

THIS INSTRUMENT PREPARED BY

AND RETURN TO:

N. Darrell Bridges, Attorney
Abstract Title & Escrow
25 Patten Parkway
Chattanooga, TN 37402

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Time: 12:01:15 P
Contact: Pam Hurst, Register
Hamilton County Tennessee

File

**DECLARATION OF RESTRICTIONS FOR
HAILEYS POND SUBDIVISION**

THIS DECLARATION made as of August 24, 2004, by the undersigned owner, Universal Land Development, Inc., a Tennessee corporation (hereinafter referred to as "Developer").

WHEREAS, Developer owns the property described in Exhibit "A" attached hereto and made a part hereof, herein called the "Property"; and

WHEREAS, Developer desires to impose on the Property certain covenants, conditions, restrictions and rights;

NOW THEREFORE, Developer hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions and rights, which are for the purpose of creating uniformity, protecting the value and desirability of the Property and which shall run with the land and be binding on all parties now or hereafter having any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof.

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1. **LAND USE AND BUILDING TYPE:** The Property shall be used for single family residential townhouse purposes only, and no building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling.
2. **ARCHITECTURAL CONTROL:** No building shall be erected, placed or altered on any lot until the construction plans and specifications have been approved in writing by Developer. At such time as the Developer turns over and delegates its rights and responsibilities to an owners association (the "Association") as hereinafter provided, such plans and specifications shall be submitted to and approved by the Board of Directors (the "Board") of the Association or an architectural committee appointed by the Board. In the event the Developer or the Board, or its designated committee, fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, approval will not be required and this provision will be deemed to have been fully complied with. This provision includes external awnings and other structures permanently appended to improvements. Further, no changes or alterations shall be made to the grading or elevation of any lot within the Property as constructed by the Developer and no objects, structures, trees or shrubs shall be

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erected, constructed, planted or placed on any part of the Property without the prior consent of the Developer or, if applicable, the Association.

3. FENCES AND WALLS: No fence or wall shall be erected, placed or altered on any lot other than by Developer or as may be approved by the Developer or, if applicable, the Board of the Association.
4. DWELLING SIZE: Any dwelling must contain a total area of enclosed living space of not less than 900 square feet excluding porches, decks and garages.
5. EASEMENTS: Easements upon each individual lot for installation of sanitary sewage lines, utility lines and drainage easements are hereby reserved. The exact location of such easements shall be determined by the Developer and may be shown on the subdivision plats or amendments thereto. The creation of said easements shall not prevent the use of the area by the Developer for any purpose permitted under applicable building and zoning laws. The easements for each lot and all improvements in the easements shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. Fences shall not be constructed over or along any easement that would interfere with the use and maintenance of the easement areas. In addition to the foregoing easements and those referenced on Exhibit "A" hereto, Developer shall have the right to grant, declare or reserve such easements on the Property as it may deem to be necessary or appropriate to the development of the Property.
6. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which maybe or may become an annoyance or nuisance to the neighborhood.
7. TEMPORARY STRUCTURES: No trailer, storage building, play structure, or other outbuilding shall a placed on any lot at any time unless approved in writing by the Developer or, if applicable, the Board of the Association.
8. SIGNS: No sign of any kind shall be displayed to the public view on any lot except one professionally painted sign of not more than five square feet advertising the property for sale or signs used by the Developer or the construction lender to advertise the property during the construction and sales period.
9. ANIMALS, LIVESTOCK AND POULTRY: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and are maintained under the owner's control at all times and/or according to the Rules and Regulations adopted by the Developer or the Association as hereinafter provided. "Household pets" shall be what are commonly considered to the domestic household animals and shall not include

exotic animals, farm animals, reptiles, rabbits, chickens or ducks, and other such animals, all of which shall be prohibited from the Property.

10. GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. All equipment for the storage or disposal of trash or garbage shall be kept in a clean and sanitary condition. All garbage and trash containers shall be covered and securely closed. Garbage and trash containers shall not be put out sooner than the night prior to garbage service and shall be picked up the same day as garbage service.
11. ENCROACHMENTS, GRANTED EASEMENTS: Certain of the lots have townhomes already constructed thereon, or townhomes in process of construction, and the Developer proposes to construct townhomes on the remaining lots. In the course of the construction and completion of each of said townhomes certain eaves, roof overhangs and brick veneer attached to the structural walls will or may encroach over or onto an adjoining lot. There is hereby created on each lot an easement for such encroachments of overhangs. In addition to the easements for such encroachments or overhangs, there is also created the right to maintain and repair the same so long as said encroachments and overhangs shall exist. In the event that any townhome is damaged and rebuilt, the easement for reconstruction and the right of maintenance shall continue to exist.
12. DRIVEWAY AND PARKING EASEMENTS: During the course of development and construction of Haileys Pond Subdivision, the Developer has constructed or may construct paved driveways and parking areas which serve the residents of the subdivision. To the extent that any such driveway or parking area lies within the boundary of any lot privately owned by an individual owner, a permanent nonexclusive easement is hereby established upon, over and across such driveway and parking areas for the use and benefit of other owners/lessees of the subdivision for vehicular and pedestrian access, ingress and egress to and from their respective properties and for the parking of vehicles permitted hereunder. Notwithstanding such easement, each owner shall have the reasonable right to park vehicles belonging to such owner/lessee or such owner/lessee's guests in the space or spaces closest to such owner/lessee's residence. In the event of any disagreement regarding the reasonable use of parking spaces or driveways, the question shall be determined by the Developer or, if applicable, the Association.
13. EXTERIOR CHANGES/ COLOR: No changes (including changes to brick, siding, roof shingles, soffit, fascia, verandas, doors and door frames, windows and window frames) shall be made to the color or material of the exterior of any of the townhomes unless such change is approved by Developer or, if applicable, the Board of the Association.
14. REQUIREMENT TO REPAIR AND REBUILD: In the event of damage to or destruction of any townhome by fire, windstorm or other cause, it shall be the

obligation of the owner of the townhome to restore the same without undue delay. If there is any such damage to common walls, roofs or other elements common to more than one townhome, the owners shall share in the cost of restoration of such common elements on a pro rata basis.

15. TERM: These covenants are to run with the land and shall be binding on all owners and all persons claiming under them. These covenants may be terminated or amended by the approval of the owners of not less than sixty percent (60%) of the lots subject to this Declaration; provided, however, that these covenants may not be terminated without the written approval of the Developer so long as the Developer owns any portion of the Property. Any such change shall be effective when recorded in the Registers Office of Hamilton County, Tennessee.
16. REQUIRED OWNER MAINTENANCE: After the date of purchase from Developer all lots, and all townhomes or other improvements constructed thereon, must be maintained by the owner in a neat and orderly condition with any and all debris being removed therefrom and any necessary routine maintenance being performed as needed. In the event that an owner of a lot fails to maintain his lot and or the improvements thereon in a neat and orderly condition Developer or, if applicable, the Association, may enter upon such lot without liability, put the lot into an orderly condition and recover the cost of such work from the owner.
17. RESTRICTIONS: No trailer, mobile home, junked or inoperable vehicle, tent, shack or other similar item, vehicle or structure shall be placed or permitted to remain on any lot, nor shall any incomplete structure be used as a residence temporarily or permanently. No travel home, boat or other recreational vehicle may be stored or parked on any lot or street in the subdivision. No trucks, other than a pickup truck used as the personal vehicles of an owner/lessee, shall be parked or kept on any of the streets or on any lot except while loading and unloading.
18. SATELLITE DISHES, PLAY STRUCTURES, ETC.: satellite dishes may be permitted ; however, they may not be over 24 inches in width or other so-called "small dish" satellite dishes offered by satellite providers such as Dish TV and Direct TV. Permission for, and placement of, a satellite dish will be considered by the Developer or, if applicable, the Association on a case by case basis. No basketball goals, swing sets or other play structures shall be allowed on any lot, except as approved by the Developer or, if applicable, the Association.
19. TREES, SHRUBS, ADDITIONAL LANDSCAPING AND SIDEWALKS: Trees on individual lots may not be cut or removed and shrubs may not be permanently removed without written permission from the Developer. It shall be the responsibility of the lot owner to replace any dead trees or shrubs with like kind. No lawn ornaments or other objects other than shrubbery, trees and flower gardens shall be placed upon, set upon or constructed upon any part of the Property that lies in front of the townhomes. The composition and color of

driveways, sidewalks and walkways shall not be altered without the permission of the Developer or, if applicable, the Association.

20. COMMON AREA AND LOT LANDSCAPING AND MAINTENANCE: Common area landscaping and maintenance is the responsibility of the Developer and, following formation of the Association and delegation of the Developer's rights and responsibilities as hereunder provided, all owners through the Association. To assure uniformity of landscaping and to promote economies of scale, landscaping on individual lots shall be considered, for purposes of this provision, to be common area landscaping and will be included within the budget of the Association.
21. COMMON ELEMENTS; ROOFING: No lot owner shall drill or nail into or in any way puncture, alter, deface, demolish, destroy or in any way weaken the common bearing basement foundation party wall constructed by the Developer and which adjoins any of the said parts to one another and in like manner none of said lot owners shall cause any object to penetrate beyond the property line of their respective dwelling units above the level of the common party basement wall. With respect to common walls dividing townhomes, such shall be deemed to be party walls. No persons shall have the right to add to, or detract from, said party walls in any manner whatsoever, it being the intention that said party walls shall at all times remain in the same position as when erected. If it shall become necessary to repair any such party wall, the expense of rebuilding the same shall be borne by the then owners of the adjoining lots, in equal proportions, and whenever said party wall, or any portion thereof, shall be rebuilt, it shall be erected on the same place where it stands and be of the same size as when originally erected, unless otherwise agreed by said parties. When a townhome on any lot is in need of a new roof, from either normal weathering or disaster (wind, fire, etc.), the replacement roofing material shall be of like quality, style and color. If the roof is common to more than one townhome, the expense of re-roofing shall be borne by the then owners of the adjoining lots, in equal proportions. If the age and/or weathering of other townhomes within a set (townhomes sharing a zero lot line) is such that the roofing does not match, then all lot within a set shall join together and re-roof as one project. It shall be the decision of the Developer or, if applicable, the Association as to the need for re-roofing one or all lots within a set.
22. VEHICLES PERMITTED: Vehicles allowed by law to operate on a public highway and Developer vehicles and equipment will be allowed to operate on the streets of the subdivision. No other vehicles, motorized or otherwise, will be permitted.
23. ENFORCEMENT: Enforcement shall be by proceedings at law or equity against any person or persons violating or attempting to violate any covenant, to restrain such violation, and to recover such damages as may accrue, with court costs and reasonable attorneys fees to be awarded to the prevailing party.

24. SEVERABILITY: Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.
25. FORMATION OF OWNERS ASSOCIATION: At such time as Developer may determine, Developer may create an owners association and delegate to the association all or part of Developer's rights hereunder. The owner of each lot shall be a member of the association and each lot shall be entitled to one (1) vote under the documents establishing and governing the association. All actions to be taken by the Association must be approved by the affirmative vote of the owners of not less than sixty percent (60%) of the lots subject to the Declaration.
26. AFFIRMATIVE COVENANT TO PAY ASSESSMENTS: Upon the formation by the Developer of the Association, there is hereby imposed upon each owner of each lot, the affirmative covenant and obligation to pay the Association all assessments determined by the Association with respect to each lot. Each owner shall be obligated and agrees to pay all assessments when due, and any past due assessments, in accordance with the provisions of this Declaration and consents and agrees to the lien hereinafter imposed upon the lots for such assessments. The liability for assessments is both personal and shall run with the ownership of each lot and may not be avoided by waiver of the use or enjoyment of common areas or by abandonment of the lot for which the assessments are made.
27. CREATION OF ASSESSMENTS: Upon the formation by the Developer of the Association, there is hereby created assessments for expenses of the Association as the Board may authorize from time to time to be commenced at the time and in the manner set forth in this Declaration. Assessments shall be levied equally on all lots for the maintenance of common property, neighborhood expenses, and any other matters as the Board may require. Special assessments may also be assessed and levied equally on all lots as provided herein.
28. PAYMENT OF ASSESSMENTS: The assessments shall be paid in such a manner and on such dates as fixed by the Board of the Association to include payment of common assessments on a monthly basis, quarterly basis, biannual basis or annual basis or such other manner as the Board determines. Further, the Board, upon the affirmative vote of not less than 60% of the members of the Association, may levy special assessments for capital improvements and other repairs necessary from time to time. No membership vote shall be required for special assessments due to budget shortfalls in any year, as a result of an emergency to protect, preserve or repair common areas. Special assessments pursuant to this paragraph shall be paid in such manner and on such payment schedule as determined by the Board.

29. ESTABLISHMENT OF LIEN: Any and all assessments, together with interest at a rate determined by the Board, which does not exceed the highest rate allowed by applicable usury law, computed from the date the delinquency first occurs, and any late charges and fines as may be established by the Board, costs and reasonable attorneys fees, shall become a lien upon the lot against which each assessment is made and run with the ownership of the lot in question. The Association shall have the right to file a notice of such lien in the Register's Office of Hamilton County, Tennessee, to file suit for the enforcement of such lien and/or file suit for collection of the amount of such assessments. Each assessment, together with interest, late charges, costs, fines and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of such lot at the time the assessments rose.

30. DEVELOPER RIGHTS: The Developer shall have the right to alter, change, divide, or subdivide any lot within the subdivision. None of the lots shall be subdivided by any other owner. None of the foregoing building restrictions and restrictive covenants shall apply to the Developer with respect to its original construction of the dwelling units and their appurtenant driveways, walkways, porches, patios, fences, drainage and landscaping. The term "Developer" shall include any builder designated by Developer to construct townhomes and/or other improvements on the Property, including without limitation Universal Homes, LLC, a Tennessee limited liability company.

31. AMENDMENTS BY DEVELOPER: Until such time as an owners association is created, and the Developer turns over and delegates its rights and responsibilities to such association as hereinafter provided, and until such time as the Developer ceases to be a registered owner of any portion of the Property, the Developer shall have the right to amend these restrictions, in whole or in part, vary, waive or cancel any of the aforementioned provisions or restrictions without the necessity of obtaining the approval of the owner or owners from time to time of any of the lots within the Property. Thereafter, unless an owners association is created as herein provided (in which case amendment shall be made by vote of not less than 60% of the members of the Association), said provisions and restrictions may be amended, vary, waive or canceled by the unanimous agreement of all registered owners of lots within the Property. Any such amendment shall be effective from the time it is filed for record in the Register's Office of Hamilton County, Tennessee.

32. RULES AND REGULATIONS: To preserve the quality of life enjoyed by the residents (owner, owners or lessees) of the townhouse development at Haileys Pond, the Developer or, if applicable, the Association shall have the right to develop and amend from time to time Rules and Regulations with respect to ownership and occupancy of townhomes within the Haileys Pond development on the Property. Rules and Regulations established or amended by the Association

must be approved by the affirmative vote of the owners of not less than sixty percent (60%) of the lots subject to the Declaration. Developer hereby establishes the initial Rules and Regulations to which all lots are subject, and the same are attached hereto as Exhibit "B" and made a part hereof.

33. LEASED PREMISES: If a unit is leased, it is the responsibility of the owner to inform the lessee of the lessee's required compliance with the restrictions and rules and regulations applicable to Haileys Pond Subdivision. Accordingly, copies of the Declaration of Restrictions of Haileys Pond Subdivision and the Rules and Regulations shall be furnished to the lessee by the owner. Failure of the lessee to abide by the provisions of these documents shall be grounds for eviction. In this event, the owner shall be required to evict the lessee. Should the owner fail to commence eviction proceedings within 15 days of the Developer's, or, if applicable, the Association's, written request to do so, the Developer or, if applicable, the Association, shall have the right to evict the lessee on behalf of the owner. All costs incurred by the Developer or, if applicable, the Association for such proceedings shall be for the benefit of and on behalf of the owner and collectible in the same fashion as other assessments levied against the owner. The following special stipulation must be included in all leases and a copy furnished to the Developer or, if applicable, the Board Of Directors of the Association:

This lease shall in all respects be subject to the terms and conditions of the Declaration of Restrictions of Haileys Pond Subdivision and the Rules and Regulations adopted by the Developer or, if applicable, the Owner's Association. Failure of the lessee to abide by the provisions of these documents shall be grounds for eviction. In this event, the owner shall be required to evict the lessee. Should the owner fail to commence eviction proceedings within 15 days of the Developer's, or, if applicable, the Association's, written request to do so, the Developer or, if applicable, the Association, shall have the right to evict the lessee on behalf of the owner. All costs incurred by the Owner/Lessor, Developer or, if applicable, the Association for such proceedings shall be chargeable to and paid by the lessee.

34. DECLARATION EFFECTIVE: This Declaration is effective upon recording in the Register's Office of Hamilton County, Tennessee, shall run with the land and shall be binding upon each transferee thereof or any portion thereof and the heirs, executors, administrators, successors and assigns of each transferee respectively.
35. JOINDER OF ADDITIONAL PARTY: Benjamin C. Phillips, having acquired Lot 3, Revised Plat of Haileys Pond Subdivision, Phase One, as shown by plat of record in Plat Book 74, Page 112, in the Register's Office of Hamilton County, Tennessee, by deed recorded in Book 7167, Page 894, in said Register's Office, which is a part of the Property, joins into the execution of this instrument for the purpose of consenting hereto and subjecting said lot to the terms and provisions hereof.

IN WITNESS WHEREOF, the undersigned Developer has executed this Declaration as of the 24th day of August, 2004.

UNIVERSAL LAND DEVELOPMENT, INC.

By: William Joe Phillips, President
William Joe Phillips, President

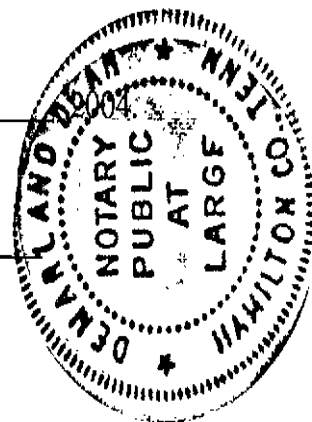
B.C. Phillips
Benjamin C. Phillips

STATE OF TENNESSEE
COUNTY OF HAMILTON

Personally appeared before me, William Joe Phillips, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the President of Universal Land Development, Inc. and is authorized by such corporation to execute this instrument on its behalf as such President.

Witness my hand, at office, this 24 day of August

[Signature]
Notary Public



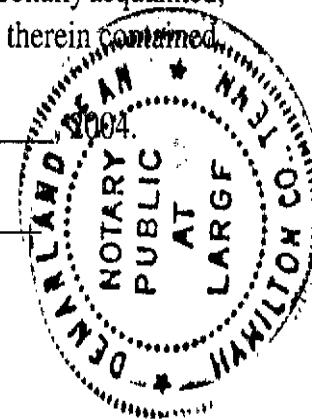
My commission expires: 7/11/05

STATE OF TENNESSEE
COUNTY OF HAMILTON

Personally appeared before me, Benjamin C. Phillips, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand, at office, this 24 day of August

[Signature]



Book and Page: GI 7254 464

My commission expires:

7/11/05

Notary Public

LEGAL DESCRIPTION

Tract One: Located in the Second Civil District of Hamilton County, Tennessee: Being a part of the Southeast Quarter of Section 18, Township 4 , Range 2, West of the Basis Line, Ocoee District, and being more particularly described as being a part of the property conveyed by Robert W. Summar, Clerk and Master, to Ted Leaman and wife, by deed recorded in Book 1944, Page 17, in the Register's Office of Hamilton County, Tennessee: Beginning at a point, said point marking the Southeastern corner of the original Ted Leaman Tract, said point being located in the Western line of Lee Highway; thence northeastwardly along said Lee Highway right-of-way 275 feet to a point; thence westwardly and parallel to the southern line of the original Leamon Tract, 160 feet to a point; thence southwardly and parallel to the Western line of Lee Highway right-of-way 275 feet to a point in the south line of the original Leaman Tract; thence eastwardly along said Leaman Tract, 160 feet to the point of beginning.

Tract Two: Located in the Second Civil District of Hamilton County, Tennessee, more particularly described as follows: A certain tract or parcel of land carved out of what is commonly known as the Fox Tract, about 1 mile west of the town of Ooltewah, and bounded on the west or westerly by the Old Cleveland Road, on the East or easterly by the new Cleveland Pike; on the south or southwardly by other land now owned by R. H. Williams and contracted to be sold to Charley Igo; and on the north or northwardly by other land now owned by R. H. Williams and contracted to be sold to Monrow Hurse; as shown by plat of said Fox Tract made for R. H. Williams by the Edward E. Betts Engineering Company on November 3, 1920. Said tract or parcel of land hereby conveyed is shown by said plat to contain 5.5 acres and is now under fence, the same having been fenced by the grantee herein under a contract to purchase. Said tract or parcel is a part of the land conveyed to R. H. Williams by J. M. Brown and wife, by deed dated November 22, 1916 and recorded in the Register's Office of James County, Tennessee, in Book 13, Page 352 et seq. Said tract or parcel of land as shown by the aforementioned plat fronts about 460.5 feet on the Old Cleveland Road and about 509 feet on the new Cleveland Pike.

Less and except that portion described in Tract One above.

Reference is made for Grantor's source of interest in the property and for the legal description to Deed recorded in Book 6235, Page 311, in the Register's Office of Hamilton County, Tennessee.

Subject to any governmental zoning and subdivision ordinances or regulations in effect thereon, as to both tracts.

Subject to Sanitary Sewer Easement and Temporary Construction Easement recorded in Book 5248, Page 749, in said Register's Office, as to Tract 2.

Subject to all easements, conditions, restrictions and limitations shown on plats recorded in Plat Book 72, Page 40, Plat Book 74, Page 108 and Plat Book 74, Page 112 , in the Register's Office of Hamilton County, Tennessee.

Subject to all other matters of record or discernible from a visual inspection of the property.

EXHIBIT "A"

RULES AND REGULATIONS FOR HAILEYS POND SUBDIVISION

I. **INTRODUCTION:** To preserve the quality of life enjoyed by the residents (owner, owners or lessees) of the townhouse development at Haileys Pond, the Developer, Universal Land Development, Inc., has developed certain Rules and Regulations with respect to ownership and occupancy of townhomes within the Haileys Pond development on the Property. As is provided in the Declaration of Restrictions for Haileys Pond Subdivision, the Developer or, if applicable, the owners association (the "Association") has the right to develop and amend from time to time such Rules and Regulations. Developer hereby establishes the initial Rules and Regulations to which all lots are subject, and the same are hereinafter set forth.

II. **RULES AND REGULATIONS:** Without limiting the generality of the provisions of the Declaration of Restrictions for Haileys Pond Subdivision recorded contemporaneously herewith in the Register's Office of Hamilton County, Tennessee, ownership and occupancy of the townhomes within the Haileys Pond Subdivision shall be subject to the following restrictions:

- A. No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Haileys Pond Subdivision property, except that the Developer shall be entitled to such access, ingress and egress to and from the property as the Developer deems necessary in connection with the construction or sale of any improvements upon the subdivision property or any unit therein. This rule, however, shall not prohibit any occupant from having a business home office.
- B. No semi tractors, wreckers, boats, boat trailers, campers, motor homes or trucks (other than pickups), whether operable or inoperable, shall be parked on the residential premises or common areas of Haileys Pond Subdivision without approval of the Developer or, if applicable, the Association.
- C. Owners or their lessee's shall keep their respective townhouse units in a good state of preservation and cleanliness as he is possible.
- D. When walking, pets must be on a leash and off other owners' property. Any waste shall be removed promptly from any street, common area or other owner's property by the person walking the pet. Pets shall not be allowed to roam freely beyond the limits of the owner's property. No pet shall be permitted to engage in excessive or frequent barking, howling, whining or any noise which disturbs another resident's rest or peaceful enjoyment of his property.

EXHIBIT "B"