

Tax Parcel Nos. See Attached Sheet  
PREPARED BY AND RETURN TO:  
Cantwell Development, L.L.C.  
200 Mary Ella Drive  
Wilmington DE 19805-1542

DECLARATION OF RESTRICTIONS

THIS DECLARATION, Made this 1 st day of February, 2002 by Cantwell Development, L.L.C. a Limited Liability Company of the State of Delaware, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the owner of the lots in the subdivision of Burtonwood Village, situate in Duck Creek Hundred, Kent County and State of Delaware, as shown on the Record Major Subdivision Plan for Burtonwood Village, as prepared by Earl D. Smith, Inc. and recorded in the Office of the Recorder of Deeds in and for Kent County, Delaware, in Plot Book 59, Page 74, and WHEREAS, Declarant is the owner of said parcel of land and is desirous of imposing upon said land the hereinafter stated covenants, agreements, conditions, reservations and restrictions as stated by Declarant.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

The Declarant herein hereby covenants and declares that the said development known as Burtonwood Village shall be held,

UNDER AND SUBJECT, NEVERTHELESS, to the following covenants, agreements, conditions, reservations and restrictions:

1. These covenants, agreements, and restrictions are to run with the land and shall be binding upon the Declarant, its successors and assigns, and all persons claiming under them, until February 1, 2012 at which time said covenants, agreements and restrictions shall be automatically extended for successive periods of ten (10) years each, unless the then owners and first mortgagees of more than

75% of the said lots change restrictions, or terminate them in whole or in part, by appropriate instrument duly executed and recorded.

2. No dwelling shall be erected or placed on any residential parcel of land which has an area of less than that required by the Zoning Code of Kent County for the applicable zoning classification or as the requirements of said Code may be modified in respect to any such parcel by the Board of Adjustment of Kent County.
3. The architectural design of any house erected within said development shall not be changed without receiving written approval from the Declarant, its successors or assigns. Architectural design shall be interpreted to mean all exterior elements, including but not limited to, entrance doors, garage doors, exterior trim, roofing, siding, paint colors and fencing.

After construction of the original structure on any lot within this subdivision, no detached structure or addition to the principal structure shall be placed or erected without consent of Kent County and the Declarant, its successors or assigns, with the exception that a storage shed may be placed in the rear yard; such shed shall have a maximum size of 150 square feet and a height not to exceed nine (9) feet to roof top. The shed shall be constructed with all sides fully enclosed with colors and materials similar to those used on the house.

4. All storm windows and storm doors placed on the buildings within the aforesaid development shall have a color similar to the color of the windows installed by the Declarant.
5. There shall be no television antenna, satellite dish or any other type of radio or video reception device placed on the exterior of the dwelling or any other part of the property unless specifically approved, in writing, by the Declarant, its successors or assigns, except that satellite dishes not exceeding 18" in diameter may be placed on the rear of the house.

6. No sports equipment shall be erected, placed or maintained on any lot or structure at any time, except for temporary or portable sports equipment which must be placed indoors when not in use.  
  
Fences may be constructed along the rear and side yard only and such side yard fence commencing from the rear shall not extend past the front corner of the house. No fence shall be constructed, without the written approval of the Declarant, other than post and rail. Green wire mesh may be added to any post and rail fence.
8. No outside clotheslines or clotheslines poles shall be erected or maintained on any lot except removable poles and retractable or removable clotheslines which are mounted to the rear of the house. All such clotheslines and poles must be removed and or retracted during the hours of 11 A. M. and 4 P. M. daily.
9. No trade, business, commerce, industry or occupation shall be conducted on any residential building lot or in any building erected thereon except those allowed by Kent County.
10. No trailer, basement, tent, shack, garage, barn or other outbuilding erected or placed on the above described tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.
11. No boats, trailers, house trailers, campers, commercial vehicles, trailered or untrailered vehicles used for racing or recreational purposes shall be parked or stored for a period of time exceeding one (1) calendar week per calendar month in the area between the front of the house and the curb. In the case of corner lots, this restriction shall also apply to the side of the house facing the adjoining street. The Declarant has the right to remove any of the above in violation of this section with twenty-four (24) hours' notice, and at the expense of the property owner.

12. No animals, livestock or poultry shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for commercial purposes. No noxious or offensive trade or activity shall be carried on upon any residential lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
13. Without the necessity of any further reservation, all conveyances by Declarant, its successors or assigns, of lots on the aforesaid Plan shall be subject to the following easements which shall be easements hereby expressly reserved to Declarant, its successors or assigns, for the installation, use and maintenance of utilities, and mail facilities, including, but not by way of limitation, gas, electricity, fuel oil, telephone, community antenna or cable television systems, pay TV systems, or other communications facilities, water, sewer, drainage, including appurtenant structures, accessory structures, and necessary service connections;
  - (a) Easements shown on the aforesaid Plan or otherwise of record;
  - (b) Easements under along and across the area shown on the aforesaid-recorded plat as intended to be dedicated for road purposes;
  - (c) Easements for the installation and maintenance of house connections with any such utility wherever located on a lot, but only to the extent the owner and/or operator of such utility service shall have assumed responsibility for the maintenance of the aforesaid house connections;
  - (d) Temporary rights or easements, necessary or proper to the enjoyment of the aforesaid easements, to enter upon lands adjacent to such easements with trucks and equipment, for the purpose of maintaining or repairing any installations as may be reasonable and appropriate to such activity.

No owner of any property shown on the aforesaid Plan, nor any member of the public generally, shall have vested property interest or right, whether in law, equity

or otherwise, in or to any of the easements reserved in this paragraph, and the Declarant reserves to himself, his successors or assigns (of any such easement), the right to modify, extinguish or vacate all or any of said easements; provided, however, in the event any such easement is being utilized by any public authority or public utility company for utilities, sewer lines or drainage purposes, such easement shall not be modified or extinguished without the consent of such public authority or public utility company.

14. No hedge or similar mass planting shall be erected or permitted except to the rear and side of the main house structure.
15. If Declarant, its successors or assigns, or persons claiming under them, shall violate or attempt to violate any of the covenants herein, it shall be lawful for Declarant or other person or persons owning any of the above identified lots on the aforesaid Plan to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants and recover damages or other dues for such violation.
16. Invalidation of any of these covenants or any part thereof, by judgment or Court order, shall in no wise affect any of the other provisions which shall remain in full force and effect.
17. These restrictions shall not prohibit the construction and maintenance on the land on the aforesaid Plan of sample houses, signage, construction and sales offices, storage and parking facilities and other necessary operations conducted thereon by a Developer in connection with the business of construction and selling or renting dwelling units on said lands.

*r~)* In the event any dwelling or other permitted structure erected on any residential building lot is so placed that it violates a front, side or rear yard setback restriction as provided herein and such violation also constitutes a violation of any then applicable

zoning law or regulation, the grant of a variance with respect to the zoning violations shall automatically constitute a variance and modification of these restrictions with respect to such violation.

19. Anything herein contained to the contrary notwithstanding, the Declarant hereby expressly reserves the right at any time to change or modify any of the restrictions, conditions, covenants, agreements or provisions of the lots shown upon said Plan.
20. Declarant reserves unto itself the right to modify, change or amend the Record Plan of Burtonwood Village By accepting a deed, each lot owner shall be deemed to have appointed Declarant as their attorney-in-fact coupled with an interest for the sole and limited purpose of modifying the Record Major land Development Plan for Burtonwood Village and Declarant shall be authorized to sign such modified Plan on behalf of each and every lot owner.
21. Failure by Declarant or any land owner to enforce any restrictions, conditions, covenants or agreements herein contained shall in no event be deemed a waiver of the rights to do so thereafter as to the same breach or as to the one occurring prior or subsequently thereto.
22. Any or all of the rights and powers, titles and estate reserved or given to the Declarant in this Declaration may be assigned to anyone or more individuals, public governmental bodies, corporations or associates that will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing to which the assignee or transferee shall join for the purpose of evidencing its consent to the acceptance of such rights and powers; and such assignee or transferee shall thereupon have tile same rights and powers and be subject to the same obligations and duties as are herein given and assumed by the said Declarant, the said Declarant thereupon being released therefrom.

Tax Parcel No.: See Attached Sheet

PREPARED BY AND RETURN TO:

Douglas M. Hershman, Esquire

The Bayard Firm

P.O. Box 25130

Wilmington, DE 19899-25130

### **FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS**

**THIS AMENDMENT TO DECLARATION**, Made this \_ day of \_\_\_\_\_ 2002, by CANTWELL DEVELOPMENT, L.L.C., a Delaware limited liability company, hereinafter referred to as "Declarant".

**WHEREAS**, Declarant, as owner of the lots in the subdivision of Burtonwood Village, did execute and record a certain Declaration of Restrictions dated February 1, 2002 and recorded April 19, 2002 in the Office of the Recorder of Deeds in and for Kent County, Delaware in Deed Record Book 470, Page 273 (the "Declaration"); and

**WHEREAS**, the Declaration provides that Declarant shall have the right at any time to change or modify any of the restrictions.

NOW, **THEREFORE**, Declarant does hereby amend the Declaration as follows.

1. Paragraph 1 of the Declaration is deleted in its entirety and the following is substituted in its place:

"1. These covenants, agreements, and restrictions are to run with the land and shall be binding upon the Declarant, its successors and assigns, and all persons claiming under them, until February 1, 2012 at which time said covenants, agreements and restrictions shall be automatically extended for successive periods of ten (10) years each, unless the then owners of more than seventy five percent (75%) of the said lots terminates them in whole or in part, by appropriate instrument duly executed and recorded."

2. Paragraph 8 of the Declaration is deleted in its entirety and the following is substituted in its place:

"8. No outside clotheslines or clothesline poles shall be erected or maintained on any lot except removable poles and retractable or removable clotheslines which are mounted to the rear of the house."

**IN WITNESS WHEREOF**, the said Cantwell Development, L.L.C. has hereunto executed  
this Declaration the day and year first above written.

**CANTWELL DEVELOPMENT, L.L.C.**

By: \_\_\_\_\_ (SEAL)

Witness

G. Daniel Martelli, Member

**STATE OF DELAWARE**

: **SS.**

**NEW CASTLE COUNTY**

**BE IT REMEMBERED**, that on this \_\_ day of \_\_\_\_\_, 2002, personally  
came before me, the Subscriber, a Notary Public for the State and County aforesaid, G. Daniel Martelli,  
Member of Cantwell Development, L.L.C. **a limited liability company of the State of Delaware**, party  
to this Instrument of Writing, known to me personally to be such, and acknowledged this Instrument of  
Writing to be his act and deed and the act and deed of said company.

**GIVEN** under **My** Hand and Seal of office the day and year aforesaid.

Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



3. Paragraph 19 of the Declaration is deleted in its entirety and the following is substituted in its place:

"19. Anything herein contained to the contrary notwithstanding, the Declarant hereby expressly reserves the right at any time to change or modify any of the restrictions, conditions, covenants, agreements or provisions of the lots contained herein or shown upon said Plan. In addition, the owners of more than seventy five percent (75%) of the said lots may change, modify or amend the restrictions contained herein at any time, by appropriate instrument duly executed and recorded, provided, however, that so long as the Declarant is the owner of any of the said lots or open space or any other portion of Burtonwood Village, this Declaration may not be changed, altered, modified, amended or extinguished without the written approval of the Declarant."

**IN WITNESS WHEREOF**, the said Cantwell Development, L.L.C. has hereunto executed this Amendment to Declaration the day and year first above written.

**CANTWELL DEVELOPMENT, L.L.C.**

By: \_\_\_\_\_ (SEAL)  
G. Daniel Martelli, Member

Witness

**STATE OF DELAWARE**

: SS

**NEW CASTLE COUNTY**

**BE IT REMEMBERED**, on this \_ day of \_\_\_\_\_, 2002, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, G. Daniel Martelli, Member of Cantwell Development, L.L.C., a limited liability company of the State of Delaware, party to this Instrument of Writing, known to me personally to be such, and acknowledged this Instrument of Writing to be his act and deed and the act and deed of said company.

**GIVEN** under My Hand and Seal of office the day and year aforesaid.

Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_