

**DECLARATION OF RESTRICTIVE COVENANTS FOR**  
**GERALD AND ALICE KIRBY - ERWIN ROAD**  
**RESIDENTIAL DEVELOPMENT**

THIS DECLARATION OF RESTRICTIVE COVENANTS (The "Declaration"), is made and published by the undersigned Declarants ("Declarants");

WHEREAS, the Declarants are the owners of the Erwin Road Residential Development (the "Subdivision"), a plat of which is recorded in Plat Book 6, Page 166, in the Office of the Allen County Court Clerk's for for Allen County, Kentucky, as may be amended from time-to-time.

WHEREAS, the Declarants desire to provide for the protection and preservation of the values, desirability and attractiveness of the Subdivision; and

WHEREAS, Declarants further desire to establish for Declarant's benefit and the mutual benefit and advantage of all future owners and occupants of or any portion thereof, certain rights, easements, privileges, obligations, restrictions, covenants, and regulations governing the use and occupancy of the Subdivision.

NOW THEREFORE, Declarants, as legal title holder of the Gerald & Alice Kirby Erwin Road Residential Development and for the purposes set forth above and further hereinafter set forth, declare as follows:

1. **Subjection of the Properties to the Declaration and Laws:** The Declarants, as legal titleholders in fee of the real property constituting the Subdivision as shown on Plat Book 6, Page 166 in the Office of the Allen County Court Clerk (such individual lots constituting the Subdivision hereinafter referred to as the "Lot" or "Lots"), hereby submits and subjects the Subdivision and the Lots thereof to the provisions of this Declaration. This Declaration shall constitute covenants running with the land and be binding upon all parties now owning or hereafter having or acquiring any right, title or interest in the Lots or any part thereof, and shall insure to the benefit of each other thereof. Every person hereafter acquiring a Lot, by acceptance of a deed to any interest in a Lot shall accept such interest subject to the same terms of this Declaration, and by acceptance of the same shall be deemed to have consented to and agreed to be bound by the terms, conditions and covenants of this Declaration.

2. **Land Use:** No lot shall be used except for private single family residential purposes. No residential structure shall be erected, placed or permitted to be built on any Lot except one single family dwelling designated for the occupancy of one family (including any domestic servants living on the premises). No mobile homes, trailers, modular homes or above ground pools shall be permitted on any Lot. Barndominiums are permitted. Any in ground pool must be located behind the residence building and fenced. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind will be permitted upon any tract, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted

upon or in any tract. No derrick or other structures designed for use in boring for oil or any other substance, shall be erected, maintained or permitted upon any tract. Pending the sale of any tract of land in this development, the developer reserves the right to use the land for agricultural purposes. No tract shall, before the erection and completion of a residential structure thereon, be used for purposes of entertainment of any congregation or gathering of people for any purpose or for storage of any material, equipment, vehicle or other items.

3. **Use of Other Structures and Vehicles:** No structure of a temporary character shall be permitted on any Lot except temporary tool sheds or field offices used by a builder, which shall be removed when construction is completed. No outbuilding, trailer, recreational vehicle, bus, basement, tent, shack, garage or other structure other than the main residence erected on a Lot shall at any time be used as a residence, temporarily or permanently. No trailer, recreational vehicle, bus, boat, truck or commercial vehicle shall be parked or kept on any lot at any time unless housed in a garage or basement. No automobile, trailer or recreational vehicle, bus or boat which is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street. No trailer, boat, truck, or any other motorized or non-motorized vehicle except an automobile; shall be routinely parked on any street in the subdivision for a period in excess of twelve (12) hours.

4. **Minimum Floor Areas:** Each residence shall have a minimum of 1,800 square feet of living space. Any living spaces constructed within any basement, garage, or porch, any floor space in any bonus room with a ceiling height of less than six feet (6'), and any covered outdoor living space shall be excluded from the square foot calculation. The floor areas referred to in this section are those areas that are heated and cooled finished living spaces. Finished basement areas, garages, and open porches are not included in computing floor areas, even if said areas are heated and cooled.

5. **Garage Construction:** All residences are required to have a minimum of a two car garage, either attached or detached. Any detached garage shall be constructed with the same material as the residence.

6. **Building Material:** The exterior building material of all structures shall have a masonry foundation with brick or stone to grade. Brick, stone or man-made stone shall extend to grade for residences constructed with wood or modern side materials. Vinyl or aluminum are only permitted at soffits and undersides or porches.

7. **Setbacks and Easements:** There shall be a minimum setback of ten feet (10') from the boundary line for the construction of the residence in the Subdivision. A utilities easement of fifteen (15) feet in width is hereby established on all Lots within the Subdivision. Said easements shall border the road or street right-of-way.

8. **Animals:** No Commercial Kennels allowed. All household pets, including dogs and cats, shall at all times be confined to the Lot occupied by the owner of such pet.

9. **Landscaping:** Each tract shall be mowed at least twice per year, and in the event any owner of a tract allows same to become unsightly or unattractive by growth or noxious weeds, grasses or brush, or accumulation of debris, rubbish or trash or any unsightly condition is allowed to develop, the Developer or subdivision property owners may issue a written notice to the last known owner of said lot, by certified mail, at his last known address and upon the continuance and failure to abate the situation for ten (10) days, the Developer or subdivision property owners shall have the right and authority to employ persons to abate the unsightly condition by entering said lot and cutting weeds, grasses, or brush; and removing debris, equipment, or material deemed by the Developer or subdivision property owners to be unsightly, unattractive or detrimental to the beautification of the subdivision. The Developer or subdivision owners shall have a lien against any tract for actual costs expended in mowing and removing debris or abating unsightly conditions on any tract.

10. **Nuisances:** No noxious or offensive trace or activity shall be conducted on any Lot, including but not limited to barking dogs, nor shall anything be done that may be or become an annoyance or nuisance.

11. **Lawful Use:** No immoral, improper, offensive or unlawful use shall be made of any Lot, nor any part thereof; any and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

12. **Garbage and Refuse:** No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Garbage and refuse shall be placed in suitable containers which shall be concealed and contained within buildings or by means of a screening wall or material similar with that of the building or by sufficient landscaping to provide a permanent screen at all times of the year. No material, supplies or equipment shall be stored except inside a closed building or behind a visual screen so as not to be visible from streets or lots. No unsightly growth shall be permitted to grow or remain upon any Lot and no refuse pile or other unsightly object shall be allowed to be placed or remain anywhere thereon.

13. **Construction:** There is no start date to begin building. However, residences or additions thereto must be completed within 12 months from the date construction work commences. Exceptions to this restriction may be made with developer approval. During any period of initial construction or additions, repairs, or remodeling, the contractors, builders, and/or homeowners will be responsible for keeping all construction waste and litter from being moved to, scattered upon, or blown upon the property of another, or scattered about the construction site in an unsightly manner.

14. **Water Meters:** Per the Allen County Water Department, only one (1) water meter per tract will be allowed; thus, six (6) tracts will be limited to six (6) meters.

15. **Rights of Ways:** Kinder Morgan a Tennessee Gas Pipeline Company has 75 feet total width right of way, 37.5 feet on each side of the pipelines 800-1, 800-2, and 100-5 at the rear or north side of tracts 4, 5 and 6. This right of way is to be referenced in the deeds for tracts 4, 5 and 6.

16. **Enforcement:** Said subdivision restriction responsibilities as outlined above will be transferred to property owners. Property owners and successors will collectively be responsible for mandating and enforcing the subdivision restrictions. Subdivision restrictions are to be referenced in the deeds.

This declaration is entered into for the purpose of subjecting such real property referred to hereinabove.

Dated this \_\_\_\_\_ day of September, 2025.

\_\_\_\_\_  
**GERALD KIRBY, DECLARANT**

\_\_\_\_\_  
**ALICE KIRBY, DECLARANT**

COMMONWEALTH OF KENTUCKY

COUNTY OF ALLEN

I, \_\_\_\_\_, a Notary Public in and for the aforesaid Commonwealth and County, do hereby certify that the foregoing was produced to me and executed and acknowledged before me by **GERALD KIRBY and wife, ALICE KIRBY**, Declarants, to be their own free and voluntary act and deed, all in accordance with law.

Given under my hand and notarial seal this \_\_\_\_\_ day of September, 2025.

\_\_\_\_\_  
Notary Public, State at Large

My Commission Expires: \_\_\_\_\_

Prepared by:

\_\_\_\_\_  
**CHRISTOPHER TOMLINSON**  
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