



Bobbie Holsclaw
Jefferson County Clerk's Office

As evidenced by the instrument number shown below, this document
has been recorded as a permanent record in the archives of the
Jefferson County Clerk's Office.



INST # 2017040631

BATCH # 64056

JEFFERSON CO, KY FEE \$28.00

PRESENTED ON: 02-22-2017 7 09:50:05 AM

LODGED BY: BARDENWERPER TALBOTT & ROBERTS PLLC

RECORDED: 02-22-2017 09:50:05 AM

BOBBIE HOLSCLAW
CLERK

BY: TERESA HIGGS
RECORDING CLERK

BK: D 10827

PG: 462-470

**FIRST AMENDMENT TO SHAKES RUN SUBDIVISION SECTION 8
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

JEFFERSON COUNTY, KENTUCKY

THIS FIRST AMENDMENT TO SHAKES RUN SUBDIVISION SECTION 8 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (“Amendment”) is made, imposed and declared as of this 10th day of February, 2017, by **SHAKES RUN DEVELOPMENT SECTION 8, LLC**, a Kentucky limited liability company with an address of 16218 Shelbyville Road, Louisville, Kentucky 40245 (hereinafter referred to as (“Section 8 Declarant”).

W I T N E S S E T H:

WHEREAS, Terra Acquisitions, LLC, a Kentucky limited liability company (“Original Declarant”) filed that certain Declaration of Covenants, Conditions and Restrictions of Shakes Run Subdivision, Section 1, recorded in Deed Book 9244, Page 720 on June 19, 2008 (“Original Declaration”), in the Office of the Clerk of Jefferson County, Kentucky, for the Shakes Run Subdivision (the “Subdivision”);

WHEREAS, the Original Declaration has been previously amended multiple times, including, but not limited to, annexing additional sections into the Subdivision;

WHEREAS, Section 8 Declarant is the current owner and developer of the Lots in “SHAKES RUN SUBDIVISION – SECTION 8” (“Section 8”), pursuant to that certain Declaration of Annexation for Shakes Run Subdivision, Section 8, recorded in Deed Book 10717, Page 50 on September 23, 2016 in the Office of the Clerk of Jefferson County, Kentucky (“Declaration of Annexation – Section 8”), also as shown on plat of same of record in Plat and Subdivision Book 55, Page 81 (“Section 8 Record Plat”) in the Office of the Clerk aforesaid (the “Section 8 Property”), and is thereby the declarant of Section 8; and

WHEREAS, it is the desire and intention of Section 8 Declarant to develop the Section 8 Property in accordance with the provisions of the Original Declaration, as amended by this Amendment, and both the Subdivision Regulations of the Louisville Metro Land Development Code and the Subdivision Plan approved in Case #12544 and Case #15106, as amended from time to time;

WHEREAS, Section 8 Declarant, pursuant to Section 1.2(b) and Section 1.3(a) of the Original Declaration, desires to amend the Original Declaration for the Section 8 Property, being the property described in the Section 8 Record Plat, to provide for common maintenance, to make other changes to the Original Declaration for Section 8, and in connection therewith to create a Shakes Run Section 8 Community Association, Inc., a Kentucky non-profit corporation (the “Section 8

Association”), as a sub-association in order to implement the common maintenance, collection of assessments for same, and the other provisions of this Amendment.

NOW, THEREFORE, in accordance with the foregoing preambles, which are hereby incorporated herein, the Section 8 Declarant hereby declares as follows:

1. Section 8 Property. This Amendment shall amend the Original Declaration, and the terms and provisions hereof shall be applicable only to lots numbered 269-289, as shown on Record Plat of SHAKES RUN SUBDIVISION - SECTION 8, prepared by Sabak, Wilson & Lingo, Inc. dated September 9, 2016 and approved by the Louisville Metro Planning Commission on September 21, 2016 in Docket #16RECORDPLAT1000, of record in Plat and Subdivision Book 55, Page 81 in the Office of the Clerk of Jefferson County, Kentucky.

2. Section 2.6(b) of the Original Declaration is hereby amended as to Section 8 to remove the obligation of the Lot owner to keep the grass on the Lot property cut, and to keep the Lot free from weeds, and the following shall apply to all Lots included in the Section 8 Property:

Yard Maintenance and Easement in Gross. Every owner of record of a Lot in Section 8 shall be obligated to participate in the regular yard maintenance program of the Section 8 Association, for cutting the grass on all portions of every Lot, for maintaining shrubbery, grass and controlling weeds on every part of every Lot (except that landscaping not within the comprehensive plan for Section 8 which is approved by the Section 8 Declarant and installed by the Lot owner, shall be the responsibility of individual Lot owners). Any landscaping installed by the Lot owner and not adequately maintained, as determined by the Section 8 Association, can be maintained by the Section 8 Association, the cost of same to be paid for by the Lot owner as a special assessment. Yard maintenance shall be managed by the Section 8 Association, which initially is the Section 8 Declarant or its assignee, and part of the Section 8 Association dues collected shall be used for this purpose and disbursed in accordance with the purposes generally described herein. In furtherance of these maintenance obligations of both the Section 8 Association to perform these functions and of the Lot owners to permit the Section 8 Association to do so, the Section 8 Association, and until such time as the Section 8 Association is given the authority by the Section 8 Declarant to perform these maintenance and other functions, the Section 8 Declarant or its assign shall have an easement in gross over the entirety of Section 8 of the Subdivision, including each and every individual Lot, for the purposes of carrying out these maintenance obligations. By acceptance of a deed in Section 8 of the Subdivision, Lot owners acknowledge this responsibility of the Section 8 Declarant and its assignee, including the Section 8 Association, and the reciprocal responsibility on its part to abide by these provisions and to do no such thing as would in any way interfere with the obligations and responsibilities of the Section 8 Declarant and its assignee, including the Section 8 Association to carry out

these maintenance functions, including, but not limited to leaving personal property on the lawn or failing to properly clean up after pets. Any violation of this obligation of the Lot owner shall authorize Declarant or Section 8 Association to specially assess the Lot owner for the resulting costs or fine the Lot owner as hereinafter provided. Entering onto a Lot owner's Lot shall not be deemed a trespass for the purpose of fulfilling the responsibilities of these maintenance functions. As with all other provisions of this Amendment, a Lot owner's failure to abide by these provisions shall also entitle the Section 8 Declarant and its assignee, including the Section 8 Association, to enforce these provisions by fine, levied by the Board of Directors of the Section 8 Association, which fine shall constitute a new fine for each day of violation. Fines shall bear interest and be enforced in the manner provided in the Original Declaration..

3. Section 3.1(b) of the Original Declaration is hereby modified for Section 8 to: (i) require irrigation systems in all yards, not only the front and side yards; (ii) provide the Section 8 Association will maintain the irrigation rather than the Lot owner; and (iii) provide the Section 8 Association will maintain the approved landscaping, with the following language added:

Irrigation System. All yards shall include an irrigation system which shall receive routine maintenance by the Section 8 Association. Replacement and major repairs, that are not required as a consequence of Lot owner damage or negligence, shall be the responsibility of the Section 8 Association as well. Any damage caused by Lot owner negligence shall be charged to the Lot owner as a special assessment. The Lot owner is absolutely obligated to utilize the irrigation system on a regular on-going basis such as is necessary to maintain the yard in a green and healthy condition, and the Section 8 Association shall be authorized to enter upon a Lot owner's Lot, and is hereby granted an easement in gross, as further defined above, to assure that the system is operating in accordance with Section 8 Association rules and regulations. The Lot owners shall be responsible for payment of all utility service to the Lot other than the water service for the irrigation system which shall be paid by the Section 8 Association and funded through the general assessments of all Section 8 Lot Owners.

Trees, Shrubs and Landscaping. The trees, shrubs, and landscaping in the yard of every Lot shall comply with Section 8 Declarant's or its assignee's comprehensive plan for Section 8. No artificial grass, plants or other artificial vegetation shall be placed or maintained on any Lot. Weeds and other unsightly vegetation on all Lots not owned by the Section 8 Declarant shall be kept under control by the Section 8 Association. A Lot owner shall be entitled to plant his/her own trees and landscape, only to the extent the same is approved, in writing, in advance of planting, by the Section 8 Declarant or its assignee in its sole discretion. The Section 8 Association shall not be responsible for the maintenance of any additional landscaping installed by the Lot owner except as agreed to in writing by the Section 8 Declarant or its assignee, and only on the condition such maintenance is paid for by the Lot owner by special assessment.

4. Section 3.3 of the Original Declaration is hereby deleted and replaced with the following:

Minimum Floor Areas.

- (a) The total floor area of any one (1) story home shall be a minimum of sixteen hundred five hundred (1,650) square feet.
- (b) The total floor area of any one and one-half (1 1/2) story home or two (2) story home shall be a minimum of nineteen hundred (1,900) square feet.

Finished basement areas, garages and open porches are not included in computing floor area.

5. The following shall be applicable to Section 8 Property, the Section 8 Association, and the terms of this Amendment:

Section 8 Association Assessments; Creation of the Lien and Personal Obligation. Each Lot owner in Section 8, except Section 8 Declarant and the Section 8 Association, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Section 8 Association, (i) monthly assessments or charges as set forth below and (ii) special assessments as set forth elsewhere herein for any expense or improvement set forth in this Amendment and for any other capital improvements determined necessary by the Section 8 Declarant or its assignee, the Section 8 Association, with such assessments to be established and collected as provided in this paragraph. Section 8 Declarant shall be responsible for the maintenance costs specifically relating to the Lots in Section 8 that Section 8 Declarant owns. Section 8 Declarant shall not be liable for assessments until Class B membership is converted to Class A membership as set forth above. When Class B membership in the Section 8 Association is converted to Class A membership, Section 8 Declarant shall begin to pay assessments to the Section 8 Association for each Lot Section 8 Declarant owns in the same manner and amount as every other Lot owner pays assessments, but not until that time. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Such lien may be enforced by foreclosure in the manner that mortgages are foreclosed. Each such assessment, together with interest, costs and reasonable attorney fees shall also be the personal obligation of the person who was the

owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a successor in title unless expressly assumed by such successor. The Section 8 Declarant may loan funds to the Section 8 Association to pay any shortfall of the Section 8 Association for any Section 8 Association expense per this Amendment or the Section 8 Association Bylaws (the "Bylaws"), to be repaid by the Section 8 Association to the Section 8 Declarant through normal monthly assessments or special assessment of the Lot owners. Until Class B membership ceases and is converted to Class A membership as set forth herein, Section 8 Declarant or its nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting the Section 8 Property, as permitted in this Amendment.

Purpose of Section 8 Association Assessments. The assessments levied by the Section 8 Association shall be used exclusively to promote the recreation, health, safety and welfare of the Lot owners, all of whom are members of the Section 8 Association, and in particular for the Section 8 Association obligations under this Amendment. Assessments shall also cover the cost of labor, equipment, materials, management and supervision, payment of taxes, if any, assessed against the open space Lots, if any, the procurement and maintenance of insurance in accordance with the Bylaws, the maintenance responsibilities of the Section 8 Association for the items set forth in this Amendment, the employment of attorneys, accountants and other professionals to represent the Section 8 Association when necessary, and the cost of snow removal, if applicable.

Monthly Assessment. Until January 1, 2018, the initial monthly assessment shall be set at two hundred (\$200) dollars per month, payable in advance. Thereafter, Section 8 Declarant shall fix each monthly assessment and shall determine when the assessments shall be paid. All Lot owners are required to participate in a monthly ACH transfer program for the automatic payment of the monthly assessments. No owner is permitted to pay the assessments by cash, check, or through credit card, unless specifically authorized by Section 8 Declarant.

Special Assessments for Capital Improvements. In addition to the monthly assessments authorized above, the Section 8 Declarant may levy, on behalf of the Section 8 Association, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, maintenance, reconstruction, repair or replacement of a capital improvement upon common areas, as applicable, and upon the Lots which the Section 8 Association has the maintenance responsibility, including fixtures and personal property related thereto.

Uniform Rates of Assessment. The monthly general assessments shall be fixed at uniform rates for all Lots, except those owned by Section 8 Declarant during the period when Class B membership exists in the Section 8 Association, as provided herein.

Date of Commencement of Assessments; Due Dates. The assessments provided for herein shall begin as to any Lot subject to the assessment on the day the Lot is conveyed to the owner, said assessment to be prorated for the number of days remaining in the period of the closing. The Section 8 Declarant shall determine the dates when assessments are due.

Effect of Nonpayment of Assessments; Remedies of the Section 8 Association. Any assessment not paid by the due date shall be subject to a late charge of ten (10%) percent of the amount due for each period a payment is late or as otherwise determined by the Section 8 Declarant. The Section 8 Association may bring an action at law against the owner personally obligated to pay an assessment, or foreclose the lien against the property, and interest, costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessments. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of common areas or abandonment of such owner's Lot. Each Lot owner shall be responsible for any charges to the Section 8 Association for an ACH with insufficient funds.

Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first or second mortgage. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding sections.

6. The following shall be applicable to Section 8 and the terms of this Amendment:

Classes of Membership. The Section 8 Association shall have two classes of voting membership. Membership in the Section 8 Association shall be as set forth in the Articles of Incorporation of the Section 8 Association which shall be as follows:

(a) Class A. Class A members shall be all owners of Lots within Section 8, with the exception of Section 8 Declarant.

(b) Class B. The Class B member in the Section 8 Association shall be the Section 8 Declarant. The Class B membership of Section 8 Declarant shall cease and be converted to Class A membership (at which time Class A membership shall succeed to and be assigned all rights of Section 8 Declarant) on the happening of any of the events specified in paragraph (c) below, whichever occurs earlier.

(c) Each member shall have one vote with respect to each Lot owned by such member, but Class A members shall not be entitled to exercise any vote until the earlier of

(i) When, in its discretion, the Section 8 Declarant member(s) so determine(s);

(ii) Within 180 days following the date when 100 percent (100%) of the lots which may be developed in Section 8 of the Subdivision, including any property later annexed to Section 8, have been sold by the Section 8 Declarant; or

(iii) January 1, 2047.

Restrictions Run With Land. Unless canceled, altered or amended under the provisions of this paragraph, the covenants and restrictions in this Amendment are to run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this Amendment is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of all Lots in Section 8 has been recorded agreeing to change these restrictions and covenants in whole or in part. So long as Class B membership exists pursuant to the above, the Section 8 Declarant shall have the unilateral right, without the consent of the other Lot owners or any other party, to alter or amend this Amendment and the terms thereof. Once the Class B Membership terminates, the covenants and restrictions in this Amendment may be canceled, altered or amended at any time by a written instrument signed by the owners of the Lots with seventy-five percent (75%) of the votes in the Section 8 Association and recorded in the Jefferson County Clerk's office.

7. Other than as set forth herein, Section 8 Declarant ratifies and affirms all of the covenants, conditions and restrictions contained in the Original Declaration.

WITNESS the signature of Section 8 Declarant by its duly authorized representative as of the day, month, and year first above written.

**SHAKES RUN DEVELOPMENT SECTION 8,
LLC**
a Kentucky limited liability company

By:  _____

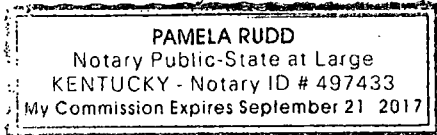
Name: Joseph Pusateri

Title: President

STATE OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The foregoing instrument was subscribed, sworn to, and acknowledged before me by Joseph Pusateri as manager of SHAKES RUN DEVELOPMENT SECTION 8, LLC, a Kentucky limited liability company, on behalf of the company, this 10th day of February, 2017.

My Commission expires: 09-21-2017



Pamela Rudd
Notary Public, State at Large, _____

THIS INSTRUMENT PREPARED BY:

A handwritten signature in black ink, appearing to be 'BTR', written over a horizontal line.

BARDENWERPER, TALBOTT & ROBERTS, PLLC
1000 N. Hurstbourne Pkwy., 2nd Floor
Louisville, Kentucky 40223
(502) 426-6688