

This instrument prepared by and return to:
Allison E. Bickerstaff
Husch & Eppenger, LLC
736 Georgia Avenue, Suite 300
Chattanooga, Tennessee 37402

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WATERHAVEN SUBDIVISION**

THIS DECLARATION, made this _____ day of July, 2005, by Dean Construction, LLC, a Tennessee limited liability company (hereinafter referred to as "Developer").

WITNESSETH

WHEREAS, Developer is the owner of the subdivision known as WaterHaven Subdivision, said subdivision which includes the property with any and all improvements being more particularly described on Exhibit A attached hereto and made a part hereof by reference ("Property"); and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values in WaterHaven, and for the maintenance of Property and improvements thereon, and to this end desires to subject the Property to the terms, covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values in WaterHaven, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the Common Areas (as hereinafter defined) and improvements thereon and administering and enforcing the Covenants and Restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer will cause to be incorporated under the laws of the State of Tennessee the WaterHaven HOA, Inc., a Tennessee non-profit corporation, for the purpose of exercising the aforesaid functions; and

NOW, THEREFORE, Developer declares that the Property described above is and shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the terms, covenants, conditions, restrictions, easements, charges, liens, and all other provisions herein set forth as may be amended from time to time (collectively the "Covenants and Restrictions") all of which shall run with the land and be binding on all parties holding or acquiring any right, title or interest in the Property and shall inure to the benefit of each Owner (as hereinafter defined) thereof.

ARTICLE I
DEFINITIONS

Section 1. "Architectural Control Committee" shall mean the governing board elected or appointed in accordance with the Bylaws of WaterHaven HOA, Inc., and charged with the stipulated responsibilities contained herein. During the development period as determined by Developer in its sole discretion, the Architectural Control Committee shall be Developer, or such other entity or person as Developer may designate from time to time.

Section 2. "Association" shall mean and refer to WaterHaven HOA, Inc., its successors and assigns, or Developer, its successors or assigns until such time as the Association is actually formed.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Bylaws" shall mean the Bylaws of the Association. The initial text is set forth on Exhibit B attached hereto and incorporated herein.

Section 5. "Common Area(s)" shall mean any and all Property or personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 6. "Common Expense(s)" shall mean and refer to (a) the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration and the by-laws and articles of incorporation of the Association; (b) expenses declared a Common Expense by this Declaration; expenses deemed a Common Expense by Developer; (c) all sums assessed by the Board pursuant to this Declaration; and (d) expenses of administration, maintenance, repair or replacement of Common Areas.

Section 7. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for WaterHaven and shall include any supplements or amendments.

Section 8. "Development" shall mean the subdivision and any other improvements including the Docks that make up a part of WaterHaven.

Section 9. "Dock" shall mean any privately-owned dock in the Development, any community dock and the courtesy dock associated with the boat-launching ramp in the Development.

Section 10. "Dwelling Unit(s)" shall be each single-family residential home within the Subdivision and may include other type units, including but not limited to, townhomes.

Section 11. "Developer" shall mean and refer to Dean Construction, LLC, or any successor or assign to Dean Construction, LLC.

Section 12. "Launching Ramp" shall mean the boat-launching ramp which shall be a part of the Common Areas.

Section 13. "Lot" shall mean and refer to each residential Lot in the Subdivision as shown on the recorded Plat, as well as any future lots subject to the Declaration by the Developer in WaterHaven or any expansion thereof by Developer.

Section 14. "Member" shall mean a member of the Association as set forth in Article IV.

Section 15. "Owner(s)" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 16. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 17. "Plat" shall mean the plat recorded at Book 79, Pages 53-57, Register's Office, Hamilton County, Tennessee.

Section 18. "Property" shall mean and refer to the Property as described in Exhibit A, and any addition thereto, which is subjected to this Declaration or any supplemental Declaration.

Section 19. "Riverwalk" shall mean and refer to the path that the City of Chattanooga will construct around portions of the Property for pedestrian use and enjoyment.

Section 20. "Structure" shall mean and refer to:

- (a) any improvement upon any Lot which affects the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, accessory structure, dwellings, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters

(including any house trailer) or any other temporary or permanent improvement to such Lot;

- (b) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and
- (c) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 18 applies to such change.

Section 21. "Subdivision" shall mean and refer to WaterHaven Subdivision and shall include all of the Property and shall be subdivided as shown on the Plat.

ARTICLE II
PROPERTIES, COMMON PROPERTIES AND
IMPROVEMENTS THEREON

Section 1. Property The covenants and restrictions set forth in this Declaration, as amended from time to time, are hereby imposed upon the Property located in the City of Chattanooga, Hamilton County, Tennessee and more particularly described in Exhibit A 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 this 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.

Section 2. Additions to Property. Additional lands may become subject to, but not limited to, these Declarations 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 Exhibit A so long as they are contiguous with the existing portions of the Property. 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 increase or decrease the minimum square foot requirements for a Dwelling Unit and 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.

(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.

Section 3. Common Areas and Improvements Thereon The Developer may install initially one or more entrance signs to the Subdivision. The signs shall become part of the Common Areas when the Developer conveys the signs 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 Areas when conveyed to the Association and the Association shall then become responsible for maintenance of the landscaped areas on the Common Areas. Additionally, the Developer may in its sole discretion install a lake, walking trail, pool, poolhouse, street lights and/or street signs and certain other improvements along with a portion of the Property which shall likewise become Common Areas when conveyed to the Association. The Developer and/or the Association may add additional Common Areas from time to time as they see fit. There shall be no subdivision of the Common Areas, 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 Areas 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 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 Areas.

ARTICLE III ARCHITECTURAL CONTROL COMMITTEE

Section 1. Purpose, Powers and Duties of the Architectural Control Committee

(a) The purpose of the Architectural Control Committee is to assure that the installation, construction, or alteration of any Structure and/or Dwelling Unit on any Lot is in

accordance with the standards determined by the Architectural Control Committee. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every action necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure and/or Dwelling Unit on any Lot and/or Common Area.

- (b) To preserve the architectural appearance of the neighborhood, no construction or placement of improvements of any nature including, but not limited to, Docks, Dwelling Units and/or Structures, shall be commenced or maintained by any Owner, his family, tenants, visitors, guests, servants, and/or agents with respect to any Docks, Dwelling Units, Structures or with respect to any other portion of any Lot or other parcel of land, including without limitation, the construction or installation of sidewalks, driveways, decks, patios, greenhouses, playhouses, garages, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the neighborhood. Docks shall all be uniform and constructed to the standards set forth in the U.S. Army Corp of Engineers' permit and in accordance with the standards outlined by the Tennessee Department of Environment and Conservation with respect to the Development.
- (c) No Dwelling Unit and/or Structure, building, parking area, walkway, fence, pavement, utility line, or service attached or detached sign, wall, antenna, satellite dish or other structure, or any planting or landscaping, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to, or change or alteration in, any improvements be made, until the plans and specifications showing the nature, kind, shape, height, materials, location and other details, shall have been submitted to and approved in writing by the Architectural Control Committee. However, the Architectural Control Committee has the authority to waive any requirement herein contemplated in its sole discretion.
- (d) During the development period as determined by Developer, in its sole discretion, the Developer shall be or it shall appoint the Architectural Control Committee, and the Architectural Control Committee may adopt or promulgate any rule or regulatory conduct, any review or investigation, make any findings, grant or withhold any approval, authorization or permission, and take any other action reasonably necessary or desirable to enforce or carry out the terms and intentions of the Declaration. At such time as all Lots are fully developed in the subdivision and permanent

improvements constructed thereon and sold to permanent residents, if not before, Developer shall relinquish its right to appoint the Architectural Control Committee and said Architectural Control Committee shall be appointed by the Board.

- (e) The Developer shall determine who shall be appointed to the Architectural Control Committee until it delegates this power to the Association.

ARTICLE IV THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration shall be a mandatory Member of the Association at such time Developer shall designate. The foregoing is not intended to include persons or entities who hold a security interest in a Lot for the performance of an obligation. Membership shall be appurtenant to and not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot. Developer shall retain control and may exercise all the powers and privileges and perform all duties and obligations set out in this Declaration until such time as Developer explicitly grants powers it would otherwise have to the Association.

Section 2. Voting Rights. The Developer shall retain all powers and voting rights to the Association until such time as it transfers its rights to the Board in its sole discretion. At such time, the Association shall have two classes of voting membership:

Class A: Every person who is an Owner, with the exception of the Developer, shall be a Class A Member and shall be entitled to one vote for each Lot owned. When more than one person is a Class A Member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. In the event of disagreement among such Owners owning one Lot and in an attempt by two or more of them to cast the vote of such Lot, such Owners shall not be recognized and the vote of such Lot shall not be counted. The membership of Class A Members shall automatically terminate upon the Member's sale of his Lot. However, no termination of Class A membership shall affect such Member's obligation to pay assessments, as hereinafter provided for, due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

Class B: The Developer shall be the sole Class B Member. Class B membership shall be a full voting membership, and during its existence the Class B Member shall be entitled to vote on all matters and in all events. The Class B Member shall be entitled to five (5) votes for each Lot owned by

it. The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occurs:

- (a) the sale to person(s) other than Developer or general contractor of all of the Lots intended to be developed within the Subdivision; or
- (b) such earlier date as determined by the Class B Member (Developer), in its sole and absolute discretion.

Section 3. Board of Directors. At such time as Developer determines in its sole discretion, the Association shall be instituted and the Board appointed upon the calling of a special meeting by the Developer. The Board shall consist of three (3) persons of legal age, each of which shall be an Owner or Member of a household in the Subdivision.

Section 4. Purpose. The purpose of the Association is to carry out the terms of the Declaration, to adopt such rules and regulations as may be appropriate, to set and collect assessments and to do and perform any and all other things, matters, or acts required by or permitted by the Owners or the law of the State of Tennessee which are necessary and desirable to carry out the purposes and intentions express herein.

Section 5. Initial Meeting. The initial meeting of the Association shall be held at a time and at a place in Hamilton County, Tennessee designated by Developer. At the initial meeting a budget and an annual assessment shall be determined for the period of time between the initial meeting and the first annual meeting.

Section 6. Duties and Powers of the Association In addition to the rights, powers and duties conferred upon the Association by the Declaration and the laws of Tennessee, and without in anywise limiting the same, the Association shall have the following additional and cumulative rights, powers and duties:

- (a) To hold title and possession to funds and property, including the maintenance funds and other assessments, and including title to any part of the Property, as trustee for the use and benefit of the Owners;
- (b) To make and collect maintenance fund assessments against Owners to defray the costs of the Association, including, without limitation, all costs and expenses of carrying out the provisions of the Declaration, and of engaging all necessary services and employees therefore;
- (c) To use the proceeds of assessments in the exercise of its powers and duties;
- (d) To oversee the maintenance, repair, replacement, operation and administration of the Common Areas, as provided herein, and other matters covered by the Declaration;

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- (e) To make and amend reasonable regulations for the use of the Common Areas;
- (f) To enforce the provisions of the Declaration and the rules and regulations for the use of the Property;
- (g) To contract for the management of the Association and to delegate to a manager the management duties of the Association, to be performed by such manager under the supervision of the Association;
- (h) To carry insurance for the protection of Owners against casualty and liabilities;
- (i) To pay the cost of any power, water, sewer and other utility services rendered to the Association and not billed to individual Lots;
- (j) To employ personnel to perform the services required for proper administration of the Association, including, without limitation, auditors, attorneys, bookkeepers and managers;
- (k) To deposit all monies and funds of the Association in such bank or banks as may be designated from time to time. Withdrawals of monies from such accounts in banks shall be only by checks or drafts signed by such persons as are authorized by the Association;
- (l) To obtain an audit of the accounts and books of the Association to be made annually by a certified public accountant, and to furnish a copy if requested of the report to each Owner not later than 60 days of the following year;
- (m) To require fidelity bonds for all employees handling or responsible for funds of the Association. The amount of such bond or bonds shall be determined by the Association but shall be at least in the amount of the total annual regular assessments. Premiums on such bonds shall be paid as an expense of the Association; and
- (n) To assess and enforce liens against the Property of any Owner as a result of any Owner's failure to timely pay any assessment.
- (o) To negotiate with public entities or authorities in the event of condemnation proceeding relating to the Common Areas or any portion thereof.

ARTICLE V PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and easement of use and enjoyment in and to the Common Areas, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) the right of the Association to charge a reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas.
- (b) the right of the Association to suspend the voting rights and right to use of the Common Areas by an Owner or his designee for any period during which any assessment against his Lot remains unpaid, and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility, or to a third party, for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by three-fourths (3/4) of each class of Members or by Developer, agreeing to such dedication or transfer, has been recorded.
- (d) the easements reserved in Article VIII of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the by-laws, his right or use and enjoyment in and to the Common Areas and the improvements thereon to the members of his family, his tenants, guests and invitees, subject to such regulations and fees as may be established from time to time by the Association.

Section 3. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

ARTICLE VI COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments, (2) special assessments for capital improvements or other purposes, (3) initiation fees, such assessments to be established and collected as hereinafter provided; (4) assessments for expenses incurred by the Association to repair or maintain any dock of an Owner if such Owner fails to maintain or repair such dock in an acceptable manner, such acceptable manner to be determined in the sole discretion of the Architectural Control Committee; (5) assessments for expenses incurred by the Association to correct

or cure any condition causing inappropriate shoreline erosion and any instability of such shoreline and associated bank, all to be determined in the sole discretion of the Architectural Control Committee; and (6) assessments for fines levied against an Owner by the Architectural Control Committee as a result of Owner or Owner's family, guests, or invitees violating the "no wake zone" as outlined by the Architectural Control Committee from time to time but shall be no less than the area between Harrison Pike and the existing railroad bridge. The annual assessments, special assessments and initiation fees, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but such lien shall remain against the Lot until paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the Owners of the Lots and the costs and expenses incident to the operation of the Association, including without limitation, the maintenance and repair of the Common Areas and improvements thereon, the maintenance of the services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Common Areas, including roads, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3. Annual Assessment. Until the transfer of governing authority from the Developer to the Board takes place, the amount of the annual assessments shall be set by the Developer in its sole discretion as it deems appropriate. Once the Developer grants the power to assess to the Board, the amount of the annual assessments shall be set by the Board unless three-fourths (3/4) of the Members who are in attendance or represented by proxy at the annual or any special meeting of the Association vote to increase or decrease the said annual assessment set by the Board. At any such meeting, the Developer shall have the number of votes as provided in Article IV. The amount of assessments per Lot need not be the same throughout the Subdivision.

Section 4. Special Assessments for Improvements and Additions. In addition to the annual assessments authorized by Section 3 of this Article VI, hereof, the Developer, and then at such time as Developer grants the power to assess to the Board, 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 any Common Areas, including the necessary fixtures and personal property related thereto, or the cost of any addition to the Common Areas, provided that any such assessment shall have the assent of three-fourths (3/4) 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 be sent to all Members at least thirty (30) days in advance setting forth the purpose of the meeting. At any such meeting, the Developer shall have the number of votes as provided in Article IV.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. After the powers herein are transferred to the Board, written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments may vary among Members depending on whether a given Lot has a Dock, a fence located behind the Dwelling Unit, or other special condition as determined by the Developer prior to granting its powers to the Board and then by the Board after such granting by Developer.

Section 7. Commencement of Annual Assessments. The annual assessments provided for herein shall commence on the date (which shall be the first day or a month) fixed by the Developer to be the date of commencement. The amount of the first annual assessment on a Lot or Dwelling Unit shall be based pro rata upon the balance of the calendar year and shall become due and payable on the closing of the Lot. The assessments for any year, after the first year, shall become due and payable as determined by the Developer or Board.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum or the highest rate of interest allowed by law, whichever is less. In such case, the Association or Developer may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property. The lien provided for in this Section shall be in favor of the Association and/or Developer and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to purchase any Lot at any sale and convey the same for the purpose of protecting its lien. No Owner may waive or otherwise escape liability for the assessments provided

for herein by non-use of the Common Area, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of action on lien.

Section 9. Subordination of Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following portions of the Property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) any and all easements or other interests therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Areas and (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens except as otherwise set forth herein.

Section 11. Effect of Delinquency on Class A Members. Notwithstanding all of the foregoing rights of the Association, the Association shall have the further right to prohibit a delinquent Class A Member, such delinquency being as herein defined, from using in any manner the Common Areas.

Section 12. Initiation Fees. Each Owner shall pay a nonrefundable initiation fee paid at each closing of a Lot to the Association. The initiation fee shall be Four Hundred Dollars (\$400.00) per Lot for all Lots unless otherwise determined by the Association. Each Owner understands that the initiation fee as set forth herein shall be paid to the Association at the initial closing of the Lot and at each subsequent closing of that Lot so that the Association receives an initiation fee each time a Lot is sold.

ARTICLE VII MAINTENANCE

Section 1. Association's Responsibility. Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Areas and improvements thereon. The Association's responsibility with respect to the Common Areas shall be deemed to include the maintenance, repair and replacement of (i) all roads, driveways, walks, parking areas, docks, buildings and other improvements situated within the Common Areas, (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Areas, (iii) all lawns, trees, shrubs, hedges, grass, trails, lighting, landscaping and other improvements in the

Common Areas as deemed by the Board to be appropriate, and (iv) any privacy fence located around the Common Areas, and (v) all ponds located on the Common Areas.

In the event that the Association determines that the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

The Association shall pay for any required fence repair, if fencing repair is necessary, due to the maintenance, repair, construction or general work performed on the sewer easement that lies on Lots 1-17 as shown on the Plat. These expenses shall be paid by special assessment as provided herein but shall be paid pro rata by the Owners of Lots 1-17 only.

Section 2. Owner's Responsibility. Except as provided in Section 1 above, all maintenance of each Owner's Lot, Dock, Dwelling Unit and/or all Structures, parking areas, fencing, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such in a manner consistent with this Declaration. In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable or completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot. The remedies provided in the Section shall be in addition to, and not in lieu of, other remedies provided in this Declaration for a violation of the Declaration.

Section 3. Developer's Responsibility. The Developer shall have the sole discretion to determine the landscape company(s) to provide landscape and maintenance services to the Subdivision. The Owner of each Lot shall be responsible for paying such landscape company for work completed on Owner's Lot. The Developer may transfer and the Association will accept the right of determining the landscape company(s) providing services to the Subdivision at any time.

ARTICLE VIII
EASEMENTS

Section 1. Utility Easements. There is hereby created in favor of the Developer and/or Association an easement upon, across, over, through and under all of the Common Areas for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and systems. An easement is further granted to the Developer and/or Association, its officers, agents, employees and any management company retained by the Developer and/or Association, to enter in or to cross over the Common Areas and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Areas and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Developer or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 2. Easement for Developer. Developer hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property and the Common Areas for so long as Developer owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary to proper attachments in connection with the transmission of electricity, gas, water, telephone, community antennae, television cables and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For the use of the Common Area and any sales office, model units and parking spaces in connection with its efforts to market Lots;
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 3. Easements for Access to Riverwalk. It is agreed that there shall be a 15' easement between Lots 82 and 88 in the same location as the sanitary sewer easement as shown on said Plat for any and owners to have pedestrian ingress and egress to and from the Riverwalk. It is also agreed that there shall be an eight (8) foot easement on the east line of Common Area Lot 143 and in a location to be determined by Developer on Common Area Lot 48 for any and all owners to have access to the Riverwalk.

ARTICLE IX INSURANCE AND CASUALTY DAMAGE

Section 1. Requirement of Insurance. It is agreed that each Lot, including the Dwelling Unit, Dock (if any), and Structures thereon, shall be insured by its Owner against risks as reasonably determined by the Association, including an all risk homeowners' policy with a replacement cost provision. Certificates of Insurance shall be delivered to the Association by each Owner promptly upon becoming an Owner and prior to the expiration of any certificate.

Section 2. Repair. The right is given to the Association to require the Owner of a Lot with damage which renders the Lot, Dock (if any), Dwelling Unit or Structures thereon unusable or untenable, within ninety (90) days from the event which caused the damage or loss ("Causing Event"), or within ninety (90) days of the settlement of any insurance, liability or condemnation claim, if later and if the claim is promptly made and diligently pursued by Owner, but in no event more than one (1) year after the Causing Event either 1) to make repairs or replacement to restore the Lot or Dwelling Unit substantially to the condition existing prior to the Causing Event (if condemnation is the Causing Event, as near as reasonably possible to the condition existing prior to the Causing Event), or 2) to raze the Dwelling Unit (excluding undamaged plantings Lots), take such action as may be necessary to prevent damage to the Lot and plant or landscape the Lot (including the razed area) in keeping with plantings and landscaping on other parties of the Property.

Section 3. Association Action Following Failure by Owner to Repair or Raze. If a Lot is not restored or razed in accordance with this Article and a restoration of a Dwelling Unit to the razed Lot is not commenced within one (1) year from the Causing Event, the Association may perform the obligations of the Owner of the damaged Lot and have a lien on the Lot for payments of its expenses.

ARTICLE X GENERAL COVENANTS AND RESTRICTIONS

The following Covenants and Restrictions shall apply to all Lots and to all Structures, Docks, and/or Dwelling Units erected or placed thereon:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use.

Section 2. Application. It is expressly stipulated that the covenants and conditions set forth in this Article X apply solely to the Property described in Exhibit A, which Property is intended for use as single-family residential Lots only. These covenants and restrictions are not intended to apply to any other lots, tracts or parcels of land in the area or vicinity owned by the Developer. Specifically, the Developer, its successors or assigns reserve the right to use or convey such other lots, tracts and parcels with different restrictions.

Section 3. No Multi-Family Residences, Business. No Dwelling Unit shall be designed, patterned, constructed or maintained to serve or for the use of more than one single family, and no Dwelling Unit shall be used as a multiple family Dwelling Unit at any time. Provided, however, that nothing herein contained shall be construed to prohibit the construction of attached single family residences in areas designated by the Developer for such construction. No trade or business may be conducted in or from any Dwelling Unit, except that an Owner or occupant residing in a Dwelling Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Developer with respect to its development and sale of the Property or its use of any Dwelling Units which it owns within the Property. Nothing contained herein shall prohibit the Developer or the Association from permitting, maintaining or operating concessions or vending machines on the Common Properties.

Section 4. Minimum Square Footage. No single-family detached Dwelling Unit shall be erected or permitted to remain in the Property unless it has the minimum 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

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required, and floor area shall mean the finished and heated living area contained within the Dwelling Unit, exclusive of porches, decks, garages and steps. In the case of any question as to whether a sufficient number of square feet of enclosed living area has been provided, the decision of the Architectural Control Committee shall be final. The minimum number of square feet required is as follows:

- A. Lots 23-26; 28-47 and 50-55 – One Thousand Six Hundred (1,600) square feet.
- B. Lots 2-22 – One Thousand Eight Hundred (1,800) square feet.
- C. Lots 56-136 – One Thousand Four Hundred Fifty (1,450) square feet.

Section 5. Set-Backs. All Structures and Dwelling Units shall be built in compliance with the City of Chattanooga set-back requirements. Every Dwelling Unit and/or Structure shall be constructed and erected upon any Lot to conform to the zoning laws and regulations applicable thereto; provided, however, that for good cause shown, an Owner may petition the Architectural Control Committee for a variance from such set-back requirements. Such variances may be granted or rejected by the Architectural Control Committee in its sole and absolute discretion.

Section 6. 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 Developer or the Board, contiguous Lots may be combined if the Lots have the same Owner, for the purpose of erecting an approved Dwelling Unit thereon; however, the assessments provided for herein will continue to be based upon the number of original Lots purchased. Except as provided herein, Lots may not be resubdivided so as to create a smaller area than originally deeded to a Lot Owner and as shown on the Plat.

Section 7. 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 Covenants and Restrictions, 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. No house may be moved from another location to any Lot in this Subdivision. No prefabricated, modular, or manufactured homes shall be permitted.

- (a) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a Dwelling Unit or accessory Structure on such Lot nor shall any such building materials or devices be stored on any

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Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.

- (b) No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee.

Neither the foregoing nor any other section of this Declaration shall prevent the Developer or any builder approved by the Developer from constructing a house for use as a model home that may contain office-type furniture and be used for conducting the business of either selling that house or other houses within the Subdivision, nor shall the foregoing or any other section of the Declaration prevent the Developer from designating a Lot or Lots from time to time for the temporary placement of a trailer or other similar structure for use as an office and/or sales center by the Developer and/or approved builders at the sole discretion of the Developer.

Section 8. Rainwater Drainage Catch basins in drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person, other than Developer or the Association, may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. Developer hereby reserves for itself and the Association a perpetual easement across the Property for the purpose of altering drainage and water flow. Silt fencing and/or straw shall be used during construction to prevent dirt runoff onto roads. Gravel drives shall be used during construction prior to the paving of the driveway.

Section 9. 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 and/or Dwelling Unit shall be erected or maintained upon or over said easement.

Section 10. Frontal Appearance The frontal appearance of each Dwelling Unit must be in keeping with the overall look that is desired for the Subdivision. Any issue concerning same shall be addressed by the Architectural Control Committee, and such committee's decision shall be final.

Section 11. Building Requirements

(a) Foundation. Any and all Structures and/or Dwelling Units of any kind constructed on any Lot shall have full masonry foundation, no exposed block, concrete, stucco or plaster shall be exposed to any exterior grade level. All exposed foundation shall be stone or brick.

(b) Exterior of Front Elevation. As a part of the architectural design and review process, the exterior of the front elevation of a Dwelling Unit may be brick, stone, vinyl, approved siding or a combination of the above.

(c) Side and Rear Elevation. Side and rear elevation must be approved and particular attention shall be given to the rear and side elevations that face any Common Areas or street.

(d) Windows. Design, size and placement of windows shall be a part of the architectural and design review process as set out in Article III of this Declaration. All windows shall be double paned. Windows facing the front of the house and any side elevation facing another street or a Common Area shall be wood, aluminum-clad or vinyl-clad. Glazing on doors and windows shall be clear. Interior window treatments must have white or off-white backing on such window treatments.

(e) Awnings. No metal awnings shall be permitted.

(f) Roofs. Roof pitches shall be at least 6/12 pitch or as approved. All roof stacks, plumbing, etc. shall be placed on the rear slope of the roof, so as not to show from the front elevation. All roof colors must be approved. Any exceptions to this must be approved in accordance with Article III of this Declaration.

(g) Gutters and downspouts. Gutters and down spouts shall be painted to match the house or trim color.

(h) Skylights. Location and design of all skylights must be approved.

(i) Solar Panels. No solar panels or collectors shall be allowed on any roof or in sight of any street or adjacent property.

(j) Fences. All fences must be approved by the Architectural Control Committee. No fence may be placed in a front yard. All fences shall be constructed of wood and shall be constructed so that the finished side faces outward. In no case shall any type of metal, plastic, or alternate finish be used, and electrified fences are prohibited. The exact placement of fences shall be approved by the Architectural Control Committee.

(k) Construction. All construction shall be completed within nine (9) months from the commencement date of construction, unless the Architectural Control Committee approves an extension, not to exceed three (3) months in length.

Section 12. Driveways and Sidewalks. Driveways and sidewalks shall be considered and treated as part of the landscaping. Each Dwelling Unit constructed upon a Lot must be served by a driveway and by walkways constructed of hard surface materials such as concrete, brick, exposed aggregate, or pre-cast pavers. All other hard surface materials must be approved in writing by the Developer or the Architectural Control Committee. Where a Lot borders on more than one street, the Lot shall be entered from the secondary street. It shall be obligatory on all Owners of Lots in this Subdivision to

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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 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 City of Chattanooga, Hamilton County, Tennessee. Each and every Lot shall have a Forty-Eight (48) inch wide sidewalk constructed of concrete and offset from the back of the curb in a length to be approved by Developer. Developer shall construct and pay for the initial construction of the sidewalks on Lots 2 through 26. All other sidewalks on all other Lots are the responsibility of each respective Owner of each Lot. This sidewalk must be from lot line to lot line on each Lot. Sidewalks shall be completed when house is completed, or within one (1) year from purchase of Lot, whichever is sooner.

Section 13. Curbs. No permanent cuts may be made in the curbs for any purpose other than driveways. Curb cuts shall be made with a concrete saw at the curb and along the gutter. 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 at locations where the approved driveway locations meet the street. Damaged curbs shall be replaced by the Owner of the adjoining Lot. Notwithstanding the foregoing, nothing herein shall permit any curb cuts where such cuts are prohibited by any applicable city, county or state regulation, ordinance or law. Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.

Section 14. 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, garbage cans, 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 at the rear or side of the Dwelling Unit that is an integral part of the site development plan using materials, colors or landscaping that are harmonious with the Dwelling Unit it serves.

Section 15. Garages. Each Dwelling Unit shall have at least a double car garage constructed at the same time as the Dwelling Unit. Detached garages will be allowed only with prior written approval from the Developer or the Architectural Control Committee. No carports will be permitted. Each garage must be coordinated in design and color with the Dwelling Unit to which it is appurtenant. Both garages must be occupied with motor vehicles before a third car shall be allowed to be parked in the driveway. The inside walls of garages must be finished. Garage doors may not be allowed to stand open.

Section 16. Landscaping A landscape plan shall accompany every new home application submitted to Architectural Control Committee for approval. The Architectural Control Committee may require ornamental trees to be planted as a part of the landscaping plan. The type, size and placement shall be determined by the Architectural

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Control Committee. On a corner Lot, Owner may be required to place said trees on each side of the Lot facing a street. If a Dwelling Unit has a rear exterior which faces Common Property, another Lot, or Street, the Architectural Control Committee may require the placement of up to four (4) four inch (4") 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 before the unit is occupied. Shrubbery plantings adjacent to roadways and sidewalks shall not impede the vision of vehicle operators. No artificial plantings will be allowed. Trees cut when clearing any Lot for construction may be limited.

Section 17. 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 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. The pet owner shall muzzle 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. Developer or the Board of Directors shall, in their sole discretion, have the authority to determine what constitutes an "unreasonable" number or a "dangerous" pet. No dog pens, kennels or such shall be allowed without the prior written consent of Developer or the Board.

Section 18. Zoning and Legal. 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. All construction shall be carried out in compliance with the laws, code, rules, regulations and orders of all applicable governmental authorities and agencies.

Section 19. Gardens. No vegetable gardens shall be allowed within view of any street or adjacent property.

Section 20. 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, Developer, or its duly appointed agent, or 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 two hundred percent (200%) of the cost of such work. All Owners in the Development shall keep cars, trucks and delivery trucks off the curbs of the streets.

Section 21. Offensive Activity. No noxious or offensive activity shall be permitted on any Lot, nor shall anything be done thereon that may be or may become an

annoyance, discomfort, embarrassment or nuisance. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any Lot so as to render it unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. The Developer or Board, as the case may be, shall be the final decision maker as to whether an activity shall be deemed to be offensive.

Section 22. No Detached Buildings. There shall be no detached garages, outbuildings or servants quarters without the prior written consent of the Architectural Control Committee.

Section 23. Sewage Disposal. Before any Dwelling Unit on any Lot shall be occupied, a connection with the sewer system meeting applicable municipal codes shall be made. There shall not be erected, permitted, maintained or operated on any Lot any privy, cesspool, vault or septic system without written approval of the Architectural Control Committee.

Section 24. Permitted Entrances. In order to implement and effect insect, reptile and woods fire control, and to prevent unsightly Lots, the Developer or the Board, or their respective agents, 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 Developer or 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 Developer and its agents or 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 Developer and its agents or 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.

Section 25. 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 Developer or the Architectural Control Committee. Any Owner who, without having obtained written approval from the Developer or the Architectural Review Committee, cuts down or allows to be cut down any tree having a diameter of six (6) inches or greater shall be liable to the Developer or Association for liquidated damages in the amount of One Thousand and No 100 Dollars (\$1,000.00) for each tree so cut.

Section 26. Wells. No private wells may be drilled or maintained on any Lot without the prior written consent of the Architectural Control Committee.

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Section 27. 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 Architectural Control Committee is obtained.

Section 28. 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 Subdivision. The playing of loud music from any balconies or porches shall be offensive, obnoxious activity constituting a nuisance.

Section 29. 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.

Section 30. Mailboxes. Each and every house shall have the same style mailbox and post. These will be selected by the Architectural Control Committee and each Lot shall have installed the approved mailbox which shall include an electric light, and Owner shall be responsible for the cost of the mailbox, light and monthly electric bill incident thereto.

Section 31. 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 (with respect to improved property owned by Developer) 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. Variations and waivers of this provision may be made only upon Developer or the Board of Directors establishing that the overall purpose of these Covenants and Restrictions would be best effected by allowing such a variation. Variations to this section are to be strictly construed and the allowance of a variance by the Developer or the Board of Directors shall not be deemed to be a waiver of the binding effect of this section upon all other Owners.

Section 32. 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.

Section 33. Approved Builders. Only Builders who have been approved by Developer shall be permitted to construct Dwelling Units in the Subdivision. The Developer shall maintain a list of approved builders, which list shall be made available to Lot Owners and prospective purchasers. The Developer may, from time to time, add or delete builders on this list. The addition or deletion of builders shall be at the sole discretion of the Developer. No builder shall be permitted to construct a Dwelling Unit on a Lot until the builder has applied for and received written approval as an approved

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builder. This approval shall be at the sole discretion of the Architectural Control Committee. Each builder must be a licensed general contractor.

Section 34. Occupancy Before Completion. No Dwelling Unit shall be occupied until completed. The only exception may be considered in the case of landscaping etc., due to inclement weather or other excusable conditions. Any exception shall be approved by the Developer.

Section 35. Developer Reserves the Right. Notwithstanding any other provisions herein to the contrary, the Developer reserves unto itself, its successors and assigns, the following rights, privileges and powers: to subdivide Lots, to combine Lots or parts of Lots, to rearrange boundaries of Lots, to cause any part of any Lot to become a part of the Common Properties, and to cause portions of the Common Area Lots to become part of any of the Lots bordering them.

Section 36. Lawn Care. All unimproved Lots (except those owned by the Developer) and all improved Lots must be kept fully seeded with grass (except where other provisions of this Declaration require sodding) and regularly cut.

Section 37. 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 Architectural Control Committee.

Section 38. Additional Lot Damage. Any damage done to any adjacent or adjoining Lot or by a builder employed to build improvements on any Lot will be repaired immediately at the expense of the Owner or the Builder. 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 daily and the street must be kept clean during construction.

Section 39. Material Quality. Only good quality materials and design will be accepted on any structure built on any Lot. 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 acceptable to the Architectural Control Committee.

Section 40. 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.

Section 41. Sodding. Prior to occupancy of a Dwelling Unit, the front and side yards to the rear elevation of the Dwelling Unit must be sodded. Prior occupancy may be approved by the Developer or the Architectural Review Committee if weather conditions prohibit sodding. The remainder of the Lot may be seeded and strawed.

Section 42. 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 Architectural Control Committee.

Section 43. No Waterway Use or Dumping. No boat or rafts of any kind shall be permitted upon, nor shall any swimming be permitted in, any pond, lake, waterway, etc. on the Common Areas unless approved by the Development and/or Association. No garbage, trash or other refuse shall be dumped in any pond, lake, waterway, etc. of the Development. Owners will be assessed a Five Hundred Dollar (\$500.00) fine for each violation of this provision in addition to assessments for the cost of removal. The Developer shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the property.

Section 44. Decks. All exterior wood decks and railings on Dwelling Units must be water sealed and/or stained in accordance with the requirements of the Developer or the Architectural Control Committee. All decks must be enclosed to ground level with lattice, solid paneling or similar material.

Section 45. Swimming Pools. No above ground swimming pools will be permitted. All pools shall be inground and shall be fenced. Design, placement and construction details shall be submitted to the Architectural Control Committee for approval of inground swimming pools. Fencing must also be approved by the Architectural Control Committee.

Section 46. Spas and Hot Tubs. Outdoor spas and hot tubs must be submitted for approval by the Architectural Control Committee and must be screened from any street or adjacent property. If placed on decks, screening shall be placed around decking to conceal any motors, pipes, etc.

Section 47. Renting or Leasing. No Dwelling Unit may be rented or leased for a period of time that is less than one (1) year. Every Owner shall cause all occupants of a leased Dwelling Unit to comply with these Covenants and Restrictions and Bylaws. Owner shall be responsible for all violations by such occupants.

Section 48. Damaged Structure. Any damaged or destroyed structure shall be promptly repaired or rebuilt to original state. If damage is beyond repair, the owner shall make the site safe, and remove all debris and bring the Lot back to the original state at Owner's expense within six (6) months.

Section 49. Modular, Manufactured or Trailer Homes. No modular, manufactured or trailer homes shall be allowed. Only on the job stick built homes shall be allowed.

Section 50. Construction Compliance Escrow Fund. Prior to the start of construction of any Dwelling Unit, the Owner shall post a refundable deposit with the Developer, Architectural Control Committee or an escrow agent designated by the

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Developer or Architectural Control Committee in an amount to be determined by the Developer. This amount shall be held without interest as surety for the strict compliance by each Owner with this Declaration. Upon completion of all construction, including without limitation landscaping, provided all such construction is in full compliance with this Declaration, the Developer or Architectural Control Committee shall refund the Compliance Escrow to the Dwelling Unit's Owner. If Owner does not strictly comply with this Declaration, and after receipt of notice of such failure to comply and the passage of three (3) days for Owner to bring the Dwelling Unit into compliance, and said non-compliance continues, the Construction Compliance Escrow Fund shall be forfeited to the Developer or the Association and the Developer or the Architectural Control Committee shall have the right to draw upon this escrow to make such changes as are necessary to bring the Dwelling Unit into compliance or to force the Owner to bring the Dwelling Unit into compliance. Such right to draw shall include but is not limited to the right to use the escrow to pursue litigation to compel compliance. The exercise of this remedy shall not in any way limit the authority of the Developer, the Association, or the Architectural Control Committee to pursue and to enforce any and all other remedies available to it to compel strict compliance with this Declaration. Developer or the Architectural Control Committee may waive this amount in its sole discretion. Should Contractor not comply with this Declaration and Developer does not collect this fund prior to commencement of construction or if the costs of bringing the Dwelling Unit into compliance, such costs associated with bringing the Dwelling Unit into compliance shall be a lien on the Lot.

Section 51. Obligation to Commence and Complete Construction. Each Owner, excepting the Developer, agrees that within twelve (12) months of the date on which Owner takes title to a Lot, Owner will commence construction of a Dwelling Unit on that Lot. Once construction is commenced, each Owner shall continuously and diligently pursue such construction until complete, but in no case shall completion be more than 9 months from the date of commencement of construction. "Complete" shall mean that a final inspection and approval is granted by the governmental authority having the power to grant such approval, and shall also include completion of the landscaping in accordance with the landscape plan as required herein. Provided that for good cause shown, the Developer or the Board may grant an extension of three months by written approval to an Owner who, in the opinion of the Developer or the Board in their sole and absolute discretion, has made a demonstrable good faith effort to comply with this provision.

An Owner who violates this requirement, and after receipt of notice of such violation from the Developer or the Board and the passage of a reasonable amount of time to commence or complete construction, fails to commence, or complete construction shall be liable for a fine of Five Hundred Dollars (\$500.00) for each month and portion thereof said Owner is in violation of this covenant. Proceeds collected under this provision shall be paid to the Association.

Section 52. Violations and Enforcement. In the event of the violation, or attempted violation, of any one or more of the provisions of this Declaration, the Developer, its successors or assigns, including all parties hereinafter becoming Owners of

any one or more of the Lots to which provisions of this Declaration apply, or the Board 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 attorneys fees incident to any such proceeding. 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 Developer, its successors or assigns, or the Board of Directors. Further, the Developer or the Board of Directors may grant variances of the restrictions set forth in this Declaration if such variances do not, in the sole discretion of the Developer or the Board of Directors, adversely affect the purposes sought to be obtained hereby.

By reason of the rights of enforcement of the provisions of this Section being given unto Owners of Lots (subject to rights of variances reserved by the Developer and the Board), it shall not be incumbent upon the Developer or the Board to enforce the provisions of these covenants or restrictions or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of these Covenants or Restrictions by any person other than itself.

Section 53. Signs.

- (a) No signs whatsoever shall be installed, altered or maintained on any Lot unless such sign fits within one of the following categories:
- (i) Such signs as may be required by legal proceedings;
 - (ii) Not more than one "For Sale" or "For Rent" sign, provided, however, that in no event shall any such sign be larger than six (6) square feet in area; and
 - (iii) Directional signs for vehicular or pedestrian safety;
 - (iv) Entry signs used to identify subdivision, marketing signs used to advertise subdivision by Developer and in conjunction therewith brochure holders.
- (b) Following the consummation of the sale of any Lot, the sign located thereon shall be removed immediately.

Section 54. Fences. All fences that may be placed on the Property shall be wood, vinyl coated chain link or aluminum at a height not to exceed five (5) feet. All fences within the Common Areas shall be at a height and location and of such material as to be determined by the Architectural Control Committee. All fences to be constructed must be approved by the Architectural Control Committee as set forth in Article II herein.

Any fence to be constructed shall be in the rear yards of the Lots beginning at the rear of the Dwelling Unit.

Section 55. Recreational Vehicles, Trailers, etc. No recreational vehicles, trailers, campers, trucks (except pickups and vans), travel buses or any such equipment shall be parked on any Lot. No inoperative vehicle shall be parked on any Lot for any period of time in excess of fourteen (14) days. No Owners or occupants of any Lot shall repair or restore any vehicle of any kind upon any lot or upon any parcel of land, except for emergency repairs, and then only to the extent necessary to enable the movement thereon to a proper repair facility.

Section 56. Recreational Equipment and Outside Lighting. No recreational and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot without prior written approval of the Architectural Control Committee. A Structure may be placed on a Lot to be used for a playhouse subject to approval of the Architectural Control Committee. Such Structures shall not exceed ten (10) feet in height, shall conform in exterior design and quality to the Dwelling Unit on the same Lot, and shall be located only behind the Dwelling Unit. There shall be no outside lighting except as may be approved by the Architectural Control Committee. Any Structure must be approved, in advance, in writing by the Architectural Control Committee.

Section 57. Accessory Structures Installed by Developer. Entry signs, fences, walls and landscaping installed by Developer on the Property shall be and are hereby dedicated to the use and benefit of all Owners.

Section 58. Antennae. No television antenna, radio receiver, satellite dish or other similar device shall be attached to or installed on any portion of the Property, unless said antenna, radio receiver, satellite dish or other device is one meter or less in diameter and is installed at the rear of the residence, not shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Subdivision; provided, however, that the Association shall not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio or other similar systems within the Subdivision, and should cable television services be unavailable and adequate television reception not be otherwise available, then an Owner may make written application to the Architectural Control Committee for permission to install a television antenna. The location of the placement of a satellite dish that is one meter or less in diameter shall be subject to the approval, in writing, of the Architectural Control Committee except that said committee must allow a placement at a location on an Owner's Lot where reception can reasonably be obtained.

Section 59. Docks. All docks shall be uniform in appearance and approved by the Architectural Control Committee.

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Section 60. Paint. Any change in paint color to any Structure must be approved by the Architectural Control Committee.

ARTICLE XI DOCK ISSUES

Some Owners (but not all Owners) of Lots shall be an owner of a Dock. The ownership of each Dock upon the recording of this Declaration is as set forth on Exhibit C. In the event an Owner wishes to sell its Dock, it must give the Developer or the Association, when such power has so been granted to the Association, the right of first refusal to purchase such Dock. In the event the Association or Developer decides not to pursue said purchase, Owner may offer the Dock to another Owner only. Only the Developer, Association or Owner may own any Dock set out on Exhibit C. Every Owner shall have the right and obligation to access, maintain and repair his own Dock.

ARTICLE XII GENERAL PROVISIONS

Section 1. Enforcement.

- (a) The Association, the Architectural Control Committee, the Developer or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Architectural Control Committee, Developer or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- (b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions.

Section 2. Severability. If any provision of this Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the

application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The Covenants and Restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least two-thirds (2/3) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument in which said Covenants and Restrictions are modified in whole or in part, which instrument is filed or record in the appropriate county.

Section 5. Rights and Obligations. Each grantee of the Developer and Owners, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits, privileges of every character hereby imposed shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall ensure to the benefits of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Association or Board shall be in writing and shall be addressed to the President of the Association at his/her address which presently is:

Ronald H. Dean
Dean Construction, LLC
4128 Forest Acre Lane
Chattanooga, Tennessee 37406

or at such different address or addresses as reflect their proper address. Any Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail or when delivered in person.

Section 7. Amendment. This Declaration may be amended unilaterally at any time and from time to time by the Developer:

- (a) If such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith,
- (b) If such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration,
- (c) If such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration, or
- (d) If such amendment is necessary to enable any governmental agency, such as the Veterans Administration, the Federal Housing Administration or a reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five (75%) percent of the Owners of Lots; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section.
- (e) Notwithstanding the foregoing, or any other provision of this Declaration, for so long as there is a Class B member, the following matters shall require the approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration.

EXHIBIT A
PROPERTY

BEING A PART of sections one and two, Township two, Range four west, of the Ocoee basis line, Ocoee District, in the City of Chattanooga, Hamilton County, Tennessee, and being more described (with Bearings relative to Tennessee Grid North) as follows:

BEGINNING AT A point marked by the intersection of the westerly side of Harrison Pike (100' wide) with the northerly side of the CSX Railroad line (66' wide); Thence extending westerly along the northerly side of the CSX Railroad, North 72 degrees 49 minutes 00 seconds West, the distance of 679.28 feet to a point of curve; Thence extending along an arc curving to the left, along the northerly side of the CSX Railroad, having a radius of 3,714.76 feet, the arc length of 1,813.89 feet (Chord Bearing North 86 degrees 48 minutes 19 seconds West, the chord Distance of 1,795.92 feet) to a point; Thence along the northerly side of the CSX Railroad, extending South 79 degrees 25 minutes 13 seconds West, the distance of 738.99 feet to a point; Thence along two arcs curving to the right, following the easterly side of an old connecting spur of the Cincinnati Southern Railway Company, as described in deed book 58, page 695, Hamilton Co.; 1) having a radius of 346.41 feet, the arc length of 270.00 feet (Chord bearing North 78 degrees 15 minutes 04 seconds West, the chord distance of 263.22 feet) to a point; 2) having a radius of 636.62 feet, the arc length of 855.14 feet (Chord bearing North 27 degrees 50 minutes 20 seconds West, the chord distance of 792.29 feet to a point on the southeasterly side of the Norfolk Southern Railroad (200' wide and being 100' from the center of the existing rail line); Thence extending along the southeast side of the Norfolk Southern Railroad, the following two courses and distances; 1) North 28 degrees 34 minutes 50 seconds East, the distance of 271.33 feet to a point; 2) North 25 degrees 27 minutes 24 seconds East, the distance of 888.97 feet to a point in the center of the South Chickamauga Creek; Thence running southeasterly along the centerline of the South Chickamauga Creek approximately 3,806 feet to a point in the center of the Creek, on the northwesterly side of Harrison Pike; Thence extending along the northwesterly side of Harrison Pike, South 23 degrees 39 minutes 20 seconds West the distance of 457.57 feet to the POINT OF BEGINNING.

CONTAINING IN AREA, 88.357 Acres of Land; more or less. Being the property as shown in Plat Book 79, Pages 53-57, Register's Office, Hamilton County, Tennessee.

EXHIBIT B

BYLAWS FOR
WATERHAVEN HOA, INC., A TENNESSEE NONPROFIT CORPORATION

ARTICLE I
NAME

The following provisions shall constitute the Bylaws of WaterHaven HOA, Inc., a Tennessee Nonprofit Corporation (the "Bylaws"), a not-for-profit corporation (the "Association") which shall, along with the provisions of the Declaration of Covenants and Restrictions (the "Declaration") and the rules and regulations adopted by the Board of Directors of the Association (the "Board"), govern the administration of WaterHaven, a residential development (the "Development"). The terms in these Bylaws (unless otherwise defined) shall have the same meaning as the terms defined in the Declaration for this Development.

ARTICLE II
OFFICES

The principal office of the Association shall be located at

or at such other place either within or without the State of Tennessee, as shall be lawfully designated by the Association, or as the affairs of the Association may require from time to time.

ARTICLE III
PURPOSES

The purposes of this Association shall be to provide for the establishment of a residents' association for the government of the Development in the manner provided by the Declaration, these Bylaws and in its Charter (the "Charter"). The aims of this Association are to be carried out through any and all lawful activities, including others not specifically stated in the Declaration, the Charter or these Bylaws but incidental to the stated aims and purposes; provided that any such activity or contribution shall conform to any applicable restrictions or limitations set forth in the Charter or which are imposed on real estate homeowners' associations by the Internal Revenue Code of 1986 and the regulations thereunder, as presently enacted or as they may hereafter be amended or supplemented. All present or future owners or tenants, or their employees, or any other person who might use the facilities on the Development in any manner, shall be subject to

the covenants, provisions or regulations contained in the Declaration and these Bylaws, as amended, and shall be subject to any restriction, condition or regulation hereafter adopted by the Association.

ARTICLE IV
ASSOCIATION

4.01 Membership. The Developer and every person or entity who is a record owner of a fee simple interest or an undivided fee simple interest in any Lot which is subject to the Declaration shall be a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association. Membership shall be automatically transferred to the new Owner upon the conveyance of any Lot and recording of the deed of conveyance in the Register's Office of Hamilton County, Tennessee. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.02 Voting Rights. Voting Rights shall be as set forth in the Declaration.

ARTICLE V
THE BOARD OF DIRECTORS

5.01 Board of Directors. Subject to Section 5.12 of this Article hereinbelow, the administration of the Property on behalf of the Association shall be conducted by the Developer until such time as it calls a special meeting pursuant to Sections 5.02 and 5.12 whereby a Board of Directors will be appointed. The Board of Directors ("Board") shall consist of three (3) natural persons of legal age, each of whom shall be an Owner or a member of the household of an Owner at all times during membership on the Board. The rights, duties and functions of the Board are limited as set forth in Section 5.12.

5.02 Election. At each annual meeting, subject to the provisions of Section 5.12 hereof, the Association shall elect those members of the Board as required under Sections 5.01 and 5.03 who shall serve the terms set out in Section 5.03; provided, however, the members of the Board elected to succeed the Developer shall be elected at a special meeting duly and specifically called for that purpose by the Developer. The Board elected at that special meeting shall serve until the first annual meeting of the Association held thereafter. At least thirty (30) days prior to any annual meeting of the Association, the Board shall elect from the Association a nominating committee of not less than two (2) Owners (none of whom shall be members of the Board) which shall recommend to the annual meeting one nominee for each position on the Board to be filled at that particular annual meeting. Nomination for a position on the Board may also be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by two (2) or more Owners and by the nominee named therein indicating his willingness to serve as a member of the Board, if elected.

5.03 Term. Members of the Board shall serve for a term of two (2) years; provided, however, that two (2) members of the first Board elected by the Association at the annual meeting thereof shall be elected and shall serve for a term of one (1) year and the other one (1) member shall be elected and serve for a term of two (2) years. Thereafter, all Board members elected each year shall serve for a term of two (2) years. The members of the Board shall serve until their respective successors are duly elected and qualified, or until their death, resignation or removal.

5.04 Resignation and Removal. Any member of the Board may resign at any time by giving written notice to the President or the remaining Board members. Any member of the Board may be removed from membership on the Board by a two-thirds (2/3) majority affirmative vote of those Members of the Association who are in attendance or represented at an annual or special meeting duly called for such purpose, except that a vacancy on the Board shall be deemed to exist in the event of the death of a member, the disability of a member which, in the opinion of a majority of the Board, renders such member incapable of performing Board duties, or in the event a member shall cease to be an Owner. Whenever there shall occur a vacancy on the Board for any reason, the remaining members shall elect a successor member to serve until the next annual meeting of the Association or until a special meeting is called for filling vacancies, at which time said vacancy shall be filled by the Association for the unexpired term, if any.

5.05 Compensation. The members of the Board shall receive no compensation for their services unless expressly provided for by the Association but shall be reimbursed for reasonable expenses incurred by them in the performance of their duties.

5.06 Powers and Authority of the Board. The Board, after being granted such power under Section 5.12 herein, for the benefit of the Property and the Association, shall enforce the provisions of the Declaration, these Bylaws, and the Rules and Regulations governing the Property. Subject to any provision herein, the Board shall have the power and authority to acquire and pay for the following, which shall be deemed Common Expenses of the Association:

A. Water, sewer, garbage collection, electrical, telephone and gas and other necessary utility services for the Common Areas.

B. The services of a person or firm to provide security for the Development to the extent and in such manner (fixed or roving or a combination thereof) as allowed by law and as determined by the Board to be necessary or proper.

C. Legal and accounting services necessary or advisable in the operation of the Property and the enforcement of this Declaration, these Bylaws, and any Rules and Regulations made pursuant thereto.

D. Officers and Directors Liability Insurance covering the Officers and Directors of the Association acting in such capacity.

E. A fidelity bond naming the Manager, and such other persons as may be designated by the Board as principals and the Board, Association and Owners as obligees, in an amount to be determined from time to time by the Board.

F. Painting, maintenance, repair, replacement and landscaping of the Common Areas. The Board shall also have the exclusive right from time to time to acquire and dispose of by sale or otherwise and without the necessity of approval by any Owner, furnishings and equipment and other personal property for the Common Areas and to provide maintenance, repair and replacement thereof.

G. Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Board is required to secure or pay for pursuant to the terms of the Declaration these Bylaws or any Rules or Regulations promulgated hereunder or which, in its opinion, shall be necessary or advisable for the operation of the Property or for the enforcement of the Declaration, these Bylaws, or the Rules and Regulations.

H. Any items set out in the Declaration.

The Board shall have the exclusive right to contract for all goods, services, including security personnel, and insurance, payment for which is to be made a Common Expense.

5.07 Additional Powers of the Board. The Board, after being granted such power under Section 5.12 herein, shall have the right to acquire, operate, lease, manage, mortgage and otherwise trade and deal with the Common Areas as may be necessary or convenient in the operation and management of the Common Areas, and in accomplishing the purposes set forth herein. The Board or any managing agent or entity designated by the Board shall be deemed the agents of the owners and as such shall manage, maintain and improve the Common Areas and also collect, conserve, allocate and expend money received from the owners in a manner consistent with such agent's relationship and in conformity with this Declaration, these Bylaws and the Rules and Regulations.

5.08 Meetings of the Board. Meetings of the Board shall be held at such places as the Board shall determine. Two (2) members of the Board shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. Meetings of the Board shall be chaired by the President of the Association and the minutes shall be recorded by the Secretary of the Association, whether said Secretary is a member of the Board or not. The Board shall annually elect all of the officers set forth in Section 6.05 hereof. The meeting for the election of officers shall be held at a meeting of the Board to be held immediately following the annual meeting of the

Association. Any action required to be or which may be taken by the Board may be taken without a meeting of the Board pursuant to a written consent, setting forth the action so taken, signed by all members of the Board.

5.09 Special Meetings. Special meetings of the Board may be called by the President of the Association or by any Board member.

5.10 Notice of Meetings. Regular meetings of the Board may be held without call or notice. The person or persons calling a special meeting of the Board shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called. If an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

5.11 Waiver of Notice. Any members of the Board may, at any time, waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting thereof shall constitute a waiver of notice of such meeting unless a Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called and does so object by delivering a written document to that effect.

5.12 Developer Performs Functions. The rights, duties and functions of the Board shall be solely exercised by Developer until such time as the Developer in its sole discretion determines to call a special meeting of the Association to elect a Board to succeed Developer pursuant to Section 5.02 hereof. The Developer may call such special meeting to elect the Board granting it limited rights, duties and functions allowing the Board to act only in a limited capacity. The Developer, in its own discretion, may at a later date after such special meeting grant the Board more rights, duties and functions as it deems appropriate.

5.13 Notice of Election. After the election of the Board to succeed the first Board, the Secretary of the Association shall execute and, where desirable, acknowledge and record a certificate stating the names of all of the members of the then Board, provided, that, in the event of the disability or other incapacity of the Secretary, the President of the Association shall be empowered to execute the aforesaid certificate. The certificate shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

5.14 Fiscal Year. The fiscal year of the Association shall be determined by the Board.

5.15 Special Committees. The Board, by resolution duly adopted, may designate one or more special committees, including without limitation an Architectural Review Committee, each committee to consist of two (2) or more Owners appointed by the

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Board, which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. The Board may also rescind any such resolution by a further resolution duly adopted. The Developer shall perform the functions of all Special Committees or the Developer may appoint Special Committees until such time as provided in Section 5.12 hereof. Such Special Committee or Committees shall have such name or names as may be determined from time to time by the Board. Such Special Committees shall keep regular minutes of their proceedings and report the same to the Board when required. The Board may appoint Owners to fill vacancies on Special Committees.

5.16 Rules and Regulations. The Board shall have the power and right to adopt and amend rules and regulations for the purpose of governing the details of the operation and use of the Common Areas and setting forth restrictions on, and requirements respecting the use and maintenance of the Common Areas. Copies of the Rules and Regulations shall be furnished to each Owner prior to the time the same shall become effective. The Board shall also be responsible for administering a grievance policy to address Owner complaints.

5.17 Limitation on Capital Additions, Etc. The Board shall authorize no structural alterations, capital additions to, or capital improvements of the Common Areas, any of which require an expenditure in excess of Five Thousand Dollars (\$5,000.00) without approval of a majority vote of those Members who are present or represented at any annual or special meeting of the Association; or in excess of Ten Thousand Dollars (\$10,000.00) without approval of two-thirds (2/3) of the vote of those Members who are present or represented at any annual or special meeting of the Association; provided, however, that the Board shall have the power to make any such structural alterations, capital additions to, or capital improvements of, the Common Areas as are necessary, in the Board's reasonable judgment, to preserve or maintain the integrity thereof without obtaining such approval, if in the opinion of the Board an emergency exists which should be corrected before a meeting of the Association could be reasonably called and held.

5.18 Failure to Insist on Strict Performance Not Waiver. The failure of the Board or its agents to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions in the Declaration or these Bylaws, or the Rules and Regulations or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment, for the future, of such term, covenant, condition or restriction, right, option or notice; but such term, covenant, condition or restriction, right, option or notice shall remain in full force and effect.

ARTICLE VI

THE ASSOCIATION; MEETINGS, OFFICERS, ETC.

6.01 Quorum. The presence in person or by proxy at any meeting of the Association of fifty percent (50%) of the Owners of Lots subject to assessment under the

Declaration or Owners entitled to cast at least fifty (50) votes, whichever is less, in response to notice to all owners properly given in accordance with Sections 6.02 or 6.03 of these Bylaws, as the case may be, shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Association upon the affirmative vote of persons entitled to cast a majority of the votes which are represented at such meeting.

6.02 Annual Meeting. There shall be an annual meeting of the Association on the first Monday of [month] at 6:00 p.m. at such reasonable place or other time (but not more than sixty (60) days before or after such date) as may be designated by written notice by the Board delivered to the Owners not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to the annual meeting, the Board shall furnish to the Owners: (1) a budget for the coming fiscal year that shall itemize the estimated Common Expenses of the coming fiscal year with the estimated allocation thereof to each Owner; and (2) a statement of the Common Expenses itemizing receipts and disbursements for the previous and, if then available, for the current fiscal year, together with the allocation thereof to each Owner. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the Owners who were not present at the annual meeting if not previously provided.

6.03 Special Meeting. Special meetings of the Association may be held at any time and at any reasonable place to consider matters which, by the terms hereof, require the approval of all or some of the Owners, or for any other reasonable purpose. Special meetings shall be called by a majority of the Board, or by at least one-third (1/3) of the Owners by written notice, delivered to all Owners not less than thirty (30) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting, and the matters to be considered.

6.04 Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with these Bylaws or other such rules adopted by the Board.

6.05 Officers. The officers of the Association shall be a President, Vice-President, Secretary, and Treasurer. The Developer shall, in its sole discretion, designate individuals to fill these positions during the period that the Developer is performing the functions of the Board pursuant to Section 5.12 hereof. Such officers designated by the Developer need not be Owners, and may be removed and replaced by the Developer at will. The Developer shall determine the scope of the authority of each such designated officer.

Once the Developer has turned over authority to a successor Board pursuant to Section 5.02 hereof, the following provisions shall become applicable: Each officer shall be required to be an Owner, and the President must be a member of the Board. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board and may be removed and replaced by the Board. In the event an office becomes

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vacant due to an Officer ceasing to be an Owner, or due to the death or disability of an officer, or for any other reason, the Board shall immediately name a successor to that office to serve out the remainder of the term. The Board may, in its discretion, require that officers be subject to fidelity bond coverage.

A. President. The President shall preside at all meetings of the Association and of the Board and may exercise the powers ordinarily allocable to the presiding officer of an association, including the appointment of committees.

B. Vice-President. In the absence or inability of the President, the Vice-President shall perform the functions of the President.

C. Secretary. The Secretary shall keep the minutes of all proceedings of the Board and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Association and the Board, including the minute book wherein the resolutions shall be recorded.

D. Treasurer. The Treasurer shall be responsible for the fiscal affairs of the Board and the Association, but may delegate the daily handling of funds to the Manager and accounting to accountants selected by the Board.

ARTICLE VII LIABILITIES AND INDEMNIFICATION

7.01 Liability of Members of the Board and Officers. The members of the Board, the officers and any agents and employees of the Association shall: (i) not be liable to the Owners or Association as a result of their activities as such for any mistake of judgment, or otherwise, except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (ii) have no personal liability to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Owners in their capacity as such; (iii) have no personal liability in tort to an Owner or any other person or entity direct or imputed by virtue of acts performed by them as Board members and/or officers except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; and (iv) have no personal liability arising out of the use, misuse or condition of the Common Areas, or which might in any other way be assessed against or imputed to them as a result or by virtue of their capacity as such Board members and/or officers.

7.02 Indemnification By Association. To the extent now or hereafter permitted by applicable law, the Association shall indemnify and hold harmless any person, his heirs and personal representatives, from and against any and all personal liability, and all expenses, including without limitation attorneys' fees and court costs, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative instituted by any one or more Owners or any other persons or entities, to which he shall

be or shall be threatened to be made a party by reason of the fact that he is or was a member of the Board or an officer or agent or employee of the Association; provided, in the case of any settlement, that the Board shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or by vote of the Association of the Board, or otherwise. The indemnification by the Association set forth in this Article VII shall be paid by the Board on behalf of the Association and shall constitute a Common Expense.

7.03 Indemnification By Owner. To the extent now or hereafter permitted by applicable law, the Owners shall indemnify and hold harmless Association or Developer from and against any and all liability, and all expenses, including without limitation attorneys' fees and court costs, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative instituted by any one or more Owners or any other persons or entities, to which it shall be or shall be threatened to be made a party.

7.04 Costs of Suit in Actions Brought by One or More Owners on Behalf of All Owners. No suit shall be brought by one or more but less than all Owners on behalf of all Owners without approval of a majority of Owners and, if approval is obtained, the plaintiffs' expenses, including reasonable attorneys' fees and court costs, shall be a Common Expense unless such suit is brought by one or more Owners against other Owners, the Association or against the Board, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all Owners as defendants, in which event the plaintiffs' expenses, including attorneys' fees and court costs, shall not be charged as a Common Expense.

7.05 Notice of Suit and Opportunity to Defend. Suits brought against the Association, or the Board, or the officers, employees or agents thereof, in their respective capacities as such, or the Property as a whole, shall be directed to the President of the Association, who shall promptly give written notice thereof to the other members of the Board and any Mortgagees, and shall be defended by the Board, and the Association and all Owners shall have no right to participate other than through the Board in such defense. Suits against one or more, but less than all Owners shall be directed to such Owners, who shall promptly give written notice thereof to the Board and to the Mortgagees of the Lots or Structures affected, and shall be defended by such Owners at their expense.

ARTICLE VIII

GENERAL PROVISIONS

8.01 Businesses. Nothing contained in these Bylaws shall be construed to give the Board the authority to conduct any business for profit on behalf of the Association or any Member.

8.02 Amendment. These Bylaws may be amended, modified, or revoked in any respect from time to time by Developer prior to the election of the first Board and thereafter by not less than two-thirds (2/3) of the affirmative vote of those Members of the Association who are present or represented at a meeting duly called for that purpose, PROVIDED, HOWEVER, that the contents of these Bylaws shall always contain those particulars which are required to be contained herein by the laws of the State of Tennessee. At any such meeting the Developer shall have the number of votes as provided in Section 4.02 hereof. Notwithstanding the foregoing, any amendment shall not be required to be recorded with the Recorder's office but must be kept on file with Developer or the Secretary and available to all Owners upon written request.

8.03 Notices. Any notice required to be sent to any Owner under the provisions of these Bylaws shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Owner on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Lot or Structure shall constitute notice to all co-owners. It shall be the obligation of every Owner to immediately notify the Secretary 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 these Bylaws 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:

8.04 Conflict. In the event of any conflict between these Bylaws and the provisions of the Articles of Incorporation, the latter shall govern and apply. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control and govern.

8.05 Nonwaiver of Covenants. No covenants, restrictions, conditions, obligations or provision contained in the Declaration or these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

8.06 Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these Bylaws shall be deemed to be binding on all Owners, their heirs, successors and assigns.

8.07 Severability. The invalidity of any covenant, restriction, condition, limitation or any other provisions of these Bylaws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these Bylaws.

8.08 Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable costs.

ADOPTION OF BYLAWS

The undersigned as the Developer of the Property and the Incorporator of the Association hereby adopts the foregoing Bylaws of the Association, this _____ day of _____, 2005.

WATERHAVEN HOA, INC., A TENNESSEE
NONPROFIT CORPORATION

By: _____

Title: _____

EXHIBIT C

DOCKS

The following is a list of the ownership of each Dock.

<u>LOT #</u>	<u>DOCK OWNED BY LOT OWNER</u>
Lot 68	Dock #18
Lots 66-67	Dock #17
Lots 62-63	Dock #15
Lots 60-61	Dock #14
Lots 58-59	Dock #13
Lots 56-57	Dock #12
Lots 21-22	Dock #11
Lots 19-20	Dock #10
Lots 17-18	Dock #9
Lots 15-16	Dock #8
Lots 13-14	Dock #7
Lots 11-12	Dock #6
Lots 9-10	Dock #5
Lots 7-8	Dock #4
Lot 6	Dock #3
Lots 4-5	Dock #2
Lots 2-3	Dock #1

Community Docks adjoining Lot 27 are a part of the Common Areas as well as courtesy docks and private boat ramp adjoining Community Lot 49.

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