

**FIFTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
TELLICO HARBOR PROPERTY ASSOCIATION, INC.**

**ARTICLE XIII
PROTECTIVE COVENANTS**

Section 1. Application. These Protective Covenants shall apply to all of the Property.

Section 2. Architectural Control Committee. When the Architectural Control Committee, hereinafter referred to as the ACC, is mentioned in these Protective Covenants, it shall mean the Architectural Control Committee of the Association as more particularly described in Article VIII of the Declaration. ACC permits shall be required for any construction activity within the Property as set forth in Article VIII of the Declaration and within the Shoreline Strip. The ACC shall further have the authority, in connection with the issuance of such permits, to adopt such rules, regulations and standards and to adopt such standard building or other codes (or any portion thereof) as it shall deem appropriate or necessary for the proper performance of its function and duties. The Owner, contractor and builder will subject all permitted activities to such inspections as required by the ACC to determine compliance with such ACC permits, the Declaration, these Protective Covenants, the Shoreline Strip Rules and the Water Use Facilities Permit. In the event of any conflict between the provisions of the Declaration, these Protective Covenants and those of the ACC rules, regulations and standards, same shall prevail in that order. In the event of any conflict between the provisions of the Shoreline Strip Rules and the Water Use Facilities Permit with the ACC rules, regulations and standards, the Shoreline Strip Rules and Water Use Facilities Permit shall prevail. All actions of the ACC shall be subject to review by the Board of Directors of the Association and appeals may be taken thereto under such terms and conditions as such Board of Directors may set from time to time.

Section 3. Amendment, Rescission or Additions. The Association, its successors and assigns, may amend, rescind or add to the Protective Covenants from time to time. Unless the Lots are specifically exempted from the Protective Covenants by the Declaration or a Supplemental Declaration at the time the Lots are subjected to the plan of the Declaration, such amendment, rescission or additions shall not make the Protective Covenants as to those Lots less restrictive for construction of residential buildings than as provided in the standards herein. The Board of Directors may, however, amend the Protective Covenants at any time for the purpose of compliance with any applicable rule, regulation, ordinance, permit, law or statute.

Section 4. Zoning. The Town of Vonore has a Zoning Ordinance that applies to Tellico Harbor Subdivision. Tellico Harbor Subdivision is classified as R-1, Low Density Residential District. To the extent that the Town Zoning Ordinance is more restrictive than the Governing Documents, the Zoning Ordinance will prevail. Where the

Ordinance is less restrictive, the Governing Documents shall prevail. Permit approval/issuance by the ACC shall in no event be deemed to certify or indicate in any way compliance with any applicable zoning regulation code or other regulations or statutes.

Section 5. Building Size. The minimum square footage of any Living Unit shall be no less than one thousand six hundred (1,600) square feet and the maximum shall be set from time to time by the Architectural Control Committee.

Section 6. Resubdivision. No Lot shall be resubdivided except upon written approval of the ACC. The ACC may permit the construction of a single residence upon two (2) or more Lots by waiver of the five (5) foot utility easement and side yard setback on the appropriate interior lot lines. Such action by the ACC shall result in the combined lots to be treated as a single lot in all matters as an original single lot, to include only one vote for the combined lot and one Assessment for the combined lot. No more than three (3) lots shall be combined and, once any lots are combined, shall not be reversible to single lots. Said combined lots shall be properly surveyed by a licensed surveyor and shown on a plat recorded in the Register's Office for Monroe County, TN. A copy of the revised plat shall be sent to the ACC when recorded.

Section 7. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage or other outbuilding shall be used on any lot at any time as a living unit, either temporarily or permanently.

Section 8. Setbacks. No building shall be placed closer to the front or back lot lines than the setback lines shown therefore on a recorded subdivision plat, provided, however, where such requirements create an undue hardship upon the Owner, such setbacks may be modified by the ACC to the extent necessary to prevent the hardship.

Section 9. Side Yards. No building or other structure shall be closer to a side lot line than ten (10) feet, which restrictions may be extended in excess of ten (10) feet when necessary for drainage, utility or screening purposes and the extent thereof is reflected on the recorded subdivision plat, provided, however, where such restrictions create an undue hardship upon the Owner, such restrictions may be modified by the ACC to the extent necessary to prevent the hardship.

Section 10. Land Near Common Areas. No structure or building shall be placed nor shall any material or refuse be placed or stored upon any Lot within ten (10) feet of the property line of any Common Property.

Section 11. Portable Toilets. During the construction of a house on any Lot, a portable toilet shall be provided by the builder or Property Owner.

Section 12. Sewage Disposal. No privately owned septic tank or other sewage disposal system shall be permitted upon any Lot. Owners are responsible for the sewage system on their property up to the Tellico Area Services System connection.

Section 13. Water Supply. No privately owned well or other water system shall be permitted upon any Lot. Owners are responsible for the water system on their property up to the Tellico Area Services System connection.

Section 14. Business Prohibited in Residential Areas. The practice of any profession or the carrying on of any business is prohibited within any area zoned as residential except for any home occupation which does not create any extraordinary traffic within the subdivision. Written applications for said home occupations detailing the nature of the intended home occupation, must, however, first be submitted by the owner to the ACC and approved by the ACC before a permit is issued and before such occupation is commenced.

Section 15. Lighting. No mercury vapor, high or low pressure sodium or quartz, high intensity, beam type or wide area lighting shall be erected on any Lot without Architectural Control Committee approval.

Section 16. Mailboxes. All mailboxes shall be uniformly numbered and be of masonry style consistent with the home as approved by the Architectural Control Committee. All replacement mailboxes shall be of masonry style consistent with the home and shall require ACC approval unless being replaced with the exact same style previously installed.

Section 17. Driveways. All driveways shall be constructed of a minimum of 4000 psi concrete and comply as further defined in the Rules & Regulations. Driveways shall be a minimum of ten (10) feet in width.

Section 18. Types of Residential Construction. Unless governmental laws and regulations otherwise prohibit this provision, no modular home construction or manufactured house construction of permanent residences will be permitted in the development. Only plans for residential on-site construction, commonly referred to as “stick-built” homes, will be submitted for approval by the Architectural Control Committee.

Section 19. Builder Grade Materials. No “builder grade” material shall be used unless approved by the Architectural Control Committee. Builder grade is the lowest grade of materials used in construction. The grades are as follows: builder-grade, quality-grade, custom-grade and ultra-custom-grade. “Spec” homes shall have as a minimum “quality-grade” materials unless otherwise specified herein or in the Rules and Regulations.

Section 20. Retaining Walls. Retaining walls that exceed four (4) feet in height from the top of the footing at any point must be designed and inspected by a registered professional engineer or architect with evidence thereof submitted to the ACC for approval prior to start of construction.

Retaining walls such as those used in landscaping, which are subject to low levels of horizontal pressure and which are up to four (4) feet in height require ACC approval. The safety and structural integrity of the retaining wall are the responsibility of the owner and contractor.

Section 21. Fences. Fences are discouraged by the Tellico Harbor Property Owners Association; however, the ACC will consider new fence applications that meet the requirements of the Governing Documents and conditions and restrictions specified in the Rules and Regulations. New fences are limited to the following materials: wrought iron or ornamental aluminum with thru visibility of seventy percent (70%). All new fences and modifications to existing fences require submittal of a project request application to the ACC for review and approval **prior** to the start of installation or modification. Existing fencing is grandfathered in. Any modifications to existing fencing shall comply with all Governing Documents and Rules and Regulations in effect at the time of the application submittal. However, applications for modification to existing fences may deviate from the Governing Documents and Rules and Regulations to the extent that modifications which are more in-line with the current requirements may be approved at the sole discretion of the ACC.

Section 22. Outbuildings and Storage Sheds. Outbuildings and storage sheds are discouraged by the Tellico Harbor Property Owners Association; however, the ACC will consider new outbuilding and storage shed applications that meet the requirements of the Governing Documents and the conditions and restrictions specified in the Rules and Regulations. New outbuildings and storage sheds shall not exceed ten (10) feet wide by twelve (12) feet long and twelve (12) feet high above the ground at the highest point of the roof. Outbuildings and storage sheds must be built in harmony with the house and the exterior must be of the same material and color as the house. The roofing shall also be the same roofing material and color as the house. Outbuildings and storage sheds shall have a permanent masonry/concrete foundation and a foundation plan must be submitted with the application. All new outbuildings and storage sheds and modifications to existing outbuildings and storage sheds require submittal of a project request application to the ACC for review and approval **prior** to start of any construction or modification. Existing outbuildings and storage sheds are grandfathered in. Any modifications to existing outbuildings and storage sheds shall comply with all Governing Documents and Rules and Regulations in effect at the time of the application submittal. However, applications for modification to existing outbuildings and storage sheds may deviate from the Governing Documents and Rules and Regulations to the extent that modifications which are more in-line with the current requirements may be approved at the sole discretion of the ACC.

Section 23. Building Plans. All building plans must be approved by a registered professional engineer or architect and show storm and drainage flow.

Section 24. New Construction and Re-construction. All construction, be it either new or re-construction shall comply with the requirements in the Rules &

Regulations as updated from time to time. It is the owner's responsibility to assure the latest Rules & Regulations are complied with.

Section 25. Landscaping. Landscaping for new construction or landscaping that redirects drainage/water flow or landscaping projects in excess of \$1500 require ACC approval. Planting of trees or shrubs that will grow to in excess of 15 feet in height requires ACC approval. Other landscaping does not require ACC approval except as noted. However, there are considerations the Owner should be aware of and adhere to as further defined in the Rules & Regulations. Lack of adherence may result in landscaping being removed at the owner's expense. Landscaping does not apply to larger structures such as a gazebo or a trellis. These larger items require ACC approval.

Section 26. Riprap. Riprap is used to armor shorelines, streambeds and other shoreline structures against scour and water erosion of the soil. Riprap is not considered to be a landscaping stone and is prohibited for use for the prevention of soil erosion on any lot where riprap would be visible from the curb. In extreme cases of erosion, a Property Owner may request ACC approval for the use of riprap when it would be visible from the curb. The use of landscaping stone is encouraged where soil erosion can be contained with same. Existing riprap is grandfathered in.

Section 27. Handicap and other Special Needs. Owners that have a need for special exterior construction to aid in access or other special needs shall submit a building/project permit request to the ACC for approval. This exterior construction shall be consistent with the architecture and landscaping of the existing property. The permit request should provide any information where such construction is required by law to aid the ACC in its approval. The ACC shall make every effort to accommodate these requests in the best interest of the need.

Section 28. ACC Responsibility. The function of the ACC shall be on a best efforts basis in an effort to reasonably protect the aesthetics and values of the Property and the health, safety and welfare of all of the Owners therein as a community of interests. No warranty or representation is made to or should be implied by any individual Owner that the actions of the ACC in the issuance of permits, inspection and approval of construction, or otherwise, is intended as a tacit approval of the quality, safety, desirability or suitability of such design or construction.

Section 29. Enforcement. These Protective covenants may be enforced in the same manner as any violation or threatened violation of the Declaration of which these Protective Covenants are a part, including, but not limited to, the lien rights of the Association for any costs or charges incurred in connection therewith.