such Owners of the additional easements, including road easements, created herein and hereafter by Declarants for the benefit of such Owners and the Owners of the property presently owned by Declarants, or by the written assent to such easements, restrictions, covenants and conditions by such Owners.

ARTICLE I.

DEFINITIONS

Section 1: "Association" shall mean and refer to Pinhook Estates of the Hiwassee Homeowners Association, Inc., its successors and assigns.

Section 2: "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 3: "Properties" shall mean and refer to that certain real property hereinbefore described as being owned by Declarants.

Section 4: "Common Areas" shall mean all real property owned from time to time by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the effective date of this Declaration is described as follows:

All that property designated as road access easements on the Plat of the Subdivision, the river common area and boat ramp, the lake and Entrance sign area as shown on the Plat of said Subdivision.

Section 5: "Lot" shall mean and refer to any numbered plot of land shown upon the Subdivision Plat of Pinhook Estates of the Hiwassee and any numbered plot of land shown on any re-subdivision thereof and any properties hereafter expressly subjected to this Declaration with the exception of the Common Area.

Section 6: "Declarant" and "Declarants" shall mean and refer to Ward L. Exline and Michael A. Exline, their successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarants for the purpose of development.

Section 7: "Owned Properties" refers to the properties owned by the Declarants at the date of this instrument, as set forth above.

ARTICLE II.

PROPERTY RIGHTS

Section 1: Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions, each of which constitutes an express condition to such right and easement:

(a) The right of the Association to charge reasonable use, admission and other fees for the use of any recreational facility situated upon or forming a part of the Common Area.

(b) The right of the Association to make reasonable assessments or charges, including special assessments for capital improvements, all as provided herein, for the maintenance, operation and improvement of the Common Area.

(c) The right of the Association to suspend indefinitely the voting rights and right to use of the Common Areas and recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed one hundred eighty (180) days for any infraction of its rules and regulations.

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(e) The duty of each Lot Owner to comply with all rules and regulations concerning the Common Areas promulgated and amended from time to time by Declarants and/or the Association and to pay all applicable fees or assessments.

Section 2: Delegation of Use. Any Owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities to the members of his family, or his tenants, who reside on the property; provided that if a Lot is owned by a corporation or other legal entity, such entity shall designate at any one time no more than two persons to exercise the easement. However, no more than one family unit shall be considered as Owner of a Lot under this Paragraph, and a family unit shall be considered to be a person, his or her spouse and all their unmarried children living with their parents.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS

Section 1: Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2: The Association shall have two (2) classes of voting membership.

Class A: Class A members shall be all Owners with the exception of the Declarants and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with the respect to any Lot.

Class B: The Class B member shall be the Declarants and shall be entitled to one (1) vote for each Lot owned. Declarants shall continue to be members entitled to at least one (1) vote until such time as Declarants own no Lots in Pinhook Estates of the Hiwassee Subdivision and cease to own any part of the acreage described in the Warranty Deed to them as recorded in the Register's Office for Polk County, Tennessee in Deed Book 173, page 298.

ARTICLE IV.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessment.— The Declarants, for each Lot owned within the properties hereby covenant, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed by assenting to such covenants, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges, and
- (b) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, cost and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with interest, costs, and reasonable fees, shall also be

the personal obligation of the person who was the Owner of such property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2: Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvements and maintenance of the Common Area.

Section 3: Maximum Annual Assessment. Until January 1, 1997 the maximum annual assessment shall be \$150.00 per Lot.

(a) From and after January 1, 1997, the maximum annual assessment may be increased annually by the board of directors of the Association not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1, 1997, the maximum annual ~~assessment may be increased more than ten (10%) percent only by a~~ vote of at least two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The board of directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

(d) The annual assessment may be fixed at any time prior to or during a calendar year and shall be effective thereupon for such calendar year. The board of directors of the Association may also change this to a fiscal year at any time upon such reasonable proration as it may determine.

Section 4: Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying in whole or part, the cost of any construction, reconstruction,

repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment must have the assent of at least two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5: Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting of the membership called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than six (6) days nor more than thirty (30) days in advance of the meeting.

Section 6: Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform amount for all Lots subject to assessment and may be collected on a monthly or other basis as may be determined by the board of the Association.

Section 7: Date of Commencement of Annual Assessment and Due Dates. The annual assessments provided for herein shall commence effective on the closing of any sale of each Lot. The board of directors shall fix the amount of the annual assessment at such time and shall give written notice of the annual assessment to every Owner subject thereto, and shall establish the due date for the assessment.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of interest which constitutes the prime rate charged by banks in Chattanooga, Tennessee on the due date. The Association may bring action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, or pursue any legal remedy or combination of remedies. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of a Common Area or abandonment of his Lot.

All such assessments chargeable to any Lot shall constitute a lien against said Lot in favor of the Association, which lien shall become effective as a lien against each such Lot thirty (30) days after the due date. Additional or added assessments, charges, and expenses, if any, chargeable to Lots shall become effective as a lien against each such Lot as of the date when the expense or charge giving rise to such additional or added assessment charge or other expense giving rise to said lien remains unpaid by the Owner for more than thirty (30) days after the same shall have become due and payable. The lien may be foreclosed by the Association in the manner provided by law for the foreclosure and sale of real estate mortgages and in accordance with the provisions of T.C.A. §35-5-101, et seq. In the event of foreclosure, the Association shall, in addition to the amount due, be entitled to recover reasonable expenses of the action including all reasonable costs and attorney's fees. The right of the Association to foreclose the lien aforesaid shall be in addition to any other remedy which may be available to it at law or equity, including the right to proceed personally against any delinquent Owner for the recovery of a personal judgment against him. The title acquired by any purchaser following any such foreclosure sale shall be subject to all of the provisions of this instrument and the By-laws, Rules and Regulations of the Association, and, by so acquiring title, said purchaser covenants and agrees to abide by and be bound thereby.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of the first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to the payments which

became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V.

RESTRICTIVE COVENANTS

Section 1: The Lots in Pinhook Estates of the Hiwassee Subdivision will be subject to the following restrictions:

(a) No construction of any building or boat dock or docking facilities shall begin until the plans and specifications and a plan showing the location of the structures (including all outbuildings) shall have been approved by the owners or a committee designated by the owners. IT IS CLEARLY UNDERSTOOD AND PURCHASERS OF LOTS OR TRACTS AGREE that the Architectural Control Committee may require any changes, not otherwise prohibited in these Restrictions, concerning size, design, style, location, type of exterior, etc., with regard to the buildings.

(b) No structure shall be erected or maintained on any Lot other than a single-family dwelling, together with, if desired, one outbuilding and docking facilities. All dwellings must have enclosed garages with doors for at least two cars. There shall be no carports.

All structures including docking facilities shall be constructed of new materials. And unless of brick or rock or of some non-fading material, the same shall be painted and maintained in a good condition at all times.

(c) No residence shall be constructed with less than 1400 square feet of living space, exclusive of any unenclosed porch, basement or garage.

(d) No Lot shall be used or maintained as a dump ground for rubbish, garbage, or automobile junk yard, either temporarily or permanently. Garbage or other waste shall be kept in a sanitary container for such material and shall be kept in a clean and sanitary condition.

(e) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that household dogs, cats, or other pets may be kept provided they are kept indoors and not bred or maintained for any commercial purposes and do not exceed a total of two (2) pets per Lot.

(f) No individual sewage-disposal system shall be permitted on any Lot unless such system is designed, located, and constructed in accordance with the requirements, standards, and recommendations of both State and Local Public Health Authorities. Approval of such system as installed shall be obtained from such authority.

(g) There shall be no temporary structures of any kind, and no trailers, mobile homes of any type, modular homes, or basements, tents, shacks, garages, barns or other outbuildings used at any time as a residence, either temporarily or permanently located upon any Lot.

(h) Before any construction is begun, drainage pipe shall be placed underneath the driveway and the road proper and it shall be not less than 12 inches in diameter, but in all cases the size shall be as the Road Department directs. The drainage pipe together with at least a rock base for the driveway properly crowned, shall be in place prior to any construction. After the construction is completed the driveway shall be of all-weather construction with proper crowning and drainage and shall be paved within ninety (90) days after the initial occupancy of the dwelling.

(i) No fences of any kind are permitted, except (i) fencing may be allowed around pools, and (ii) privacy fences between this Subdivision Lot and the adjacent non-subdivision land are permitted, but only under the following conditions: There shall be no wire fences of any kind at any time. Fences shall be of wood, concrete, stucco or of a like material, and the outer perimeter (of the Subdivision) fence must be of the same kind as

the adjacent fences. If no adjacent fence is erected then the initial fence shall be those as decided by the governing body or, if none is at that time appointed, by the Subdivision Developers.

(j) Lots in the Subdivision shall at all times be kept neat, clean and attractive at all times, year round. Mowing and maintaining the Lot shall be at the sole expense of the Lot Owner. Upon purchasing the Lot this responsibility shall attach.

(k) All utility lines and other servicing lines from the street to the house proper shall be underground. There shall be no exposed wires of any kind extending across the Lot from the street or the adjacent properties.

(l) No noxious or offensive activity shall be permitted on any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to adjacent Lot Owners, the Subdivision, or the neighborhood.

(m) No plotted Lot shall be resubdivided or partitioned unless the purpose of such severance is to increase the size of the adjacent Lot.

(n) All members of the Association shall be responsible for keeping the gate on the main entrance secured and closed at all times.

(o) There shall be no structures, docks, boats on nor swimming in the lake of said Subdivision as shown on the Plat.

ARTICLE VI.

GENERAL PROVISIONS

Section 1: Enforcement. The Association or Declarants or either of them, or any Lot Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Association or the Declarants or either of them, or by any

Owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2: Severability. Invalidation of any one or more of these covenants, conditions, or restrictions shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3: Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by an instrument signed by not less than sixty (60%) percent of the Lot Owners in the entire Pinhook Estates of the Hiwassee Subdivision development including sixty (60%) percent of those Lot Owners other than Declarants.

Section 4: Annexation. Additional residential recreational property and Common Area may be annexed to the properties by the sole election and action of the Declarants.

IN WITNESS WHEREOF, the undersigned being the Declarants herein, have hereunto set their hands and seals this 6 day of June 1996.

Ward L. Exline
Ward L. Exline
Michael A. Exline
Michael A. Exline

STATE OF TENNESSEE) Before me personally appeared
COUNTY OF Polk) WARD L. EXLINE and MICHAEL A. EXLINE, to
me known to be the person(s) described in and who executed the
foregoing instrument, and acknowledged the execution of the same
as their free act and deed.

WITNESSED by me, this 6 day of June, 1996.

[Signature] NOTARY PUBLIC
My Commission Expires 12-20-98

STATE OF TENNESSEE POLK COUNTY
THE FOREGOING INSTRUMENT AND CERTIFICATE WERE NOTED IN NOTE BOOK
13 PAGE 10 AT 12:20 O'CLOCK P.M. 6-6
19-97 AND RECORDED IN MISC. BOOK 85 PAGE 12-23
STATE TAX PAID \$1.00 FEE 1.00 RECORDING
FEE 1.00 TOTAL 3.00 WITNESS MY HAND
RECEIPT NO. 48812
[Signature]

12

23