

File

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Hamilton County Tennessee

DECLARATION OF COVENANTS AND RESTRICTIONS FOR
MCKENZIE FARM

THIS DECLARATION made this 14th day of August, 2007, by
McKenzie Farm, LLC, a Tennessee limited liability company (hereinafter the
"Developer").

WITNESSETH

WHEREAS, Developer as owner of certain real property located in Hamilton
County, Tennessee, and more particularly described in Exhibit "A" attached hereto and
incorporated herein (hereinafter the "Property") desires to create thereon a residential
development known as McKenzie Farm (hereinafter the "Development"); and

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WHEREAS, Developer desires to provide for the preservation of the land and
home values when and as the Property is improved and desires to subject the
Development to certain covenants, restrictions, easements, affirmative obligations,
charges and liens, as hereinafter set forth, each and all of which are hereby declared to be
for the benefit of the Development and each and every owner of any and all parts thereof;
and

WHEREAS, Developer has deemed it desirable for the efficient preservation of
the values and amenities in the Development, to create an entity to which should be
delegated and assigned the power and authority of holding title to and maintaining and
administering the Common Properties (as hereinafter defined) and administering and
enforcing the covenants and restrictions governing the same and collecting and
disbursing all assessments and charges necessary for such maintenance, administration
and enforcement, as hereinafter created; and

WHEREAS, Developer has caused or will cause to be incorporated under the laws
of the State of Tennessee, McKenzie Farm Homeowners' Association, Inc., a
Tennessee non-profit corporation, for which the purpose of exercising the above
functions and those which are more fully set out hereafter;

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

ARTICLE I DEFINITIONS

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

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

1.02 Association. "Association" shall mean the McKenzie Farm Homeowners' Association, Inc., a Tennessee non-profit corporation.

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

1.04 By-Laws. "By-Laws" shall mean the By-Laws of the Association. The initial text of which is set forth in Exhibit "B" attached hereto and incorporated herein.

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

1.06 Common Properties. "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are deeded or leased to the Association and designated in said deed or lease as "Common Properties." The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated as a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners on a guest or tenant basis, and visiting members of the general public (to the

extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association; provided, however, that any lands which are leased by the Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such Lease. The Common Properties may include but not be limited to street lights, entrance and street signs, pool, pool house, parks, ponds, medians in roadways, maintenance easement areas, landscaping easement areas, and walkways.

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

1.08 Declaration. "Declaration" shall mean this Declaration of Covenants and Restrictions for the McKenzie Farm Subdivision and any Supplemental Declaration filed pursuant to the terms hereof.

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

1.10 Developer. "Developer" shall mean McKenzie Farm, LLC, a Tennessee limited liability company and its successors and assigns.

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

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

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

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

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

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

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

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

1.19 Owner. "Owner" shall mean and refer to the Owner as shown by the real estate records in the office of the Recorder whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Lot, situated upon the Property, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the Mortgagee or holder of a security deed, its successors, or assigns, unless and until such Mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure, nor shall the term "Owner" mean or refer to any lessor or tenant of an Owner. In the event that there is recorded in the office of the Recorder, a long-term contract of sale covering any Lot within the Property, the Owner of such Lot shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property. "Owner" shall also include Limited Owners.

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

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

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

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

ARTICLE II
PROPERTIES, COMMON PROPERTIES AND
IMPROVEMENTS THEREON

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

2.02 Association. The Developer has caused, or will in the future cause, the Association to be formed and incorporated under the laws of the State of Tennessee for the purpose of carrying on one or more of the functions of a homeowner's 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, attached hereto and incorporated herein.

2.03 Additions to Property. Additional lands may become subject to, but not limited to, this Declaration in the following manner:

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

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

ARTICLE III COVENANTS, USES AND RESTRICTIONS

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

3.02 Residential Use.

A. All of the Lots in the Development shall be, and be known and described as, residential lots, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than as provided in these Covenants and Restrictions and in supplements hereto, or except as provided for in a deed of conveyance from the Developer.

B. "Residential" refers to a mode of occupancy, as used in contradistinction to "business" or "commercial" or "mercantile" activity, and except where otherwise expressly provided, "residential" shall apply to temporary as well as permanent uses, and shall apply to vacant Lots as well as to buildings constructed thereon.

C. No Lot 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 consented to in writing by the Developer or the Board.

3.03 No Multi-Family Residences, Business, Trucks. No residence shall be designed, patterned, constructed or maintained to serve or for the use of more than one single family, and no residence shall be used as a multiple family Dwelling Unit at any time, nor used in whole or in part for any business service or activity, or for any commercial purpose; nor shall any Lot be used for business purposes, or for trucks or other equipment inconsistent with ordinary residential uses. No panel, commercial or tractor trucks shall be habitually parked in driveways or overnight on streets in front of any of the Lots. Nothing contained herein shall prohibit the Developer or the Association from permitting, maintaining or operating concessions or vending machines on the Common Properties. Provided, however, that nothing herein contained shall be construed to prohibit the construction of attached single family residences in areas designated by the Developer for such construction.

3.04 Minimum Square Footage. No single-family detached Dwelling Unit shall be erected or permitted to remain in the Property unless it has the number of square feet of enclosed living area measured from the exterior walls, exclusive of open porches or screened porches, garages or basements, set forth in this Section. For the purposes of this Section, stated square footage shall mean finished and heated living area contained within the Dwelling Unit, 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 may vary from phase to phase. The minimum number of square feet for each phase shall be set forth on the recorded plat for each phase. The minimum number of square feet required in each phase is as follows:

- (a) A single level home shall contain not less than 2,000 square feet;
- (b) A two level home shall contain not less than 2,400 square feet with not less than 1,500 square feet on the main level. To be a two level

home, both levels must be above grade. No split foyer design will be accepted as a two level or single level.

3.05 Set-backs. No building shall be erected on any Lot nearer than thirty (30) feet to the front Lot line, twenty-five (25) feet from the rear Lot line if such Lot line adjoins another Lot, and fifteen (15) feet from the side Lot lines, unless the side Lot line fronts a street, in which case no building shall be erected nearer than twenty-five (25) feet to such side Lot line. For the purposes of this covenant, steps and open porches or decks shall not be considered part of the building, provided, however, this shall not be construed to permit any portion of the building on the Lot to encroach upon another Lot. No provision of this paragraph shall be construed to permit any structure to be constructed and erected upon any Lot that does not conform to the zoning laws and regulations applicable thereto; provided, however, that for good cause shown, an Owner may petition the Developer or the Architectural Review Committee for a variance from such set-back requirements to a minimum set back of fifteen (15) feet from a public road right-of-way at the front side of the Dwelling Unit and to zero (0) feet from the rear property line. Such variances may be granted or rejected by the Developer or the Architectural Review Committee in their sole and absolute discretion.

3.06 Rearrangement of Lot Lines. Not more than one Dwelling Unit shall be erected or maintained on any one Lot. With the written approval of the Developer or the Board of Directors, 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 3.40 hereof, Lots may not be resubdivided so as to create a small area than originally deeded to a Lot Owner and as shown on the subdivision plat.

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

Neither the foregoing nor any other section of this Declaration shall prevent the Developer or any builder approved by the Developer from constructing a house for use as a model home that may contain office-type furniture and be used for conducting the business of either selling that house or other houses within the Development, nor shall the foregoing or any other section of the Declaration prevent the Developer from designating

a Lot or Lots from time to time for the temporary placement of a trailer or other similar structure for use as an office and/or sales center by the Developer and/or approved builders at the sole discretion of the Developer.

3.08 Rainwater Drainage. Each Lot must be landscaped so that rainwater and storm water run-off will drain into the street or streets adjoining the Lot or into a drainage easement. Unless otherwise set forth in the recorded plat, Lot lines shall be the drainage easements. A Lot may not be landscaped so that rainwater runs into another Lot across an established drainage easement.

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

3.10 Frontal Appearance. All Dwelling Units shall have conventional and acceptable frontal appearance from the main street fronting said Dwelling Unit and each unit must have a unique frontal appearance that cannot be the same as any other Dwelling Unit on the same street. In the event that a question should arise as to the conventionality or acceptability of the frontal appearance of a Dwelling Unit, the decision of the Developer or the Architectural Review Committee shall be final.

3.11 Building Requirements. 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 front exterior of each Dwelling Unit must be covered with at least sixty percent (60%) stone, brick, or combination thereof. The remaining exterior must be covered with hardiboard. All exposed concrete block or poured concrete foundations and retaining walls must be covered with stone or brick to compliment the Dwelling Unit. All sheet metal work (roof caps, flashings, vents, chimney caps, etc.) must be painted to match the roof. Gutters and downspouts must be painted in approved colors. All roof stacks and plumbing vents must be placed on rear slopes of roofs; provided, however, for good cause shown, the Developer or the Architectural Review Committee may make exceptions as to the placement of such roof stacks and plumbing vents. Any in-ground level swimming pool must be approved by the Architectural Review Committee prior to commencement of construction or installation of such swimming pool. All fences for pools must be ornamental cast iron or an approved substitute. No above-ground swimming pools will be allowed. Notwithstanding anything to the contrary, on all corner lots which have two or more sides exposed to streets, the exterior of each dwelling fronting on said street must be covered with stone, brick, or combination thereof, or, at the discretion of the Architectural Review Committee, additional buffer landscaping shall be installed.

3.12 Fences. No fence 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 or stained. All proposed fences must be submitted to the Developer or the Architectural Review Committee showing materials, finishes, design, height and location. No privacy fencing will be permitted.

3.13 Driveways and Walkways. Driveways and walkways shall be considered and treated as part of the landscaping. Each Dwelling Unit constructed upon a Lot must be served by a driveway and by walkways constructed of surface materials such as brick and/or concrete. All driveways must include a 6-foot decorative stamped area starting at the beginning of the street. No other hard surface materials will be approved. Where a Lot borders on more than one street, the Lot shall be entered from the secondary street. It shall be obligatory on all Owners of Lots in this subdivision to construct or place any driveways, culverts or other structures, or gradings which are within the limits of any dedicated roadways, in strict ordinance with the specifications therefor, as set forth on the recorded subdivision plat, in order that the roads or streets, which may be affected by such placement or construction, may not be disqualified for acceptance into the road system of Hamilton County, Tennessee.

3.14 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. Notwithstanding the foregoing, nothing herein shall permit any curb cuts where such cuts are prohibited by any applicable city, county, or state regulation, ordinance or law.

3.15 Signs. One sign offering the Lot and/or Dwelling Unit for sale and one sign reflecting the name of the builder may be placed upon a Lot. Upon the sale of any Lot to an Owner, or upon sale of any Lot owned by a Builder upon which a speculative Dwelling Unit is constructed or is being constructed, one sign reflecting that such Lot and/or Dwelling Unit is sold may be placed upon the Lot. Such signs must be in a form approved by the Developer or the Architectural Review Committee. No other signs shall be erected or maintained on any Lot, except in accordance with approved standards for signs as set forth by the Developer or the Architectural Review Committee. Nothing in the foregoing shall be construed to prevent the Developer from erecting and maintaining signs at the entrance of the Development as provided herein.

3.16 Service Area. Each Dwelling Unit shall provide an area or areas on the rear or side yard of the Lot to accommodate air conditioner compressors, garbage cans, the electrical service entrance, or other ancillary residential functions that by nature may

present an unsightly appearance. Service areas shall be convenient to the utility services and screened from public view by an enclosure that is an integral part of the site development plan (the site development plan being more fully described in paragraph 4.01 C hereof), using materials, colors or landscaping that are harmonious with the Dwelling Unit it serves.

3.17 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 the garages must be finished. Garage doors may not be allowed to stand open.

3.18 Landscaping. A landscape plan shall accompany every new home application (the new home application being more particularly described in paragraph 4.01 hereof) 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 Developer or the Architectural Review Committee may require the placement of up to three (3) or four (4) inch caliper trees in the rear of the Lot, or other acceptable landscape buffer, to provide screening for the Dwelling Unit. Landscaping in accordance with the approved landscape plan must be substantially completed within 9 months after commencement of construction of the Dwelling Unit. Shrubbery plantings must be a minimum of 3 gallon varieties and those adjacent to roadways and sidewalks shall not impede the vision of vehicle operators. Sidewalks and driveways shall be considered and treated as part of the landscaping and the driveway must have a 6-foot section of decorative stamped concrete beginning at the street.

3.19 Windows and Bay Windows. Materials to be used in windows and glass doors must be approved by the Developer or the Architectural Review Committee. Approved clad or vinyl windows such as Pella or Anderson windows will be permitted. Mullions shall be used in all front facing windows. No cantilevered bay windows shall be proposed or installed on any house without the prior written approval of the Architectural Review Committee. All bay windows fronting on any street must have a copper roof and be approved by the Architectural Review Committee. No aluminum windows will be allowed.

3.20 Animals. No poultry, livestock or animals shall be allowed or maintained on any Lot at any time except that the keeping of dogs, cats or other household pets is permitted provided, however, that nothing contained herein shall permit the keeping of dogs, cats or other household animals for commercial purposes. Pet owners shall not allow pets to roam unattended. The pet owner shall muzzle any pet which consistently barks. If barking persists the pet owner shall have the pet removed from the Development. If the pet owner refuses, it shall be deemed an "offensive activity." Nothing contained herein shall be deemed to permit the keeping of an unreasonable

number of pets, or the keeping of any animal deemed to be a danger to other residents. Developer or the Board of Directors shall, in their sole discretion, have the authority to determine what constitutes an "unreasonable" number or a "dangerous" pet.

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

3.22 Unsightly Conditions. All of the Lots must, from the date of purchase, be maintained by the Owner or the Builder in a neat and orderly condition (grass being cut when needed, as well as leaves, broken limbs, dead trees and other debris being removed when needed). Tree limbs, rocks and other debris must be kept out of the streets. In the event that an Owner of a Lot, including an Owner who is a Builder, fails, of his own volition, to maintain his Lot in a neat and orderly condition, Developer, or its duly appointed agent, or the Board, or its duly appointed agent, may enter upon said Lot without liability and proceed to put said Lot into an orderly condition and shall bill the Owner two hundred and fifty per cent (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.

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

3.24 No Detached Buildings. There shall be no detached garages, outbuildings or servants quarters without the prior written consent of the Developer or the Architectural Review Committee. Pool houses will be considered and must be built with the same material used for the principle residence.

3.25 Sewage Disposal. Before any Dwelling Unit on any Lot shall be occupied, a connection with the municipal sewer system meeting applicable municipal codes shall be made. Clean outs shall not be visible from the street or any lot. There shall not be erected, permitted, maintained or operated on any Lot any privy, cesspool, vault or septic system without the written approval of the Developer or the Board.

3.26 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 such other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Developer or the Board detracts from the overall beauty, setting and safety of the Property or Lots. Such entrance for the purpose of

mowing, removing, clearing, cutting or pruning shall not be deemed a trespass. The Developer and its agents or the Board and its agents may likewise enter upon a Lot to remove any trash which has collected on said Lot without such entrance and removal being deemed a trespass. The provisions of this Section shall not be construed as an obligation on the part of the Developer and its agents or the Board and its agents to mow, clear, cut or prune any Lots or to provide garbage or trash removal services. Expenses incurred for any of the foregoing shall be chargeable to and recoverable from the Owner of the Lot upon which such work is done.

3.27 Tree Removal. Except as provided in the landscape description of the site development plan, no live trees or shrubs having a diameter greater than twenty-four (24) inches shall be removed prior to obtaining the written approval of the Developer or the Architectural Review Committee. Any Owner who, without having obtained written approval from the Developer or the Architectural Review Committee, cuts down or allows to be cut down any tree having a diameter of twenty-four (24) inches or greater shall be liable to the Association for liquidated damages in the amount of One Thousand and No/100 Dollars (\$1,000.00) for each tree so cut.

3.28 Tanks and Garbage Receptacles. 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.

3.29 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.

3.30 No Antennas. No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed upon 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 any radio, television 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 Lot. Without limiting the applicability of the foregoing, Developer or Architectural Review Committee shall permit the installation of unobtrusive television reception devices if such devices are attached to the exterior of a Dwelling Unit and are attached in a location approved by the Developer or the Architectural Review Committee which location shall not be in the public view and shall not be unsightly regardless of its location. 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.

3.31 Excavation. No Owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which would materially affect the surface grade of a Lot unless the prior written consent of the Developer or the Architectural Review Committee is obtained.

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

3.33 Laundry. No Owner, guest or tenant shall hang laundry from any area within or outside a Dwelling Unit if such laundry is within the public view, or hang laundry in public view to dry, such as on balcony or terrace railings. This provision may, however, be temporarily waived by the Developer or the Board during a period of severe energy shortages or other conditions where the enforcement of this Section would create a hardship.

3.34 Mailboxes. Mailboxes of a type consistent with the character of the home shall be constructed by the Owner to complement the residences. Mailboxes shall be constructed with the same material (brick or stone), as required on the front exterior of the residence.

3.35 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 with a reasonable period of time, any building, structure, improvements, and significant vegetation which shall be damaged or destroyed by fire or other casualty. Variations and waivers of this provision may be made only upon Developer or the Board of Directors establishing that the overall purpose of these 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 of Directors shall not be deemed to be a waiver of the binding effect of this section upon all other Owners.

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

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

3.38 [Intentionally Left Blank]

3.39 Occupancy Before Completion. Except with the written consent of the Developer or the Board of Directors, based upon adequate assurance of the prompt completion of a Dwelling Unit, an Owner shall not occupy a Dwelling Unit until the Dwelling Unit and seasonal landscaping conforming fully to the provisions of this Declaration shall have been erected and fully completed.

3.40 Developer Reserves the Right. Notwithstanding any other provisions herein to the contrary, the Developer reserves unto itself, its successors and assigns, the following rights, privileges and powers: to subdivide Lots, to combine Lots or parts of Lots, to rearrange boundaries of Lots, to cause any part of any Lot to become part of the Common Properties, and to cause portions of the Common Property Lots to become part any of the Lots bordering them, provided that not more than five thousand (5,000) square feet of any one given Common Property Lot may be added to any one given Lot bordering it, and provided that not more than five thousand (5,000) square feet of any one given Common Property Lot may be added to the Lots bordering it.

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

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

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

3.44 Chimneys. Unless located on the rear of the structure, all chimneys must be constructed of brick, sto or stone, and those chimneys on the exterior must have a foundation and capped flue.

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

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

3.47 Air Conditioning and Heating Units. Air conditioning and heating units shall be architecturally screened or landscaped so as to not be visible from any street.

3.48 Sidewalks. It is the obligation of each Lot Owner subsequent to the Developer to install a sidewalk along lines of the Lot which front the road in accordance with the specifications of the Developer or Architectural Review Committee by the time the Dwelling Unit is completed or within one (1) year from the date of purchase of the Lot, whichever is earlier. All sidewalks must be four (4) feet wide and be positioned two (2) feet from curb and constructed with reinforced concrete to reduce the possibility of cracking.

3.49 Sodding. Prior to occupancy of a Dwelling Unit, the front yard of the Lot must be sodded. Corner lots must sod side yard facing street. Prior occupancy may be approved by the Developer or Architectural Review Committee if weather conditions prohibit sodding.

3.50 Exterior Finish Materials. All exterior finish materials, including without limitation, roofing, gutters, windows and doors, and any finish applied to such materials, and including without limitation all paints or stains, mortar or cement, must be approved in writing by the Developer or Architectural Review Committee. All hardboard siding must have laps of six (6) inches. Dwelling Units using hardboard siding on exterior sides must be true lap siding and not artificial laps.

3.51 No Waterway Use or Dumping. No boat of any kind shall be permitted upon, nor shall any swimming be permitted in, any pond on the Common Properties. No garbage, trash or other refuse shall be dumped in any pond, or waterway of the Development. Owners will be assessed a Five Hundred Dollar (\$500.00) fine for each violation of this provision in addition to assessments for the cost of removal.

3.52 Decks. The wood deck railings of each Dwelling Unit the rear of which adjoins a public street or right of way must be water sealed and/or stained in accordance with the requirements of the Developer or Architectural Review Committee.

3.53 Renting or Leasing. No Dwelling Unit may be rented or leased for a period of time that is less than twelve (12) months.

3.54 Playground Equipment. No playground equipment, swingsets, basketball backboards, or similar equipment shall be permitted on any Lot without the written approval of the Architectural Review Committee. The Architectural Review Committee shall not consider any request for such equipment if said equipment is located within twenty (20) feet of any property line, including the common property, nor shall any request be considered for such equipment unless it is constructed of wood and painted or stained in a color which blends with natural surroundings. The Architectural Review Committee shall in its sole and absolute discretion determine whether or not any applications which meet the foregoing criteria will be approved and such approvals, if any, shall be on a case-by-case basis and the approval of one application shall not be construed as the basis to approve other applications even if they are substantially similar in nature.

3.55 Construction Compliance Escrow Fund. Prior to the start of construction of any Dwelling Unit, the Owner (including Builders who are Owners) shall post a refundable deposit with the Developer or an escrow agent designated by the Developer in an amount to be determined by the Developer but in no case less than One Thousand Dollars (\$1,000.00). This amount shall be held as surety for the strict compliance by each Owner with this Declaration. Upon completion of all construction, including without limitation landscaping, provided all such construction is in full compliance with this Declaration, the Developer shall refund the Compliance Escrow to Dwelling Unit's Owner. If Owner does not strictly comply with this Declaration, and after receipt of notice of such failure to comply and the passage of a reasonable amount of time for Owner to bring the Dwelling Unit into compliance, and said non-compliance continues, the Construction Compliance Escrow Fund shall be forfeited to the Developer or the Association and the Developer or Architectural Review Committee shall have the right to draw upon this escrow to make such changes as are necessary to bring the Dwelling Unit into compliance or to force the Owner to bring the Dwelling Unit into compliance. Such right to draw shall include but is not limited to the right to use the escrow to pursue litigation to compel compliance. The exercise of this remedy shall not in any way limit the authority of the Developer, the Association, or the Architectural Review Committee to pursue and to enforce any and all other remedies available to it to compel strict compliance with this Declaration.

3.56 Obligation to Commence and Complete Construction. Each Owner, excepting the Developer, agrees that within twelve (12) months of the date on which they

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

An Owner who violates this requirement, and after receipt of notice of such violation from the Developer or the Board and the passage of a reasonable amount of time to commence construction, fails to commence, pursue or complete construction shall be liable for a fine of One Hundred Dollars (\$100.00) for each month said Owner is in violation of this covenant. Proceeds collected under this provision shall be used to pay the annual operating expenses of the Association.

3.57 Violations and Enforcement. In the event of the violation, or attempted violation, of any one or more of the provisions of this Declaration, the Developer, its successors or assigns, including all parties hereinafter becoming Owners of any one or more of the Lots to which provisions of this Declaration apply, 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 of Directors. Further, the Developer or the Board of Directors may grant variances of the restrictions set forth in this Declaration if such variances do not, in the sole discretion of the Developer or the Board of Directors, adversely affect the purposes sought to be obtained hereby.

By reason of the rights of enforcement of the provisions of this Section being given unto Owners of Lots (subject to rights of variances reserved by the Developer or 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 IV ARCHITECTURAL CONTROL

4.01 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 to all Owners of Lots.

B. The Developer shall have sole architectural and design review authority for the Development until the Developer has transferred governing authority to the Board in accordance with the By-Laws, provided, however, that prior to calling the meeting of the Association to elect the Board to succeed the Developer as provided in the By-Laws, the Developer may execute and record in the office of the Recorder a document stating that the Developer reserves unto itself, its successors and 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 it is practicable. When such Committee has been established, the Developer shall transfer reviewing authority to it.

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

- (i) A site development plan which in addition to other site plan details shall clearly show the proposed location of the Dwelling Unit on the Lot and the location of all improvements or proposed improvements on and to the Lot including but not limited to all driveways, sidewalks, parking areas, patios and decks.
- (ii) A detailed landscape plan showing the location and type of all plantings proposed to be located on the Lot. All of which shall be in strict compliance with the provisions of this Declaration.

- (iii) The proposed building plans and specifications (including height and composition of roof, siding or other exterior materials and finishes) of any improvements proposed to be constructed or located upon any Lot. Said plans and specifications shall be in sufficient detail so as to enable the Developer or Architectural Review Committee to determine whether or not such improvements conform to the provisions of this Declaration and whether such improvements are suitable and consistent with the intent of this Declaration. In such cases the determination of the Developer or Architectural Review Committee shall be final.

The Developer or Architectural Review Committee shall approve or disapprove in writing such plans and shall establish an appropriate level for the Construction Compliance Escrow Fund prior to the commencement of any construction.

Every application shall be submitted to the Developer or Architectural Review Committee for approval at least thirty (30) days prior to the proposed date of construction. In addition, any repainting of a substantial portion of the exterior of any structure in a manner not previously approved by the Developer or Architectural Review Committee shall be subject to prior approval of the Developer or Architectural Review Committee as provided in the preceding sentence.

The Developer or Architectural Review Committee shall give written approval or disapproval of the application within thirty (30) days of submission. For unusual circumstances, the approval or disapproval may take additional time and the applicant will be notified with an explanation. Developer or Architectural Review Committee may, by written notice given from time to time to the Owners of Lots, exempt certain matters of a non-essential nature from the review requirements subject to the terms and conditions and for the time periods established by the Developer or Architectural Review Committee.

In the event of the completion of any Dwelling Unit on any Lot, without any proceedings having been instituted in the courts of the City of Chattanooga or Hamilton County, Tennessee to enjoin the construction thereof, then said Dwelling Unit shall be conclusively presumed to have had such approval.

D. The Developer or Architectural Review Committee shall charge a fee for each application submitted for review. The amount of the fee shall be set in the sole discretion of the Developer or Architectural Review Committee and shall be set initially at Four Hundred Dollars (\$400.00). Developer or Architectural Review Committee may in their sole and absolute discretion from time to time adjust or waive this fee.

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

4.02 Approval Standards. Approval of any proposed building plan, location, specifications or construction schedule submitted under this Article will be withheld unless such plans, location and specifications comply with the applicable Restrictions and Covenants of this Declaration. Approval of the plans and specifications by the Developer or 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.

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

ARTICLE X ASSESSMENTS

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

and if any original Lot is subdivided, the assessment on such original Lot shall be prorated between the Owners based upon the square footage owned by each Owner.

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

5.03 Amount of Annual Assessment. Until the transfer of governing authority from the Developer to the Board takes place as described in the By-Laws, 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 the Members (as they are defined in the By-Laws). Thereafter the amount of the annual assessments shall be set by the Board of Directors unless seventy-five per cent (75%) of the Members who are in attendance or represented by proxy vote to increase or decrease the said annual assessment set by the Board. At any such meeting, the Developer shall have the number of votes as provided in the By-Laws.

5.04 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 seventy-five per cent (75%) of the vote of the Members who are in attendance or represented at a duly called meeting of the Association, written notice of which shall have been sent to all Members at least thirty (30) days in advance setting forth the purpose of the meeting. At any such meeting, the Developer shall have the number of votes provided in the By-Laws.

5.05 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.

5.06 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 classifications of the Owners.

5.07 Date of Commencement of Annual Assessments.

A. The annual assessments provided herein shall commence on the date (which shall be the first day of a month) fixed by the Developer to be the date of the 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 on a 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; however, the Board may authorize payment in four (4) equal quarterly installments.

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

5.08 Lien. Recognizing that the necessity for providing proper operation and management of the Property entails the continuing payment of costs and expenses therefor, the Association is hereby granted in 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 attorneys fees which may be incurred by the Association in enforcing the lien upon said Lot. The lien shall become effective on a Lot immediately upon the closing of the Lot. The lien granted to the Association may be foreclosed as other liens are foreclosed in the State of Tennessee. Failure by the Owner or Owners to pay any assessment, annual or special, on or before the due dates set by the Association for such payment shall constitute a default, and this lien may be foreclosed by the Association.

5.09 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 the sale or mortgage shall be applied by the lessee, purchaser or mortgagee first to the payment of any then delinquent assessment or installments thereof due to the Association before payment of any rent, proceeds of sale or mortgage to the Owner of any Lot who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Lot, the grantee(s) shall be jointly and severally liable with the grantor(s) for all unpaid 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 grantor(s) the amounts paid by the grantee(s) therefor.

ARTICLE VI
REGISTER OF OWNERS AND SUBORDINATION
OF LIENS TO MORTGAGES

6.01 Register of Owners and Mortgages. The Association shall at all times maintain a register setting forth the names of the Owners, and, in the event of a sale or transfer of any Lot to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Lot, together with such recording information that shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Lot. Further the Owner shall at all times notify the Association of any Mortgage and the name of the Mortgagee on any Lot, and the recording information which shall be pertinent to identify the Mortgage and Mortgagee. The Mortgagee may, if it so desires, notify the Association of the existence of any Mortgage held by it, and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same. The Association may rely on such register for the purpose of determining Owners of Lots and holders of Mortgages.

6.02 Subordination of Lien to First Mortgages. The liens provided for in this Declaration shall be subordinate to the lien of a First Mortgage on any Lot if, and only if, all assessments, whether annual or special, with respect to such Lot having a due date on or prior to the date such Mortgage is recorded have been paid. In the event any such First Mortgage (i.e., one who records a Mortgage on a Lot for which all assessments have been paid prior to recording) shall acquire title to any Lot by virtue of any foreclosure, deed in

lieu of foreclosure, or judicial sale, such Mortgagee acquiring title shall only be liable and obliged for assessments, whether annual or special, as shall accrue and become due and payable for said Lot subsequent to the date of acquisition of such title. In the event of acquisition of title to a Lot by foreclosure, deed in lieu of foreclosure, or judicial sale, any assessment whether annual or special, as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners as part of the Common Expense; provided, however, nothing contained herein shall be construed as releasing the party or parties liable for such delinquent assessments from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

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

ARTICLE VII OWNER COMPLAINTS

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

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

7.03 Form of Complaint. All complaints shall be in writing and shall set forth the substance of the complaint and the facts upon which it is based. Complaints are to be addressed to the President of the Association and sent in the manner provided in Section 10.03 for sending notices.

7.04 Consideration by the Grievance Committee. Within twenty (20) days of receipt of a complaint, the Grievance Committee shall consider the merits of the same and notify the complainant in writing of its decision and the reasons therefor. Within ten (10) days after notice of the decision, the complainant may proceed under Section 7.05; but if complainant does not, the decision shall be final and binding upon the complainant.

7.05 Hearing Before the Grievance Committee. Within ten (10) days after the notice of the decision of the Grievance Committee, the complainant may, but only in writing addressed to the President of the Association, request a hearing before the

Grievance Committee. Such hearing shall be held within twenty (20) days of receipt of complainant's request. The complainant, at his expense, and the Grievance Committee, at the expense of the Association, shall be entitled to legal representation at such hearing. The hearing shall be conducted before at least two (2) members of the Grievance Committee and may be adjourned from time to time as the Grievance Committee in its sole 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 the notice of the decision, as provided in Section 7.07, the decision shall be final and binding upon the complainant.

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

7.07 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 7.05, submit the same to 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.

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

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

ARTICLE VIII REMEDIES ON DEFAULT

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

8.02 Grounds For and Form of Relief. Failure to comply with any of the Covenants of this Declaration, the By-Laws, or the Rules and Regulations promulgated by the Board which may be adopted pursuant thereto shall constitute a default and shall entitle 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 By-Laws, by a aggrieved Owner.

8.03 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, but in no event shall the Owner be entitled to such attorneys fees.

8.04 Waiver. The failure of the Developer or 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 Covenant, nor shall same constitute a waiver to enforce such Covenant(s) in the future.

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

ARTICLE IX EMINENT DOMAIN

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

A. To obtain any pay for such assistance from such attorneys, appraisers, architects, engineers, expert witnesses and other persons, as the Developer or the Board in its discretion deems necessary or advisable to aid and advise it in all matters relating to such taking and its effect, including but not limited to (i) determining whether or not to resist such proceedings or convey in lieu thereof, (ii) defending or instituting any

necessary proceedings and appeals, (iii) making any settlements with respect to such taking or attempted taking and (iv) deciding if, how and when to restore the Common Properties.

B. To negotiate with respect to any such taking, to grant permits, licenses and releases and to convey all or any portion of the Common Properties and to defend or institute, and appeal from, all proceedings as it may deem necessary and advisable in connection with the same.

C. To have an exercise all such powers with respect to such taking or proposed taking and such restoration as those vested in boards of directors of corporations with respect to corporate property, including but not limited to, purchasing, improving, demolishing and selling real estate.

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

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

ARTICLE X GENERAL PROVISIONS

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

10.02 Amendments. This Declaration may be amended, modified or revoked in any respect from time to time by the Developer, in his sole and absolute discretion, prior to the date that the governing authority for the Development is transferred from the Developer to the Board in accordance with the By-Laws. 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, similar notice shall be included in the notice of the special meeting provided for in the By-Laws. Notice of any meeting to consider an amendment that would adversely affect Mortgagees' rights shall also be sent to each Mortgagee listed upon the register of the Association.

B. At any such meeting of the members of the Association, the amendment must be approved by an affirmative seventy-five per cent (75%) 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 By-Laws. Any amendment which adversely affects the rights of Mortgagees must be approved by an affirmative seventy-five per cent (75%) 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 votes within the period of time set by the Board to vote, which shall be at least ten (10) days and not 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 and Secretary of the Association shall execute, acknowledge and record the amendment and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of this Section; provided, that in the event of the disability or incapacity of either, the Vice-President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including without limitation, any Mortgagee, prospective purchaser, tenant, 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:

I, _____, do hereby certify that I am the Secretary of the McKenzie Farm Homeowners' Association, Inc. and that the within amendment to the Declaration of Covenants and Restrictions of the McKenzie Farm Subdivision was duly adopted by the Owners of said Association and the Mortgagees, if applicable in accordance with the provisions of Section 10.02 of said Declaration.

Witness my hand this _____ day of _____.

Secretary, McKenzie Farm Homeowners' Association, Inc.

10.03 Dedication of Streets. After the Common Property has been transferred and conveyed to the Association, any portion of the Common Properties, including but not limited to, the streets, may be transferred and conveyed to Hamilton County and dedicated for public purposes upon approval of such action by the Members of this Association in the same manner as this Declaration may be amended by the Members.

10.04 Notices. Any notice required to be sent to any Owner or Mortgagee under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Owner or Mortgagee on the mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Owner to immediately notify the 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 provision 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:

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

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

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

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

10.08 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.

10.09 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.

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

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

MCKENZIE FARM, LLC

By:

Title:

Steve A. McKenzie
Chief Manager

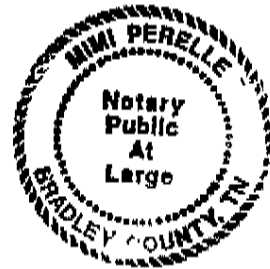
STATE OF TENNESSEE :
COUNTY OF Bradley :

Personally appeared before me, Steve A. McKenzie, with whom I am personally acquainted, who acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the Chief Manager of McKenzie Farm, LLC, a Tennessee limited liability company, and is authorized to execute this instrument on behalf of the Company.

Witness my hand this 6th day of August, 2007.

Mimi Perelle
NOTARY PUBLIC

My commission expires:
4-29-08



BUILDER:
OR LOT OWNER:
Lot Number:

By: _____
Title: _____

STATE OF TENNESSEE ;
COUNTY OF _____ :

Personally appeared before me, _____, with whom I am personally acquainted, who acknowledged that he/she executed the within instrument for the purposes therein contained, and who further acknowledged that he/she is the _____ of _____, and is authorized to execute this instrument on behalf of the Builder.

Witness my hand this _____ day of _____, 2007.

NOTARY PUBLIC

My commission expires:

EXHIBIT "A"LEGAL DESCRIPTION

TRACT 1:

In the Second Civil District, Hamilton County, Tennessee:

Beginning at the Northwest corner of property conveyed to McKenzie Farms, LLC in Book 7477, Page 482, Hamilton County Register's Office, said point also the being the Southern line of Green Gap Road and the center of a creek; thence continuing in a Southwesterly direction along the centerline of said creek a chord distance from the beginning point being South 28 degrees 38 minutes 09 seconds West 451.74 feet to a point; thence leaving the center of said creek South 23 degrees 45 minutes 33 seconds West 931.88 feet to a wood post; thence South 66 degrees 10 minutes 58 seconds East 491.28 feet to an iron pin found; thence South 23 degrees 46 minutes 53 seconds West 517.63 feet to an iron pin found; thence South 24 degrees 16 minutes 53 seconds West 207.94 feet to an iron pin found, said iron pin being in the Western line of McKenzie Farms, LLC; thence leaving the Western line of McKenzie Farms, LLC North 66 degrees 20 minutes 53 seconds West 1,036.57 feet to a wood post; thence North 22 degrees 57 minutes 22 seconds East 186.78 feet to a point; thence North 71 degrees 45 minutes 18 seconds West 69.79 feet to a point, said point being the Southeastern line of Cartwright as shown in Book 6790, Page 433, Hamilton County Register's Office; thence North 23 degrees 29 minutes 10 seconds East 102.00 feet to a point, said point being the Northeast line of Cartwright; thence North 71 degrees 45 minutes 18 seconds West 180.00 feet to a point, said point being the Eastern line of Ooltewah-Georgetown Road; thence continuing along Ooltewah-Georgetown Road North 23 degrees 29 minutes 10 seconds East 147.45 feet to a point; thence leaving Ooltewah-Georgetown Road South 72 degrees 48 minutes 15 seconds East 50.47 feet to a point; thence North 23 degrees 29 minutes 10 seconds East 35.70 feet to a point; thence South 72 degrees 48 minutes 15 seconds East 109.42 feet to a point; thence North 17 degrees 10 minutes 29 seconds East 102.83 feet to a point; thence North 06 degrees 45 minutes 40 seconds East 233.88 feet to a point; thence North 67 degrees 43 minutes 08 seconds West 94.56 feet to a point; thence North 22 degrees 36 minutes 57 seconds East 1,042.09 feet to a point, said point being the Southwest line of Smith as shown in Book 4564, Page 203, Hamilton County Register's Office; thence South 63 degrees 54 minutes 28 seconds East 240 feet to a point; thence North 22 degrees 46 minutes 45 seconds East 98.00 feet to a point; thence South 65 degrees 39 minutes 28 seconds East 200.00 feet to a point, said point being the Southeast corner of Howard as shown in Book 6506, Page 476, Hamilton County Register's Office; thence North 22 degrees 46 minutes 45 seconds East 200.00 feet to a point, said point being the Southern line of Green Gap Road; thence South 65 degrees 58 minutes 04 seconds East 356.84 feet to a point; thence continuing along Green Gap Road in a curve to the right, said curve having a radius equals 585.00 feet, a length equals 83.83 feet, chord distance equals 83.76 feet, South 61 degrees 51 minutes 45 seconds East to a point, being the point of beginning. Said property being a total of 43.38 acres, more or less, and

shown on survey prepared by Cleveland Surveying Company, dated October 26, 2005, Project No. 051001.

For prior title, see deed recorded in Book 7752, Page 17, in the Register's Office of Hamilton County, Tennessee.

TRACT 2:

Real estate in the Second Civil District of Hamilton County, Tennessee:

BEGINNING AT A POINT on the southern right-of-way of Green Gap Road, said point also marking the northeast corner of the land of Turner and the northwest corner of the herein described parcel; thence with said right-of-way South 56 degrees 10 minutes 10 seconds East a distance of 28.66 feet; thence with a curve turning to the left with an arc length of 249.34 feet, with a radius of 615.00 feet, with a chord bearing of South 67 degrees 47 minutes 02 seconds East, and a chord length of 247.63 feet; thence with a curve turning to the right with an arc length of 103.13 feet, with a radius of 585.00 feet, with a chord bearing of South 74 degrees 20 minutes 54 seconds East, and a chord length of 102.99 feet; thence South 69 degrees 17 minutes 53 seconds East a distance of 63.01 feet to a point; thence with the end of Green Gap Road and the land of Graham North 24 degrees 02 minutes 44 seconds East a distance of 215.19 feet to a point in the center of a creek; thence following the center of said creek and with the land of Morgan having a chord of South 83 degrees 16 minutes 47 seconds East a distance of 403.55 feet to a point; thence following fences with Morgan and Kindred South 47 degrees 22 minutes 04 seconds East a distance of 61.50 feet; thence South 56 degrees 42 minutes 23 seconds East a distance of 25.38 feet; thence South 12 degrees 00 minutes 06 seconds East a distance of 75.42 feet; thence South 50 degrees 57 minutes 04 seconds East a distance of 146.03 feet; thence South 48 degrees 44 minutes 21 seconds East a distance of 114.10 feet; thence South 45 degrees 18 minutes 36 seconds East a distance of 325.24 feet; thence South 78 degrees 28 minutes 57 seconds East a distance of 57.78 feet; thence South 82 degrees 50 minutes 04 seconds East a distance of 193.27 feet to a point in the center of a creek; thence following the center of said creek and with the lands of Morgan and Chen having a chord of South 70 degrees 28 minutes 37 seconds East a distance of 1,691.76 feet to a point on the northern right-of-way of Interstate Highway 75; thence with said right-of-way North 87 degrees 55 minutes 54 seconds West a distance of 771.68 feet; thence South 01 degree 09 minutes 08 seconds West a distance of 160.31 feet; thence North 84 degrees 08 minutes 59 seconds West a distance of 368.83 feet; thence with a curve turning to the left with an arc length of 1,005.91 feet, with a radius of 4,079.72 feet, with a chord bearing of South 81 degrees 46 minutes 46 seconds West a chord length of 1,003.37 feet; thence South 15 degrees 17 minutes 03 seconds East a distance of 60.00 feet; thence with a curve turning to the left with an arc length of 1,964.76 feet, with a radius of 4,019.72 feet, with a chord bearing of South 60 degrees 42 minutes 48 seconds West, with a chord length of 1,945.26 feet; thence with Chastain and

Turner North 24 degrees 16 minutes 53 seconds East a distance of 507.78 feet; thence with the land of Turner North 23 degrees 46 minutes 53 seconds East a distance of 517.63 feet; thence North 66 degrees 10 minutes 58 seconds West a distance of 491.28 feet; thence North 23 degrees 45 minutes 33 seconds East a distance of 931.88 feet to the center of a creek; thence following the center of said creek and with the land of Turner having a chord of North 28 degrees 38 minutes 09 seconds East a distance of 451.90 feet to a point, THE POINT OF BEGINNING. Having an area of 76.1, more or less, acres.

For prior title, see deed recorded in Book 7477, Page 482, in the Register's Office of Hamilton County, Tennessee.

EXHIBIT "B"

BY-LAWS

BY LAWS

MCKENZIE FARM HOMEOWNER'S ASSOCIATION, INC.

Effective August 6, 2007

ARTICLE 1

OFFICES

Section 1.1 The principal office of the Corporation shall be located in Cleveland, Bradley County, Tennessee. The initial location of the Corporation's principal office shall be at such address as chosen by McKenzie Farm, LLC, the Developer of McKenzie Farm Subdivision.

Section 1.2 The registered office of the Corporation shall be at such address as selected by the Developer of McKenzie Farm Subdivision, Steve A. McKenzie, Greg Steele, and McKenzie Farm, LLC. The address of the registered agent may be changed from time to time by unanimous action of the Board of Directors.

ARTICLE 2

PURPOSE, MISSION, GOALS AND USE OF FUNDS

Section 2.1 Purpose. The Corporation is a mutual benefit, nonprofit association of the owners of lots in McKenzie Farm Subdivision in Hamilton County, Tennessee. The purpose of the Corporation is to promote the development of the subdivision, and protect and promote the values of the homes and land in the development.

Section 2.2 Use of Funds. The Corporation is not formed for financial or pecuniary gain; and no part of the assets, income, or profits of the Corporation is distributable to, or inures to the benefit of its Directors or officers or any other private person, except as provided in Section 4.11 and Section 5.10 as reimbursement for expenses or reasonable compensation for services rendered to the Corporation, and except to make payments and distributions in furtherance of the purposes of the Corporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation; and no part of the activities of the Corporation shall be the participation in, or intervention in (including the

publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

ARTICLE 3

MEMBERS

The Corporation shall have members as described in the restrictions for McKenzie Farm, recorded in Book _____, Page _____, in the Register's Office of Hamilton County, Tennessee. The owners of each lot in the subdivision shall be treated as one member for voting purposes.

Section 3.1 Dues and Assessments. Initial dues and assessments shall be established by Steve A. McKenzie and Greg Steele. Dues and assessments for the calendar years 2007 through _____ shall be established by Steve A. McKenzie and Greg Steele. For subsequent years, dues and assessments shall be established by the Board of Directors of the Homeowner's Association. Lots owned by Steve A. McKenzie and Greg Steele shall not be subject to dues and assessments during the period of time that dues and assessments are established by either of them. The Board of Directors may set dues or special assessments as may be necessary and reasonable in the opinion of the Directors for the accomplishment of the purposes of the Corporation. Special assessments exceeding \$100.00 per lot in any calendar year must be approved by a vote of the majority lots; voting at a meeting called for the purpose of voting on the assessment.

Section 3.2 Annual Meeting of Members. An annual meeting of the members of the Corporation shall be held on such date and at such place as may be determined by the Board of Directors. The business to be transacted at such meeting shall be the report of the president and chief financial officer on the activities and financial condition of the Corporation, the election of directors, other matters specified in the notice of the meeting and such other business as shall be properly brought before the meeting.

Section 3.3 Special Meetings. A special meeting of members shall be held on call of the Board of Directors or if the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date and deliver to the Corporation's Secretary one (1) or more written demands for the meeting describing the purpose or purposes for which such special meeting is to be held. Only business within the purpose or purposes described in the meeting notice may be conducted at a special members meeting.

Section 3.4 Place of Meetings. The Board of Directors may designate any place, either within or without the State of Tennessee, as the place of meeting for any annual meeting or for any special meeting. If no place is fixed by the Board of Directors, the meeting shall be held at the principal office of the Corporation.

Section 3.5 Notice of Meetings; Waiver.

(a) **Notice.** Notice of the date, time and place of each annual and special meeting of members and, in the case of a special meeting, a description of the purpose or purposes for which the meeting is called, shall be given no fewer than ten (10) days nor more than two (2) months before the date of the meeting. Such notice shall comply with the requirements of Article 4 of these Bylaws.

(b) **Waiver.** A member may waive any notice required by law, the Charter or these Bylaws before or after the date and time stated in such notice. Except as provided in the next sentence, the waiver must be in writing, signed by the member entitled to the notice, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. A member's attendance at a meeting: (1) waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and (2) waives object to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

Section 3.6 Record Date. The Board of Directors shall fix as the record date for the determination of members entitled to notice of a members' meeting of members, to demand a special meeting, to vote or to take any other action, a date not more than seventy (70) days before the meeting or action requiring a determination of members. If the Board of Directors fails to fix a record date for any meeting of members, members of record on the close of business on the business day next preceding the day on which notice is given shall be entitled to notice and members of record on the date of the meeting who are otherwise eligible to vote shall be entitled to vote. A record date fixed for a members' meeting is effective for any adjournment of such meeting unless the Board of Directors fixes a new record date, which it must do if the meeting is adjourned to a date more than four (4) months after the date fixed for the original meeting.

Section 3.7 Members' List. After the record date for a meeting has been fixed, the Corporation shall prepare a list of the names and addresses of all known lot owners who are entitled to notice of a lot owners' meeting. The list of members shall be available for inspection by any member, beginning two (2) business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member, his agent or attorney is entitled on

written demand to inspect and, subject to the requirements of the Tennessee Business Corporation Act (the "Act"), to copy the list, during regular business hours and at his expense, during the period it is available for inspection. The Corporation shall make the list of members available at the meeting, and any member, his agent or attorney shall be entitled to inspect the list at any time during the meeting or any adjournment thereof.

Section 3.8 Quorum; Adjournment. Once a member is represented for any purpose at a meeting, the member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of the meeting unless a new record date is or must be set for that adjourned meeting.

Section 3.9 Voting by Members. On all matters on which members of the subdivision vote, all voting shall be done by lot. All lots owned by McKenzie Farm, LLC, Steve A. McKenzie, or Greg Steele shall have four (4) votes per lot. All lots owned by others shall have one lot, one vote.

Section 3.10 Voting Rights. For any matter requiring the vote or approval of the members of McKenzie Farm Homeowner's Association, Inc. prior to the taking of any votes, the Secretary or Treasurer of the Corporation shall determine if any dues or assessments remain unpaid. Only votes by lots upon which all dues and assessments are paid current, including any interest or late fees, shall be entitled to vote. As set out in the subdivision restrictions, unpaid dues and assessments shall constitute a lien upon the lot. In the event the dues and assessments remain unpaid for a period of time exceeding 120 days, McKenzie Farm Homeowner's Association, Inc. may authorize suit to collect the unpaid balance owed, or additional enforcement of the lien.

Section 3.11 Transfer of Membership. Membership in McKenzie Farm Homeowner's Association, Inc. shall be transferred with title to the property. Regardless of the number of individuals who may own the lot, voting shall be per lot. Membership may not be sold or transferred separate from ownership of a lot in McKenzie Farm Subdivision. Membership shall be governed by the subdivision Restrictions. When a lot is transferred or sold, the membership of the Corporation shall transfer per the restrictions with the lot.

Section 3.12 Proxies. The owners of any lot may designate a proxy to vote for them. Each proxy must be in writing. An appointment by proxy is valid for eleven (11) months from the date of its execution.

Section 3.13 Action Without Meeting. Action required or permitted by the Act to be taken at a meeting of members may be taken without a meeting. If all members entitled to vote on the action consent in writing to taking such action without a meeting, the affirmative vote of the number of votes of members that would be necessary to

authorize or take such action at a meeting is the act of the members. The action must be evidenced by one or more written consents describing the action taken, at least one of which is signed by each member entitled to vote on the action in one or more counterparts, indicating such signing member's vote of abstention on the action and delivered to the Corporation for inclusion in the minutes or for filing with the corporate records.

Section 3.14 Presiding Officer and Secretary. Meetings of the members shall be presided over by the Chair or if the Chair is not present or if the Corporation shall not have a Chair, by the President, or if neither the Chair nor the President is present, by a Chair chosen by a majority of the members entitled to vote at such meeting. The Secretary or, in the Secretary's absence, an Assistant Secretary shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present, a majority of the members entitled to vote at such meeting shall choose any person present to act as secretary of the meeting.

ARTICLE 4

BOARD OF DIRECTORS

Section 4.1 General Powers. The business and affairs of the Corporation shall be supervised by its Board of Directors, which shall exercise in the name of and on behalf of the Corporation all of the rights and privileges legally exercisable by the Corporation as a corporate entity, except as may otherwise be provided by law, the Charter, or these Bylaws. The Board of Directors, as the governing body of the Corporation, shall have the authority to receive, administer and distribute property on behalf of the Corporation in accordance with the provisions set forth in Article 2 of these Bylaws.

Section 4.2 Number, Tenure, and Qualifications. The initial Board of Directors shall be appointed by Steve A. McKenzie and Greg Steele. The initial Board of record shall have not less than three (3) Directors; at least two (2) of whom shall be owners of lots in the subdivision. The initial Board of Directors shall serve a term not less than one (1) year until the date of election of new Directors.

As long as Steve A. McKenzie, Greg Steele, or McKenzie Farm, LLC own any lots in the subdivision, at least one member of the Board of Directors shall either be Steve A. McKenzie or Greg Steele.

Each Director shall take office at the beginning of his or her term, and shall hold office until his or her term shall have expired or until his or her earlier resignation, death, or incompetency. All Directors shall be natural persons who have obtained the age of at least twenty-one (21) years, but need not be residents of the State of Tennessee.

Section 4.3 Limited Personal Liability of Directors. No person who is or was a director of the Corporation, nor such person's heirs, executors or administrators, shall be personally liable to the Corporation for monetary damages for breach of fiduciary duty as a director; provided, however, that this provision shall not eliminate or limit the liability of any such person: (a) for any breach of a director's duty of loyalty to the Corporation, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or (c) under T.C.A. § 48-58-304 of the Act, as amended from time to time. No repeal or modification of the provisions of this Section 4.3, either directly or by the adoption of a provision inconsistent with the provisions of this Section, shall adversely affect any right or protection, as set forth herein, existing in favor of a particular individual at the time of such repeal or modification.

Section 4.4 Annual Meeting. The annual meeting of the Board of Directors shall be held in September or at such other time and date following the close of the Corporation's fiscal year as shall be determined by the Board of Directors. The purpose of the annual meeting shall be to elect officers and transact such other business as may properly be brought before the meeting. If the election of officers shall not be held on the day herein designated for any annual meeting of the Board of Directors, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Board as soon thereafter as may be convenient.

Section 4.5 Special Meeting. Special meetings of the Board of Directors may be called by the Chair of the Board of Directors, the President, or at the request of any director with the agreement of two-thirds (2/3) of the Board. The Chair shall fix the place, either within or without the State of Tennessee, as the place for holding any special meeting.

Section 4.6 Notices. Notice of each annual meeting shall be given at least two (2) weeks prior thereto, and notice of any special meeting shall be given at least five (5) business days prior thereto. The notices provided for in this Section shall be by electronic mail (email), telegram or written notice delivered personally or by facsimile or mailed or sent by Federal Express or United Parcel Service to each director at his or her business or home address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage thereon prepaid. If notice be given by electronic mail (email), telegram, facsimile, Federal Express or United Parcel Service, such notice shall be deemed to be delivered when said communication is delivered. The attendance of a director at a meeting shall constitute a waiver of notice of

such meeting, except where a director attends a meeting for the sole and express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened. The business to be transacted at, or the purpose of, any special meeting of the Board of Directors must be specified in the notice of such meeting.

Section 4.7 Quorum and Participation in a Meeting. A majority of the total number of Directors in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another; and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting. Promptly after each respective meeting of the Board of Directors, each director shall be furnished a copy of the minutes of such meeting. *Robert's Rules of Order* shall govern the interpretation of parliamentary matters at a meeting of the Board, or any committee designated by the Board.

Section 4.8 Manner of Acting at a Meeting. Each director shall be entitled to one (1) vote upon any matter properly submitted for a vote to the Board of Directors. The act of a majority of the Directors present and who vote at a meeting at which a quorum is present shall be the act of the Board of Directors, except as may otherwise be specifically provided by law, by the Charter, or by these Bylaws. Members of the Board of Directors absent from any meeting shall not be permitted to vote at such meeting by written proxies.

Section 4.9 Action Without a Meeting. Any action required or permitted to be taken at a meeting by the Board of Directors, or by any committee thereof, may be taken without a meeting if all voting members of the Board or committee, as the case may be, consent in writing to taking such action without a meeting. If all members entitled to vote on the action shall consent in writing to taking such action without a meeting, the affirmative vote of the numbers of votes that would be necessary to authorize or take such action at a meeting shall be the act of the members. The action must be evidenced by one or more written consents describing the action taken, signed in one or more counterparts by each member entitled to vote on the action, indicating each signing member's vote or abstention of the action taken. All such written consents and action shall be filed with the minutes of the proceedings of the Board or committee. A consent signed under this Section shall have the same force and effect as a meeting vote of the Board, or any committee thereof, and may be described as such in any document.

Section 4.10 Vacancies. Any vacancy occurring in the Board of Directors at any time for any reason may be filled by the affirmative vote of a majority of the remaining Directors, so long as the requirements of Section 4.2 are met. An individual designated

to fill a director position shall serve for the unexpired term of his or her predecessor in office, or, if there is no predecessor, until the next election of Directors. If a vacancy results in there being fewer Directors than required by the Bylaws or Charter, and if such vacancy is not filled within ninety (90) days of the event which caused the vacancy, any director may apply to a court having equity jurisdiction in the county in which the Corporation has its principal office to have such court appoint a sufficient number of Directors so that the Corporation will have the number of Directors required by its Bylaws or Charter, whichever number is greater. Any Directorship to be filled by reason of an increase in the number of Directors may be filled by election by the Board of Directors in conformity with Section 4.2 for a term of office continuing only until the next election of Directors.

Section 4.11 Reimbursement of Expenses. Except as provided in Section 2.2, each director and officer may be paid his or her reasonable expenses, if any, of attendance at each meeting of the Board of Directors or any committee of the Board of Directors, after submitting substantiation of such expenses to the Corporation. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 4.12 Presumption of Assent. A director of the Corporation who is present at a meeting of the Board of Directors at which action on any Corporation matter is taken shall be presumed to have assented to the action taken, unless his or her abstention or dissent shall be entered in the minutes of the meeting, or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof, or forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 4.13 Removal. Any or all of the Directors may be removed for cause or without cause as follows: (i) "for cause," by vote of two-thirds of the total number of the Directors of the Corporation; or (ii) "without cause," by vote of four-fifths of the total number of the Directors of the Corporation. For purposes of this provision, "cause" shall mean final conviction of a felony, declaration of unsound mind by court order, adjudication of bankruptcy, nonacceptance of office, conduct prejudicial to the interest of the Corporation, or absence from three (3) or more consecutive meetings of the Board. Removal of a director shall also constitute removal as an officer of the Corporation and as a member of all committees of the Board.

Section 4.14 Resignation. A director may resign his or her membership at any time by tendering his or her resignation in writing to the Chair of the Board of Directors. A resignation shall become effective upon the date specified in such notice or, if no date

is specified, upon receipt of the resignation by the Corporation at its principal place of business.

ARTICLE 5

OFFICERS

Section 5.1 Number. There shall be a President, Vice-President, Secretary and Treasurer of the Board of Directors, each of whom shall be elected or appointed in accordance with the provisions of this Article. The Board may also elect such other officers and assistant officers as the Board may deem necessary or appropriate. Except for the offices of President and Secretary, any two or more offices may be held by the same person.

Section 5.2 Election and Term of Office. The President, Vice-President, Secretary and Treasurer of the Board of Directors shall be elected annually by the board from among its membership at its annual meeting. The President, Vice-President, Secretary and Treasurer shall hold office for a term of one (1) year or until his or her earlier death, resignation or removal from office in the manner hereinafter provided. Officers may be reelected to the same office as many times as they agree to serve.

Section 5.3 President. The President shall, when present, preside at all meetings of the Board of Directors and the Executive Committee. The President shall be the principal executive officer of the Corporation and shall in general perform all of the duties, and have all of the authority, specified in such Position Description as the Board of Directors may adopt from time to time. The Chair may sign, with the Secretary or any other proper officer thereunto authorized by the Board of Directors, deeds, mortgages, bonds, contracts, and other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed. The President shall encourage the Directors of the Corporation, as well as other volunteers, to use their energies and abilities to advance the purposes of the Corporation.

Section 5.4 Vice-President. In the absence of the President or in the event of his or her death, inability, or refusal to act, the Vice-President shall perform the duties of the President (pending election, if necessary, of a successor pursuant to Section 5.9 below), and when so acting, shall have all the powers of and be subject to all the restrictions upon, the chair. Any Vice-President shall perform such other duties as may from time to time be assigned to him or her by the President or by the Board of Directors.

Section 5.5 Secretary. The Secretary shall keep the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; be custodian of the corporate records and of the seal, if any, of the Corporation and see that the seal is affixed to all documents, the execution of which duly authorized on behalf of the Corporation under its seal; keep a register of the post office address of each member of the Board Directors, which address shall be furnished to the Secretary by each director; and in general perform all duties incident to the office of secretary and such other duties as may from time to time be assigned to him or her by the President or by the Board of Directors. The Secretary shall serve ex-officio as a member of the Bylaws Committee as it is constituted from time to time.

Section 5.6 Treasurer. The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Corporation; oversee the receipt of moneys due or payable to the Corporation from any source whatsoever, and assure the deposit of all such monies in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article 7 of these Bylaws; oversee the disbursement of funds of the Corporation in accordance with the directives of the Board of Directors, assuring proper vouchers for such disbursements; and render to the Board of Directors, at its annual meeting and at such other times as may be requested by the Board of Directors, an account of all the transactions of the Treasurer and of the financial condition of the Corporation. The Treasurer shall serve, ex officio, as a member of the Budget and Finance Committee of the Corporation, but shall not serve as its chair. The Treasurer shall assure compliance with: (i) financial standards applicable to non-profit organizations, and (ii) applicable federal requirements incident to the Corporation tax-exempt status. The Treasurer shall in general perform all of the duties incident to the office of treasurer and such other duties as may from time to time be assigned to him or her by the President or the Board of Directors.

Section 5.7 Removal. Any Board member removed from office pursuant to Section 4.13 shall be automatically removed as an officer. The Board of Directors may remove any officer, with or without cause, when, in its judgment, the best interests of the Corporation will be served thereby.

Section 5.8 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise of the director holding such office, may be filled by the Board of Directors.

Section 5.9 Resignation. An officer may resign his or her office at any time by tendering his or her resignation in writing to the Chair or, in the case of the resignation of the Chair, to the Secretary. A resignation shall become effective upon the date specified

in such notice, or if no date is specified, upon receipt of the resignation by the Corporation at its principal place of business.

Section 5.10 Salaries and Expenses. Officers and Directors of the Corporation shall serve without salary. Officers and Directors may be reimbursed for reasonable and necessary out of pocket expenses. Any such reimbursement must be approved by the Board of Directors, and must be properly documented with written receipts and invoices. All reimbursement shall be by check.

ARTICLE 6

STANDARDS OF CONDUCT

Section 6.1 Standards of Conduct. A director or an officer of the Corporation shall discharge his or her duties as a director or as an officer, including duties as a member of a committee:

- (a) In good faith;
- (b) With the care of an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (c) In a manner he or she reasonably believes to be in the best interest of the Corporation.

Section 6.2 Reliance on Third Parties. In discharging his or her duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (a) One or more officers or employees of the Corporation who the director or officer reasonably believes to be reliable and competent in the matters presented;
- (b) Legal counsel, public accountants or other persons as to matters the director or officer reasonably believes are within the person's professional or expert competence; or
- (c) A committee of the Board of Directors of which the director or officer is not a member, as to matters within its jurisdiction, if the director or officer reasonably believes the committee merits confidence.

Section 6.3 Bad Faith. A director or officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by Section 6.2 unwarranted.

Section 6.4 No Liability. A director or officer is not liable for any action taken, or any failure to take action, as a director or officer, if he or she performs the duties of his or her office in compliance with the provisions of this Article, or if he or she is immune from suit under the provisions of T.C.A. § 48-58-601 of the Act.

Section 6.5 No Fiduciary. No director or officer shall be deemed to be a fiduciary with respect to the Corporation or with respect to any property held or administered by the Corporation, including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

ARTICLE 7

CONTRACTS, LOANS, CHECKS, AND DEPOSITS

Section 7.1 Contracts and Employment of Agents. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contracts, or execute and deliver any instrument, in the name of and on behalf of the Corporation; and such authority may be general or confined to specific instances.

The Board is specifically authorized to enter into such agreements as, in its discretion, it may deem necessary or desirable, with qualified individuals, institutions or agencies to act as custodians or investment managers of the Corporation's funds; to write annuity contracts, trust agreements and other financial plans; and to perform such other financial tasks related to the management of the assets of the Corporation as the Board may from time to time deem necessary or appropriate. Furthermore, the Board of Directors shall be specifically authorized, in its sole discretion, to employ and to pay the compensation of such agents, accountants, custodians, experts, and other counsel, legal, investment or otherwise, as the Board shall deem advisable, and to delegate discretionary powers to, and rely upon information furnished by, such individuals or entities.

Section 7.2 Loans. No loans shall be contracted on behalf of the Corporation, and no evidences of indebtedness shall be issued in its name, unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 7.3 Checks, Drafts, etc. All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents, of the Corporation, and in such manner, as shall from time to time be determined by resolution of the Board of Directors.

Section 7.4 Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

ARTICLE 8

INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

Section 8.1 Mandatory Indemnification of Directors and Officers. To the maximum extent permitted by the provisions of T.C.A. §§ 48-58-501, et. Seq. of the Act, as amended from time to time (provided, however, that if an amendment to the Act in any way limits or restricts the indemnification rights permitted by law as of the date hereof, such amendment shall apply only to the extent mandated by law and only to activities of persons subject to indemnification under this Section which occur subsequent to the effective date of such amendment), the Corporation shall indemnify and advance expenses to any person who is or was a director or officer of the Corporation, or to such person's heirs, executors and administrators, for the defense of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal (any such action, suit or proceeding being hereinafter referred to as the "Proceeding"), to which such person was, is, or is threatened to be made, a named defendant or respondent, which indemnification and advancement of expenses shall include counsel fees actually incurred as a result of the Proceeding or any appeal thereof, reasonable expenses actually incurred with respect to the Proceeding, all fines (including any excess tax assessed with respect to an employee benefit plan), judgments, penalties and amounts paid in settlement thereof, subject to the following conditions:

- (a) The Proceeding was instituted by reason of the fact that such person is or was a director or officer of the Corporation; and
- (b) the director or officer conducted himself or herself in good faith, and he or she reasonably believed: (i) in the case of conduct in his or her official capacity with the Corporation, that his or her conduct was in its best interest; (ii) in all other cases, that his or her conduct was at least not opposed to the best interests of the Corporation; and (iii) in the case of any criminal proceeding, that he or she had no reasonable cause to believe his or her conduct was unlawful. The conduct of a director or officer with respect to an employee benefit plan for a purpose he or she reasonably believed to be in the interest of the participants in, and beneficiaries of, the plan shall be conduct that satisfies the requirements that such person's conduct was at least not opposed to the best interests of the Corporation. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director or officer did not meet the standard of conduct herein described.

Section 8.2 Permissive Indemnification of Employees and Agents. The Corporation may, to the maximum extent permitted by the provisions of T.C.A. §§ 48-58-501, et seq. of the Act, as amended from time to time (provided, however, that if an amendment to the Act in any way limits or restricts the indemnification rights permitted

by law as of the date hereof, such amendment shall apply only to the extent mandated by law and only to activities of persons subject to indemnification under this Section which occur subsequent to the effective date of such amendment), indemnify and advance expenses in a Proceeding to any persona who is or was an employee or agent of the Corporation, or to such person's heirs, executors and administrators, to the same extent as set forth in Section 8.1 above, provided that the Proceeding was instituted by reason of the fact that such person is or was an employee or agent to the Corporation and met the standards of conduct set forth in Subsection 8.1 above. The Corporation may also indemnify and advance expenses in a Proceeding to any person who is or was an employee or agent of the Corporation to the extent, consistent with public policy, as may be provided by the Charter by these Bylaws, by contract, or by general or specific action of the Board of Directors.

Section 8.3 Non-Exclusive Application. The rights to indemnification and advancement of expenses set forth in Sections 8.1 and 8.2 above are contractual between the Corporation and the person being indemnified, and his or her heirs, executors and administrators, and are not exclusive of other similar rights of indemnification or advancement of expenses to which such person may be entitled, whether by contract, by law, by the Charter, by a resolution of the Board of Directors, by these Bylaws, by the purchase and maintenance by the Corporation of insurance on behalf of a director, officer, employee or agent of the Corporation, or by an agreement with the Corporation providing for such indemnification, all of which means of indemnification and advancement of expenses are hereby specifically authorized. The rights of indemnification and advancement of expenses set forth in this Article 8 shall also apply, as appropriate, to any person who was an officer, director, employee or agent (or to such person's heirs, executors and administrators) of any association, corporation, partnership or trust which was a predecessor to this Corporation, and to any officer, director, employee or agent of the Corporation, and to any officer, director, employee or agent of the Corporation (or such person's heirs, executors and administrators) who served in any capacity for another association, corporation, partnership or trust at the request of this Corporation.

Section 8.4 Non-Limiting Application. The provisions of this Article 8 shall not limit the power of the Corporation to pay or reimburse expenses incurred by a director, officer, employee or agent of the Corporation in connection with such person's appearing as a witness in a Proceeding at a time when he or she has not been made a named defendant or respondent to the Proceeding.

Section 8.5 Prohibited Indemnification. Notwithstanding any other provision of this Article 8, the Corporation shall not indemnify or advance expenses to or on behalf of any director, officer, employee or agent of the Corporation, or such person's heirs, executors or administrators:

- (a) If a judgment or other final adjudication adverse to such person establishes his or her liability for any breach of the duty of loyalty to the Corporation, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or under T.C.A. § 48-58-304 of the Act; or
- (b) In connection with a Proceeding by or in the right of the Corporation in which such person was adjudged liable to the Corporation; or
- (c) In connection with any other Proceeding charging improper personal benefit to such person, whether or not involving action in his or her official capacity, in which he or she was adjudged liable on the basis that personal benefit was improperly received by him or her.

Section 8.6 Repeal or Modification Not Retroactive. No repeal or modification of the provisions of this Article 8, either directly or by the adoption of a provision inconsistent with the provisions of this Article, shall adversely affect any right or protection, as set forth herein, existing in favor of a particular individual at the time of such repeal or modification.

ARTICLE 9

FISCAL YEAR

The fiscal year of the Corporation shall begin on January 1st and end on December 31st.

ARTICLE 10

WAIVER OF NOTICE

Whenever any notice is required to be given to any director, officer or committee member of the Corporation under the provisions of these Bylaws, the Charter, or the Act, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE 11

AMENDMENTS

These Bylaws and the Charter may be altered, amended, or repealed, and a new Charter or Bylaws adopted, upon the affirmative vote of three-fourths (75%) of the Board of Directors present at any annual or special meeting, except to the extent that such alteration, amendment or repeal is inconsistent with Article 12 hereof. No amendments to the Charter or Bylaws may be made within four (4) years from the date of the issuance of the Charter by the Secretary of the State of Tennessee without the written consent of Steve A. McKenzie or Greg Steele.

ARTICLE 12

INTERPRETATION OF BYLAWS

In the event any provisions of the Bylaws be found to be inconsistent with the Subdivision Restrictions, be vague, or any questions should arise as to their application in a particular factual situation, the interpretation of the Bylaws shall be resolved by Steve A. McKenzie, or if he is unavailable, then by Greg Steele.

ARTICLE 13

ACCEPTANCE OF LAND

In the course of McKenzie Farm Subdivision, and from time to time in the future, the Developers of McKenzie Farm Subdivision, Steve A. McKenzie, Greg Steele, and McKenzie Farm, LLC, or their successors or assigns may wish to convey land to the McKenzie Farm Homeowner's Association, Inc. Such land may include storm water or drainage control structures, retention ponds or detention ponds. The Corporation is expressly authorized to accept and hold title to such land and improvements. No vote of the Directors or members is required.

ARTICLE 14

MAINTENANCE OF COMMON AREAS AND ENTRANCEWAYS

Subject to the approval and direction of Steve A. McKenzie and Greg Steele, the Corporation shall be responsible for the maintenance and repair of all common areas in the subdivision; including entranceways, landscaping, signs, and similar areas.

ARTICLE 15

ACCEPTANCE OF FUTURE SECTIONS

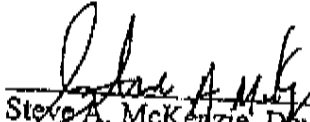
As future sections of McKenzie Farm Subdivision are developed, the Developers, Steve A. McKenzie, Greg Steele, or McKenzie Farm, LLC may designate and include such sections as being part of McKenzie Farm Subdivision subject to these Bylaws. The owners of such lots shall be members of this Corporation, subject to these Bylaws and the recorded Restrictions. Such lots shall have a one lot, one vote privilege; except lots owned by Steve A. McKenzie, Greg Steele, or McKenzie Farm, LLC. Those lots shall have the right of 4 votes per lot.

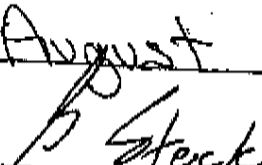
ARTICLE 16

ENFORCING THE RESTRICTIONS

Subject to the approval of Steve A. McKenzie and Greg Steele, the Corporation shall have standing to act on behalf of the members of the Corporation to enforce the Restrictions of McKenzie Farm Subdivision and the power to retain legal counsel to present the Association and the members in any action to enforce the Restrictions.

APPROVED and adopted this 6th day of August, 2007.


Steve A. McKenzie, Developer


Greg Steele, Developer