

installed, erected, or constructed in or on the Common Properties unless it is purely incidental to one or more of the uses above specified.

ARTICLE III COVENANTS, USES AND RESTRICTIONS

3.01 Application. It is expressly stipulated that the Covenants set forth in this Article III apply solely to the Property described in Exhibit "A", which Property is intended for use as single-family residential Lots only. These Covenants 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 reserves 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, primarily 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 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 on adjacent property, including but not limited to supplementary facilities or an intentional passageway or entrance into a business or another tract of land, whether or not a part of the Property, unless specifically consented to by Developer in writing.

3.03 No Multi-Family Residences, Business, Trucks. No House shall be designed, patterned, constructed or maintained for the use of more than one single family, and no House shall be used as a multiple family dwelling at any time, nor used solely or in substantial part for any commercial or business activity (provided, however, that home offices and home businesses shall be permitted so long as they do not increase traffic in the development and no exterior business signs are posted on any Lot); nor shall any Lot be used 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, except that vans and pickup trucks that are used for commercial purposes (including those with advertising or identification printed on them) shall be permitted. Nothing contained herein shall prohibit the Developer or the Association from permitting, maintaining, or operating concessions or vending machines on the Common Properties.

3.04 Rearrangement of Lot Lines. Not more than one House shall be erected or maintained on any one Lot. With the written approval of the Developer, contiguous Lots may be

combined if the Lots have the same Owner, for the purpose of erecting an approved House thereon. In the event of such combination, the assessments provided for herein will be based upon the resulting number of Lots. Except as provided in Section 3.41, Lots may not be resubdivided so as to create a smaller area than originally deeded to a Lot Owner and as shown on the subdivision plat.

3.05 Developer Reserves Right. Notwithstanding any other provisions herein to the contrary, the Developer reserves unto itself the following rights, privileges and powers with regard to Lots owned by the Developer: to subdivide Lots, to combine Lots or parts of Lots, to rearrange boundaries of Lots, to cause any part of any Lot to become a part of the Common Properties, and to cause portions of Common Property Lots to become a part of any of the Lots bordering them.

3.06 Approved Builders. Only builders that have been approved by the Developer shall be permitted to construct Houses in the Development. The Developer shall maintain a list of approved builders which list shall be made available to Owners and prospective purchasers. The Developer may from time to time, in its sole discretion, change the approved builders list by adding names of additional builders and/or by deleting names of builders no longer approved; provided, however, that the number of approved builders shall not fall below three (3). An Owner shall be permitted to contract with a particular builder for construction of a House only if that builder is on the approved builders list at the time the construction contract is entered into.

3.07 Temporary Structures.

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

(b) 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 this Declaration prevent the Developer, at the sole discretion of the Developer, from designating a Lot or Lots from time to time for (i) the temporary placement of a trailer or other suitable structure for use as an office and/or sales center by the Developer and/or approved builders, or (ii) the storage of equipment and/or materials (which may be stored in a fenced area on such Lot or Lots) used in the construction of Houses by the Developer and/or approved builders.

3.08 Occupancy Before Completion. No structure on any Lot shall be occupied until a House and seasonal landscaping conforming fully to the provisions of this instrument shall have been erected and fully completed thereon. Once the footings of any building are poured, construction must progress continuously (with allowance for weather conditions, labor conditions and availability of materials) until the building is fully completed. The exterior (including landscaping) must be completed within twelve (12) months after commencement of construction.

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

3.10 Set-backs. No building shall be erected on any Lot nearer than twenty (20) feet to any front Lot line. No provision of this paragraph shall be construed to permit any structure to be constructed and erected upon any Lot that does not conform to the zoning laws and regulations applicable thereto; provided, however, that for good cause shown, an Owner may petition the Developer for a variance from such set-back requirements. If the Developer grants such petition, the Developer will not oppose such Owner's attempt to obtain a variance from applicable zoning laws and regulations.

3.11 Erosion Control During Construction. During the construction period of a House, the Lot Owner shall be responsible for ensuring that appropriate erosion control measures are utilized by the builder to avoid excessive runoff of soil from the Lot. The Lot Owner shall also be responsible for ensuring that soil, mud, gravel, vegetation and/or other materials that is eroded or tracked by vehicles from the Lot into the street is promptly cleaned up at all times during the construction period. In the event that a Lot Owner fails to promptly do so, Developer may, in Developer's sole discretion and option, clean the soil, mud, gravel, vegetation and/or other materials in the street, and the Lot Owner shall promptly reimburse the Developer for the cost of such work.

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

3.13 Minimum Square Footage. No single-family detached House shall be erected or permitted to remain in the Property unless it has the number of square feet of enclosed living area, exclusive of open porches or screened porches, carports, garages or basements, set forth in this section. For the purposes of this section, stated square footage shall mean the minimum floor area required, and floor area shall mean the finished and heated living area contained within the residence, exclusive of open porches, garages, and steps. In the case of any question as to whether a sufficient number of square feet of enclosed living area have been

provided, the decision of the Developer shall be final. The minimum number of square feet required is as follows:

- (i) A single-level House shall contain not less than 1,400 square feet; and
- (ii) A multi-level House shall contain not less than 1,600 square feet, and the first floor of the House shall contain not less than 900 square feet.

3.14 House Design. Each House shall be designed in the "Country French" style approved by the Developer in accordance with Article IV of this Declaration.

3.15 Frontal Appearance. All Houses shall have conventional and acceptable frontal appearance from the main street fronting of said Lots. The front facade of each House must be brick or stone. Vinyl shingles may be used in gables only if approved in writing by Developer.

3.16 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. All exposed concrete block or poured concrete foundations and retaining walls must be covered with stone or brick to complement the house. Any other materials must be approved in writing by the Developer. All sheet metal work (roof caps, flashings, vents, chimney caps) 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, that for good cause shown, the Developer may make exceptions as to the placement of such roof stacks and plumbing vents.

3.17 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.

3.18 Exterior Siding. All exterior siding must be approved in writing by the Developer.

3.19 Awnings and Window Shutters. Aluminum awnings are not permitted. Window shutters must be sized to match window openings.

3.20 Roofs. Roof pitches must be a minimum of 6/12, unless otherwise approved in writing by the Developer. All roofing shingles must be 30-year life "Architectural" shingles unless otherwise approved in writing by the Developer. The color must be "Weathered Wood".

3.21 Chimneys. Chimneys on the front of Houses must be constructed of brick or stone, must have a foundation, and may not be cantilevered.

3.22 Garages. Each House shall have at least a double-car garage on the main level constructed at the same time as the House. Detached garages will be allowed only with written approval from the Developer. No carports will be permitted.

3.23 Driveways. Each House constructed upon a Lot must be served by a driveway constructed of concrete. Any other hard surface material must be approved in writing by the Developer. It shall be obligatory upon all owners of Lots in the Development to construct or place any driveways, culverts, or other structures, or gradings, which are within the limits of any dedicated roadways, in strict accordance with the specifications therefor, as set forth on the recorded subdivision plat, in order that the roads or streets, which may be affected by such placement or construction, may not be disqualified for acceptance into the road system of the City of Cleveland, Tennessee.

3.24 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.

3.25 Sidewalks. It is the obligation of the Owners of Lots 2 through 13 in Phase I subsequent to Developer to install sidewalks along their Lot frontage. Such sidewalks must be constructed to the specifications of the City of Cleveland, must be forty-eight inches (48") wide and three and one-half inches (3.5") deep, and must be installed by the time the House on such Lot is completed or within one (1) year from date of purchase of the Lot, whichever is earlier.

3.26 Mailboxes. Mailboxes must be of the type and color designated by the Developer for all Lots.

3.27 Areas Containing Utilities and Services. Areas of Lots at which are located items such as air conditioner compressors, fuel tanks, other storage receptacles, garbage cans, the electrical service entrance, or other ancillary residential functions that by nature may present an unsightly appearance shall be screened from view to the extent reasonably possible by an artificial or natural barrier approved by the Developer in writing that is an integral part of the site development plan, using materials and colors that are harmonious with the home it serves. All garbage and trash containers must be placed in the rear or side yard.

3.28 No Detached Buildings. There shall be no detached garages, outbuildings or servants quarters, without the prior written consent of the Developer. No metal outbuildings shall be permitted.

3.29 Natural Gas. Each House shall be served by natural gas, and Owners must utilize natural gas for purposes of home heating and hot water. An Owner may be exempted from this requirement by the Developer upon payment of One Thousand Dollars (\$1,000.00) to the Developer for such purpose.

3.30 Landscaping. A landscape plan shall accompany every new House application to the Developer. Landscaping in accordance with the approved landscape plan must be completed when the House is built. Shrubbery plantings adjacent to roadways and trails shall not impede the vision of vehicle operators. The front yard of every new House shall be sodded with fescue grass. After the completion of the House, no significant changes may be made to the landscaping on a Lot without the prior written approval of the Developer or the Association.

3.31 Rainwater Drainage. Each Lot must be landscaped so that rainwater will drain into the street adjoining the Lot or into a drainage easement that drains into a street. A Lot may not be landscaped so that rainwater runs into another Lot across an established drainage easement.

3.32 Excavation. No owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which will materially affect the surface grade of a Lot unless the consent of the Developer is obtained.

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

3.34 Tree and Lawn Care. The Association will maintain the trees and shrubs (including necessary pruning), and will mow and maintain the lawns on all Lots, whether improved or unimproved, and the cost for such activity will be a Common Expense.

3.35 Tree Removal. No trees or shrubs shall be removed by an Owner prior to obtaining the written approval of the Developer. Any Owner who, without having obtained approval from the Developer, cuts down or who allows to be cut down any tree having a diameter of six (6) inches or greater shall be liable to the Association for liquidated damages in the amount of Two Thousand Dollars (\$2,000.00) for each tree so cut. The majority of the trees may not be removed from any Lot except in the area of the Lot upon which the house and driveway are to be constructed. Except for view enhancement, excessive removal of trees will be deemed to be a nuisance to the adjoining neighbors and will mar the beauty of the Development.

3.36 Permitted Entrances. In addition to entry upon Lots by the Association for the purpose of mowing and maintenance of lawns as provided in Section 3.34, 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 House has not been constructed and upon which no landscaping plan has been implemented, for the purpose of 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 cutting, clearing 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 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.

3.37 Fences. No fences will be allowed on any Lot.

3.38 Signs. One sign offering the Lot and/or House for sale may be placed upon a Lot. Such signs must be in a form approved by the Developer. No other signs shall be erected or maintained on any Lot, except in accordance with approved standards for signs as set by the Developer.

3.39 Maintenance of Structures. Each Lot Owner shall, at all times, maintain all structures located on such Lot, including driveways, in good repair, which shall include exterior painting of all wood areas as needed.

3.40 Duty to Rebuild or Clear and Landscape Upon Casualty or Destruction. In order to preserve the aesthetic and economical value of all Lots within the Development, each Owner and the Developer (with respect to improved Property owned by the Developer) shall have the affirmative duty to rebuild, replace, repair, or clear and landscape, within a reasonable period of time, any building, structure, and improvement or significant vegetation which shall be damaged or destroyed by fire, or other casualty. Variations and waivers of this provision may be made only upon the Developer 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 shall not be deemed to be a waiver of the binding effect of this section upon all other Owners.

3.41 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. Vacation trailers, campers and boats must be stored in the garage or at the community parking lot.

3.42 No Antennas. No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any House or other structure on the Property or any Lot within the Development without the prior written consent of the Developer; provided, however, that a television dish antenna with a diameter of twenty-four

(24) inches or less may be installed on the rear side of a House without prior written consent of the Developer. No radio signals, television signals, nor any other form of electromagnetic radiation shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals upon any other Lots. 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.

3.43 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.

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

3.45 Animals. No poultry, livestock or animals shall be allowed or maintained on any Lot at any time except that the keeping of dogs, cats or other household pets is permitted, providing that nothing herein shall permit the keeping of dogs, cats, or other animals for commercial purposes. Dogs must be kept indoors except when taken for walks on leashes. Pet owners shall not allow pets to roam unattended. A pet owner shall also muzzle any pet which consistently barks. If the barking persists, the pet owner shall have the pet removed from the Development. If the pet owner refuses, it shall be deemed an "offensive activity".

3.46 Unsanitary Conditions. Each Lot in the Development must, from the date of purchase, be maintained by the Owner in a neat and orderly condition (excluding the tree and lawn care for which the Association is responsible). In the event that an Owner of a Lot in the Development 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, billing the cost of such work to the Owner. All Owners in the Development are requested to keep cars, trucks and delivery trucks off the curbs of the streets.

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

3.48 No Waterway Use. 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 into any pond on the Common Properties. Owners will be assessed a

\$500.00 fine for each violation of this provision in addition to assessments for the cost of removal.

3.49 Renting or Leasing. No House may be rented or leased for period of time that is less than six (6) months.

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

3.51 Compliance With Laws. Each Lot Owner shall comply with all laws, regulations, and ordinances applicable to his or her Lot.

3.52 Violations and Enforcement.

(a) In the event of the violation, or attempted violation, of any one or more of the provisions of these Covenants, the Developer or the Association, including all parties hereinafter becoming Owners of any one or more of the Lots to which provisions of these Covenants apply, may bring an action or actions against the Owner in violation, or attempting violation, and the said Owner shall be further liable for such damages as may accrue, including any court costs and reasonable attorneys fees incident to any such proceeding, which costs and fees shall constitute liquidated damages. In the event of a violation of set-back lines, side, rear or front, which may be minor in character, a waiver thereof may be made by the Developer. Further, the Developer may grant variances of the restrictions set forth in these Covenants if such variances do not, in the sole discretion of the Developer, adversely affect the purposes sought to be obtained hereby.

(b) 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), it shall not be incumbent upon the Developer to enforce the provisions of these Covenants or to prosecute any violation thereof. The Developer shall not be responsible or liable for any violation of these Covenants by any person other than himself.

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 shall create a body of rules and regulations covering details of dwelling placements, which shall be available for all Owners or prospective Owners of Lots.

(b) The Developer shall have sole architectural and design reviewing authority for the Development until the Developer has transferred such authority to the Board by executing and recording in the office of the Recorder a document stating that the Developer is transferring to the Board the architectural and design reviewing authority provided in this Article.

(c) No House, other building, fence, exterior lighting, wall, swimming pool, children's play area, decorative appurtenance, or structure of any type shall be erected, placed, added to, remodeled or altered and no trees or shrubs shall be cut or removed and no grading shall be commenced until the proposed building plans and specifications (including height, and composition of roof, siding, or other exterior materials and finish), plot plan (showing the proposed location of such House, building or structure, drives and parking areas), drainage plan, landscape plan or construction schedule, as the case may be, shall have been submitted to the Developer for approval at least ten (10) 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 shall be subject to prior approval of the Developer as provided in the preceding sentence. The Developer shall give written approval or disapproval of the plans within ten (10) days of submission. However, if written approval or disapproval is not given within ten (10) days of submission, the plans shall be deemed to have been approved. Developer 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 Developer. In the event of the completion of any House on any Lot without any proceedings having been instituted in the courts of Bradley County, Tennessee to enjoin the construction thereof, the said House shall be conclusively presumed to have had such approval.

(d) The Developer 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 and shall initially be set at one dollar (\$1.00).

(e) The architectural and design review shall be directed toward preventing excessive or unsightly grading, indiscriminate clearing of property, removal of trees and vegetation which could cause disruption of natural water courses, ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the surrounding property and improvements thereon, and ensuring 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 all of the applicable Covenants of this Declaration and unless such construction schedule complies with the provisions of this Article. Approval of the plans and specifications by the Developer 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 Exterior Completion. The exterior of all Houses and other construction (including landscaping) must be completed within twelve (12) months after the construction of the same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities.

4.04 Licensing. All contractors, landscape architects and others performing work on any Lot must be duly licensed by the State of Tennessee to do such work.

ARTICLE V ASSESSMENTS

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

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

5.03 Amount of Annual Assessment. Until the transfer of governing authority from the Developer to the Board takes place as described in the Bylaws, the amount of the annual assessments shall be set by the Developer in its sole discretion as it deems appropriate. Thereafter, the amount of the annual assessments shall be set by the Board unless seventy-five percent (75%) of the Members who are in attendance or represented by proxy at the annual or any special meeting of the Association vote to increase or decrease the said annual assessment set by the Board. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws.

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 percent (75%) of the vote of the Members who are in attendance or represented at a duly called meeting of the Association, written notice of which shall be sent to all Members at least thirty (30) days in advance setting forth the purpose of the meeting. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws.

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 No Exemptions for Nonuse of Common Properties or Lot Abandonment. 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.

5.07 Exempt Property. 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) Developer-owned Lots; provided, however, that until the Developer has sold at least twenty (20) Lots to non-exempt Owners, the Developer shall annually contribute to the Association an amount equal to the difference between the per-Lot annual assessment multiplied by twenty (20) and the per-Lot annual assessment multiplied by the number of non-exempt Lots as of the first day of January of the year that the annual assessments are due.

5.08 Date of Commencement of Annual Assessments.

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

(b) The amount of the first annual assessments shall be based pro rata upon the balance of the calendar year and shall become due and payable on the date of commencement. The assessments for any year after the first year shall become due and payable the first day of January of said year; however, the Board may authorize payment in equal monthly payments.

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

5.09 Lien. Recognizing that the necessity for providing proper operation and management of the Properties entails the continuing payment of costs and expenses therefor, the Association is hereby granted 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 interest from the due date of the assessment (at a rate established by the Board), and all costs, expenses, and reasonable attorney's fees which may be incurred by the Association in enforcing the lien upon said Lot. The lien shall become effective on a Lot immediately upon the closing of that Lot. The lien granted to the Association may be foreclosed as other liens are foreclosed in the State of Tennessee. Failure by the Owner or Owners to pay any assessment, annual or special, on or before the due dates set by the Association for such payment shall constitute a default, and this lien may be foreclosed by the Association.

5.10 Lease, Sale or Mortgage of Lot.

(a) 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.

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

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