

This instrument was prepared by
and after recording return to:

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DECLARATION OF COVENANTS AND RESTRICTIONS FOR

CONNER CREEK SUBDIVISION, PHASE II

(Lots 8 through 22)

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THIS DECLARATION made this ____ day of _____ 1999, by James L. O'Kelley, Jr. and Janet G. O'Kelley, (herein "Developer").

WITNESSETH:

WHEREAS, Developer, as owner of certain real property located in Hamilton County, Tennessee, as more particularly described in Exhibit A attached hereto (herein "Property"), desires to create thereon a development known as Conner Creek Subdivision, Phase II (herein "Development");

NOW, THEREFORE, the Developer subjects the real property described in Article II, and such additions thereto as may hereafter be made, to the terms of this Declaration and declares that the same is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (sometimes referred to as the "Covenants") hereinafter set forth. These Covenants shall touch and concern and run with the Property and each Lot thereof.

ARTICLE I

COVENANTS AND RESTRICTIONS

1.01 Property. The covenants and restrictions set forth in this Declaration, as amended from time to time, are hereby imposed upon the real property described on 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 the Declaration. Every person who is or shall be an owner of record shall be deemed by the taking of such record title to agree to all the terms and provisions of this Declaration.

1.02 Association. The Developer has caused the Conner Creek Homeowners' Association to be formed and incorporated under the laws of Tennessee for the purpose of carrying on 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 is and shall be a member of the Association as more particularly set forth in the By-Laws of the Association.

1.03 Additions to Property. 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 then existing portions of the Development.

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 and as are not inconsistent with this Declaration, but such modifications shall have no effect on the Property as described in Section 1.01 above.

1.04 Common Properties and Improvements Thereon. The Developer will install initially the streets, entrance sign(s), street lamps and ground lamp for the entrance sign within the Development. The Developer may also landscape and install sprinkler systems in the entrance areas. These areas shall become Common Properties when conveyed to the Association and the Association shall then become responsible for maintenance of the landscaped area, the entrance areas and signs and for payment of the utility bills in connection with the street lamps, ground lamp for the entrance sign and sprinkler system. No building, structure or facility shall be placed, installed, erected, or constructed in or on the Common Properties unless it is purely incidental to one or more of the uses above specified.

1.05 Residential Use. All of the Lots in the Development shall be, and be known and described as, residential lots, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than as provided in these Covenants and Restrictions and in supplements hereto. No Lot may be used as a means of service to business establishments or adjacent property, including but not limited to supplementary facilities or an intentional passageway or entrance into a business or another tract of land, whether or not a part of the Property, unless specifically consented to by Developer or the Board in writing.

1.06 No Multi-Family Residences / Business Trucks/Boats. No residence shall be designed, patterned, constructed or maintained to serve, or for the use of more than one single family, and no residence shall be used as a multiple family Dwelling Unit at any time, nor used in whole or in part for any business service or activity, or for any commercial purpose; nor shall any Lot be used for business purposes, or for trucks or other equipment inconsistent with ordinary residential uses. No panel, commercial or tractor trucks or boats shall be habitually parked in driveways or overnight on streets in front of any of the Lots.

1.07 Minimum Square Footage. No single-family detached Dwelling Unit shall be erected or permitted to remain in the Property unless it has the number of square feet of enclosed living area measured from the exterior walls, exclusive of open porches or screened porches, carports, garages or basements (whether the basement is finished or not), set forth in this section. For the purposes of this section, stated square footage shall mean the minimum floor area required, and floor area shall mean the finished and heated living area contained within the residence, exclusive of open porches, garages, and steps. In the case of any question as to whether a sufficient number of square feet of enclosed living area have been provided, the decision of the Developer or the Architectural Review Committee shall be final. The minimum number of square feet required in Phase II is as follows:

- (i) A single-level home shall contain not less than 2,200 square feet;
- (ii) A story and half level home shall contain not less than 2,400 square feet, with a minimum of 1,200 square feet on the ground floor; and
- (iii) A two-level home shall contain not less than 2,600 square feet, with a minimum of 1,200 square feet on the ground floor.

1.08 Set-backs. No building shall be erected on any Lot nearer than the Architectural Review Committee may, in its discretion, establish for each Lot, which may not be consistent from Lot to Lot.

1.09 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 in Section 1.41, Lots may not be resubdivided so as to create a smaller area than originally deeded to a Lot Owner and as shown on the subdivision plat.

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

1.11 Rainwater Drainage. All side and rear property lines are dedicated drainage easements and may be used for drainage. Each Lot must be graded so as not to obstruct these

easements. All drainage should be directed to these easements, and these easements must be graded so water flows to the street or to an adjoining drainage easement.

1.12 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, sewerage, drainage, etc., and no structure of any kind shall be erected or maintained upon or over said easement.

1.13 Frontal Appearance. All Dwelling Units shall have conventional and acceptable frontal appearance from the main street fronting said Lots which shall be subject to the approval of the Developer or Architectural Review Committee.

1.14 Building Requirements. Construction of a home on a Lot must be commenced with one (1) year of Owner's purchase of the Lot. Once the footings of any Dwelling Unit or other structure are poured, construction must progress continuously (with allowance for weather conditions, labor conditions and availability of materials) until the building is fully completed. The exterior (including landscaping) must be completed within twelve (12) months after commencement of construction. The Owner of any Lot violating either of these provisions shall be liable to the Association for liquidated damages at the rate of Fifty and No/100 Dollars (\$50.00) per day the violations occur, and to payment of such court costs and attorney's fees as may be incurred in the enforcement of these provisions. In the event construction does not progress continuously, the liquidated damages shall commence ten (10) days after notice from the Developer or the Architectural Review Committee if construction is not resumed within said ten (10) days. All buildings or structures of any kind constructed on any Lot shall have full masonry foundations, and no exposed block, concrete or plastered foundations shall be exposed to the exterior above grade level. The exterior of each Dwelling Unit must be covered with stone, brick, stucco, wood, or combination thereof. Any other materials must be approved in writing by the Developer or the Architectural Review Committee. All exposed concrete block or poured concrete foundations and retaining walls must be covered with stone, brick, or stucco to complement the house. Gutters and down spouts must be painted in approved colors. All roof stacks and plumbing vents must be placed on rear slopes of roofs; provided, however, that for good cause shown, the Developer or the Architectural Review Committee may make exceptions as to the placement of such roof stacks and plumbing vents.

All homes must have natural gas heating systems and at least one (1) natural gas water heater connected to the natural gas distribution system constructed within Conner Creek Subdivision.

Any swimming pool design, construction, plans and specifications and landscaping must be approved in writing by the applicable Health Department then must be approved in writing by the Developer or the Architectural-Review Committee, all prior to the commencement of any construction. Above ground level pools are not permitted except on view Lots where below ground pools are not feasible.

1.15 Fences. No fences will be allowed on any Lot without the prior written consent of the Developer or the Architectural Review Committee. Wire or chain link fences are prohibited. All wood fences must be painted. All proposed fences must be submitted to the Developer or the Architectural Review Committee showing materials, design, height and location.

1.16 Driveways. Each Dwelling Unit constructed upon a Lot must be served by a driveway constructed of hard surface materials such as concrete, brick, exposed aggregate, or pre-cast pavers. No driveway shall be constructed on any Lot nearer than one (1) foot to any Lot line.

1.17 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 unless the damage is caused by another who causes the damage to be corrected.

- 1.18 Signs. One sign offering the Lot and/or Dwelling Unit for sale and one sign reflecting the name of the builder may be placed upon a Lot. Such sign must be in form approved by the Developer or Architecture Review Committee. No other signs shall be erected or maintained on any Lot, except in accordance with approved standards for signs as set by the Developer or the Architectural Review Committee.
- 1.19 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 view by an enclosure that is an integral part of the site development plan, using materials, colors or landscaping that are harmonious with the home it serves.
- 1.20 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 written approval from the Developer or the Architectural Review Committee. No carports will be permitted. The inside walls of garages must be finished. Garage doors may not be allowed to stand open.
- 1.21 Landscaping. A landscape plan shall accompany every new home application submitted to the Developer or the Architectural Review Committee for approval. If a Dwelling Unit has a rear exterior which faces Common Property, another Lot or street, the Architectural Review Committee may require the placement of up to two (2) inch, three (3) inch, or four (4) inch caliper trees in the rear of the Lot to provide cover for the Dwelling Unit. Landscaping in accordance with the approved landscape plan must be substantially completed within one (1) year after commencement of construction of the house. Shrubbery plantings adjacent to roadways and sidewalks shall not impede the vision of vehicle operators. Vegetables or cutting gardens shall be in the rear yard of the Dwelling Unit.
- 1.22 Windows. Materials to be used in windows and glass doors must be approved by the Developer or the Architectural Review Committee. Metal and vinyl windows are not permitted, nor are aluminum awnings permitted. However, clad windows will be permitted, provided such windows have a brickmould surrounding them.
- 1.23 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, providing that nothing 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 owners shall also muzzle any pet which consistently barks. If the 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".
- 1.24 Unightly Conditions. All of the Lots in the Development must, from the date of purchase, be maintained by the Owner 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 in the Development fails, 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, billing the Owner two hundred fifty percent (250%) of the cost of such work. All Owners in the Development are requested to keep cars, trucks and delivery trucks off the curbs of the streets. Existing homes must be maintained in good repair, including being painted when necessary. Plant beds must be kept weed free.
- 1.25 Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance, discomfort, embarrassment or nuisance to the Development.
- 1.26 Detached Buildings. There shall be no detached garages or outbuildings without the prior written consent of the Developer or the Architectural Review Committee.

1.27 Sewage Disposal. Before any Dwelling Unit on a Lot shall be occupied, a septic tank, or subsurface sewage disposal system meeting applicable municipal codes and the Tennessee State Board of Health regulations shall be installed. All sewage shall be directly deposited into such tank or system and the tank and system shall be continuously maintained in a proper state of repair and sanitation. The effluent from such tank or system shall not be permitted to discharge into any stream, storm sewer, open ditch or drain.

1.28 Permitted Entrances. In order to implement and effect insect, reptile and woods fire control, and to maintain 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 other suitable devices, for the purpose of removing trash, 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 shall not be 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.

1.29 Tree Removal. The majority of the trees may not be removed from any Lot except in the area of the Lot upon which the house, driveway and any other approved structures are to be constructed. Except for view enhancement, excessive removal of trees will be deemed to be a nuisance to the adjoining neighbors and will mar the beauty of the Development.

1.30 Tanks, Garbage Receptacles, Tree Houses and Swings. No fuel tanks or similar storage receptacles may be exposed to view, and such tanks or receptacles may be installed only within a Dwelling Unit, within a screened area or buried underground. All garbage and trash containers must be placed in enclosed areas of the rear or side yard and must not be visible from adjoining Lots, houses, or from any street. Tree houses may be built or maintained on the Lot. No swingsets, other than wooden swingsets, will be permitted to be installed on a Lot. The location of tree houses and swingsets must be approved by the Developer or the Architectural Review Committee.

1.31 Wells. No private wells may be drilled or maintained on any Lot without the prior written consent of the Developer or the Architectural Review Committee.

1.32 No Antennas. No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any Dwelling Unit or other structure on the Property or any Lot within the Development without the prior written consent of the Developer or the Architectural Review Committee; nor shall radio, 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 upon any other of such properties. Notwithstanding the foregoing, the provisions of this section shall not prohibit the Developer from installing equipment necessary for a master antenna system, security system, cable television, mobile radio system or other similar systems within the Development nor prohibit Developer or the Architectural Review Committee from approving the installation of a satellite dish no more than eighteen (18) inches in diameter at a approved location on the Lot.

1.33 Excavation. No elevation changes shall be permitted which will materially affect the surface grade of a Lot unless the consent of the Developer or the Architectural Review Committee is obtained.

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

1.35 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 full public

view to dry, such as on balcony or terrace railings. This provision may, however, be temporarily waived by the Developer or the Board during a period of severe energy shortages or other conditions where enforcement of this section would create a hardship.

1.36 Mailboxes. The Developer will select a mailbox for use by all Homeowners, and each Lot must install such mailbox for use by the Homeowner.

1.37 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 and Developer (with respect to improved Property owned by Developer) shall have the affirmative duty to rebuild, replace, repair, or clear and landscape, within six (6) months, any building, structure, and improvement or 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 establishing that the overall purpose of these Restrictive Covenants 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 shall not be deemed to be a waiver of the binding effect of this section upon all other Owners.

1.38 Vehicle Parking. Cars owned by Lot Owners shall not be parked on the street, but shall be parked only in the Owner's garage or driveway. No inoperable vehicle, tractor or other machinery shall be stored outside on the premises at any time, even if not visible from the street. No house trailer or such vehicle shall be stored on the premises. Recreational vehicles, vacation trailers, campers, boats and boat trailers must be stored and hidden from view within the garage. Such vehicles may not be stored anywhere else on the Lot.

1.39 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.

1.40 Occupancy Before Completion. Except with the written consent of the Association based on adequate assurance of prompt completion of a Dwelling Unit, an Owner shall not occupy a Dwelling Unit until the Dwelling Unit and seasonal landscaping conforming fully to the provisions of this instrument shall have been erected and fully completed thereon. The Owner of any Lot violating this provision shall be liable to the Association for liquidated damages at the rate of Fifty and No/100 Dollars (\$50.00) per day the violations occur, and to payment of such court costs and attorney's fees as may be incurred in the enforcement of this provision.

1.41 Developer Reserves 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 Common Property to become a part of any of the Lots bordering them. No other Lot Owner may take any actions described above.

1.42 Lawn Care. All unimproved Lots (except those owned by the Development) and all improved Lots must be kept fully seeded with grass (except where other provisions hereof require sodding) and regularly fertilized, cut and weeded.

1.43 Roofs. Roof pitches must be a minimum of 9/12, unless otherwise approved by the Developer or the Architectural Review Committee. All roofing materials must be approved in writing by the Developer or the Architectural Review Committee.

1.44 Chimneys. Chimneys must be constructed of brick, stucco or stone, and those chimneys on the exterior must have a foundation. Any other materials must be approved in writing by the Developer or the Architectural Review Committee.

1.45 Adjoining Lot Damage. Any damage done to any adjacent or adjoining Lot or by a contractor employed to build improvements on any Lot will be repaired immediately at the

expense of the Owner or contractor. Temporary construction support must be provided for the curbs and sidewalks by the Owner or contractor during the time of construction. All construction debris shall be removed periodically so no offensive condition exists within the neighborhood and the street must be kept clean during construction.

1.46 Material Quality. Only good quality materials and design will be accepted on any structure built on any Lot. 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 Developer or the Architectural Review Committee.

1.47 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.

1.48 Exterior Siding. All exterior siding must be approved in writing by the Developer or the Architectural Review Committee. If siding is permitted, all wood or masonry siding must have exposed laps six (6) inches maximum. Dwelling Units using masonry siding on all exterior sides must be true lap siding and not artificial laps. Vinyl and aluminum sidings are prohibited.

1.49 Decks. All exterior decks which face Common Property, another Lot or street may be constructed with wood, brick, stone or other approved material in accordance with the requirements of the Developer or the Architectural Review Committee.

1.50 Renting or Leasing. No Dwelling Unit may be rented or leased provided, however, a Dwelling Unit may be rented or leased for a period of up to six (6) months during any twenty-four (24) month period in order to facilitate the sale of the Dwelling Unit.

1.51 Violations and Enforcement. In the event of the violation, or attempted violation, of any one or more of the provisions of these Restrictive Covenants, the Developer, its successors or assigns, or the Association, its successors or assigns, including all parties hereinafter becoming Owners of any one or more of the Lots to which provisions of these Restrictive Covenants apply, may bring an action or actions against the Owner in violation, or attempting violation, and the said Owner shall be further liable for such damages as may accrue, including any court costs and reasonable attorneys fees incident to any such proceeding, which costs and fees shall constitute liquidated damages. 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. Further, the Developer or the Board may grant variances of the restrictions set forth in these Restrictive Covenants if such variances do not, in the sole discretion of the Developer or the Board, 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 Restrictive Covenants or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of these Restrictive Covenants by any person other than itself.

ARTICLE II

ARCHITECTURAL CONTROL

2.01 Architectural and Design Review.

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

(b) The Developer shall have sole architectural and design reviewing authority for the Development until the Developer has sold all Lots. However, the Developer may, in its discretion, transfer architectural and design review authority to the Board when the Developer transfers governing authority to the Board in accordance with the Bylaws; provided, however, that prior to calling the meeting of the Association to elect a Board to succeed the Developer as provided in the Bylaws, the Developer may execute and record in the office of the Recorder a document stating that the Developer reserves unto itself, its successors, or assigns, the architectural and design reviewing authority provided in this Article, and stating that said reservation, notice of which is thus provided, shall survive the election of the Board to succeed the Developer. Thereafter, the Developer shall continue to exercise the rights thus reserved to it until such time as it shall execute and record in the office of the Recorder a document assigning these rights to the Board. Upon such occurrence, the Board shall establish an Architectural Review Committee as soon as is practicable. When such Committee has been established, the Developer shall transfer reviewing authority to it.

(c) No Dwelling Unit, fence or wall, exterior lighting, swimming pools, children's play areas, decorative appurtenances, or structures of any type, shall be commenced, erected or placed or altered on any Lot until plans and specifications (including nature, kind, shape, dimensions, height, and composition of roof, siding or other exterior materials, finish, exterior color scheme and location of the Dwelling Unit, drives and parking areas), drainage plan, landscape plan and construction schedule, shall have been submitted to and approved in writing by the Developer or the Architectural Review Committee, provided, however, that if Developer or the Architectural Review Committee shall fail to approve or disapprove any proposed plans, specifications or locations within thirty (30) days after submission for approval, such plans, specifications and locations shall be conclusively deemed to have received the approval of the Developer or the Architectural Review Committee. In addition, any repainting of a substantial portion of the exterior of any structure in a manner not previously approved by the Developer or the Architectural Review Committee shall be subject to prior approval of the Developer or the Architectural Review Committee as provided in the preceding sentence.

(d) Developer shall have the right to disapprove any plans, specifications or locations which, in its opinion, are not suitable or desirable for aesthetic or other reasons; and in so passing upon such plans, specifications and locations, it shall have the right to require as many as four (4) elevation drawing to scale, together with topographic recordings of the site related to the road on which the Lot fronts, and to take into consideration the suitability of the proposed Dwelling Unit or other structure and of the materials of which it is to be built and of the Lot upon which it is to be erected, the total investment contemplated, the harmony thereof with the surroundings, and the effect of the Dwelling Unit or other structure, as planned, on the outlook from the adjacent or adjoining or neighboring Lots and properties.

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

2.02 Approval Standards. Approval of any proposed building plan, location, specifications or construction schedule submitted under this Article will be withheld unless such plans, location and specifications comply with the applicable Restrictive Covenants and Conditions of this Declaration and unless such construction schedule complies with the provisions of this Article. Approval of the plans and specifications by the Developer or the Architectural Review Committee is for the mutual benefit of all Owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each Owner shall be individually responsible for the technical aspect of the plans and specifications.

2.03 Approval of Contractors and Others and Licensing. All contractors, landscape architects, surveyors and others performing work on any Lot are subject to the Developer's or the

Architectural Review Committee's right to approve such contractors, etc. The Developer or the Architectural Review Committee may maintain an approved list of such contractors. All contractors, landscape architects, surveyors and others performing work on any Lot must be licensed as may be required by the State of Tennessee or any other governmental authority having jurisdiction in order to construct a residence on a Lot or perform services for an Owner.

ARTICLE III

ASSESSMENTS

3.01 Creation of the Lien and Personal Obligation of Assessments. Each Owner by acceptance of a deed conveying a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all of the terms and provisions of these covenants and pay to the Association annual assessments and special assessments for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Owner of each Lot shall be personally liable, such liability to be joint and several if there are two or more Owners, to the Association for the payment of all assessments, whether annual or special, which may be levied while such party or parties are Owners of a Lot. The annual and special assessments, together with such interest thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the Lot and all of the improvements thereon against which each such assessment is made. Unpaid assessments shall bear interest from due date to date of payment at the rate set by the Board, and said rate can be changed from time to time so that the rate is reasonably related to the economic situation. In the event that two or more Lots are combined into a single Lot as provided in this Agreement, the assessments will continue to be based upon the number of original Lots purchased. In the event three or more Lots are combined into two or more Lots as provided in this Agreement, the assessments will continue to be based upon the number of original Lots, and if any original Lot is subdivided by the Developer, the assessment on such original Lot shall be prorated between the Owner based upon the square footage owned by each Owner.

3.02 Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to provide services to the Owners, promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Common Properties, including electric operating costs of street lamps, ground lighting and watering costs, subdivision entry markers and landscaping within the sign easement areas of Lot 8 and Lot 9, the irrigation system, and the grass and trees in the buffer areas of each Lot along Kell Road outside such sign easement areas.

3.03 Amount of Annual Assessment. Until the transfer of governing authority from the Developer to the Board takes place as described in the Bylaws, the amount of the annual assessments shall be set by the Developer at such amount as the Developer, in its sole discretion, deems appropriate to promote the recreation, health, safety and welfare of its Members. Thereafter, the amount of the annual assessments shall be set by the Board unless sixty six and two thirds percent (66 - 2/3%) 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 the Bylaws.

3.04 Special Assessments for Improvements and Additions. In addition to the annual assessments, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, or the cost of any addition to the Common Properties, provided that any such assessment shall have the assent of sixty-six and two-thirds percent (66-2/3%) 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 the Bylaws.

3.05 Property Subject to Assessment. Only land within the Property which has been subdivided into Lots, and the plats thereof filed for public record, shall constitute a Lot for purposes of these assessments.

3.06 Exempt Property. No Owner may exempt himself from liability for any assessment levied against his Lot by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Lot in any other way.

The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from the assessment, charge and lien created herein:

- (a) The grantee of a utility easement.
- (b) All properties dedicated and accepted by a local public authority and devoted to public use.
- (c) All Common Properties as defined in Article I hereof.
- (d) All properties exempted from taxation by the laws of the State of Tennessee upon the terms and to the extent of such legal exemptions. This exemption shall not include special exemptions, now in force or enacted hereinafter, based upon age, sex, income levels or similar classification of the Owners.
- (e) Developer-owned Lots.

3.07 Date of Commencement of Annual Assessments.

(a) The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Developer to be the date of commencement. The Developer shall have the financial responsibility to physically maintain the Common Properties until the date of commencement of such assessments.

(b) The amount of the first annual assessment shall be based pro rata upon the balance of the calendar year and shall become due and payable on the date of commencement. The assessments for any year after the first year shall become due and payable the first day of January of said year.

(c) The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

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

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

Such statement shall be executed by any officer of the Association, and any lessee, purchaser or Mortgagee may rely upon such statement in concluding the proposed lease, purchase or Mortgage transaction, and the Association shall be bound by such statement.

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

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

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

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

ARTICLE IV

OWNER COMPLAINTS

4.01 Scope. The procedures set forth in this Article for Owner Complaints shall apply to all complaints regarding the use or enjoyment of the Property or any portion thereof or regarding any matter within the control or jurisdiction of the Association, including, without limitation, decisions of the Association or of the Board of Directors of the Association.

4.02 Grievance Committee. There shall be established by the Board a Grievance Committee to receive and consider all Owner complaints. The Grievance Committee shall be composed of the President of the Association and two other Owners appointed by and serving at the pleasure of the Board of Directors, or the Manager may be appointed by the Board to function as the Grievance Committee.

4.03 Form of Complaint. All complaints shall be in writing and shall set forth the substance of the complaint and the facts upon which it is based. Complaints are to be addressed to the President of the Association and sent in the manner provided in Section 6.04 for sending notices.

4.04 Consideration by the Grievance Committee. Within twenty (20) days of receipt of a complaint, the Grievance Committee shall consider the merits of the same and notify the complainant in writing of its decision and the reasons therefor. Within ten (10) days after notice of

the decision, the complainant may proceed under Section 4.05; but if complainant does not, the decision shall be final and binding upon the complainant.

4.05 Hearing Before the Grievance Committee. Within ten (10) days after notice of the decision of the Grievance Committee, the complainant may, in a writing addressed to the President of the Association, request a hearing before the Grievance Committee. Such hearing shall be held within twenty (20) days of receipt of complainant's request. The complainant, at his expense, and the Grievance Committee, at the expense of the Association, shall be entitled to legal representation at such hearing. The hearing shall be conducted before at least two members of the Grievance Committee and may be adjourned from time to time as the Grievance Committee in its discretion deems necessary or advisable. The Grievance Committee shall render its decision and notify the complainant in writing of its decision and the reasons therefor within ten (10) days of the final adjournment of the hearing. If the decision is not submitted to arbitration within ten (10) days after notice of the decision, as provided for in Section 4.07, the decision shall be final and binding upon the complainant.

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

4.07 Questions of Fact: Arbitration. If there shall be any dispute as to any material fact, either the Grievance Committee or the complainant may, at their option, within ten (10) days after notice of the decision as provided for in Section 4.05, submit the same to arbitration in accordance with the provisions for arbitration adopted by the American Arbitration Association by filing with the other party a notice of its intention to do so. The decision of the arbitrator shall be final and binding upon the complainant and the Grievance Committee. In the event of arbitration, each party shall bear one-half of the expense thereof.

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

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

ARTICLE V

REMEDIES ON DEFAULT

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

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

5.03 Recovery of Expenses. In any proceeding arising because of an alleged default by an Owner, the Developer or the Association, if successful, shall, in addition to the relief provided for in Section 8.02, be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be allowed by the court. However, in no event shall the Owner be entitled to such

attorneys' fees. The Association is hereby granted a security interest in and a lien upon each Lot and the improvements thereon for payment of such costs and fees. The lien shall become effective upon the initiation of any such proceedings and may be foreclosed as other liens are foreclosed in Tennessee.

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

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

ARTICLE VI

GENERAL PROVISIONS

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

6.02 Amendments. This Declaration may be amended, modified or revoked in any respect from time to time by the Developer prior to the date that the governing authority for the Development is transferred from the Developer to the Board in accordance with the Bylaws. Thereafter, this Declaration may be amended in accordance with the following procedure:

- (a) An amendment to this Declaration may be considered at any annual or special meeting of the Association; provided, however, that, if considered at an annual meeting, notice of consideration of the amendment and a general description of the terms of such amendment shall be included in the notice of the annual meeting provided for in the Bylaws, and, if considered at a special meeting, similar notice shall be included in the notice of the special meeting provided for in the Bylaws. Notice of any meeting to consider an amendment that would adversely affect Mortgagees' rights shall also be sent to each Mortgagee listed upon the register of the Association.
- (b) At any such meeting of the members of the Association, the amendment must be approved by an affirmative sixty-six and two thirds percent (66 - 2/3%) vote of those Owners who are in attendance or represented at the meeting. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws. Any amendment which adversely affects the rights of the Mortgagees must be approved by an affirmative sixty-six and two thirds percent (66 - 2/3%) vote of the Mortgagees of which the Association has been properly notified (based upon one vote for each Lot on which a First Mortgage is held) and who vote within the period of time set by the Board to vote, which shall be at least ten (10) days and no longer than sixty (60) days.
- (c) An amendment adopted under Paragraph B of this Section shall become effective upon its recording with the Recorder, and the President of the Association shall Secretary of the Association shall execute, acknowledge and record the amendment and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of this Section; provided, that in the event of the disability or other incapacity of either, the Vice President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including, without limitation, any Mortgagee, prospective purchaser, tenant, lienor or title insurance company that the amendment was adopted in accordance with the provisions of this Section.

(d) The certificate referred to in Paragraph (c) of this Section shall be in substantially the following form:

C E R T I F I C A T E

I, _____, do hereby certify that I am the Secretary of Conner Creek Homeowners' Association, Inc. and that the within amendment to the Declaration of Covenants and Restrictions of Conner Creek was duly adopted by the Owners of said Association and the Mortgagees, if applicable, in accordance with the provisions of Section 6.02 of said Declaration.

Witness my hand this _____ day of _____.

Secretary
Conner Creek Homeowners'
Association, Inc.

6.03 Dedication of Streets/ Common Property. After the Common Property has been transferred and conveyed to the Association any portion of the Common Properties may be transferred and conveyed to Hamilton County and dedicated for public purposes upon approval of such action by the Members of the Association in the same manner as this Declaration may be amended by the Members. The streets have already been so transferred, conveyed and dedicated.

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

Conner Creek Subdivision
c/o Mr. and Mrs. James L. O'Kelley, Jr.
115 Palisades Drive
Signal Mountain, Tennessee 37377

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

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

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

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

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

6.09 Law Governing. This Declaration is made in the State of Tennessee, and any question pertaining to its validity, enforceability, construction or administration shall be determined in accordance with the laws of that State.

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

IN WITNESS WHEREOF, the Developer has executed, or caused to have executed by its duly authorized officers this Declaration on the date first above written.

CONNER CREEK SUBDIVISION, PHASE II

By: _____
James L. O'Kelley, Jr., Developer

By: _____
Janet G. O'Kelley, Developer

STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

Personally appeared before me, _____, Notary Public, James L. O'Kelley, Jr. and Janet G. O'Kelley, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained, and who further acknowledged that they are Developers of Conner Creek Subdivision, Phase II and are authorized to execute this instrument.

WITNESS my hand, at office, this ____ day of _____, 1999.

Notary Public

My Commission Expires: _____

EXHIBIT A

All property shown on the Final Plat of Conner Creek Subdivision prepared by Alfred L. Allen, surveyor, dated December 2, 1998 and recorded in Plat Book 60, Page 40 in the Office of the Register of Deeds of Hamilton County, Tennessee.

EXHIBIT B

Initial Text of Bylaws of Conner Creek Homeowners' Association Inc.

BYLAWS FOR
CONNER CREEK HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
NAME

The following provisions shall constitute the Bylaws of CONNER CREEK HOMEOWNERS' ASSOCIATION, INC. (the "Bylaws"), a nonprofit corporation (the "Association") which shall, along with the provisions of the Charter of the Association (the "Charter"), the Declaration of Covenants and Restrictions for Conner Creek, as may be amended from time to time (the "Declaration") and the rules and regulations adopted by the Board of Directors of the Association (the "Board"), govern the administration of Conner Creek, a residential development (the "Development") and the real property in the Development owned by the Association ("Common Properties"). 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

115 Palisades Drive
Signal Mountain, Tennessee 37377

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 Charter, the Declaration and these Bylaws. The aims of this Association are to be carried out through any and all lawful activities, including others not specifically stated in the Charter, the Declaration, 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, as amended, 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 in 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 Member 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 Member 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.

(a) Except as hereinafter provided in Section 4.02(b), Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 4.01. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and 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 such Lot. When one or more co-owners signs a proxy or purports to vote for his or her co-owners, such vote shall be counted unless one or more of the other co-owners is present and objects to such vote, or if not present, submits a proxy or objects in a written instrument delivered to the Secretary of the Association before the vote is counted. If co-owners disagree as to the vote, each co-owner will be entitled to a fractional vote equal to his fraction of ownership.

(b) The Developer shall be entitled to three (3) votes for each Lot owned by the Developer.

ARTICLE V THE BOARD OF DIRECTORS

5.01 Board of Directors. Subject to Section 5.02 of this Article hereinafter, the administration of the Development and Common Properties on behalf of the Association shall be conducted by a Board of Directors ("Board") which shall consist of five (5) natural persons of legal age, each of whom, at all times during membership on the Board, shall be an Member, a member of the household of an Member, or the nominee of an entity, other than a natural person, which is an Member.

5.02 Developer Performs Functions.

(a) The rights, duties and functions of the Board shall be solely exercised by Developer until such time as the Developer has less than five (5) Lots subject to this Declaration. The Developer may, in its sole discretion, designate up to five individuals to serve on the Board on behalf of the Developer during the period that the Developer is performing the functions of the Board. Such individuals designated by the Developer need not be Members, and may be removed and replaced by the Developer at will. Upon the first to occur of the events set forth above, the Developer shall call a special meeting of Members to elect Directors to succeed to the positions held by individuals designated by the Developer. Notwithstanding the foregoing, the Developer may at any time prior to the occurrence of the events set forth above release its right to designate one or more of the individuals to serve on the Board by calling a special meeting of Members to elect Directors to succeed to such position or positions and thereafter the Members other than the Developer shall be entitled to elect the individual to fill such position or positions of the Board.

(b) Prior to calling the meeting of the Association to elect a Board to succeed the individuals designated by the Developer, the Developer may execute and record in the Register's Office of Hamilton County, Tennessee a document stating that the Developer reserves unto itself, its successors, or assigns, the rights given to the Board in Article IV of the Declaration (Architectural Control), and stating that said reservation, notice of which is thus provided, shall survive the election of a Board to succeed the Developer. Thereafter, the Developer may continue to exercise the rights thus reserved to it until such time as it has sold all of the Lots in the Development. Upon the sale of all of the Lots in the Development or at such time as the Developer determines to relinquish the rights it has reserved to itself, the Developer shall execute and record in the Register's Office of Hamilton County, Tennessee a document assigning those rights to the Board.

5.03 Election. At each annual meeting, subject to the provisions of Section 5.02 hereof, the Association shall elect those members of the Board as required under Section 5.01 who shall serve the terms set out in Section 5.04; 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 next 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) Members (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 five (5) or more Members and by the nominee named therein indicating his willingness to serve as a member of the Board, if elected.

5.04 Term. Members of the Board shall serve for a term of two (2) years; provided, however, that three (3) 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 two (2) members 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.

5.05 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 the approval of sixty-seven percent (67%) of the votes of those Members of the Association who are in attendance or represented at any 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 Board member, the disability of a Board member which, in the opinion of a majority of the members of the Board, renders such Board member incapable of performing Board duties, or in the event a Board member shall cease to be a Member. Whenever there shall occur a vacancy on the Board for any reason, the remaining Board 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.

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

5.07 Powers and Authority of the Board. The Board, for the benefit of the Members of the Association, shall enforce the provisions of the Declaration, these Bylaws, and the Rules and Regulations governing the Common Properties. 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 Property.

(b) The services of a person or firm to manage its affairs (herein called "Manager"), to the extent deemed advisable by the Board, as well as such other personnel as the Board shall determine shall be necessary or proper for the operation of the Common Properties, whether such personnel are employed directly by the Board or are furnished by the Manager. All persons employed to manage or assist in the management or maintenance of the Common Properties shall be employed at the will of the Board; provided that a manager may be employed for successive periods not exceeding a three (3) year term in each period. The Board may delegate any of its duties, powers or functions relating to the daily administrative affairs of the Association to any person or firm designated by the Board to act as Manager.

(c) 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.

(d) Legal and accounting services necessary or advisable in the operation of the Common Properties and the enforcement of this Declaration, these Bylaws, and any Rules and Regulations made pursuant thereto.

(e) Officers and Directors Liability Insurance covering the Officers and Directors of the Association acting in such capacity.

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

(g) Painting, maintenance, repair, replacement and landscaping of the Common Properties. 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 Member, furnishings and equipment and other personal property for the Property and to provide maintenance, repair and replacement thereof.

(h) 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 Common Properties or for the enforcement of the Declaration, these Bylaws, or the Rules and Regulations.

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. The provision shall not be construed to prohibit the Board from delegating such authority to the Manager as it deems proper.

5.08 Additional Powers of the Board. The Board shall have the right to acquire, operate, lease, manage, mortgage and otherwise trade and deal with the Property as may be necessary or convenient in the operation and management of the Property, 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 Members and as such shall manage, maintain and improve the Property and also collect, conserve, allocate and expend money received from the Members in a manner consistent with such agent's relationship and in conformity with this Declaration, these Bylaws and the Rules and Regulations.

5.09 Meetings of the Board. Meetings of the Board shall be held at such places within or without the State of Tennessee as the Board shall determine. Three (3) 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.

5.10 Special Meetings. Special meetings of the Board may be called by the President of the Association or by any two (2) Board members.

5.11 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.

5.12 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.

5.13 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 Members appointed by the 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 until such time as provided in Section 5.02 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 Members 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 Property and setting forth restrictions on, and requirements respecting the use and maintenance of the Property. Copies of the Rules and Regulations shall be furnished to each Member prior to the time the same shall become effective.

5.17 Limitation on Capital Additions Etc. The Board shall authorize no structural alterations, capital additions to, or capital improvements of the Property, any of which require an expenditure in excess of Five Thousand Dollars (\$5,000.00) without approval of a majority of the votes of those Members who are present or represented at any annual or special meeting of the Association duly called for such purpose; or in excess of Ten Thousand Dollars (\$10,000.00) without approval of sixty-seven percent (67%) of the votes of those Members who are present or represented at any annual or special meeting of the Association duly called for such purpose; provided, however, that the Board shall have the power to make any such structural alterations, capital additions to, or capital improvements of, the Property 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 By-Laws, 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 either fifty percent (50%) of the Members or Members (including the Developer) entitled to cast at least twenty-five (25) votes, in response to notice to all Members 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 Members 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 February 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 Members 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 Members: (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 Member; 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 Member. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the Members who were not present at the annual meeting if not previously provided. The Developer, or its successors or assigns, shall have the right to approve or disapprove the budget for the coming year for a period of ten (10) years after the date on which the first Board is elected to succeed the Developer pursuant to Section S.02 hereof.

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 Members, or for any other reasonable purpose. Special meetings may be called by a majority of the Board, or by at least ten percent (10%) of the Members by written notice, delivered to all Members 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 Chairman of the Board, President, Vice-President, Secretary, and Treasurer. The Developer may, 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 5.02 hereof. Such officers designated by the Developer need not be Members, 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 5.03 hereof, the following provisions shall become applicable: Each officer shall be required to be an Member, 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 vacant due to an officer ceasing to be an Member, 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) Chairman of the Board. The Chairman of the Board shall be the chief executive officer of the Association and he 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. He shall have the authority and power to execute on behalf of the Association contracts, notes, bonds, mortgages, deeds of trust, security deeds, leases, waivers of liens and other documents and instruments arising in the ordinary course of business.

(b) President. The President shall be the chief operating officer of the Association and in the absence of the Chairman of the Board, he 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. He shall have the authority and power to execute on behalf of the Association contracts, notes, bonds, mortgages, deeds of trust,

security deeds, leases, waivers of liens and other documents and instruments arising in the ordinary course of business.

(c) Vice-President. In the absence or inability of the President, the Vice-President shall perform the functions of the President.

(d) 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.

(e) 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 LIABILITY 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 Members 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 Member or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Members in their capacity as such; (iii) have no personal liability in tort to an Member 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 Property, 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 counsel 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 Members 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 Costs of Suit in Actions Brought by One or More Members on Behalf of All Members. No suit shall be brought by one or more but less than all Members on behalf of all Members without approval of a majority of Members and, if approval is obtained, the plaintiffs' expenses, including reasonable counsel's fees and court costs, shall be a Common Expense unless such suit is brought by one or more Members against other Members, the Association or against the Board, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all Members as defendants, in which event the plaintiffs' expenses, including counsel's fees and court costs, shall not be charged as a Common Expense.

7.04 Notice of Suit and Opportunity Who Defend. Suits brought against the Association, or the Board, or the officers, employees or agents thereof, in their respective capacities as such, or the Common Properties 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 Members shall have no right to participate other than through the Board in such defense. Suits against one or more, but less than all Members shall be directed to such Members, who shall promptly give written notice thereof to the Board and to the Mortgagees of the Lots affected, and shall be defended by such Members 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 to succeed the Developer, and thereafter by not less than sixty-seven percent (67%) of the votes 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 Members upon written request.

8.03 Notices. Any notice required to be sent to any Member 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 Member on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Member 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:

115 Palisades Drive
Signal Mountain, Tennessee 37377

8.04 Conflict. In the event of any conflict between these Bylaws and the provisions of the Charter, the Charter shall control and govern. In case of any conflict between the Declaration and these Bylaws, 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 Members, 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 Charter 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 Developers of the Common Properties hereby adopts the foregoing Bylaws of the Association, this _____ day of _____, 1999.

By: _____
James L. O'Kelley, Jr.

By: _____
Janet G. O'Kelley