

This Instrument Prepared by:
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**AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS FOR
THE ENCLAVE AT RIVERVIEW SUBDIVISION**

This Amendment to Declaration of Covenants and Restrictions for The Enclave at Riverview Subdivision is made this ___ day of _____, 2017 by THE ENCLAVE AT RIVERVIEW RESIDENTIAL ASSOCIATION (hereinafter, "Association"), a non-profit Tennessee corporation and successor in interest to ENCLAVE, LLC, a Tennessee limited liability company, as the General Partner of CEMC, L.P., a Tennessee limited partnership (hereinafter, "Developer"), and the Declaration of Covenants and Restrictions for The Enclave at Riverview Subdivision, recorded in Book 4986, Page 403, in the Register's Office of Hamilton County, Tennessee as amended previously (hereinafter, "Declaration").

WITNESSETH

WHEREAS, Association is empowered to amend the Declaration pursuant to the terms of the Declaration; and

WHEREAS, Developer executed the above referenced Declaration; and

WHEREAS, Developer incorporated the Association under the laws of the State of Tennessee; and

WHEREAS, the Association has established an Architectural Review Committee (hereinafter, "ARC") pursuant to the above referenced Declaration; and

WHEREAS, the Declaration has been amended previously, including, but not limited to, in Book 5039, Page 776; Book 5404, Page 572; Book 6005, Page 857; Book 8503, Page 859; Book 8644, Page 876; Book 8889, Page 258; and Book 10158, Page 937; and

WHEREAS, Association desires to amend the Declaration as stated herein but no further.

NOW THEREFORE, in consideration of the premises, and other good and valuable consideration, the Association hereby amends the Declaration of Covenants and Restrictions ("Declaration") as follows:

**ARTICLE I
DEFINITIONS**

The following words and terms, when used in this Declaration or any Supplemental Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.01 Architectural Review Committee. "Architectural Review Committee" shall mean and refer to the committee formed and operated in the manner described in Section 4.01 hereof.

1.02 Association. "Association" shall mean THE ENCLAVE AT RIVERVIEW RESIDENTIAL ASSOCIATION, a Tennessee non-profit corporation.

1.03 Board of Directors or Board. "Board of Directors" or "Board" shall mean the governing body of the Association established and elected pursuant to this Declaration.

1.04 Bylaws. "Bylaws" shall mean the Bylaws of the Association as they now exist, or as they may be amended, from time to time.

1.05 Common Expense. "Common Expense" shall mean and include (a) expenses of administration, maintenance, repair or replacement of the Common Properties; (b) expenses agreed upon as Common Expense by the Association; (c) expenses declared Common Expense by the provisions of this Declaration; and (d) all other sums assessed by the Board of Directors pursuant to the provisions of this Declaration.

1.06 Common Properties. "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are deeded or leased to the Association and designated in said deed or lease as "Common Properties." The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated as a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners, persons occupying Dwelling Units or accommodations of Owners on a guest or tenant basis, and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association; provided, however, that any lands which are leased by the Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such Lease. The Common Properties may include but not be limited to street lights, entrance and street signs, parks, ponds, medians in roadways, maintenance easement areas, landscaping easement areas, and walkways.

1.07 Covenants. "Covenants" shall mean the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens set forth in this Declaration.

1.08 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions for The Enclave at Riverview and any Supplemental Declaration filed pursuant to the terms hereof.

1.09 Development. "Development" shall mean and refer to the real property described in Section 2.01 hereof as improved for use as a single family residential subdivision, and any and all additions thereto, which are subjected to this Declaration or any Supplemental Declaration under the provisions hereof.

1.10 Developer. "Developer" shall mean Enclave, LLC, as the General Partner of CEMC, L.P., a Tennessee limited partnership, and its successors and assigns.

1.11 Dwelling Unit. "Dwelling Unit" shall mean any building situated upon the Properties designated and intended for use and occupancy by a single family.

1.12 First Mortgage. "First Mortgage" shall mean a recorded Mortgage with priority over other Mortgages.

1.13 First Mortgagee. "First Mortgagee" shall mean a beneficiary, creditor or holder of a First Mortgage.

1.14 Lot or Lots. "Lot" or "Lots" shall mean and refer to any improved or unimproved parcel of land located within the Property which is intended for use as a site for a single family detached Dwelling Unit as shown upon any recorded final subdivision map of any part of the Property, with the exception of the Common Properties.

1.15 Manager. "Manager" shall mean a person or firm appointed or employed by the Board to manage the daily affairs of the Association in accordance with instructions and directions of the Board.

1.16 Member. "Member" or "Members" shall mean any or all Owner or Owners.

1.17 Mortgage. Mortgage shall mean a deed of trust as well as a Mortgage.

1.18 Mortgagee. "Mortgagee" shall mean a beneficiary, creditor or holder of a deed of trust, as well as a holder of a Mortgage.

1.19 Owner. "Owner" shall mean and refer to the Owner as shown by the real estate records in the office of the Register's Office of Hamilton County, Tennessee, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Lot, situated upon the Property, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the Mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of or tenant of an Owner. In the event that there is recorded in the office of the Register's Office of Hamilton County, Tennessee, a long-term contract of sale covering any Lot within the Property, the Owner of such Lot shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property. "Owner" shall also include Limited Owners.

1.20 Property. "Property" shall mean and refer to the real property described in Section 2.01 hereof, and additions thereto, which is subjected to this Declaration or any Supplemental Declaration under the provisions hereof.

1.21 Record or To Record. "Record" or "To Record" shall mean to record pursuant to the laws of the State of Tennessee relating to the recordation of deeds and other instruments conveying or affecting title to real property.

1.22 Recorder. "Recorder" shall mean and refer to the Register of Deeds of Hamilton County, Tennessee.

1.23 Supplemental Declaration. "Supplemental Declaration" shall mean any declaration filed subsequent in time to this Declaration in accordance with Article II, section 2.03 (a) hereof.

ARTICLE II
PROPERTIES, COMMON PROPERTIES AND
IMPROVEMENTS THEREON

2.01 Property. The Covenants set forth in this Declaration, as amended from time to time, are hereby imposed upon the real property located in the City of Chattanooga, Hamilton County, in the State of Tennessee and more particularly described in Unit I only attached hereto and additions or amendments thereto, which shall hereafter be held, transferred, sold, conveyed, used, leased, occupied and mortgaged or otherwise encumbered subject to the Declaration. Additionally, any easements on any real property retained by or granted to the Developer or the Association for the purpose of carrying out one or more of the functions of a homeowners' association including, but not limited to, exercising all the powers and privileges and performing all the duties and obligations set forth in this Declaration. Every person who is an Owner shall be a member of the Association as more particularly set forth in the By-Laws of the Association.

2.02 Additions to Property. In the sole discretion of the Developer, additional lands may become subject to, but not limited to, this Declaration in the following manner:

(a) Additions. The Developer, its successors, and assigns, shall have the right, without further consent of the Association, to bring within the plan and operation of this Declaration additional properties in future stages of the Development beyond those described in the deeds referred to above and recorded in Deed Book 4874, Page 85, and Deed Book 4874, Page 89, both in the Register's Office of Hamilton County, Tennessee, so long as they are contiguous with the existing portions of the development. For purposes of this paragraph, contiguity shall not be defeated or denied where the only impediment to actual "touching" is a separation caused by a road, right-of-way or easement, and such shall be deemed contiguous. The additions authorized under this Section shall be made by filing a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property after which it shall fall within the definition of Property as herein set forth.

The Supplementary Declaration may not increase or decrease the minimum square foot requirements for a Dwelling Unit; such Supplementary Declaration, however, may contain such other complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Property as described in Section 2.01 above.

(b) Separate Associations. For any additional property subjected to this Declaration pursuant to the provisions of this Section, there may be established by the Developer, an additional association limited to the owners and/or residents of such additional property in order to promote their social welfare, including their health, safety, education, culture, comfort and convenience, to elect representatives to the Board of the Association, to receive from the Association a portion, as determined by the Developer or the Board of Directors of the Association, of the annual assessments levied pursuant hereto and use such funds for its general purposes, and to make and enforce rules and regulations of supplementary covenants and restrictions, if any, applicable to such lands.

2.03 Mergers. Upon a merger or consolidation of the Association with another association, its Properties, rights and obligations may, by operation of law, be transferred to

another surviving or consolidated association or, in the alternative, the properties, rights and obligations may, by operation of law, be added to the Properties of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration.

2.04 Common Properties and Improvements Thereon. The Developer may install initially one or more entrance signs to the Development. The signs shall become part of the Common Properties when the Developer conveys the sign to the Association, at which time the Association shall become responsible for the operation, maintenance, repair and replacement of the signs. The Developer may also landscape the entrance areas (whether privately or publicly owned) and other areas where it may or may not have reserved an easement. These areas shall become Common Properties when conveyed to the Association and the Association shall then become responsible for maintenance of the landscaped areas. Additionally, the Developer will install street lights and street signs and certain other improvements which shall likewise become Common Properties when conveyed to the Association. The Developer may add additional Common Properties from time to time as it sees fit. The Common Properties shall remain permanently as open space, except as improved, and there shall be no subdivision of the same, except as otherwise provided herein. Except as permitted by the Developer, no building, structure or facility shall be placed, installed, erected or constructed in or on the Common Properties unless it is purely incidental to one or more of the uses above specified. The Developer may reserve to itself or its designees the exclusive use of any portion of the Common Properties for the placement and use of a mobile office or similar structure for use as a sales office and as storage areas or construction yards as may be reasonably required, convenient or incidental to the sales of Lots and/or the construction improvements on the Common Properties.

ARTICLE III COVENANTS, USES AND RESTRICTIONS

3.01 Application. It is expressly stipulated that the Restrictive Covenants and Conditions set forth in this Article III apply solely to the Property described in the deeds referred to in paragraph 2.02(a) of the above referenced Declaration, which Property is intended for use as single-family residential Lots only. These Restrictive Covenants and Conditions specifically are intended to apply to all other lots, tracts or parcels of land in the area or vicinity owned by the Association, all of which is to be included within the entire project known as "The Enclave at Riverview."

3.02 Residential Use.

- A. All of the Lots in the Development shall be, and be known and described as, residential lots, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than as provided in these Covenants and Restrictions and in supplements hereto, or except as provided for in a deed of conveyance from the Association.
- B. "Residential" refers to a mode of occupancy, as used in contradistinction to "business" or "commercial" or "mercantile" activity, and except where otherwise expressly provided, "residential" shall apply to temporary as well as permanent uses, and shall apply to vacant Lots as well as to buildings constructed thereon.

- C. No Lot, street or any other land within the Development may be used as a means of service to business establishments or adjacent property, including, but not limited to supplementary facilities or an intentional passageway or entrance into a business, whether or not a part of the Property.

3.03 No Multi-Family Residences, Business, Trucks. No Residence shall be designed, patterned, constructed or maintained to serve or for the use of more than one single family, and no residence shall be used as a multiple family Dwelling Unit at any time, nor used in whole or in part for any business service or activity, or for any commercial purpose; nor shall any Lot be used for business purposes, or for trucks or other equipment with ordinary residential uses. No panel, commercial trucks shall be habitually parked in driveways or of the Lots. And provided further that nothing contained herein shall be construed to prohibit the Association from constructing and operating facilities and amenities for the benefit of, or to be made available to, Owners in the subdivision including, but not limited to, such things as a swimming pool, tennis courts, and clubhouse, all to be on the property for the use of the Owners.

3.04 Minimum Square Footage. No single-family detached Dwelling Unit shall be erected or permitted to remain in the Property unless it has the number of square feet of enclosed living area measured from the exterior walls, exclusive of open porches or screened porches, garages or basements, set forth in this Section. For the purposes of this Section, stated square footage shall mean the minimum floor area required, and floor area shall mean the finished and heated living area contained within the Dwelling Unit, exclusive of open porches and garages. In the case of any question as to whether a sufficient number of square feet of enclosed living area have been provided, the decision of the Board shall be final. The minimum number of square feet required is as follows:

- (a) A single level home shall contain not less than 3,000 square feet;
- (b) All other homes shall contain not less than 3,300 square feet.

3.05 Set-Backs. No building shall be erected on any Lot less than forty (40) feet nor more than fifty (50) feet to the front Lot line, twenty-five (25) feet from the rear Lot line if such Lot line adjoins another Lot, and ten (10) feet from the side Lot lines, unless the side Lot line fronts on a street, in which case no building shall be erected nearer than twenty-five (25) feet to such side Lot line. No provision of this paragraph shall be construed to permit any structure to be constructed and erected upon any Lot that does not conform to the zoning laws and regulation applicable thereto; provided, however, that for good cause shown, an Owner may petition the ARC for a variance from such setback requirements. If the ARC grants such petition, the ARC will not oppose such Owner's attempt to obtain a variance from applicable zoning laws and regulations.

3.06 Rearrangement of Lot Lines. Not more than one Dwelling Unit shall be erected or maintained on any one Lot. With the written approval of the ARC, contiguous Lots may be combined if the Lots have the same Owner, for the purpose of erecting an approved Dwelling Unit thereon. Lots may not be re-subdivided so as to create a smaller area than originally deeded to a Lot Owner and as shown on the subdivision plat without the express written approval of the ARC.

3.07 Temporary Structures. No part of any Lot shall be used for residential purposes until a completed Dwelling Unit, conforming fully to the provisions of these Restrictive Covenants, shall have been erected thereon. The intent of this section is to prevent the use thereon of a garage, incomplete structure, trailer, barn, tent, outbuilding or other structure as temporary living quarters before or pending the erection of a permanent building. No structure of temporary character, including trailers and similar structures, shall be erected or permitted to remain on any Lot except

during the period of construction and such a structure and/or such structures shall only be erected and/or used for construction purposes and cannot be erected for and/or used for residential purposes at any time. No house may be moved from another location to any Lot in this Development.

3.08 Wetlands. In the case of any lot that adjoins the wetlands, Owner shall not infringe upon any portion of land designated as wetlands including, but not limited to, no building, no cutting of trees or brush, no dumping of trash or chemicals, no diversion or water to/from wetlands or any other infringement that might be unlawful under the rules promulgated by the TN Department of Environment & Conservation or other federal, state or local regulatory body. Lot Owner shall be responsible for all liability related to an infringement of the wetlands and shall hold harmless and/or fully indemnify the Association and its Governing Body for any costs, including, but not limited to, attorney's fees, litigation expenses, engineering and/or other professional services, and/or any other costs and/or fines related to lot owner's infringement.

3.09 Rainwater Drainage. Each Lot must be landscaped so that rainwater and storm water run-off will drain into the street adjoining the Lot or into a drainage easement that drains into a street or the drainage system.

3.10 Utility Easement. A perpetual easement is reserved on each Lot, as shown on the recorded plat, for the construction and maintenance of utilities such as electricity, gas, water, sewage, drainage, etc., and no structure of any kind shall be erected or maintained upon or over said easement.

3.11 Frontal Appearance. All dwelling Units shall have conventional and acceptable frontal appearance from the main street fronting said Dwelling Unit. In the event that a question should arise as to the conventionality or acceptability of the frontal appearance of a Dwelling Unit, the decision of the ARC shall be final.

3.12 Building Requirements. All buildings or structures of any kind constructed on any Lot shall have full masonry foundations and chimneys and no exposed block, concrete or plastered foundations shall be exposed to the exterior above grade level. The exterior of each Dwelling Unit must be covered with stone, brick, sto or combination thereof. Alternatively the exterior of the Dwelling Unit may be all wood lap siding provided that the lap siding is true lap siding and not artificial laps. All materials must be approved in writing by the ARC. All exposed concrete block or poured concrete foundations and retaining walls must be covered with stone, brick or sto to compliment the Dwelling Unit. All sheet metal work (roof caps, flashings, vents chimney caps, etc.) must be painted to match the roof. Gutters and downspouts must be painted in approved colors. All roof stacks and plumbing vents must be placed on rear slopes of roofs; provided, however, for good cause shown, the ARC may make exceptions as to the placement of such roof stacks and plumbing vents. In connection with the construction of improvements and utility service for the Development, natural gas service for all Lots in the subdivision is available from the gas line. Accordingly, Lots in the subdivision are required to use natural gas utility service for heating and hot water in all homes.

3.13 Fences. No fence will be allowed on any Lot without the prior written consent of the ARC. Wire, vinyl, wood, or chain link fences are prohibited. All proposed fences must be submitted to the ARC for approval showing materials, design, height and location.

3.14 Driveways and Walkways. Each Dwelling Unit constructed upon a Lot must be served by a driveway and by walkways constructed of hard surface materials such as brick, exposed aggregate, or pre-cast pavers. All other hard surface materials must be approved in writing by the ARC. Where a Lot borders on more than one street, the Lot shall be entered from the secondary street; all other lots shall have the garage on the approved side of the dwelling. It shall be obligatory on all owners of Lots in this subdivision to construct or place any driveways, culverts or other structures, or gradings which are within the limits of any dedicated roadways, in strict accordance with the specifications therefor, as set forth on the recorded subdivision plat, in order that the roads or streets, which may be affected by such placement or construction, may not be disqualified for acceptance into the road system of the City of Chattanooga, Tennessee.

3.15 Curbs and Sidewalks. No permanent cuts may be made in the curbs or sidewalks for any purpose other than driveways. Curb cuts shall be made with a concrete saw. Irregular cuts using sledge hammers and the like are prohibited. Driveways shall be added so as to form a smooth transitional surface with the remaining curb and sidewalk at locations where the approved driveway locations meet the street; after the cut in the curb is made, the permanent pour back will be completed within seven (7) days. Damaged curbs and sidewalks shall be replaced by the owner of the Lot, unless the damage is caused by a person or entity not under the control of the owner or acting on behalf of the owner. Notwithstanding the foregoing, nothing herein shall permit any curb or sidewalk cuts where such cuts are prohibited by any applicable city, county or state regulation, ordinance or law.

3.16 Signs. One sign offering the Lot and/or Dwelling Unit for sale and one sign reflecting the name of the builder may be placed upon a Lot. Upon sale of any Lot to an Owner, or upon sale of any Lot owned by a Builder upon which a speculative Dwelling Unit is constructed or is being constructed, one sign reflecting that such Lot and/or Dwelling Unit is sold may be placed upon the Lot. No sign shall be larger than 6 square feet and must be professional in appearance, meeting local real estate ordinances. If a dispute arises regarding whether a sign is "professional in appearance," the decision of the Board, in its sole discretion, will be final.

3.17 Service Area. Each Dwelling Unit shall provide an area or areas on the rear or side yard of the Lot to accommodate air conditioner compressors, generators, the electrical service entrance, or other ancillary residential functions that by nature may present an unsightly appearance. Service areas shall be convenient to the utility services and screened from public view by an enclosure that is an integral part of the site development plan (the site development plan being more fully described in paragraph 4.01 C hereof), using materials, colors or landscaping that are harmonious with the Dwelling Unit it serves. If added after initial construction, must have ARC approval.

3.18 Garages. Each Dwelling Unit shall have at least a double car attached garage constructed at the same time as the Dwelling Unit. No carports will be permitted. Garage doors may not face the street upon which the Dwelling Unit fronts. The inside walls of garages must be finished. Garage doors may not be allowed to stand open.

3.19 Landscaping. A landscape plan shall accompany every new home application (the new home application being more particularly described in paragraph 4.01 C hereof) submitted to the ARC for approval. If a Dwelling Unit has a rear exterior which faces Common Property, another Lot, street, or waterway, the ARC may require the placement of up to two (2), three (3) or four (4) inch caliper trees in the rear of the Lot, or other acceptable landscape buffer, to provide screening for the Dwelling Unit. Landscaping in accordance with the approved landscape plan must be

substantially completed within one year after commencement of construction of the Dwelling Unit. Shrubbery plantings adjacent to roadways and sidewalks shall not impede the vision of vehicle operators. Care shall be taken to assure that sight lines to the lake from Lots other than the Lot covered by the landscape plan are not obscured by landscaping or by future growth of the landscape plantings. Any plantings made subsequent to the planting covered by the landscape plan must be approved by the ARC (i) to assure the maintenance of sight lines to the Tennessee River from other Lots, and (ii) to provide for continued aesthetic acceptability of the Property.

3.20 Windows. Materials to be used in windows and glass doors must be approved by the ARC. Wood windows and aluminum clad wood windows may be permitted at the discretion of the ARC. Metal and vinyl windows are not permitted, nor are aluminum awnings permitted.

3.21 Animals. No poultry, livestock or animals shall be allowed or maintained on any Lot at any time except that the keeping of dogs, cats or other inside household pets is permitted provided, however, that nothing contained herein shall permit the keeping of dogs, cats or other animals for commercial purposes. Pet owners shall not allow pets to roam unattended. All pets must be leashed, or maintained in an enclosed and fenced yard, or maintained indoors. The pet owner shall take reasonable preventive measures to stop any pet which consistently barks. If barking persists the pet owner shall have the pet removed from the Development. If the pet owner refuses, it shall be deemed an "offensive activity". Nothing contained herein shall be deemed to permit the keeping of an unreasonable number of pets, or the keeping of any animal deemed to be a danger to other residents. The Board of Directors shall, in their sole discretion, have the authority to determine what constitutes an "unreasonable" number or a "dangerous" pet.

3.22 Zoning. Whether expressly stated so or not in any deed conveying any one or more of the Lots, each conveyance shall be subject to existing governmental zoning and subdivision ordinances or regulations in effect thereon.

3.23 Unsightly Conditions. All of the Lots must, from the date of purchase, be maintained by the Owner or Builder in a neat and orderly condition (grass being cut when needed, as well as leaves, broken limbs, dead trees and other debris being removed when needed). Tree limbs, rocks and other debris must be kept out of the streets. In the event that an Owner of a Lot, including an Owner who is a Builder, fails, of his own volition, to maintain his Lot in a neat and orderly condition, the Board, or its duly appointed agent, may enter upon said Lot without liability and proceed to put said Lot into an orderly condition and shall bill the Owner one hundred and fifty percent (150%) of the cost of such work. All Owners in the Development are requested to keep cars, trucks and delivery trucks off the curbs. Service vehicles may only park next to curb in front of the house to be serviced. Notwithstanding the prior sentence, this requirement does not apply to homes located on flag lots where curbside frontage is unavailable.

3.24 Offensive Activity. No noxious or offensive activity shall be carried on any Lot, nor shall anything be done thereon that may be or may become an annoyance, discomfort, embarrassment or nuisance to the Development.

3.25 No Detached Buildings. There shall be no detached garages, outbuildings or pool houses without the prior written consent of the ARC.

3.26 Sewage Disposal. Before any Dwelling Unit on any Lot shall be occupied, a connection with the municipal sewer system meeting applicable municipal codes shall be available, connected, and functioning properly. There shall not be any privy, cesspool, vault or septic system

erected, permitted, maintained, operated, and/or constructed without prior written approval from the ARC.

3.27 Permitted Entrances. In order to implement and effect insect, reptile and woods fire control, and to maintain unsightly Lots, the Board, or its agent, may enter upon any Lot on which a Dwelling Unit has not been constructed and upon which no landscaping plan has been implemented, such entry to be made by personnel with tractors or such other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Board detracts from the overall beauty, setting and safety of the Property or Lots. Such entrance for the purpose of mowing, removing, clearing, cutting or pruning shall not be deemed a trespass. The Board and its agents may likewise enter upon a Lot to remove any trash which has collected on said Lot without such entrance and removal being deemed a trespass. The provisions of this Section shall not be construed as an obligation on the part of the Board and its agents to mow, clear, cut or prune any Lots or to provide garbage or trash removal services. Expenses incurred for any of the foregoing shall be chargeable to and recoverable from the Owner of the Lot upon which such work is done.

3.28 Tree Removal. Except as provided in the landscape description of the site development plan, no live trees or shrubs having a diameter greater than six (6) inches shall be removed prior to obtaining the written approval of the ARC. Any Owner who, without having obtained written approval from the ARC, cuts down or allows to be cut down any tree having a diameter of six (6) inches or greater shall be liable to the Association. The fine for each tree cut down or removed in violation of this provision will result in a minimum fine of Two Hundred and Fifty Dollars (\$250.00) and this fine can be increased at the discretion of the Board.

3.29 Tanks and Garbage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view from any street, and such tanks or receptacles may be installed only within a Dwelling Unit, within a screened area or buried underground. All garbage, trash, recycle containers, and compost piles or receptacles must be placed in enclosed areas of the rear or side yard and must not be visible from adjoining Lots, houses or from any street or waterway. Portable Grills may not be stored in the driveway of any Dwelling Unit.

3.30 Wells. No private wells may be drilled or maintained on any Lot.

3.31 Antennas, Satellite Dishes, and Similar Devices. The specific intent of this Article is to prohibit the unsightly placement of any Antennas, Satellite Dishes, and Similar Devices on any Dwelling Unit or Property within the Development. No exposed or exterior receiving antennas, dishes or similar devices shall be erected, placed, or maintained on the Property or on any Lot within the Development except when installed and maintained in a manner so as not to be visible when viewed from any point on the front of the Property's primary street address property line. For corner Lots the front of the Property's primary street address property lines shall mean both streets. Where absolutely required due to Satellite Dish reception, and with the written permission of the Board, exceptions can be made provided that suitable screening, including structure and landscaping, can be accomplished so as not to create an unsightly condition as prohibited by this Article. Notwithstanding the foregoing, no more than 3 such devices may be installed and maintained on the Property or any Lot within the Development, only 2 of which may reach a diameter not to exceed 36 inches, and the third device may not exceed 24 inches. Notwithstanding the foregoing, no form of electromagnetic radiation shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals upon any other Lot.

3.32 Excavation. No Owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which would materially affect the surface grade of a Lot unless the prior written consent of the ARC is obtained. This provision does not apply to the construction of roads, ponds, or grade plans by the ARC in accordance with the subdivision plans and specifications.

3.33 Sound Devices. No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed upon Lots within the Development. The playing of loud music from any balconies or porches shall be offensive, obnoxious activity constituting a nuisance.

3.34 Laundry. No owner, guest or tenant shall hang laundry from any area within or outside a Dwelling Unit if such laundry is within the public view, or hang laundry in public view to dry, such as on balcony or terrace railings.

3.35 Mailboxes. Mailboxes of a type consistent with character of the development shall be placed by the owner on each lot and shall be maintained by the owner to complement the residence.

3.36 Duty to Rebuild or Clear and Landscape Upon Casualty or Destruction. In order to preserve the aesthetic and economic value of all Lots within the Development, each Owner shall have the affirmative duty to rebuild, replace, repair or clear and landscape within a reasonable period of time, any building, structure, improvements, and significant vegetation which shall be damaged or destroyed by fire or other casualty.

3.37 Vehicle Parking. Cars owned or used by Lot Owners or cars owned or used by those living or residing with Lot Owners or visiting Lot Owners for any part of the day shall be parked only in the Owner's garage or driveway. No inoperable vehicle, tractor or other machinery shall be stored outside on the premises at any time, even if not visible from the street. No house trailer or such vehicle shall be stored on the premises. Recreational vehicles, vacation trailers, campers and boats must be stored and hidden from view within the garage, the doors to which will not exceed eight feet in height. Such vehicles may not be stored anywhere else on the Lot.

3.38 Maintenance. Each Lot Owner shall, at all times, maintain all structures located on such Lot, including driveways and permitted fences in good repair which shall include exterior painting as needed, and each Lot Owner shall keep all vegetation and landscaping in good and presentable condition.

3.39 Builders. No builder shall be permitted to construct a Dwelling Unit on a Lot until such builder shall have executed and delivered a copy of the Builder Agreement, Exhibit A hereto, to the ARC; and it shall be the responsibility of each Lot Owner to require his or her builder to execute the Builder Agreement as a condition of any contract providing for the construction of a Dwelling Unit on said Owner's Lot. All builders, and all general contractors, must maintain and carry both "Builder's Risk," "General Liability" insurance coverage, and to furnish to the ARC a binder to establish such coverage is in effect, upon reasonable request by the ARC.

3.40 Occupancy Before Completion. Except with the written consent of the Board of Directors, based upon adequate assurance of the prompt completion of a Dwelling Unit, an Owner shall not occupy a Dwelling Unit until the Dwelling Unit and seasonal landscaping conforming fully

to the provisions of this Declaration shall have been erected and fully completed thereon. Once the footings of any Dwelling Unit or other structure are poured, construction must progress continuously (with allowance for weather conditions, and the availability of labor and materials) until the building is fully completed. The exterior, including the landscaping, must be completed within twelve (12) months after commencement of the construction. The Owner of any Lot violating either of these provisions shall be liable to the Association for liquidated damages at the rate of Fifty Dollars (\$50.00) per day the violations occur, and to payment of such court costs and attorney's fees as may be incurred in the enforcement of these provisions. In the event construction does not progress continuously, the liquidated damages shall commence ten (10) days after notice from the ARC if construction is not resumed within said ten (10) days.

3.41 Lawn Care, Brush and Other Yard Debris. All unimproved Lots and all improved Lots must be kept fully seeded with grass (except where other provisions of this Declaration require sodding) and regularly cut. All lawns and yards for improved Lots must be maintained by a sprinkler system for the yard in front and rear of the dwelling, and on each side of the dwelling. All brush and other yard debris shall be placed so as not to create a hazard. This may include, but is not limited to, placing such debris in lot owner's yard so that vehicles may pass safely on curves and other limited sight distance areas including intersections. Lot owner is responsible for calling 311 for pickup and if not picked up within a reasonable time shall be responsible for removing or the Association may remove and bill the Lot owner for the removal.

3.42 Roofs. Roof pitches must be a minimum of 8/12, unless otherwise approved by the ARC. All roofs must be of architectural quality dimensional shingle, shakes or slate unless otherwise approved in writing by the ARC.

3.43 Fireplaces. All fireplace inserts must be capped with a shroud at the point where the flue reaches the top of the chimney. The design of and materials for the shroud must be approved in writing by the ARC.

3.44 Chimneys. Chimneys must be constructed of brick, sto or stone, and those chimneys on the exterior must have a foundation.

3.45 Adjoining Lot Damage. Any damage done to any adjacent or adjoining Lot or by a contractor employed to build improvements on any Lot will be repaired immediately at the expense of the Owner or the contractor. Temporary construction support must be provided for the curbs and sidewalks by the Owner or contractor during the time of construction. All construction debris shall be removed at least weekly and the street must be kept clean during construction.

3.46 Pools. All pools must be inground and the location, design and materials must be approved by the ARC prior to construction.

3.47 Sidewalks. It is the obligation of each Lot Owner, by the time the Dwelling Unit is completed, to install a sidewalk along lines of the Lot which front the road in accordance with the specifications of the ARC. Additionally, within one (1) year from written notice to specified undeveloped Lot Owners, Owners of undeveloped Lots are obligated to install a sidewalk in the same manner as completed Dwelling Units. These Lots will be specified by the Board. This requirement will be based upon the judgment of the Board to provide for sidewalks along streets that are substantially developed with completed Dwelling Units. If a specified Lot Owner fails to install a sidewalk in accordance with the requirement, The Association may enter upon said Lot

without Liability and proceed to construct a sidewalk. The Association shall bill the Lot Owner one hundred and fifty percent (150%) of the cost of such work.

3.48 Material Quality. Only good quality materials and design will be accepted on any structure built on any Lot. PermaStone and asbestos shingles are specifically prohibited. No concrete blocks shall be used above the finished ground elevation of any structure unless said blocks are covered with brick veneer, stone or other material approved by the ARC.

3.49 Air Conditioning and Heating Units. Air conditioning and heating units shall be architecturally screened or landscaped so as not to be visible from any street, other lot, or waterway

3.50 Sodding. Prior to occupancy of a Dwelling Unit, the front, side and rear yard of the Lot must be sodded and a sprinkler system installed in the front, side and rear yard. Prior occupancy may be approved by the ARC if weather conditions prohibit sodding.

3.51 Exterior Finish Materials. All exterior finish materials, including without limitation siding, roofing, gutters, windows and doors, and any finish applied to such materials, and including without limitation all paints or stains, mortar or cement, must be approved in writing by the ARC. All wood siding must have laps of six (6) inches. Hardiplank materials can be used for fascias, soffits and dormers for accent as approved by the ARC.

3.52 No Dumping. No garbage, trash, soil, or other refuse shall be dumped in any pond, wetland, waterway, common property or storm drain of the Development. Any person within or without the neighborhood whether resident, lot owner or otherwise that is found to be dumping shall be subject to a fine of Five Hundred Dollars (\$500.00) for each violation of this provision and, in addition, shall indemnify the Association and any innocent party for all costs associated with "Dumping" including fines assessed by any local state or federal agency, any costs incurred by the Association in responding to, evaluating, addressing, or remedying the dumping (including, but not limited to, attorney's fees, litigation costs, and construction, engineering, or other expert or lay costs, and/or repair costs), and any damages sustained by the Association.

3.53 Decks. All exterior decks must be constructed with wrought iron rails and a brick, stone or another approved material in accordance with the requirements of the ARC.

3.54 Renting or Leasing. No Dwelling Unit may be rented or leased for a period of time that is less than six (6) months without prior approval of the Board.

3.55 Seawalls and Docks. Each Dwelling Unit which adjoins the Tennessee River and which obtains permission for the construction of a dock, shall, prior to commencement of construction of said dock, submit plans, specifications (including a materials list) to the ARC for approval. Such approval must be in writing and signed by the ARC prior to commencement of construction of the proposed dock. Nothing contained herein shall be construed to permit the use of any material, design or installation of the use of which is prohibited by any governmental body having authority over such matters.

3.56 Violations and Enforcement. In the event of the violation, or attempted violation, of any one or more of the provisions of this Declaration, the Board, including all parties hereinafter becoming Owners of any one or more of the Lots to which provisions of this Declaration apply, may bring an action or actions against the Owner in violation, or attempting violation, and the said

Owner shall be further liable for such damages as may accrue, including any court costs and reasonable attorney's fees incident to any such proceeding, which costs and fees shall constitute liquidated damages. Notwithstanding the aforementioned remedy, the Board, in its sole discretion, may elect to impose fines upon Owners in the event of the violation, or attempted violation, of any one or more of the provisions of this Declaration. Such fines shall be handled as follows: 1) In the event of a violation, the Board shall notify the Owner in writing of such violation with a description of the violation and reference to the applicable provisions of this Declaration; 2) Owner shall have 30 days to either correct such violation or submit a plan of remediation to the Board for approval at the sole discretion of the Board; and 3) If such violations are not corrected or remediated in accordance with a plan of remediation approved by the Board, Owner shall be assessed an initial fine of Fifty Dollars (\$50.00) will be assessed, each additional day will result in an additional One Dollar (\$1.00) per day fine. These fines will be in addition to any other fine or remedy permitted herein. Fines for violations deemed egregious will be determined by the Board as appropriate.

In the event of a violation of set-back lines, side, rear or front which may be minor in character, a waiver thereof may be made by the ARC or the Board. Whether a violation of set-back lines is "minor in character" is a determination solely vested in the ARC and Board and this determination is entrusted to the ARC and/or Board's sole discretion. The decision of the ARC and/or Board with respect to whether a violation is "minor in character" will be final in all respects.

ARTICLE IV ARCHITECTURAL CONTROL

4.0 Architectural and Design Review.

A. In order to preserve to the extent possible, the natural beauty of the Property and its setting, to maintain a pleasant and desirable environment, to establish and preserve a harmonious design for the Development, and to promote and protect the value of the Property, the Board shall create a body of rules and regulations covering details of Dwelling Units, which shall be available to all Owners or prospective Owners of Lots.

B. The ARC shall have sole architectural and design review authority for the Development.

C. No Dwelling Unit shall be erected, placed, added to, remodeled or altered and no trees or shrubs shall be cut or removed and no grading or other improvement shall be made to any Lot nor shall construction be permitted to commence on any Dwelling Unit, other building, structure, fence, exterior lighting, swimming pools, children's play areas, decorative appurtenances, or structures of any type by an Owner or Builder on any Lot, until said Owner or Builder shall submit and receive approval for a new home application or home modification application including:

(i) A site development plan which in addition to other site plan details shall clearly show the proposed location of the Dwelling Unit on the Lot and the location of all improvements or proposed improvements on and to the Lot including but not limited to all driveways, sidewalks, parking areas, patios and decks.

(ii) A detailed landscape plan showing the location of all trees with a diameter of five inches or more and indicating which of those trees, if any, are to be removed, and showing the location and type of all plantings proposed to be located on the Lot, together with the irrigation plan for the front, rear and side yards of the Lot. All of which shall be in strict compliance with the provisions of this Declaration.

(iii) The proposed building plans and specifications (including height and composition of roof, siding or other exterior materials and finishes) of any improvements proposed to be constructed or located upon any Lot. Said plans and specifications shall be in sufficient detail so as to the ARC to determine whether or not such improvements conform to the provisions of this Declaration and whether such improvements are suitable and consistent with the intent of this Declaration. In such cases the determination of the ARC shall be final. The ARC assumes or accepts no liability for the approval or non-approval of an application, or proposed building plans and specifications; the applicant of such proposed building plans and specifications agrees, upon submission thereof, to hold the ARC harmless from any liability, cost or expense in relation thereto.

Every properly completed application shall be submitted to the ARC for approval as set forth in the Rules and Regulations. In addition, any painting/repainting of the exterior of any structure (example, painting brick or stone or any color change) in a manner not previously approved by the ARC.

The ARC shall give written approval or disapproval of the application within a reasonable time following the scheduled monthly meeting at which the application is approved or disapproved. ARC may, by written notice given from time to time to the Owners of Lots, exempt certain matters of a non-essential nature from the review requirements subject to the terms and conditions and for the time periods established by the ARC. In the event of the completion of any Dwelling Unit on any Lot, without any proceedings having been instituted in the courts of the City of Chattanooga or Hamilton County, Tennessee to enjoin the construction thereof, then said Dwelling Unit shall be conclusively presumed to have had such approval.

D. The ARC shall charge a one-time Three Hundred Fifty Dollar (\$350) fee for each new home application submitted for review.

E. The architectural and design review shall be directed towards preventing excessive or unsightly grading, indiscriminate clearing of the Property, removal of trees and vegetation which could cause disruption of natural water courses, insuring that the locations and configuration of structures are visually harmonious with the terrain and vegetation of the surrounding property and improvements thereon, and insuring that plans for landscaping provide visually pleasing settings for structures on the same Lot and on adjoining or nearby Lots.

4.02 Approval Standards. Approval of any proposed building plan, location, specifications or construction schedule submitted under this Article will be withheld unless such plans, location and specifications comply with the applicable Restrictions and Covenants of this Declaration. Approval of the plans and specifications by the ARC is for the mutual benefit of all Owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural

viewpoint. Each Owner shall be individually responsible for the technical aspect of the plans and specifications.

4.03 Licensing. All Builders, contractors, landscape architects and others performing work on any Lot must be licensed as may be required by the State of Tennessee or any other governmental authority having jurisdiction in order to construct a Dwelling Unit on Lot or to perform services for an Owner.

ARTICLE V ASSESSMENTS

5.01 Creation of the Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed conveying a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all of the terms and provisions of these Covenants and pay to the Association annual assessments or special assessments for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Owner of each Lot shall be personally liable, such liability to be joint and several if there are two or more Owners, to the Association for the payment of all assessments, whether annual or special, which may be levied while such party or parties are Owners of a Lot. The annual and special assessments, together with such interest thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the Lot and on all the improvements thereon against which each such assessment is made. Unpaid assessments shall bear interest and/or late fees from the due date to the date of payment as set by the Board. In the event that two or more Lots are combined into a single Lot by an Owner, the assessments will be for the new Lot.

5.02 Purpose of Annual Assessments. The annual assessments levied by the Association shall be used to provide services to the Owners, promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Common Properties.

5.03 Amount of Annual Assessment. The amount of the annual assessments shall be set by the Board of Directors unless seventy-five percent (75%) of the Members who are in attendance or represented by proxy vote to increase or decrease the said annual assessment set by the Board.

5.04 Special Assessments for Improvements and Additions. In addition to the annual assessments, the Board may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, or the cost of any addition to the Common Properties, provided that any such assessment shall have the assent of seventy-five percent (75%) of the vote of the Members who are in attendance or represented at a duly called meeting of the Association, written notice of which shall have been sent to all Members at least thirty (30) days in advance setting forth the purpose of the meeting. The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

5.05 Date of Commencement of Annual Assessments. The annual assessment provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Association to be the date of commencement.

5.06 Lien. Recognizing that the necessity for providing proper operation and management of the Property entails the continuing payment of costs and expenses therefore, the Association is hereby granted a lien upon each Lot and the improvements thereon as security for the payment of all assessments against said Lot, now or hereafter assessed, which lien shall also secure all costs and expenses and reasonable attorney's fees which may be incurred by the Association in enforcing the lien upon said Lot. The lien shall become effective on a Lot immediately upon the closing of the Lot. The lien granted to the Association may be foreclosed as other liens are foreclosed in the State of Tennessee. Failure by the Owner or Owners to pay any assessment, annual or special, on or before the due dates set by the Association for such payment shall constitute a default, and this lien may be foreclosed by the Association.

5.07 Lease, Sale or Mortgage of Lot. Whenever any Lot may be leased, sold or mortgaged by the Owner thereof, which lease, sale or mortgage shall be concluded only upon compliance with other provisions of this Declaration, the Association, upon written request of the Owner of such Lot, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the Owner of such Lot; and such statement shall also include, if requested, whether there exists any matter in dispute between the Owners of such Lot and the Association under this Declaration. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Lot is to be leased, sold or mortgaged at the time when payment of any assessment against said Lot shall be in default, then the rent, proceeds of the sale or mortgage shall be applied by the lessee, purchaser or mortgagee first to the payment of any then delinquent assessment or installments thereof due to the Association before payment of any rent, proceeds of sale or Mortgage to the Owner of any Lot who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Lot, the grantee(s) shall be jointly and severally liable with the grantor(s) for all unpaid assessment against the grantor(s) and the Lot made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee(s) to recover from grantor(s) the amounts paid by the grantee(s) therefor.

ARTICLE VI
REGISTER OF OWNERS AND SUBORDINATION
OF LIENS TO MORTGAGES

6.01 Register of Owners and Mortgages. The Association shall at all times maintain a register setting forth the names of the Owners, and, in the event of a sale or transfer of any Lot to a third party, together with such recording information that shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Lot. Further the

Owner shall at all times notify the Association of any Mortgage and the name of the Mortgagee on any Lot, and the recording information which shall be pertinent to identify the Mortgage and Mortgagee. The Mortgagee may, if it so desire, notify the Association of the existence of any Mortgage held by it, and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same. The Association may rely on such register for the purpose of determining Owners of Lots and holders of Mortgages.

6.02 Subordination of Lien to First Mortgages. The liens provided for in this Declaration shall be subordinate to the lien of a First Mortgage on any Lot if, and only if, all assessments, whether annual or special, with respect to such Lot having a due date on or prior to the date such Mortgage is recorded have been paid. In the event any such First Mortgage (i.e., one who records a Mortgage on a Lot for which all assessments have been paid prior to recording) shall acquire title to any Lot by virtue of any foreclosure, deed in lieu of foreclosure, or judicial sale, such Mortgagee acquiring title shall only be liable and obliged for assessments, whether annual or special, as shall accrue and become due and payable for said Lot subsequent to the date of acquisition of such title. In the event of acquisition of title to a Lot by foreclosure, deed in lieu of foreclosure, or judicial sale, any assessment whether annual or special, as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners as part of the Common Expense; provided, however, nothing contained herein shall be construed as releasing the party or parties liable for such delinquent assessments from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

6.03 Examination of Books. Each Owner and each Mortgagee of a Lot shall be permitted to examine the books and records of the Board and Association during regular business hours.

ARTICLE VII OWNER COMPLAINTS

7.01 Scope. The procedures set forth in this Article for owner complaints shall apply to all complaints regarding the use or enjoyment of the Property or any portion thereof or regarding any matter within the control or jurisdiction of the Association or of the Board of Directors of the Association.

7.02 Grievance Committee. There shall be established by the Board a Grievance Committee to receive and consider all Owner complaints. The Grievance Committee shall be composed of the President of the Association and two other Owners appointed by the Board.

7.03 Form of Complaint. All complaints shall be in writing and shall set forth the substance of the complaint and the facts upon which it is based. Complaints are to be addressed to the President of the Association and sent to Enclave at Riverview Residential Association, P.O. Box 15426, Chattanooga, TN 37415.

7.04 Consideration by the Grievance Committee. Within twenty (20) days of receipt of a complaint, the Grievance Committee shall consider the merits of the same and notify the complainant in writing of its decision and the reasons therefor. Within ten (10) days after notice of the decision, the complainant may proceed under Section 7.05; but if complainant does not, the decision shall be final and binding upon the complainant. This provision shall not apply, however, limit or restrict any remedy available at law or equity, as between the Owners who file the grievance complaint.

7.05 Hearing Before the Grievance Committee. Within ten (10) days after notice of the decision of the Grievance Committee, the complainant may, but only in writing addressed to the President of the Association, request a hearing before the Grievance Committee. Such hearing shall be held within twenty (20) days of receipt of complainant's request. The complainant, at his expense, and the Grievance Committee, at the expense of the Association, shall be entitled to legal representation at such hearing. The hearing shall be conducted before at least two (2) members of the Grievance Committee and may be adjourned from time to time as the Grievance Committee in its discretion deems necessary or advisable. The Grievance Committee shall render its decision and notify the complainant in writing of its decision and the reasons therefore within ten (10) days of the final adjournment of the hearing. If the decision is not submitted to arbitration within ten (10) days after notice of the decision, as provided in Section 7.07, the decision shall be final and binding upon the complainant.

7.06 Questions of Law. Legal counsel for the Association shall decide all issues of law arising out of the complaint, and such decisions shall be binding on the complainant.

7.07 Exclusive Remedy. The remedy for Owner complaints provided herein shall be exclusive of any other remedy, and no Owner shall bring suit against the Grievance Committee, the Association, the Board of Directors or any member of the same in his capacity as such member without first complying with the procedures for complaints herein established.

7.08 Expenses. All expenses incurred by complainant including, without limitation, attorney's fees and the like, shall be the sole responsibility of complainant. All expenses of the Grievance Committee incident to such complaint shall be deemed a Common Expense of the Association.

ARTICLE VIII REMEDIES ON DEFAULT

8.01 Scope. Each Owner shall comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations of the Association as they presently exist or as they may be amended from time to time, and each Owner shall be responsible for the actions of his or her family members, servants, guests, occupants, invitees or agents.

8.02 Grounds For and Form of Relief. Failure to comply with any of the Covenants of the Declaration, the Bylaws or the Rules and Regulations promulgated by the Board which may be adopted pursuant thereto shall constitute a default and shall entitle the Association to seek relief which may include, without limitation, an action to recover any unpaid assessment, annual or special, and/or fines together with interest as provided for herein, any sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association or, if appropriate and not in conflict with the provisions of this Declaration or the Bylaws, by an aggrieved Owner.

8.03 Recovery of Expenses. In any proceeding arising because of an alleged default by an Owner, the Association, if successful, shall, in addition to the relief provided for in Section 8.02, be entitled to recover the costs of the proceeding and reasonable attorneys' fees, but in no event shall the Owner be entitled to attorneys' fees.

8.04 Waiver. The failure of the Association or an Owner to enforce any right, provision, covenant or condition which may be granted herein or the receipt or acceptance by the Association of any part payment of an assessment shall not constitute a waiver of any breach of a Covenant, nor shall same constitute a waiver to enforce such Covenant(s) in the future.

8.05 Election of Remedies. All rights, remedies and privileges granted to the the Association or an Owner or Owners pursuant to any term, provision, covenant or condition of this Declaration or the Bylaws shall be deemed to be cumulative and in addition to any and every other remedy given herein or otherwise existing, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to any such party at law or in equity.

ARTICLE IX EMINENT DOMAIN

9.01 Board's Authority. If all or any part of the Common Properties (excluding personalty) is taken or threatened to be taken by Eminent Domain, the Board is authorized and directed to proceed as follows:

- A. To obtain any pay for such assistance from such attorneys, appraisers, architects, engineers, expert witnesses and other persons, or the Board in its discretion deems necessary or advisable to aid and advise it in all matters relating to such taking and its effect, including but not limited to (i) determining whether or not to resist such proceedings or convey in lieu thereof, (ii) defending or instituting any necessary proceedings and appeals, (iii) making any settlements with respect to such taking or attempted taking and (iv) deciding if, how and when to restore the Common Properties.
- B. To negotiate with respect to any such taking, to grant permits, licenses and releases and to convey all or any portion of the Common Properties and to defend or institute, and appeal from, all proceedings as it may deem necessary and advisable in connection with the same.
- C. To have and exercise all such powers with respect to such taking or proposed taking and such restoration as those vested in boards of directors of corporations with respect to corporate property, including but not limited to, purchasing, improving, demolishing and selling real estate.

9.02 Notice to Owners and Mortgagees. Each Owner and each First Mortgagee on the records of the Association shall be given reasonable written advance notice of all final offers before acceptance, proposed conveyances, settlements and releases contemplated by the Board, legal proceedings and final plans for restoration, and shall be given reasonable opportunity to be heard with respect to each of the same and to participate in and be represented by counsel in any litigation and all hearings, at such Owner's or Mortgagee's own expense.

9.03 Reimbursement of Expenses. The Board shall be reimbursed for all attorneys', engineers', architects' and appraisers' fees, and other costs and expenses paid or incurred by it in preparation for, and in connection with, or as a result of, any such taking out of the compensation, if any. To the extent that the expenses exceed the compensation received, such expenses shall be deemed a Common Expense.

ARTICLE X
GENERAL PROVISIONS

10.01 Duration. The Covenants of the Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Board, the Association or an Owner, their respective legal representatives, heirs, successors and assigns, in perpetuity, unless amended or terminated as provided herein.

10.02 Amendments. The Declaration may be amended in accordance with the following procedure:

- A. An amendment to this Declaration may be considered at any annual or special meeting of the Association; provided, however, that, if considered at an annual meeting, notice of consideration of the amendment and a general description of the terms of such amendment shall be included in the notice of the annual meeting, similar notice shall be included in the notice of the special meeting provided for in the Bylaws. Notice of any meeting to consider an amendment that would adversely affect Mortgagees' rights shall also be sent to each Mortgagee listed upon the register of the Association.
- B. At any such meeting of the members of the Association, the amendment must be approved by an affirmative seventy-five percent (75%) vote of the Owners in attendance in person or by duly executed proxy. There will be no amendment which adversely affects the rights of Mortgagees.
- C. An amendment adopted under paragraph B of this Section shall become effective upon its recording with the Recorder, and the President of the Association and Secretary of the Association shall execute, acknowledge and record the amendment and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of this Section; provided, that in the event of the disability or incapacity of either, the Vice President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including without limitation, any Mortgagee, prospective purchaser, tenant, lien or title insurance company that the amendment was adopted in accordance with the provisions of this Section.
- D. The certificate referred to in Paragraph C of this Section shall be in substantially the following form:

I, _____, do hereby certify that I am the Secretary of the Enclave at Riverview Residential Association. and that the within amendment to the Declaration of Covenants and Restrictions of the Subdivision was duly adopted By the Owners of said Association and the Mortgagees, if applicable in accordance with the provisions of Section 10.02 of said Declaration.

Witness my hand this ___ day of _____.

Secretary
Enclave at Riverview Residential Association

10.03 Dedication of Streets. After the Common Property has been transferred and conveyed to the Association, any portion of the Common Properties, including but not limited to, the streets, may be transferred and conveyed to the City of Chattanooga and dedicated for public purposes.

10.04 Notices. Any notice required to be sent to any Owner or Mortgagee under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Owner or Mortgagee on the mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Owner to immediately notify the Association Manager in writing of any change of address. Any notice required to be sent to the Board, the Association or any officer thereof under the provisions of this Declaration shall likewise be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to such entity or person at the following address:

Enclave at Riverview Residential Association
950 Channel View Lane (physical address)
P.O. Box 15426
Chattanooga, Tennessee 37415

The address for the Board, the Association or any officer thereof, may be changed by the Secretary or President of the Association by executing, acknowledging and recording an amendment to this Declaration stating the new address or addresses.

10.05 Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared void, invalid, illegal or unenforceable, for any reason by the adjudication of any court or other tribunal having jurisdiction of the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

10.06 Captions. The captions herein are inserted only as a matter of convenience and are for reference and are in no way intended to define, limit or describe the scope of this Declaration nor any provision hereof.

10.07 Use of Terms. Any use herein of the masculine shall include the feminine, and the singular the plural, when such meaning is appropriate.

10.09 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

10.9 Law Governing. This Declaration is made in the State of Tennessee, and any question pertaining to its validity, enforceability, construction or administration shall be determined in accordance with the laws of the State of Tennessee, and by the Chancery Court of Hamilton County, Tennessee.

10.10 Effective Date. This Declaration shall become effective upon its recording in the office of the Register of Hamilton County, Tennessee.

IN WITNESS WHEREOF, this First Amendment to The Declaration of Covenants and Restrictions of The Enclave at Riverview Subdivision has been executed as of the day and year first written above.

THE ENCLAVE AT RIVERVIEW RESIDENTIAL ASSOCIATION

Mark Ingle, President

I, _____, do hereby certify that I am the Secretary of the Enclave at Riverview Residential Association. and that the within amendment to the Declaration of Covenants and Restrictions of the Subdivision was duly adopted By the Owners of said Association and the Mortgagees, if applicable in accordance with the provisions of Section 10.02 of said Declaration.

Witness my hand this ____ day of _____.

Secretary for The Enclave at Riverview Residential Association

STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

Before me personally appeared Mark Ingle, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President of The Enclave at Riverview Residential Association, the within named bargainor, a corporation, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal, at office, this ____ day of _____, 2017.

Notary Public

My commission expires: _____