

**BK/PG: 9646/417-457**  
**25001336**

THIS DOCUMENT PREPARED BY:  
 Tonya J. Austin, Attorney  
 Denton Austin PLC  
 5120 Virginia Way, Suite C-11  
 Brentwood, TN 37027  
 (615) 652-1047

<b>41 PGS : RESTRICTIONS</b>	
<b>KAREN DUBOSE</b>	<b>1023449 - 25001336</b>
<b>01/15/2025 - 01:05:25 PM</b>	
<b>MORTGAGE TAX</b>	<b>0.00</b>
<b>TRANSFER TAX</b>	<b>0.00</b>
<b>RECORDING FEE</b>	<b>205.00</b>
<b>DP FEE</b>	<b>2.00</b>
<b>REGISTER'S FEE</b>	<b>0.00</b>
<b>TOTAL AMOUNT</b>	<b>207.00</b>

STATE OF TENNESSEE, WILLIAMSON COUNTY

**SHERRY ANDERSON**

REGISTER OF DEEDS

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND  
 RESERVATION OF EASEMENTS FOR  
 BRUSH CREEK HOMEOWNERS ASSOCIATION, INC**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR BRUSH CREEK HOMEOWNERS ASSOCIATION, INC ("Declaration") is made this 14<sup>th</sup> day of January, 2025, by A-1 HOME BUILDERS, INC., a Tennessee corporation (the "Declarant"), under the following circumstances:

- A. Declarant subdivided certain land in the City of Fairview, Williamson County, Tennessee, more particularly described in the Record Plat, attached hereto as Exhibit A and made a part hereof (collectively, the "Property").
- B. Declarant is currently the owner of all of the Lots in the subdivision known as Brush Creek, as shown on the Record Plat for Brush Creek.
- C. Brush Creek will consist of 45 lots located in the City of Fairview in Williamson County, Tennessee, more particularly described in the Record Plat (such property, together with additional land as may be subjected to this Declaration pursuant to the terms hereof, shall be referred to as the "Residential Development").
- D. Declarant desires that the Property be held, sold, used and conveyed subject to the covenants, conditions, restrictions, and easements contained in this Declaration.
- E. Declarant has formed or, prior to the sale of the first Lot, will form the Association, as defined below, which shall be responsible for the maintenance, management and control of the Common Elements on the Property.

NOW, THEREFORE, in consideration of the premises and for the purpose of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Declarant hereby declares that the Property shall be held, sold, used and conveyed subject to this Declaration and the covenants, restrictions and liens provided herein, which shall run with the land and be binding upon all the Owners.

THIS DOCUMENT PREPARED BY:  
Tonya J. Austin, Attorney  
Denton Austin PLC  
5120 Virginia Way, Suite C-11  
Brentwood, TN 37027  
(615) 652-1047

Electronically Filed  
Book 9646 Page 417  
Date 1/15/25 Time 1:05 pm

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## **SECTION 1.** **DEFINITIONS**

The words in this Declaration and the Bylaws which begin with capital letters, other than words which would be normally capitalized, unless the context otherwise requires, shall have the meanings set forth in this Section 1.

1.1. Annual Meeting. "Annual Meeting" means the annual meeting of the Members of the Association held within the second quarter of each calendar year, upon proper notice, at a date, time and at a place from time to time designated by the Board. The first Annual Meeting of the Members shall be held within one year from the date of incorporation on such date as the initial Board shall determine.

1.2. Association. "Association" means Brush Creek Homeowners Association, Inc. a Tennessee nonprofit corporation, comprised of the Owners of Lots in the Residential Development, which owns, operates, governs and maintains the Common Elements, and any successor organization which owns, operates and maintains the Common Elements.

1.3. Board or Board of Directors. "Board" or "Board of Directors" means the board of directors of the Association established pursuant to its Charter, Bylaws, and this Declaration.

1.4. Builder. "Builder" means any party who acquires one or more developed Lots from the Declarant for the purpose of resale to an Owner or of constructing improvements thereon for resale to an Owner.

1.5. Bylaws. "Bylaws" means the bylaws of the Association adopted pursuant to the Tennessee Nonprofit Corporation Act, attached hereto as Exhibit B, as the same may be amended from time to time.

1.6. Centralized Mailboxes. "Centralized Mailboxes" means the centrally located CBU (cluster box units) mailboxes located on land within Common Elements and serving the Property as shown on the Record Plat or any subsequent Plat, together with any other centrally located CBU (cluster box units) mailboxes serving the Property which may be constructed in the future as they may exist from time to time.

1.7. Charter. "Charter" mean those articles, filed with the Secretary of State of Tennessee, incorporating the Association as a nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, as the same may be amended from time to time.

1.8. Common Elements. "Common Elements" means all real property that is owned or leased by the Association, or property in which the Association has an interest such as an easement for the benefit of all of the Association and/or its Members, namely:

- (a) the Open Space, together with all landscaping trees, signage, fencing, sidewalks or other Improvements, as applicable, located thereon;
- (b) easements for any entry monumentation, landscaping and fencing as shown on the Record Plat or on any subsequent Plat or recorded easement;

(c) all areas identified as storm water detention or retention, private drainage easements as shown on the Record Plat or on any subsequent Plat or other recorded easement to the Association, together with all drainage-related Improvements located thereon;

(d) the cluster box mailbox units to be located on Open Space areas or Centralized Mailboxes; and

(e) such additional areas and/or Improvements as may be identified as "Common Elements" in future Plats, amendments, and/or supplements to this Declaration.

For clarification, "Common Elements" includes the fencing, entry monumentation and associated entryway landscaping located at the entrance to the Residential Development, (including pursuant to the landscape easements for the benefit of the Association established on the Record Plat) and includes, but is not limited to, trees and other plantings within the landscape islands in the right of way of the parkway of the Residential Development. Common Elements shall not include utility easements shown on any Plat.

1.9. Common Expenses. "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, as more particularly described in Section 4.2 of this Declaration.

1.10. Constituent Documents. "Constituent Documents" mean this Declaration, the Plats, the Bylaws, the Charter, any rules and regulations adopted by the Board, any management agreement between the Association and a professional management company for the Common Elements, and any other documents used to create and/or govern the Property.

1.11. County. "County" means Williamson County, Tennessee.

1.12. Declarant. "Declarant" means A-1 Home Builders, Inc., a Tennessee corporation, its successors and assigns or an entity affiliated with A-1 Home Builders, Inc.

1.13. Declaration. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Brush Creek Homeowners Association, Inc. as the same may amended from time to time.

1.14. Default. "Default" means any violation or breach of, or any failure to comply with, the Restrictions, this Declaration, or any other Constituent Documents.

1.15. Design Review Committee. "Design Review Committee" means the committee appointed by the Board, or, during the Development Period, the Declarant (or its appointed agent), to review, approve or disapprove, and oversee construction of Improvements and all modifications, additions, or alterations to Improvements.

1.16. Detention/Retention Pond. "Detention/Retention Pond" means an area depicted on the Plats whether on the Property or on adjoining property (including any other portion of the

Residential Development) to be used to retain or detain storm water created by the Lots within the Property.

1.17. Development Period. "Development Period" means the period commencing on the date on which this Declaration is recorded in the Office of the Register of Deeds for Williamson County, Tennessee, and terminating when Declarant, in its sole discretion, so determines.

1.18. Development Period Special Meeting. "Development Period Special Meeting" has the meaning assigned to such term in Section 3.2.2 of this Declaration.

1.19. Intentionally omitted.

1.20. Director(s). "Director" or "Directors" means a member of the Board of Directors of the Association.

1.21. Dwelling Unit. "Dwelling Unit" means any building or portion of a building situated upon the Property that is designed and intended for use and occupancy as a single-family residence.

1.22. Effective Date. "Effective Date" has the meaning assigned to such term in the introductory paragraph of this Declaration.

1.23. Final Plat. "Final Plat" means the final plat for the Residential Development, which was approved by the City of Fairview.

1.24. General Assessment. "General Assessment" means the charge established by Section 4.2 of this Declaration.

1.25. Improvement. "Improvement" or "Improvements" means all exterior man-made or man-installed alterations to the Property which cause the Property to deviate from its natural condition, including, but not limited to, buildings; overhead, aboveground and underground installations, including without limitation, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; swimming pools, tennis courts, swing sets and recreational structures of all descriptions; slope and drainage alterations; roads, driveways, uncovered parking areas and other paved areas; fences, trellises, walls, retaining walls, exterior stairs, decks, patios and porches; trees, hedges, shrubs and other forms of landscaping; and structures of every type.

1.26. Individual Assessment. "Individual Assessment" means the charge described in Section 4.3 of this Declaration.

1.27. Lot(s). "Lot" or "Lots" means each of the parcels of land shown as such upon the Plat or Plats of the Property, other than the Open Space.

1.28. Maintenance Standards. "Maintenance Standards" mean those standards adopted by Declarant or the Board pursuant to Section 7 of this Declaration as the same may from time to time be amended.

1.29. Majority Vote. "Majority Vote" means the amount of votes equaling fifty-one percent (51%) of the total votes outstanding.

1.30. Manager. "Manager" has the meaning assigned to such term in Section 8.4.

1.31. Members. "Members" means all Owners of Lots within the Property.

1.32. Occupant. "Occupant" means any person in possession of a Lot or Dwelling Unit whether or not such possession is lawful and includes without limitation an Owner's family members, guests, invitees, or Tenants.

1.33. Offsite Easements. "Offsite Easements" means all easements burdening adjacent properties (outside of the Residential Development) and benefiting the Residential Development.

1.34. Open Space. "Open Space" shall mean those parcels designated as "open space" on the Plats.

1.35. Owner. "Owner" means, with respect to any Lot, the owner of record from time to time, whether one or more persons or entities, of an interest in fee simple, reversion, remainder or leasehold estate of ninety-nine (99) years or more, but does not include the Association. "Owner" includes a purchaser under a recorded land contract but not a person or entity having an interest in a Lot merely as security for the performance of an obligation.

1.36. Plat. "Plat" or "Plats" means any plat of all or any portion of the Property and/or the Residential Development as recorded in the County records, including the Record Plat.

1.37. Intentionally omitted.

1.38. Property. "Property" means that certain land in Williamson County, more particularly described in the Record Plat, which land is subject to this Declaration, and such additional land as may be annexed by amendment or supplement to this Declaration from time to time, or that is owned by the Association, together with all easements and appurtenances thereto.

1.39. Record Plat. "Record Plat" means the Final Plat of Brush Creek, as recorded in Plat Book P84, Page 34, in the Office of the Register of Deeds for Williamson County, Tennessee, and attached hereto as Exhibit A.

1.40. Residential Assessments. "Residential Assessments" means General Assessment, Special Assessment, and Individual Assessment, as defined in this Declaration.

1.41. Residential Development. "Residential Development" has the meaning assigned to such term in Recital C.

1.42. Restrictions. "Restrictions" means all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including without limitation the Maintenance Standards, and all notices issued and rules and regulations adopted in accordance with this Declaration or the Bylaws.

1.43. Rules. "Rules" means those rules and regulations adopted by the Board pursuant to Section 6.7 of this Declaration, as the same may from time to time be amended.

1.44. Special Assessment. "Special Assessment" means the charge established by Section 4.4 of this Declaration.

1.45. Tenant. "Tenant" means any person occupying any Lot pursuant to a written lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

1.46. Turnover Date. "Turnover Date" shall mean the date upon which the Development Period ends.

## **SECTION 2.** **PROPERTY SUBJECT TO THIS DECLARATION**

The Property, each portion thereof, and all Dwelling Units thereon shall be held, transferred, sold, conveyed, leased, mortgaged and occupied subject to the terms, provisions, covenants and conditions of this Declaration.

## **SECTION 3.** **ASSOCIATION**

3.1. Formation of the Association. Declarant has caused or will cause the Association to be formed in accordance with the Tennessee Nonprofit Corporation Act. The purpose of the Association is to provide for the administrative, governance, maintenance, management and upkeep of the Property and to promote the general health and welfare of the Owners and Occupants of the Residential Development and the Property.

### 3.2. Board of Directors.

3.2.1. Until the Development Period Special Meeting, the Board shall consist of three Directors appointed by Declarant, who shall serve until their respective successors are appointed and qualified. Until the Turnover Date, Declarant shall have the sole and exclusive right to appoint and remove all three Directors and appoint new Directors. A Director appointed by Declarant need not be a Member of the Association. A Director elected by the Members on or after the Development Period Special Meeting must be an Owner of a Lot or Dwelling Unit or a spouse of an Owner of a Lot or Dwelling Unit, except that if an Owner is a corporation, partnership, joint venture, or other entity, the Owners may elect as a Director an officer, partner, joint venturer, or like individual affiliated with such entity. A Lot cannot be represented on the Board by more than one elected Director (whether an Owner, a spouse of an Owner or an officer, partner, joint venturer or like individual associated with an Owner).

3.2.2. Not more than sixty (60) days after the Turnover Date, the President of the Association (who shall be appointed by Declarant prior to the Turnover Date) shall call a special membership meeting ("Development Period Special Meeting"). At the Development Period Special Meeting, the Directors appointed by Declarant shall be deemed removed from office (if Declarant has not elected to act itself or appoint an agent to act, in which case the Declarant or its agent will be removed from office), and the Members, including Declarant if it is then an Owner,

shall elect a new Board consisting of at least three (3) but not more than five (5) Directors who all shall be Owners or who shall otherwise be qualified pursuant to Section 3.2.1 above to be a Director. The persons so elected shall take office immediately upon election.

3.2.3. Notwithstanding anything above to the contrary, Declarant may, by written notice to the Board at or before any Annual Meeting, relinquish to the Owners Declarant's right to appoint or elect one or more Directors at such Annual Meeting pursuant to this Section.

3.2.4. In connection with the turnover of control of the Board which occurs at the Development Period Special Meeting, Declarant shall not be deemed to have made any representation or warranty as to the condition of, nor shall Declarant be required to perform any maintenance or repairs to, the Property (including the Common Elements). After the Turnover Date and the Development Period Special Meeting, Declarant shall be released from all obligations in connection with the Property (including the Common Elements).

3.3. Membership. The membership of the Association shall at all times consist exclusively of Owners. All Owners shall be Members. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

3.4. Members' Rights and Duties. Each Member shall have the rights, duties and obligations set forth in this Declaration and all amendments duly made hereto.

#### **SECTION 4.** **ASSESSMENTS**

4.1. Purpose of the Residential Assessments. The Residential Assessments are established for the benefit and use of the Association and shall be used in covering the costs of Common Expenses and for such other purposes as hereinafter set forth.

4.2. General Assessment. A General Assessment is hereby established for the benefit of the Association, its successors and assigns, and all Owners, as a charge on each Lot or Dwelling Unit. The General Assessment shall be used in covering the Common Expenses incurred by the Association in operating, insuring, maintaining, improving, enhancing and repairing the Common Elements; real estate taxes and assessments on the Common Elements; in providing special amenities, as available from time to time, to each Lot; the cost of reasonable reserves for contingencies, replacements and working capital; management fees; organizational costs; obligations and costs assessed under the Offsite Easements and all other costs incurred by Declarant or the Board in the exercise of its powers and duties pursuant to this Declaration. The General Assessment shall be estimated based on the budget adopted in accordance with this Section. The obligation to pay the General Assessment shall not in any manner be dependent on or discharged or otherwise affected by the use or non-use of the Common Elements or the actual occupancy of any Lot or Dwelling Unit on the Property. Each Owner, by acceptance of a deed for a Lot, covenants and agrees to pay such General Assessment, subject to Section 4.5. The General Assessment shall be effective as to each Lot or Dwelling Unit on the date this Declaration is recorded in the County records or the date that a budget is established pursuant to this Section, whichever is later. Each third-party purchaser shall pay to the Association, at the time of closing on the Lot, the annual General Assessment applicable to such Lot for such calendar year, prorated



for the number of days remaining in such calendar year from the date of closing through the end of the year. The General Assessment shall be computed and levied in accordance with the budget adopted by the Board pursuant to the Bylaws.

4.3. Individual Assessment. The Association, after approval by a majority of the members of the Board and after written notice to the Owner, shall have the right to place an Individual Assessment on a Lot or Dwelling Unit for costs incurred by the Association in connection with a Default by an Owner or Occupant or for any other reason permitted by this Declaration, including without limitation:

4.3.1. any costs incurred for maintenance or repair caused through the willful or negligent act of an Owner or Occupant or their family, Tenants, guests or invitees, including attorney fees, court costs and other expenses incurred; and

4.3.2. any costs associated with the enforcement of this Declaration or any rules and regulations of the Association, including without limitation preparation, recording, and enforcement of liens; and attorneys' fees, witness fees and costs, and court costs.

4.4. Special Assessment. To the extent that the Association's reserve fund is insufficient, (i) during Development Period, the Declarant may (but is not required to) use its own funds to pay for any operating deficit or insufficiency in the capital budget, or (ii) at any time, including during the Development Period, the Association may levy a Special Assessment for the following reasons:

4.4.1. If there is an operating deficit in any calendar year, such deficit may be addressed with a Special Assessment sufficient in an amount so as to allow the Association to satisfy such deficit in part or in whole, provided that any such Special Assessment shall have been approved in accordance with Section 4.4.3 below.

4.4.2. To the extent that the capital budget is insufficient, the Association may levy a Special Assessment in any fiscal year to construct, structurally alter, or replace capital improvements which are a part of the Common Elements.

4.4.3. Special Assessments shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.

4.5. Exemption of Declarant and Builder Lots: Assessment for Initial Funding of Association.

4.5.1. Notwithstanding any provision of this Declaration, the Charter or the Bylaws, the Declarant and any Builder shall not be required to pay an assessment for any Lot owned by it unless a Dwelling Unit has been constructed on the Lot and occupied for residential purposes.

4.5.2. An initial assessment of Eight Hundred Dollars (\$800.00) on each Lot for initial funding of the expenses of the Association shall be due and payable to the Association at

the earlier of the time of the initial sale of a Lot with a Dwelling Unit constructed on a Lot or the occupancy of a Dwelling Unit on such Lot.

4.6. Lien for Residential Assessments. The Association shall have a lien for any Residential Assessment levied against a Lot or Dwelling Unit, for fines imposed against an Owner or Occupant, and for interest, costs and reasonable attorney fees.

4.6.1. Creation. The lien for Residential Assessments is created by this Declaration and shall be a charge and a continuing lien on each Lot or Dwelling Unit which shall run with the land. All persons or entities acquiring an interest in a Lot or Dwelling Unit after the recording of this Declaration shall take such interest subject to the lien.

4.6.2. Effective Dates and Perfection. The lien for the General Assessment shall be effective on the date this Declaration is recorded in the County records. The lien for other Residential Assessments shall be effective on the first day notice is sent to the Owners of the Lots affected. Recording of this Declaration constitutes notice and perfection of the lien for all Residential Assessments.

4.6.3. Notice of Lien. The Association may record a notice of lien with the Office of the Register of Deeds for Williamson County, Tennessee. Such notice shall not be required for the Association to enforce its lien.

4.6.4. Priority of the Lien. The lien for Residential Assessments created by this Declaration shall be prior to all liens and encumbrances recorded subsequent to this Declaration, except the lien for real estate taxes and assessments and the lien of any first mortgage on a Lot filed of record. Mortgagees shall have no obligation to collect Residential Assessments.

4.6.5. Subordination and Mortgagee Protection. Notwithstanding any of the provisions hereof to the contrary, the lien of any Residential Assessment levied pursuant to this Declaration (and any late charges, interest, costs and reasonable attorney fees in accordance with the Bylaws) shall be subordinate to, and shall in no way affect the rights of the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to Residential Assessments, or installments thereof, which have become due and payable prior to the date of a sheriff's sale of a Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any Residential Assessments thereafter becoming due, nor from the lien of any such subsequent Residential Assessment.

4.6.6. Extinguishment of the Lien. A lien for unpaid Residential Assessments is extinguished unless proceedings to enforce it are instituted within five (5) years after the full amount of the Residential Assessment becomes due. If an Owner of a Lot or Dwelling Unit subject to a lien files a petition for relief under the United States Bankruptcy Code, then the period of time to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay under Section 362 of the Bankruptcy Code is lifted.

4.7. Allocation of General and Special Assessments. The portion of the General Assessment and any Special Assessment chargeable to each Lot shall be a fraction, the numerator of which is one and the denominator of which is the total number of Lots subject to this

Declaration, and the Owner of each Lot shall be charged with the payment of such portion of the total General Assessment or Special Assessment. Notwithstanding the foregoing, Declarant shall not have any obligation to pay any Residential Assessment on a Lot to the extent provided in Section 4.5.

4.8. Surplus. If the General Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, at its sole discretion: (a) refund each Owner's share of the surplus; (b) credit each Owner's share of the surplus to each Owner's payment of the General Assessment due for the following year; or (c) apply the surplus to the reserve.

4.9. Payment. Unless otherwise established by the Board, the General Assessment shall be paid in annual installments due in advance twenty (20) days after the mailing of the notice of amount due to the Owners by United States mail. The Board shall have the power from time to time to adopt such billing, collection and payment procedures, late charges and other payment time schedules as it deems appropriate. Additionally, any Special Assessment or Individual Assessment imposed by the Board shall become due upon the date designated in the notice, but not less than thirty (30) days after the mailing of the notice of the amount due to the Owner(s) by United States mail.

4.10. Delinquency and Acceleration. Any installment of a Residential Assessment provided for by this Declaration shall become delinquent if not paid on the due date as established by this Declaration or by the Board. With respect to each installment of a Residential Assessment not paid within ten (10) days of its due date, the Board may, at its election, require the Owner to pay a reasonable late charge, costs of collection, reasonable attorney fees and interest at the rate determined in the Bylaws (but not in excess of the maximum rate permissible under Tennessee law). Interest shall be calculated from the date of delinquency to the date full payment is received by the Association. If any Residential Assessment is payable in installments and any installment is not paid within thirty (30) days of its due date, the Board may, at its election, declare all of the unpaid balance of the Residential Assessment for the then current fiscal year, attributable to that Lot, to be immediately due and payable without further demand. The Association may enforce the collection of the full Residential Assessment and all charges thereon in any manner authorized by law, this Declaration or the Bylaws.

4.11. Remedies Cumulative. A suit to recover money judgment for unpaid Residential Assessments and charges may be maintained without foreclosing or waiving the right to enforce the lien. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

4.12. Personal Obligation. The Residential Assessments, including fines, if any, payable by each Owner, together with any penalty, interest, costs and reasonable attorney fees, shall be the personal obligation of the Owner of the Lot or Dwelling Unit. The personal obligation shall not pass to any successors in title unless expressly assumed by them, although the lien on the Lot will continue until paid or until the lien expires.

4.13. Statement. The Association shall upon written request of the Owner, contract purchaser, or first mortgagee, furnish a statement setting forth the amount of unpaid Residential

Assessments against the Lot, or stating that the amount of any Residential Assessments due for such Lot have been paid. This statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board, and every Owner. The Association may charge a reasonable amount for this statement.

4.14. No Exemption for Liability for Residential Assessments. No Owner is exempt from liability for payment of any Residential Assessments by waiving of the use or enjoyment of the Common Elements by abandoning the Lot against which the Residential Assessments are made, or the Dwelling Unit on such Lot.

4.15. Books and Records of the Association.

4.15.1. Inspection by Members. The membership book, account books and minutes of the Association, the Board or any committee shall be made available for inspection and copying by Members or by their duly appointed representatives at any reasonable time and for a purpose reasonably related to a Member's interest as a Member at the office of the Association or at such other place as the Board shall prescribe. A Member desiring to make inspection shall give notice to the Board. The Board will notify the Member of the hours and days of the week and location when and where such inspection may be made. The Member shall pay the cost of reproducing any copies requested by the Member.

4.15.2. Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect (a) all books, records, and documents of the Association, the Board or any committee and (b) the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

## **SECTION 5.** **ARCHITECTURAL REVIEW**

5.1. Design Review Committee. The Design Review Committee shall be a committee consisting of three persons. Until the Turnover Date, Declarant shall have the sole and exclusive right to appoint and remove all three members of the Design Review Committee at will, and may elect, in the exercise of its sole discretion, to act itself as the Design Review Committee (or appoint an agent to act in its place) in lieu of appointing individuals. After the Turnover Date, the Board shall have the right to appoint all three members of the Design Review Committee, or to appoint an agent to act in the Design Review Committee's place. At any time after the Turnover Date that the Association does not exist, the Design Review Committee shall consist of three members elected by the Owners at an annual election at which each Owner shall have one vote (one vote per Lot), with the then current Design Review Committee to handle the administration of the election. The Design Review Committee shall have the exclusive authority, at a private or public meeting by action of two or more of its members (if Declarant has not elected to act itself or appoint an agent to act, in which case such authority shall be exercised by Declarant or its agent), to determine the design standards which shall govern the construction or installation of Improvements. Each Owner shall comply with, and cause such Owner's Lot and any Occupant thereof to comply with, the standards promulgated by the Design Review Committee. No Improvement shall be placed, constructed or installed on the Property, and no planting or removal

of plants, trees or shrubs shall be permitted, until and unless the Owner obtains the written approval thereof of the Design Review Committee. The Design Review Committee may charge a reasonable fee in connection with processing applications submitted pursuant to this Section.

5.2. Modifications. Except as otherwise provided in this Declaration, the Design Review Committee shall have jurisdiction over any construction, installation, modification, addition or alteration of Improvements. No person shall construct or install any Improvement, including, without limitation, alter surfaces of existing Improvements, change paint colors or roofing materials, construct or modify fencing, install any recreational device, or install landscaping, without the prior written approval of the Design Review Committee. Owners shall submit plans showing the nature, shape, color, size, materials and location of proposed Improvements and alterations to the Design Review Committee for approval. The Design Review Committee may charge a reasonable fee in connection with processing applications submitted pursuant to this Section. Nothing contained herein shall be construed to limit the right of an Owner to remodel or decorate the interior of such Owner's residence.

5.3. Variances. To avoid unnecessary hardship and/or to overcome practical difficulties in the application of the provisions of this Declaration, the Design Review Committee shall have the authority to grant reasonable variances from the provisions of this Section 5 and the specific restrictions set forth in Section 6.4 of this Declaration, provided that the activity or condition is not prohibited by applicable law; and provided further that, in its judgment, the variance is in the best interest of the community and is within the spirit of the standards of the Design Review Committee. No variance granted pursuant to this Section shall constitute a waiver of any provision of this Declaration as applied to any other person or circumstance or any other part of the Property.

5.4. Improvements by Declarant. Notwithstanding any provisions of this Declaration to the contrary, all Improvements constructed or installed by Declarant shall be deemed to comply in all respects with the requirements of the Design Review Committee, and approval thereof by the Design Review Committee is not required.

## **SECTION 6.**

### **COVENANTS AND RESTRICTIONS; RULES AND REGULATIONS**

6.1. Use of Lots. Each Lot shall be occupied and used exclusively for single-family, residential purposes and purposes customarily incidental to a single-family residence. No Improvements may be constructed or installed on any Lot until and unless the plans therefor have been approved by the Design Review Committee (or Declarant (or its agent) if no Design Review Committee has been established).

6.2. Use of Common Elements. All Common Elements may be used only for the purposes for which they are intended. All uses of the Common Elements shall benefit or promote the health, safety, welfare, convenience, comfort, recreation and enjoyment of the Owners and occupants, and shall comply with the provisions of this Declaration, the laws of the State, and the Rules.

6.3. General Maintenance of Lot. Each Owner, at such Owner's cost, shall maintain and keep such Owner's Lot and all Improvements thereon or thereto in good condition and repair, in

accordance with the Maintenance Standards, the Rules, and this Declaration. Such maintenance shall include, without limitation, maintaining the lawn on a regular basis at a height no greater than five (5) inches. Without limiting the generality of the above provisions of this Section, if, upon the closing of the purchase of a Lot by an Owner from Declarant the entire exterior unpaved portion of the Lot has not been seeded, sodded or otherwise landscaped, the Owner shall, within the growing season in which such closing occurs or, if such closing does not occur during a growing season, within the next subsequent growing season, seed, sod or otherwise landscape the entire exterior unpaved portion of the Lot in accordance with this Declaration.

6.4. General Covenants, Restrictions, and Limitations. In order to promote the health, safety, and welfare of all Owners and Occupants, and to preserve, beautify, and maintain the Residential Development as one of high quality, and to preserve and promote a good environmental quality, the following covenants, restrictions, and limitations as to use and occupancy are hereby adopted. These covenants, restrictions, and limitations shall burden and benefit all Lots, shall run with the land, and shall be binding on current and successor Owners, for the benefit of all Owners and all Lots.

6.4.1. Hazardous Actions or Materials. Nothing shall be done or kept in or on any Lot or in or on any portion of the Common Elements that is unlawful or hazardous, that might reasonably be expected to increase the cost of casualty or public liability insurance covering the Common Elements or that might unreasonably disturb the quiet occupancy of any person residing on any other Lot.

6.4.2. Signs. No signs of any character shall be erected, posted or displayed upon the Property, except: (i) marketing signs installed by Declarant, and any Builder designated by Declarant, while marketing the Property, Lots and residences for sale; (ii) street and identification signs installed by the Association or Declarant; and (iii) one temporary real estate sign not to exceed four square feet in area advertising that such Lot is for sale.

6.4.3. Animals. No animal, reptile, livestock or poultry of any kind shall be kept, raised, bred or permitted to remain on any Lot, except that each Lot shall be permitted dogs, cats or other ordinary domesticated household pets not totaling more than three in any combination, provided that they are not kept, bred or maintained for any commercial purposes. No Owner or Occupant shall allow its pets to run outside of such Owner's Lot unattended. An Owner or Occupant may walk a pet outside of such Owner's Lot only if the pet is on a leash and the Owner or Occupant cleans up after the pet. No animal, including a domestic pet, shall be kept on the Property if the size, type or characteristics of such animal constitute a nuisance. Proper Lot maintenance as required elsewhere herein shall include the obligation to regularly remove pet waste from an Owner's Lot.

6.4.4. Nuisances. No noxious or offensive trade or activity shall be permitted on the Property or within any dwelling located on the Property, nor shall any use be made nor condition allowed to exist on any Lot which unreasonably disturbs or interferes with the quiet occupancy of any person residing on any other Lot.

6.4.5. Business. No industry, business, trade, occupation or profession of any kind may be conducted, operated or established on the Property, without the prior written approval of

the Board. This provision shall not prohibit a "home office" use, in connection with which no nonresident employees are working on the Property, and no customers, employees, subcontractors or other third parties park on the Property.

6.4.6. Laundry. No laundry of any type may be hung outside.

6.4.7. Storage. No open storage of any kind is permitted. No storage buildings of any kind are permitted, including, without limitation, sheds or barns. All equipment and objects (including tools, lawn mowers, snow removal equipment) must be stored out of sight when not in use.

6.4.8. Hotel/Transient Uses. No Lot may be used for commercial and/or residential hotel or transient uses, including without limitation, uses in which the (i) occupant is provided customary hotel services such as room service for food and beverage, maid service, laundry and linen service, or similar services, or (ii) the occupant uses the Lot for any period of less than thirty (30) days and in exchange for payment. For the avoidance of doubt, short term rentals such as Airbnb, VRBO, or any other vacation rental of any type, is strictly prohibited.

6.4.9. Parking and Maintenance of Vehicles. The Board may create and enforce reasonable rules concerning the parking of vehicles on the Property. Without limiting the generality of the immediately preceding sentence, vehicles may not be parked (i) in any driveway so as to extend over or into the yard of any Lot, any sidewalk, or any street; (ii) on any street within the Residential Development during inclement weather when the streets within the Residential Development require snow or ice removal; or (iii) on any street overnight. No vehicle that does not have a current license tag or is inoperable may be parked on or within the Residential Development, except in an enclosed garage. However, maintenance on motor vehicles shall not be permitted within the Residential Development, with the exception vehicle washing, changing a flat tire, or changing windshield wipers. Trucks, commercial vehicles, boats, trailers, campers or mobile homes shall not be parked or stored on any street of the Residential Development overnight and shall not be parked or stored on any Lot (except in an enclosed garage) for any time period longer than forty-eight (48) hours in any thirty (30) day period without the Board's prior written approval; provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of residences on the Lots. In addition to its authority to levy Individual Assessments as penalties for the violation of such rules, the Board may cause the removal of any vehicle violating such rules. The term "trailer" shall include, but not be limited to, trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit use and occupancy thereof, or for storage or the conveyance of machinery, tools or equipment, whether resting on wheels, jacks, tires or other foundation. The term "truck" shall include, but not be limited to, every type of motor vehicle other than passenger cars and other than any non-commercial pick-up truck, up to ¾ ton, (no ladder racks, advertising, etc.) or van which is used as a principal vehicle by an Owner or Occupant of a Dwelling Unit or their family. The term "commercial vehicle" shall include, but not be limited to, any vehicle (including any passenger car) which is decorated with prominently-displayed advertisements.

6.4.10. Trash. Except for the reasonably necessary activities of Declarant during the original development of the Property, no burning or storage of trash of any kind shall be

permitted on the Property. All trash shall be deposited in covered, sanitary containers, out of view of other Lots. Trash cans must be put away on the day that trash is picked up.

6.4.11. Antennae. To the extent such prohibition is permitted by federal legislation, no radio, satellite dish, television or other electronic antennae or aerial may be erected or maintained on any Lot or the exterior of any Improvement, without the prior written approval of the Design Review Committee. Standard TV antennae and other over-the-air reception devices (including satellite dishes) of one meter (39 inches) in diameter or less shall be permitted; provided, however, that no exterior antenna, satellite dish or similar exterior improvement shall be installed upon any Lot without first providing written notice to the Design Review Committee. Installation of standard TV antennae and over-the-air reception devices shall comply with any and all rules and guidelines adopted by the Design Review Committee or the Board concerning location and general screening requirements and reasonable color blending requirements in order to minimize visual disturbance; provided, however, that such rules or regulations do not unreasonably increase the cost of installing, maintaining, or using such devices, or otherwise unreasonably delay an Owner's right to receive over-the-air signals.

6.4.12. Utility Lines. All utility lines on the Property shall be underground, subject to the requirements of relevant governmental authorities and utility companies.

6.4.13. Tanks. No tanks for the storage of propane gas or fuel oil shall be permitted to be located above or beneath the ground of any Lot, except that propane gas grills are permitted.

6.4.14. Mailboxes. Mailboxes will be located in cluster box units which are part of the Common Elements. No mailboxes will be installed on any Lot so long as the Centralized Mailboxes are provided for the Residential Development.

6.4.15. Yard Lights and Lamp Posts. All yard lights and lamp posts shall conform to the standards adopted by the Design Review Committee.

6.4.16. Fencing. Fences may be erected on a Lot between the rear of the Dwelling Unit and extended to the side property lines and the back property line with advised caution at Owners' liability of fencing over or into any applicable easements as may be shown on the recorded plat. All fencing shall comply with the following:

(a) Fences shall be limited to the following approved fencing styles: (i) a black painted aluminum alloy or other similar material not in excess of 4' in height to be approved by Declarant or the Board pursuant to Section 5; (ii) a 6-foot privacy fence in Vinyl/PVC in the color white; or (iii) invisible pet fencing, so long as it meets the following: (1) the fencing shall not be placed closer than 3 feet from the side property lines, (2) the fencing shall not be placed closer than 7 feet from the rear property line of any Lot, and (3) the fencing shall not be placed closer than 15 feet from the property line on the front of a Lot. Other fence styles may be added to the list of approved permitted fence styles at the discretion of the Board or Declarant, as applicable. Applications for modifications or variances will be dealt with pursuant to Section 5 hereof.

(b) Fences around swimming pools or other hazardous water features shall not be less than five (5) feet in height, provided they shall be no lower than the minimum



required by law to circumscribe a pool. Wrought iron or aluminum alloy fences are allowed for this purpose.

(c) If a fence is located within an easement, it shall not be placed in a location where it hinders the use of intended easement or alters the storm water drainage. The Board expressly disclaims liability regarding the placement of a fence by an owner in any easement area, even where the Board has approved installation of the same.

(d) Notwithstanding the foregoing, no fencing (including invisible dog-type fencing) or walls shall be permitted on any part of the Common Elements, without the prior written consent of the Board, or during the Development Period, Declarant.

(e) All fencing on any Lot must be well-maintained at all times. If at any point in time a fence located on a Lot becomes unsightly, unsafe, damaged, or in disrepair, at the sole discretion of Declarant or the Board, as the case may be, Owner shall promptly remove or repair such fence from the Lot upon receiving written notice to do so from Declarant or the Board, as applicable.

(f) If a fence permit is required by county or any city ordinances, then Owner will be required to obtain such permit. Prior to erecting any fence on a Lot, a proposed fence site plan must be submitted to the Design Review Committee for Architectural Review and approval. The required fence site plan must show the location of the proposed fence and the style selected from the approved permitted fence styles.

6.4.17. Swimming Pools. No above ground swimming pool extending 12 inches or more above the finished grade of the Lot shall be permitted on any Lot, except that this prohibition shall not prohibit the installation of a hot tub or sauna.

6.4.18. Driveways and Basketball Equipment. Basketball backboards and hoops may not be mounted to the front or side of a residence. Any basketball backboard and hoop on a Lot must be perpendicular to the street and shall be subject to the approval of the Design Review Committee. Basketball backboards and hoops which are designed to be temporary and movable may be used on Lots for their intended purposes, provided the same are stored out of view when not in use. Driveways shall not be painted nor be designed with stamped concrete or other pavers to display images or color patterns, including without limitation, lines for sports courts or playground games.

6.4.19. Flagpoles. No free-standing flagpoles will be permitted on any Lot. Bracketed flagpole holders attached to homes will be permitted, subject to approval of the Design Review Committee.

6.4.20. Seasonal Decorations. Seasonal porch ornaments, such as door wreaths, must be appropriate to the season and may not be put up earlier than forty (40) days before the applicable holiday. Holiday lights and other exterior holiday decorations may not be erected sooner than practical to celebrate traditional holidays and must be removed within 10 days of the commonly-recognized end of any such holiday, as stated in applicable Federal or religious guidelines.

6.5. Applicability to Declarant. None of the provisions of this Section 6 shall be construed so as to restrict Declarant in the performance of its normal construction activities during the construction of residences on the Lots. To the extent inconsistent with the performance of Declarant's construction activities during the construction of residences on the Lots, the provisions of this Section 6 shall not apply to Declarant.

6.6. Compliance With Existing Restrictions. In addition to the foregoing, all Lots shall comply with the existing Restrictions, all applicable zoning regulations and building codes, and all other laws, rules and regulations of any governmental authority with jurisdiction over the Property.

6.7. Rules and Regulations. In addition to the foregoing, the Board may adopt and enforce, and from time to time amend, reasonable rules and regulations regarding the administration, interpretation, and enforcement of the Restrictions, the use of the Property, and the conduct of Members (the "Rules"). The Rules shall be consistent with and designed to further the purposes outlined in this Declaration. Sanctions may include monetary fines, which if unpaid, shall constitute a lien on the applicable Lot subject to enforcement as provided under Section 4 hereunder, as well as suspension of the right to vote and the right to use the Common Elements, as applicable. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. The Board at its sole option may forgive a single fine for any one Occupant, but no other fine forgiveness shall be permitted. The Association, acting through the Board by contract or other agreement, shall have the right to enforce city ordinances or permit the City of Fairview, Tennessee, to enforce ordinances on the Residential Development for the benefit of the Association and its Members.

## **SECTION 7.** **MAINTENANCE STANDARDS**

7.1. Adoption and Amendment. The Board shall have the right to adopt, and may from time to time amend, Maintenance Standards pertaining to the maintenance, repair and appearance of the Property, all Lots, and the exterior of all Dwelling Units and Improvements thereon. If any provision of any applicable building inspection, or similar maintenance statute, ordinance, resolution, regulation or order of the State of Tennessee, any other political subdivision or governmental instrumentality of the State of Tennessee, or the Board, is more stringent with regard to a Lot than a comparable provision of the Maintenance Standards, the more stringent provision shall be deemed incorporated in the Maintenance Standards. The Maintenance Standards shall provide, among other things, as follows:

7.1.1. Except as otherwise hereinafter provided, the Association shall be responsible for maintenance, repair and replacement of the Common Elements and all Improvements thereon, and watering, weeding, mowing, trimming, repairing and replacing all grass and lawn areas and landscaping within the Common Elements, mulching in all landscaped areas within the Common Elements, and snow removal and ice treatments on paved areas located within the Common Elements as and when determined necessary by the Association. Notwithstanding the foregoing, the Association shall not be responsible for snow removal and ice treatments on sidewalks located within any of the Lots (or that front on any Lot, to the extent that such are actually located within the adjacent public or private rights-of-way within the Residential

Development), which shall be the responsibility of each of the Owners as described in Section 7.1.5 below.

7.1.2. If any of the Common Elements is damaged or destroyed by the intentional or negligent act or omission or by the intentional or negligent act or omission of any Owner or such Owner's Occupant, Tenant, invitee, licensee, employee, agent, family member, guest, or pet, then the Board may assess an Individual Assessment in accordance with Section 4.3.1 of this Declaration for costs associated with the repair and replacement of all portions of the Common Elements so damaged or destroyed.

7.1.3. The obligation of the Association and of the Owners to repair, maintain and replace the portions of the Property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the Property.

7.1.4. Notwithstanding the fact that the Association or any Owner may be entitled to the benefit of any guarantee of material or workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of any construction guarantee or insurance coverage shall not excuse any delay by the Association or by any Owner in performing their obligation hereunder.

7.1.5. Except as otherwise provided herein, each Owner shall maintain, repair and replace at such Owner's expense all portions of each Dwelling Unit and Improvement located on such Owner's Lot and all internal and external installations of the Lot including appliances, heating, plumbing, electrical and air conditioning fixtures or installations, and any portion of any other utility service facilities including but not limited to utility lines servicing the Dwelling Unit, which are located within the boundaries of or serving the Lot. Each Owner shall also be responsible for watering, weeding, mowing, trimming, repairing and replacing all grass and lawn areas and landscaping within its Lot, mulching in all landscaped areas within its Lot, and snow removal and ice treatments on sidewalks and driveways located within its Lot (or fronting on its Lot, to the extent that such are actually located within the adjacent public or private rights-of-way within the Residential Development), all in a manner consistent with that generally prevalent throughout the Residential Development. Each Owner is responsible for maintenance and snow and ice removal from the portion of sidewalk located on its Lot, notwithstanding the fact that such sidewalk may be included with the Common Elements.

7.2. Obligation to Keep Premises in Good Repair. Each Owner during such Owner's period of ownership and, each Tenant during such Tenant's tenancy, shall keep each Lot, Dwelling Unit and all Improvements thereon in such maintenance, repair, appearance and condition as shall comply with the provisions of this Declaration including the Maintenance Standards, as well as all applicable laws and ordinances.

7.3. Drainage Easements. Neither an Owner nor anyone claiming under an Owner shall, except in an emergency, alter or impede the location or grade of any open storm water drainage

way on any Lot without the prior written consent of the Association and the County, the Board and as long as Declarant is an Owner, Declarant.

7.4. Failure to Comply. Failure to comply with the Maintenance Standards or to correct the defects listed in any inspection report issued by the Association or to pay any fee hereunder shall constitute a Default, in which event the Declarant or the Board shall have the right to enforce this Section by any proceedings authorized in this Declaration, the Bylaws, or any laws, ordinances, rules and regulations.

## **SECTION 8.**

### **COMMON ELEMENTS AND EASEMENTS**

8.1. Rights of Enjoyment in Common Elements. Except as herein otherwise provided, each Owner shall have a right and nonexclusive easement for use and enjoyment of the Common Elements, and such right and easement shall be appurtenant to, and shall pass with the title to the Owner's Lot. Each Tenant shall have a nontransferable right to use and enjoy the Common Elements, if any, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

8.1.1. The right of the Board to borrow money for the purpose of constructing, equipping, improving and maintaining the Common Elements and in aid thereof to mortgage the Common Elements. After the Development Period, the Board may borrow money for such purposes subject to the approval by seventy-five percent (75%) of the votes cast by the Members.

8.1.2. The right of the Board to adopt and enforce and, from time to time, amend reasonable limitations upon, and rules and regulations pertaining to use of, the Common Elements.

8.1.3. The right of the Board to grant easements or rights of way to any utility or public agency or authority or to dedicate any Common Element for public use.

8.1.4. All applicable provisions of valid agreements of the Association relating to the Common Elements.

8.1.5. The right of the Board under this Declaration or the Bylaws to convey or lease all or any part of the Common Elements.

8.1.6. All other easements, restrictions and rights to which the Property is subject.

8.1.7. The right of the Board to grant permits, licenses, and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

8.2. Subordination to Mortgage or Other Lien. The rights and privileges provided in this Section shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving or maintaining the Common Elements.

8.3. Conveyance or Lease of Common Elements. Upon authorization by the Board, the Association may at any time convey or lease all or a part of the Common Elements to any public

agency, authority, or utility or to any private entity, upon such terms and conditions as may be agreed upon, including without limitation, terms and conditions providing for the maintenance and repair of the Common Elements and the assessments of Owners for the costs of such maintenance and repair.

8.4. Maintenance and Management of Common Elements. The Board shall provide for the management of all Common Elements and shall keep all Common Elements (including but not limited to the trees and other plantings within the landscape islands in the parkway right of way) in such maintenance, repair and appearance as shall comply with the Maintenance Standards and all requirements of the City of Fairview, Tennessee and Williamson County, Tennessee, unless such maintenance obligation has been assumed by a public agency, authority or utility. The Association may fulfill this responsibility by contracting with any professional management company (including without limitation Declarant or an affiliate or associate of Declarant) (hereinafter "Manager") for the management, maintenance and repair of the Common Elements upon such terms and conditions including terms as to reasonable compensation as shall be agreed upon by the Association and the Manager. Declarant reserves the right, at any time during the Development Period, to execute a management contract with a Manager whereby such Manager will assume on behalf of the Association the management of the Common Elements for an agreed upon management fee. Notwithstanding the foregoing, any such contract with Declarant or an affiliate or associate of Declarant, or the Board shall not exceed one (1) year in duration and shall be terminable by reasonable notice by either Declarant, Manager or the Board.

8.5. Use of Common Elements by Declarant. Declarant and its affiliates and associates shall have the same rights of use and enjoyment of the Common Elements as the Members during the Development Period, and shall have the right to use the Common Elements for promotional, sales and similar purposes until all of the Lots have been sold.

8.6. Easements.

8.6.1. If by reason of the construction, settling, or shifting of any of the Dwelling Units or other Improvements located on Lots or by reason of the partial or total destruction and rebuilding of the Dwelling Units any part of the Common Elements presently encroach or shall hereafter encroach upon any part of a Lot; or any part of a Dwelling Unit presently encroaches on or shall hereafter encroach upon any part of the Common Elements or any other Lot; or if by reason of the design or construction of utility systems any main pipes, ducts or conduits serving more than one Dwelling Unit presently encroach or shall hereafter encroach upon any part of any Dwelling Unit or Lot, valid easements for the use and maintenance of each encroachment are hereby established. These easements shall exist during the term of this Declaration for the benefit of such Lot or Dwelling Unit and the Common Elements, as the case may be. However, in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment occurred due to the willful or negligent conduct of said Owner.

8.6.2. Any bona fide utility company, through its authorized officers, employees, and agents, shall have the right to enter upon the Common Elements or upon any utility easements located on any Lots, for the purpose of installing, repairing or servicing any of its equipment, or for reading meters, without Board approval; provided, however, that if any such activities by the utility company require alteration to or displacement of any waterscaping, landscaping, grass,

sidewalks, fences, garages, or other Improvements, then the prior approval of the Board shall be required.

8.6.3. After the Development Period, the Board may grant easements for utility purposes for the benefit of the Property, including the right to install, lay, use, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on any portion of the Common Elements, and each Owner hereby grants the Board an irrevocable power of attorney to execute, acknowledge, deliver and record, for and in the name of such Owner, such instruments as may be necessary to effectuate the foregoing.

8.6.4. Declarant hereby reserves easements and the right to grant easements on, over and across certain Lots for open space, landscaping mounding and monument areas and for the installation, maintenance, use, repair and replacement of underground utilities, public utilities, water detention basins, storm sewer, sanitary sewer and surface water drainage easements, water mains, preservation areas and private drainage easements, and building setbacks, specifically as shown on the Plats now or hereinafter recorded for the Property, and to cut and grade slopes in and along Lot boundaries at streets and drives built within the Property. The foregoing easements shall not be used for recreational purposes but are reserved for such aesthetic or utility purposes as indicated by the nature of the easement. Detention/Retention Ponds may be aesthetically maintained but shall not be used as recreational ponds or lakes.

8.6.5. A non-exclusive easement is hereby reserved or granted, as applicable, in favor of the Declarant or the Association, as applicable, in, on, over and through the Common Elements and Lots for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Common Elements and Lots.

8.6.6. A non-exclusive easement is hereby reserved or granted, as applicable, in favor of the Declarant or the Association, as applicable, in, on, over and through any and all easements set forth on the Plats, including without limitation any roadway and utility easements.

8.6.7. Every Lot and the Common Elements shall be burdened with drainage easements for natural drainage of storm water runoff from other portions of the Property; provided, no person shall alter the natural drainage on any Lot so as to materially increase the drainage of storm water onto adjacent portions of the Property without the consent of the Owner(s) of the affected property(ies).

8.6.8. All easements and rights described in this Declaration are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on Declarant, its successors and assigns, the Association, and any Owner, purchaser, mortgagee and other party now or hereafter having an interest in the Property, or any part or portion thereof. After the Development Period, the Association shall be deemed to be the successor of Declarant and, as such, shall be deemed to be the grantee of said easements provided in this Section, and shall hold such easements for the use, benefit and enjoyment of all Owners in the Property. All notes on the Plats that are pertinent to the specific easements set forth herein are incorporated herein by reference.

## **SECTION 9.** **ENFORCEMENT**

9.1. Right and Easement of Entry. The Association, through its authorized Directors, officers, employees, and agents, shall have the right and easement to enter upon any Lot at all reasonable times for the purpose of (a) inspecting each Lot and the exterior of the Dwelling Unit and all Improvements thereon to determine whether each complies with the Maintenance Standards, (b) ascertaining whether a Lot or the construction, erection, placement, remodeling, or alteration of any Dwelling Unit or Improvement thereon is in compliance with the provisions of this Declaration, and (c) doing anything thereon necessary to perform the action or actions specified in the notice to the Owner to abate, remedy, extinguish, remove or repair a Default. The Association or such Director, officer, employee or agent shall not be deemed to have committed a trespass or wrongful act solely by reason of each entry or such action or actions as are carried out in accordance with the provisions of this Section 9.1, provided that no summary abatement or similar procedure may be utilized through non-judicial means to alter or demolish items of construction.

### 9.2. Warnings: Monetary Fines: Curing Defaults: Lien.

9.2.1. In the event of any Default with respect to any Lot under this Declaration, the Board shall give written notice to the Owner thereof, with a copy of such notice to each Tenant in Default and a copy to any first mortgagee of the Lot, if such mortgagee has requested to receive such notices, setting forth with reasonable particularity the nature of such Default, the specific action or actions required to remedy the Default, and such reasonable time within which the Default may be corrected. For any second event of Default with respect to any Lot under this Declaration, the Board shall have the right to also assess a monetary fine in the amount of \$50.00, which shall be subject to enforcement as provided under Section 4 hereof. For each subsequent event of Default with respect to any Lot under this Declaration, the Board shall have the right to increase the amount of the assessed monetary fine in the amount of \$50.00 (for example, for the third event of Default, the Board may assess a fine of \$100.00 and for the fourth, \$150.00), which shall be subject to enforcement as provided under Section 4 hereof. Notwithstanding the above, any matter relating to pet waste shall be a minimum of \$500.00 per occurrence.

9.2.2. The Owner or Tenant shall cure, or cause to be cured, such Default within the time stated in the notice. If the Owner or Tenant fails to cure such Default within such reasonable period as stated in the notice, the Board may, but shall not be required to, exercise any or all of its rights hereunder including without limitation taking such action as necessary to cure such Default on behalf of the Owner. The Board may, without notice, exercise any of its rights hereunder with respect to any Default if it determines that an emergency exists requiring immediate action.

9.2.3. Costs incurred by the Association in exercising any of its rights with respect to any Default shall be an Individual Assessment and a binding personal obligation of the Owner of the subject Lot, which Individual Assessment shall be payable on written demand. If the Owner fails to pay such Individual Assessment within thirty (30) days after written demand, the Association may record a notice of lien in the County records in accordance with Section 4.6 hereof.

9.3. Remedies. Nothing contained in this Section 9 shall be deemed to affect or limit the rights of Declarant, the Association, the Board, any Owner, Occupant, or their legal representatives, heirs, devisees, successors or assigns, by appropriate judicial proceedings, to enforce the restrictions, or recover damages for any Default. It is hereby declared that irreparable harm will result to beneficiaries of this Declaration by reason of a Default, and, therefore, each beneficiary shall be entitled to relief by way of injunction or specific performance to enforce the provisions of this Declaration, as well as any other relief available at law or in equity.

9.4. No Waiver. The failure of Declarant, the Association, the Board, any Owner, Tenant, or their legal representatives, heirs, devisees, successors or assigns, in any one or more instances, to insist upon compliance with any of the Restrictions, or to exercise any right or privilege conferred in this Declaration, shall not constitute or be construed as the waiver of such or any similar restriction, right or privilege, including the right to cure Default, but the same shall continue and remain in full force and effect as if no such forbearance had occurred.

## **SECTION 10.**

### **REAL ESTATE TAXES AND ASSESSMENTS**

10.1. Real Estate Taxes. The Owner of a Lot shall be responsible for and shall pay all real estate taxes and assessments levied or imposed upon the Lot and its improvements at the time such taxes and assessments become due.

10.2. Allocation. Prior to the time the Auditor of the County establishes separate tax parcels for each Lot, Declarant shall allocate the real estate taxes and assessments upon the Property among and against the Lots in a fair and equitable manner so as to allocate the real estate taxes and assessments charged in common to the various Lots. The allocation by Declarant made in accordance with the terms hereof shall be binding upon all Owners.

10.3. Common Elements. Real estate taxes and assessments charged against the Common Elements shall be a Common Expense.

## **SECTION 11.**

### **INSURANCE AND CASUALTY LOSSES**

#### **11.1. Insurance Policies.**

11.1.1. The Board or its duly authorized agent shall obtain insurance for any insurable improvements on the Common Elements against loss or damage by fire, other hazards, including all risk coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board may also obtain a public liability policy in amounts reasonably determined by the Board covering the Association and its Members for all damage or injury occurring within the Common Elements caused by the negligence of the Association or any of its Members or agents. The Association shall obtain directors' and officers' liability insurance. The Association may also obtain any other insurance the Board deems necessary or appropriate. Premiums for all of the foregoing insurance shall be Common Expenses of the Association. The property policy may contain a reasonable deductible, and the amount



thereof shall be added to the face amount of the policy in determining whether the insurance equals the full replacement cost.

11.1.2. All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the respective benefited parties, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies on the Common Elements shall be for the benefit of the Owners and their respective mortgagees as their interests may appear;

(b) Exclusive authority to adjust losses under policies in force on the Property obtained by the Association shall be vested in the Board; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto;

(c) In no event shall the insurance coverage obtained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their mortgagees, and the insurance carried by the Association shall be primary; and

(d) The Board shall make reasonable efforts to secure insurance policies that provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Board, its members, the Owners and their respective Tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Owners;

(iv) that no policy may be canceled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, the Board, a Director, any Owner or mortgagee; and

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration.

11.2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

11.2.1. If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction as is necessary and appropriate

with the affected Owner or Owners and their mortgagee(s), as their interest may appear, if any Lot is involved, shall be retained by and for the benefit of the Association. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.

11.2.2. If it is determined, as provided below, that the damage or destruction of the Common Elements for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 11.4 below.

11.3. Damage or Destruction.

11.3.1. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Elements covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Elements to substantially the same condition in which it existed prior to the fire or other casualty.

11.3.2. Subject to Section 11.3.4, any damage or destruction to the Common Elements shall be repaired or reconstructed unless the Declarant, if during the Development Period, or, if after the Turnover Date, at least seventy-five percent (75%) of the total vote of the Association, decides within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the Common Elements damage or destruction shall be repaired or reconstructed.

11.3.3. In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Elements shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event that property shall be restored to its natural state and maintained as an undeveloped portion of the Common Elements by the Association in a neat and attractive condition.

11.3.4. Notwithstanding anything to the contrary contained in this Section 11.3, if repair or reconstruction of any portion of the Common Elements is required by the County, the provisions of Sections 11.3.2 and 11.3.3 shall not apply, and the Board shall undertake the necessary repair or reconstruction.

11.4. Repair and Restoration. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners. Additional Special Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited to the benefit of the Association.

## **SECTION 12.** **CONDEMNATION**

12.1. If all or any part of the Common Elements shall be taken (or conveyed in lieu of or under threat of condemnation by the Board, acting on behalf of the Association or on the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Association, as trustee for all Owners, to be disbursed in accordance with Section 12.2.

12.2. If the taking involves a portion of the Common Elements on which improvements have been constructed, unless the Declarant, if during the Development Period, or, if after the Turnover Date, at least seventy-five percent (75%) of the total vote of the Association, decide otherwise within sixty (60) days after the taking, the Association (or, during the Development Period, the Declarant) shall restore or replace such improvements so taken on the remaining land included in the Common Elements, to the extent lands are available therefor, in accordance with plans approved by the Board and during the Development Period, Declarant. If such improvements are to be repaired or restored, the above damage or destruction which is to be repaired shall apply. If the taking does not require restoration or replacement, or if there are net funds remaining after such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

## **SECTION 13.** **DURATION, AMENDMENT AND TERMINATION**

13.1. Duration. The Restrictions shall be covenants running with the land and shall bind the Property and every part thereof, and shall (regardless of whether any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by, the Board and each Owner and Tenant and their legal representatives, heirs, devisees, successors and assigns, and shall continue in full force and effect for thirty (30) years from the date on which this Declaration is recorded in the Office of the Register of Deeds for Williamson County, Tennessee. Thereafter, the Restrictions shall be automatically renewed for successive ten (10) year periods unless amended or terminated as provided in this Section 13.

13.2. Amendment or Termination.

13.2.1. Prior to the end of the Development Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument executed by Declarant. After the end of the Development Period, any provision of this Declaration may be amended in whole or in part by a recorded instrument approved by the Owners of at least seventy-five (75%) of all Lots located in the Property. For so long as Declarant or any Builder owns at least one (1) Lot, no amendment may be made to this Declaration without the express written consent of Declarant.

13.2.2. The Declaration may be terminated by approval of one hundred percent (100%) of the Owners of all of the Lots. Promptly after the approval of termination of this

Declaration, the President of the Board shall cause to be recorded the written instrument of termination executed in properly recordable form by the President of the Association, together with a certificate of the President of the Association that the Owners of at least one hundred percent (100%) of all Lots have approved such instrument.

13.2.3. The Board shall maintain such copies filed with it by the President as a permanent record and shall make copies thereof available to any Owner at a reasonable cost.

13.2.4. All Owners and their mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved the provisions of this Section 13 of this Declaration by Declarant and irrevocably designate the Declarant as their proxy and attorney-in-fact to make any amendments without coming back to the Owners or mortgagees for their consent at the time of such amendment during the Development Period. All Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time any instruments and perform any acts as may be deemed by Declarant to be necessary or proper to effectuate the provisions of this Section.

#### **SECTION 14.** **MISCELLANEOUS**

14.1. No Reverter. No covenant, condition, restriction, reservation or easement contained in this Declaration is intended to create, or shall be construed as creating, a condition subsequent or a possibility of reverter.

14.2. Assignment. The Declarant reserves the right to assign any or all of its rights and obligations under this Declaration to another person or entity, which assignment shall be recorded by written instrument in the Office of the Register of Deeds for Williamson County, Tennessee.

14.3. Notices. Any notice required or permitted to be given to an Owner or Tenant by the Board pursuant to the provisions of this Declaration shall be deemed given when mailed by United States mail, postage prepaid, addressed to his or her last address as it appears on the records of the Association.

14.4. Non-liability of Declarant. Declarant, its representatives, successors or assigns, shall not be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to it by or pursuant to this Declaration, or the Bylaws, whether or not such claims shall be asserted by an Owner, Occupant, the Association, or by any person or entity claiming through any of them; nor shall they be liable on account of injury to person or damage to or loss of property wherever located however caused.

14.5. Construction. The Board shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such construction shall be final and binding as to all persons and entities benefited or bound by the provisions of this Declaration.

14.6. Invalidity. The determination by a court of competent jurisdiction that any provision of this Declaration is invalid for any reason shall not affect the validity of any other provision hereof.

14.7. Headings. The headings of the Sections are for convenience only and shall not affect the meaning or construction of the contents of this Declaration.

14.8. Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular the plural, and vice versa.

14.9. Conflict with Other Restrictions. In the event of a conflict between the Restrictions or any one or more of them and other private restrictions which may be recorded before or after this Declaration, the more recent restriction, covenant, condition, easement or other obligation shall control.

14.10. Covenants Running with Land. This Declaration and all amendments hereto shall be, and shall be construed as, covenants running with the land, shall be binding upon Declarant, any mortgagee, the Association, its Members, each Owner, each Occupant or Tenant and anyone claiming under each Owner or Occupant, and shall (regardless of whether or not any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by: (a) Declarant; (b) the Association; (c) the Board and (d) each Owner and anyone claiming under each Owner.

14.11. Exhibits. Attached hereto and incorporated herein by this reference are the following exhibits to this Declaration:

Exhibit A: Record Plat for Residential Development  
Exhibit B: Bylaws

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for BRUSH CREEK HOMEOWNERS ASSOCIATION, INC. to be executed by its duly authorized officer as of the day and year first above written.

A-1 HOME BUILDERS, INC.,  
a Tennessee corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF Tennessee )  
 ) SS:  
COUNTY OF Rutherford )

Personally appeared before me, the undersigned, a Notary Public with authority to act in the State and County aforesaid, Brandon Robertson, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the within instrument for the purposes therein contained, and who further acknowledged that such person is the President of the maker or a constituent of the maker and is authorized by the maker or by its constituent, the constituent being authorized by the maker, to execute this instrument on behalf of the maker.

WITNESS MY HAND, at office, on this the 15<sup>th</sup> day of January, 2025.

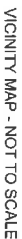
Notary Public

My Commission Expires: 3.20.27



**EXHIBIT A**  
**RECORD PLAT**

CITY OF FAIRVIEW, WILLIAMSON COUNTY, TENNESSEE  
TAX MAP 023, PARCEL 051.00

[illegible]

218-2034 - 42 44 00 PM  
240323AD  
PLAY BOOK PG4  
PAGE 34  
DATE: 04/11/04  
TIME: 14:00  
BY: J. M.  
RE: J. M.  
SUBJECT: J. M.  
REMARKS: J. M.

# BRUSH CREEK SUBDIVISION

DATE 10-29-24	NO.	DATE 10-29-24	REVISION REVISED PER CITY COMMENTS
SCALE 1" = 100'	1	10-29-24	REVISED ADDRESS/DATE ELEMENT
DESIGN BY DSW			
REVIEWER			

[illegible][illegible][illegible]

11/16-25  
RECEIVED  
FBI NEW YORK  
NOV 16 1964

P84/34a

**T-SQUARE ENGINEERING**  
111 SOUTHEAST PKWY CT • FRANKLIN, TN • 615-678-8212 • WWW.T2-ENG.COM

SHEET  
1 OF 2





## **EXHIBIT B**

### **BYLAWS OF BRUSH CREEK HOMEOWNERS ASSOCIATION, INC.**

#### **ARTICLE 1 NAME AND LOCATION**

The name of the corporation is **BRUSH CREEK HOMEOWNERS ASSOCIATION, INC.** The principal office of the Association shall be located at 2020 Fieldstone Parkway, Suite 900-220, Franklin, Tennessee 37069, but meetings of Members and Directors may be held at such places within the State of Tennessee as may be designated by the Board.

#### **ARTICLE 2 DEFINITIONS**

**A. “Association”** – Brush Creek Homeowners Association, a Tennessee non-profit corporation, its successors and assigns.

**B. “Board”** – the body of Directors appointed by Declarant/Incorporator prior to the Development Period Special Meeting or elected by the Members of the Association at such meeting and thereafter to manage the property and affairs of the Association.

**C. “Declaration”** – that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Brush Creek, applicable to the Property and recorded or to be recorded in the Office of the Register of Deeds for Williamson County, Tennessee, as the same may be amended from time to time.

**F. “Members”** – persons or entities entitled to membership in the Association, as provided for in the Declaration, including all Owners of Lots.

**G. “Tennessee Nonprofit Corporation Law”** means the Tennessee Nonprofit Corporation Act, as the same may be amended from time to time.

**H.** Any other capitalized terms used herein, but not defined herein, have the meaning assigned to such terms in the Declaration.

#### **ARTICLE 3 MEETINGS OF MEMBERS; VOTING**

**A. Annual Meetings.** The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation of the Association on such date as the initial Board shall determine, upon proper notice, at a date, time, and place from time to time designated by the Board and in accordance with the Declaration and these Bylaws. The Board is required to hold one Annual Meeting of the Members per calendar year. Meetings may be held in person or in an electronic format.

**B. Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board, or upon written request of the Members who are entitled to vote fifty percent (50%) of all of the votes of the Members. Meetings may be held in person or in an electronic format. Meetings may be held in person or in an electronic format.

**C. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by personally delivering or mailing a copy of such notice, postage prepaid, at least ten (10) days, but no more than sixty (60) days, before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**D. Quorum.** The number of Members present or represented by valid written proxy at any meeting of the Members shall constitute a quorum for such meeting; provided, however, no action required by law, the Charter of the Association, the Declaration or these Bylaws to be authorized or taken by a specified proportion or number of Members may be authorized or taken by a lesser proportion or number.

**E. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by a Member of the Member's Lot.

**F. Voting.** Each Member shall be entitled to one vote for each Lot owned by such Member. If a Lot is owned by more than one person or entity, such vote will be cast in the manner as all of the Owners of such Lot may agree amongst themselves and if they cannot agree, that Lot shall not have a vote recorded.

**F. Suspension of Voting Privileges.** No Member shall be eligible to vote or to be elected to the Board who is shown on the Association's books to be delinquent in the payment of any Assessment due to the Association, as set forth in the Declaration.

**G. Order of Business.** The order of business at all meetings of Members will be as follows:

1. Calling of meeting to order;
2. Roll-call; determination of a quorum;
3. Proof of notice of meeting or waiver of notice;
4. Reading of minutes of preceding meeting;
5. Reports of officers;
6. Reports of committees;
7. Election of Directors (when appropriate);
8. Unfinished or old business;
9. New business; and
10. Adjournment.

**ARTICLE 4**  
**BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE**

A. Number. The affairs of this Association shall be managed by a Board of no less than three nor more than five Directors. Qualifications for Directors are set forth in Section 3.2.1 of the Declaration.

B. Term of Office. Directors appointed by Declarant/Incorporator shall serve until their respective successors are appointed and qualified. At the Development Period Special Meeting and at each Annual Meeting thereafter, the Members shall elect the Directors. The terms of the Directors elected at the Development Period Special Meeting shall be staggered, with at least one of the Directors serving a one-year term, at least one of the Directors serving a two-year term, and at least one of the Directors serving a three-year term. At each annual meeting thereafter, the Members shall elect new Directors whose term shall be three years, to replace the Directors whose terms are expiring.

C. Removal. Any Director elected by the Members may be removed from the Board, with or without cause, by a Majority Vote of the Members. In the event of death, resignation or removal of a Director, a successor shall be selected by the remaining Directors and shall serve for the unexpired term of the newly selected Director's predecessor.

D. Compensation. No Director shall receive compensation for any services rendered to the Association; provided, however, that Directors may be reimbursed for actual expenses incurred in the performance of their duties.

E. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval, including by email and other electronic communications, of all or a majority of the Directors. All voting requirements for passage shall be the same as for an in person vote. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

**ARTICLE 5**  
**NOMINATION AND ELECTION OF DIRECTORS**

A. Nomination. At the end of the Development Period, as provided in the Declaration, nomination for election to the Board shall be made from the Members at the Development Period Special Meeting and at each subsequent Annual Meeting.

B. Election. Election to the Board may be by secret written ballot but such ballot is not required. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE 6 MEETINGS OF DIRECTORS**

A. Regular Meetings. Regular meetings of the Board shall be held at such place and time as may be fixed from time to time by resolution of the Board, but not less than annually. Regular Meetings of the Board may be held electronically as well.

B. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, by any two Directors, or by fifty percent (50%) of the Members after not less than three (3) days' notice to each Director. Special Meetings of the Board may be held electronically as well

C. Quorum. A majority of the total number of Directors shall constitute a quorum for the transaction of business by the Board. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## **ARTICLE 7 POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

A. Powers. The Board shall have the following powers:

1. To adopt, publish, enforce, and from time to time amend, reasonable rules and regulations regarding the administration, interpretation, and enforcement of the Restrictions, including without limitation establishing penalties or fines for the infraction thereof.

2. To adopt and enforce rules that regulate maintenance, repair, replacement, modification and appearance of the Common Elements.

3. To suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended, after notice, for infraction of published rules and regulations.

4. To exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Charter, or the Declaration.

5. To declare the office of a Director to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board.

6. To enter into contracts and incur liabilities in relation to the operation of the Property, and to grant permits, licenses, and easements over the Common Elements for purposes deemed to be reasonably necessary, useful or desirable.

7. To employ or hire a Manager, independent contractors, attorneys, accountants, independent professionals and employees or such other employees as the Board deems necessary or desirable in the management of the Property and the Association, and to whom the Board shall prescribe their respective duties.

8. To commence, defend, intervene in, settle or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board, or the Property, or that involves two or more Owners and relates to matters affecting the Property.

9. To acquire, encumber, and convey or otherwise transfer real and personal property.

10. To levy and collect fees or other charges for the use, rental, or operation of the Common Elements or for services provided to Owners as such services are deemed necessary or appropriate in the Board's sole discretion.

**B. Duties.** The Board shall have the following duties:

1. To keep or cause to be kept a complete record of all its acts and corporate affairs including records of receipts and expenditures relating to the Common Elements and records of collection of Assessments for Common Expenses, and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any special meeting when such statement is requested in writing by at least fifty (50%) of the Members who are entitled to vote for such special meeting.

2. To supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed.

3. To keep minutes of meetings of the Association and of the Board.

4. To keep records of the names and addresses of all Owners in the Residential Development.

5. With respect to Assessments:

a. To determine the budget for Common Expenses and to fix the amount of the General Assessment against each Lot at least thirty (30) days in advance of each General Assessment period.

b. To send written notice of each Assessment to every Owner subject thereto at least thirty (30) days in advance of each General Assessment period.

c. To foreclose the lien against any Lot for which Assessments are not paid within thirty (30) days after the date due, or to bring an action at law against the Owner personally obligated to pay the same as deemed necessary by the Board, in its sole discretion.

6. To issue, or cause an appropriate officer to issue, upon demand by any person, a statement setting forth whether any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these statements. If a statement indicates that an Assessment has been paid, then such statement shall be conclusive evidence of such payment.

7. To procure and maintain the insurance described in the Declaration.

8. To maintain, or cause the maintenance of, the Common Elements as provided in the Declaration.

## **ARTICLE 8 OFFICERS AND THEIR DUTIES**

A. Enumeration of Officers. The officers of the Association shall be a President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time create by resolution. The office of Vice President is optional.

B. Interim Officers; Election of Officers. The Directors appointed by the Declarant/Incorporator shall elect the interim officers, who shall serve until their respective successors are elected and qualified. Subsequently, the election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

C. Term. The Officers of this Association shall be elected annually by the Board, and each shall hold office for one year or until their respective successors are duly elected and qualified, unless an officer shall sooner resign, be removed, or otherwise become disqualified.

D. Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

E. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any Director or officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

F. Vacancies. A vacancy in any office may be filled by appointment by the Board. The Director or officer appointed to such vacancy shall serve for the remainder of the term of the Director or officer being replaced.

G. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section D of this Article.

H. Duties. The duties of the Directors are as follows:

1. **President** – The President shall preside at all meetings of the Board; shall see that orders and resolution of the Board are carried out; shall sign all contracts, notes, leases, mortgages, deeds and other written instruments.

2. **Vice President** – If a Vice President is elected by the Board, the Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

3. **Secretary** – The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as are required by the Board.

4. **Treasurer** – The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; sign all checks and promissory notes of the Association; keep proper books of account and shall prepare an annual budget and a statement of income and expenditures to be presented to be Members at their regular Annual Meeting, and deliver a copy of each to the Members.

## **ARTICLE 9 COMMITTEES**

The Board shall appoint committees from time to time as it deems appropriate to carry out its purposes.

## **ARTICLE 10 BOOKS AND RECORDS**

The books, records, and papers of the Association shall be subject to inspection and copying by any Member or Director, or their designee, as provided in the Declaration.

## **ARTICLE 11 ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association all Assessments. Assessments are secured by a continuing lien upon the Lot against which the Assessment is made. Any Assessments, which are not paid when due, shall be delinquent. If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum or such other rate as determined by the Board, not to exceed the highest rate permitted by law, and shall also be subject to a \$25 late charge (subject to increase by the Board from time to time). The Board may also charge a reasonable charge for any check returned to the Association as unpaid for insufficient funds or stop payment. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Owner's Lot, in which case, interest, costs, and reasonable attorneys' fees shall be added to the amount of such unpaid Assessment. No Owner may waive or otherwise escape liability for any Assessments by nonuse of the Common Elements or abandonment of the Owner's Lot.

## **ARTICLE 12 AMENDMENTS**

A. These Bylaws may be amended at a regular or special meeting of the Members, by a Majority Vote of Members. Any amendment to these Bylaws shall be recorded in the Office of the Register of Deeds for Williamson County, Tennessee; together with a certification of the Secretary of the Association that amendment was duly adopted by a Majority Vote of the Members at a meeting of the Members.



**B.** For as long as Declarant/Incorporator or a Builder owns at least one (1) Lot with a Dwelling Unit that is not a residence, no amendment may be made to these Bylaws without the express written consent of Declarant/Incorporator

### **ARTICLE 13 MISCELLANEOUS**

**A.** The fiscal year of the Association shall begin on January 1 and end on December 31 each year, except that the first fiscal year shall begin on the date of incorporation of the Association.

**B.** In the case of any conflict between the Charter and these Bylaws, the Charter shall control. In the case of any conflict between the Declaration and the Bylaws, the Declaration shall control.

**C.** To the fullest extent permitted by Tennessee Nonprofit Corporation Law, the Association shall indemnify its Directors and officers. The Association may, to such extent and in such manner as is determined by the Board, but in no event to an extent greater than is permitted by Tennessee Nonprofit Corporation Law, indemnify any employees or agents of the Association permitted to be indemnified by the provisions of the Tennessee Nonprofit Corporation Law.

**D.** The caption of each Article and Section of these Bylaws is included only as a matter of reference and does not define, limit, or describe the scope or intent of the provisions of these Bylaws.

**E.** If any article, section, paragraph, sentence, clause or word in these Bylaws is held by a court of competent jurisdiction to be in conflict with any law of the State of Tennessee, then the requirements of such law will prevail, and the conflicting provision or language will be deemed void in such circumstance; provided that the remaining provisions or language of these Bylaws will continue in full force and effect.

## Tennessee Certification of Electronic Document

I, Lynn F. Vaught, do hereby make oath that I am the custodian of the original version of the electronic document tendered for registration herewith and that this electronic document is a true and exact copy of the original document executed and authenticated according to law on 1/14/25  
(date of document).

Lynn F. Vaught  
Affiant Signature

1/15/25  
Date

State of Tennessee

County of Rutherford

Sworn to and subscribed before me this 15th day of January, 2025.  
BS.



Bridgette N. Slover  
Notary Signature

My Commission Expires: 03/15/2025