

**BYLAWS
OF
SIMMONS VIEW HOMEOWNERS' ASSOCIATION, INC.**

Section 1: Definitions

The following words and phrases as used in these Bylaws shall have the meanings hereinafter set forth unless a different meaning is specifically required by the context:

- 1.1. "Developer" means Stillwater Construction, LLC, and its successors and assigns. Aberfoyle Development, LLC is the property owner and initial developer of the subdivision known as Simmons View, located in Sevier County, Tennessee.
- 1.2. "Advisory Committee," "Simmons View Advisory Committee," and "SVAC" means the committee created by Article VIII of the Declaration to supervise construction and improvements within the Subdivision.
- 1.3. "Association" or "HOA" means Simmons View Homeowners' Association, Inc., created pursuant to the Declaration.
- 1.4. "Board of Directors" means the Board of Directors of Simmons View Homeowners' Association, Inc., elected in accordance with the provisions of these Bylaws.
- 1.5. "Common Areas" shall mean and refer to the areas designated as Common Areas, Common Elements, Joint Permanent Easement, and/or Detention Basin on the Plat, or any amendment thereto or modification thereof, and any additional common areas so designated by the Developer by an executed, recorded supplemental declaration; and all other real property that is part of the Subdivision and not designated on the Plat as a Lot. The title to the Common Areas may be conveyed to the Association at any time at the sole option of Developer.
- 1.6. "Common Expenses" shall mean and include (1) all sums lawfully assessed against the Owners by the Association; (2) all insurance premiums other than insurance obtained by an Owner; (3) expenses of administration, maintenance, repair, and/or replacements of the Common Areas and reasonable reserves relating thereto; and (4) expenses declared to be Common Expenses by the Declaration or by these Bylaws, including but not limited to, costs of mowing, maintenance of the common areas, roads, and sidewalks, landscaping, mailboxes, maintenance of the main sprinkler lines and related controls/accessories, street lighting, and entranceway signs and monuments.
- 1.7. "Declaration" means the Declaration of Covenants and Restrictions of Simmons View being recorded contemporaneously herewith in the Sevier County Register's Office and any amendments or modifications thereto.
- 1.8. "Director" means a member of the Board of Directions of the Association.

1.8. "First Mortgagees" means the owners and holders of the Promissory Notes secured by any first lien Deed of Trust or Mortgage on any Unit.

1.9. "House" means any portion of a building situated upon a Lot designed and intended for use and occupancy as a residence.

1.10 "Limited Common Element" means all components of a sprinkler system installed on a Lot, including the water meter, sprinkler heads, piping, timer, and all other components of said system serving a single Lot. These components are installed upon or under an owner's Lot and are reserved for the exclusive use of the Owner of such Lot to which they may be appurtenant as herein set forth.

1.11. "Lot" means all subdivided and numbered Lots in the Subdivision, and any subsequent modifications or amendments thereto that are shown upon any recorded Subdivision Plat or map of the Properties.

1.12. "Lot Voter" means a single person designated by co-Owners of a Lot or an entity owning a Lot to vote for that Lot in any business coming before the Association, as provided in Paragraph 4.9.

1.13. "Member" means every person or entity who is an Owner of a fee simple interest in any Lot. Notwithstanding the foregoing, where there are multiple Owners of a single Lot, the Owners must designate a single Member entitled to cast votes regarding that Lot for HOA business.

1.14. A "Membership Interest" is the right to vote on HOA business that is appurtenant to each Lot. Each Lot represented by a Class A membership interests shall have one vote in Association business, and each Lot represented by a Class B membership shall have two Lots. The governance right for each Lot owned by an entity and/or by multiple Owners must be exercised by a person selected by those Owner(s), who shall be referred to as the "Lot Voter."

1.15. "Owner" means the legal owner, whether one or more persons or entities, of the fee simple title to any Lot. Notwithstanding any applicable legal theory, "Owner" shall not mean or refer to any mortgagee or a Lot or other person holding a security interest in a Lot unless and until such person acquires legal title to the Lot (in the form of a fee simple interest) pursuant to a foreclosure sale or any proceeding in lieu of foreclosure.

1.16. "Plat" means that Plat of record as Instrument No. 19011530 in the Register's Office for Sevier County, Tennessee, and any amendments thereto or modifications thereof filed in the Register's Office thereafter.

1.17. "Rules and Regulations" means the rules and regulations from time to time adopted by the Board of Directors of the Association pursuant to these Bylaws. The Rules and Regulations need not be recorded with the Sevier County Register's Office.

However, written notice of any changes to the Rules and Regulations must be provided to all Owners promptly after approval.

1.18. "Subdivision" means the subdivision known as Simmons View, located in Sevier County, Tennessee.

Section 2: Plan of Subdivision Ownership and Management

2.1. Simmons View. The property has been created as a subdivision known as the Simmons View with the filing of the Declaration in the Register's Office for Sevier County, Tennessee.

2.2. Applicability of Bylaws to the Subdivision. The provisions of these Bylaws are applicable to the Subdivision and to the use and occupancy thereof. No changes to the Bylaws shall be effective until and unless recorded with the Sevier County Register's Office.

2.3. Applicability of Bylaws to Unit Owners. All present and future Owners, mortgagees, lessees, occupants of Houses, and their agents and guests are subject to these Bylaws and the Rules and Regulations adopted pursuant hereto and any amendment to the same.

2.4. The Association shall be responsible for administering, operating, and managing the Subdivision and for enforcing the provisions of the Declaration, these Bylaws, and the Rules and Regulations adopted pursuant hereto as the same may from time to time be amended. The Association is prohibited from engaging in any activities not in furtherance of or authorized by the Declaration, Bylaws, or the Rules and Regulations adopted by the Association.

Section 3: Offices – Fiscal Year

3.1. Principal Office and Registered Office. The principal office and registered office of the Association shall be designated by the organizer of the Association at the time of the filing of the Association's Charter with the Tennessee Secretary of State. The Association may change the principal office and/or the registered office as it deems necessary.

3.2. Other Offices. The Association may have other offices at such other places in the State of Tennessee as the Board of Directors may from time to time determine or as the affairs of the Association may require.

3.3. Fiscal Year. The fiscal year of the Association shall be the calendar year.

Section 4: Membership and Meetings

4.1. Qualification for Membership. Every person or entity who is the Owner of a fee or undivided fee interest in any Lot shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be deemed a Member for purposes of membership in the Association.

Membership in the Association shall commence on the date any entity or person becomes the Owner of a fee interest in a Lot, whether encumbered or not, and shall terminate upon the transfer or conveyance of such ownership interest. The date of recordation in the Sevier County Register's Office of the conveyance of a Lot shall govern the date of ownership of each particular Lot. However, in the case of death of an Owner, the transfer of ownership shall occur on the date of death.

Membership in the Association shall be limited to the Owners, and every Owner shall automatically be a member of the Association. Membership in the Association shall be required and become appurtenant to and may not be separated from lot ownership.

4.2. Place of Meeting. All meetings of the membership shall be held at the principal office of the Association or such other place or places in Sevier County, Tennessee, as the Board of Directors may from time to time determine.

4.3. Annual Meetings. The Association shall hold an annual meeting of all members. The annual meeting of members shall be held on the fourth Saturday of July at 6:30 p.m., Eastern Standard Time. If such date shall be a legal holiday, the annual meeting shall be held at the same hour on the first day following which is not a legal holiday. At the annual meeting, the Board of Directors shall be elected in accordance with the provisions of Section 5 of these Bylaws, and the Members shall transact such other business as may properly come before them.

4.4. Substitute Annual Meetings. If an annual meeting shall not be held on the day designated by these Bylaws, a substitute annual meeting may be called in accordance with the provisions of Paragraphs 4.5 and 4.7. A meeting so called shall be designated and treated for all purposes as an annual meeting. However, any Director or Officer serving at the time the annual meeting should have been (but was not) held shall not be permitted to be elected to a Director or Officer position at the substitute meeting called pursuant to Paragraphs 4.5 and 4.7.

4.5. Special Meetings. It shall be the duty of the President to call a special meeting of the members if so directed by resolution of the Board of Directors or, after the first annual meeting of Members, upon a petition signed by Owners having not less than fifty-one percent (51%) of the total membership votes as determined by Paragraph 4.9 hereof. The notice of any special meeting shall state the time and place of such meeting and the purpose or purposes thereof. No business shall be transacted at a special meeting except as stated in the notice.

4.6. Order of Business. As far as practical, the order of business at all annual meetings of the membership or at all substitute annual meetings shall be as follows:

- (a) Roll Call and certification of proxies.
- (b) Reading and approval of minutes of last preceding meeting.
- (c) Report of officers.
- (d) Report of Board of Directors.
- (e) Report of committees.
- (f) Election of members of the Board of Directors (when so required).
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

4.7. Notice of Meetings - Waiver.

(a) The Secretary shall deliver to or mail by U.S. Mail, postage prepaid, to each member entitled to vote, a written or printed notice of (a) each annual or substitute annual membership meeting not less than ten (10) nor more than fifty (50) days prior to such meeting, and (b) each special meeting not less than three (3) nor more than thirty (30) days prior to such meeting.

(b) For delivery other than by U.S. mail, the Secretary (or an agent thereof) shall place the notice in the Owner's mailbox in the Subdivision, post it on the door of the Owner's House, or post it at a designated location in the Common Properties that is frequented by Owners, such as a cluster mailbox or picnic area. If the notice is mailed, such notice shall be deemed to be properly given when deposited in the U.S. Mail, postage prepaid, and addressed to the member at the member's post office address as it appears on the register of Owners of the Association as of the date of the mailing of such notice or to the Lot address, if the Owner has not provided a different address.

(c) Notice given to any one Owner of a Lot shall be deemed notice to the remaining Owners of such Lot. In the case of special meetings, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an annual meeting or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted unless such statement is specifically required by the laws of the State of Tennessee.

(d) Any Member may waive necessity of formal notice of any membership meeting by signing a written waiver either before or after the meeting; and upon execution of such waiver, the Member shall not be entitled thereafter to object to the meeting being held or the matters being passed upon at the meeting because of lack of notice thereof.

4.8. Quorum. Except as otherwise provided in the Association's Charter, these Bylaws, or by the laws of the State of Tennessee governing corporations, the presence, in person or by proxy, of Lot Voters holding the right to vote fifty percent (50%) or more of the Membership Interests as determined by Paragraph 4.9 hereof shall constitute a

quorum at all meetings of the Members. If a quorum is not present or represented at any meeting, the Members entitled to vote at such meeting shall have the power to adjourn the meeting from time to time without notice other than an announcement at the meeting until a quorum is present or represented; the quorum at such re-convened meeting shall decrease by ten percent (10%) of the total Membership Interests until a quorum is reached so that business can be conducted. For example, in a subdivision with 21 lots, at least 11 Owners or Lot Voters (50% of 21, rounded to the next whole number) would need to attend the first call of a meeting (in person or by proxy) to conduct business. If 11 Lots are not represented at the first meeting, the meeting can be adjourned to another date, at which meeting only 9 Lot Voters (40% of 21, rounded to the next whole number) would need to be present to constitute a quorum (except for matters requiring a higher quorum according to the Charter, Bylaws, or state law).

The Members at any meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum of voting Members present at the meeting unless a higher percentage of votes is required on any matter presented at the meeting.

4.9. Voting Rights. The Association shall have two classes of voting membership:

(a) *Class A Membership.* Class A Members shall be all Owners, with the exception of the Developer.

- (i) When more than one person or entity owns an interest in any Lot, the vote for such Lot shall be exercised as the Owners may among themselves determine, but in no event shall more than one vote be cast for any Lot. In such a situation, the Owners must unanimously select the person entitled to cast the vote for that Lot (the "Lot Voter"); this selection shall be designated in writing in such a manner as indicated by the Association. Such certificate shall be filed with the Secretary of the Association and shall be valid for the duration stated in the certificate (up to a maximum of two (2) years) or until revoked by a subsequent certificate.
- (ii) An owner of a life estate in a Unit shall be entitled to cast the vote appurtenant to such Unit.
- (iii) A single natural individual (not an entity) shall be the Lot Voter for his or her Lot(s).
- (iv) If a Unit is owned by a corporation or other entity, the vote shall be cast by one person named in a certificate signed by the presiding officer of the legal entity owning the Unit. Such certificate shall be filed with the Secretary of the Association and shall be valid for the duration stated in the certificate (up to a maximum of five (5) years) or until revoked by a subsequent certificate.

(v) In all business coming before the membership of the Association for a vote, Class A Members (through their Lot Voters) shall be entitled to cast a single vote for each Lot.

(b) *Class B Membership.* The Class B Member shall be the Developer (or its successor or assign).

(i) The Class B Member, through its Lot Voter, shall be entitled to two votes for each Lot in which it owns a Membership Interest.

(ii) The Lot Voter for the Developer shall be Kenneth Bowman until notice of a new Lot Voter is provided to the Association.

(iii) The Class B membership shall cease on the earlier of the following: (a) when the total votes outstanding in the Class A membership is equal to or greater than the total votes outstanding in the Class B membership, or (b) on April 30, 2027.

(iv) If the Developer later adds or annexes additional Lots to the Subdivision as permitted hereafter, Developer shall have Class B membership for those additional Lots or property on the same basis as outlined herein.

4.10. Majority Vote. A majority of the total votes present, calculated based on Paragraph 4.9 above, at a meeting at which a quorum is present and proper notice has been given (a "Majority Vote"), shall be required to adopt any measures voted upon at such meeting, except where a higher percentage vote is required by the Declaration, these Bylaws, or the laws of the State of Tennessee.

4.11. Actions Without Formal Meeting. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent or ratification, in writing, setting forth the actions so taken, or to be taken, shall be signed by all of the Lot Voters and such consent is filed with the Secretary/Treasurer of the Association and kept in the records of the Association.

Section 5: Board of Directors

5.1. General Powers. The business and affairs of the Association shall be managed by the Board of Directors or by such committees as the Board of Directors may establish pursuant to Section 6 of these Bylaws.

5.2. Number, Term and Qualification. The initial Board of Directors shall consist of three individuals appointed by the Developer. The initial Board shall serve until the first annual membership meeting. From and after the first annual membership meeting, there shall be between three (3) and five (5) Directors. The number of Directors each year shall be determined by the Developer as long as Class B Membership in the Association continues. Directors do not have to be Owners, but at least one member of the Board of Directors must always be a resident of the Subdivision. All

Directors shall serve for a period of one (1) year. Directors may succeed themselves in office. After Class B membership ends, Directors may not simultaneously serve on the Association's Advisory Committee.

5.3. Election of Directors. The election of Directors shall be by written ballot. Each Class A Owner (or Voting Member, in the case of multiple Owners or entity-owned Lots) shall be provided with one ballot per Lot owned (or represented). Each voter shall indicate its preferred Director candidates, casting votes for different candidates up to the number of Director positions available. Persons receiving the highest number of votes shall be elected to office even if the number of votes accumulated by such person is not a majority of the votes cast. Cumulative voting is not prohibited.

5.4. Removal. Any Director elected or appointed at or after the first annual membership meeting may be removed from the Board with or without cause only by a vote of not less than eighty percent (80%) of the Membership Interests at a regular or special meeting of the membership, provided that the notice of the meeting must state that the question of such removal will be acted upon at the meeting. If any Director is removed, his or her successor shall be elected by a Majority Vote at the same meeting to fill the unexpired term of the Director so removed.

5.5. Vacancies. A vacancy occurring in the Board of Directors for reasons other than removal by Paragraph 5.4 may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director. The members, by Majority Vote, may elect a Director at any time to fill a vacancy not filled by the Directors.

5.6. Compensation. No member of the Board of Directors, officer, or committee member shall receive any compensation from the Association for acting in such capacity. However, a Director, officer, or committee member shall be reimbursed for reasonable out-of-pocket expenses incurred and paid on behalf of the Association.

5.7 Loans to Directors and Officers. No loans shall be made by the Association to its Directors or officers. Any Directors of the Association who vote for or assent to the making of a loan to a Director or officer of the Association and any officer or officers participating in the making of such loan shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof. In addition, the person who accepted such loan shall be prohibited from serving as a Director or committee member of the Association immediately and continuing for a period of five (5) years after the loan is repaid with interest.

5.8 Liability of Directors. Subject to Tennessee law, the Association shall indemnify and hold harmless each Director and Officer with respect to any liability and expense of litigation arising out of his or her activities as a Director or officer. Any sums required to discharge the obligations of the Association under this paragraph shall constitute a "Common Expense." The Board of Directors shall be authorized to purchase insurance for the protection of the Directors, Officers, employees, or agents of the corporation.

5.9 Meeting of Directors.

(a) Regular Meetings. Regular meetings of the Board of Directors shall be held without notice at such intervals and at such times and places as may be determined from time to time by resolution of the Board of Directors. If any such meeting falls on a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Directors shall meet not less than once per quarter.

(b) Special Meetings. Special meetings of the Board of Directors shall be held when called by any Director after not less than three (3) nor more than thirty (30) days written notice to each Director.

(c) Notices of Special Meetings. Notices of special meetings of the Board of Directors may be waived by written instrument signed by those Directors who do not receive notice of such meeting. Except to the extent otherwise provided by law, the purpose of the special Directors' meeting need not be stated in the Notice. Notices shall be deemed received upon the happening of any one or more of the following events: (1) two (2) days following deposit of the same in the U.S. Mail, with proper postage paid, and addressed to the Director at his last known address on file with the Association; (2) deposit of the Notice in the mailbox on his or her Lot, if the Director resides on the Lot; or (3) personal delivery of the Notice to the Director. Attendance by a Director at a special meeting shall constitute a waiver of Notice of such meeting unless such Director gives a written statement at the special meeting to the person presiding objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

(d) Approved Meeting Place. All Directors meetings shall be held in Sevier County, Tennessee.

(e) Quorum. A majority of the Directors then holding office shall constitute a quorum for the transaction of business and every act or decision done or made by a majority of the Directors present at a duly called and held meeting at which a quorum is present shall be regarded as the act or decision of the Board of Directors.

5.10 Action Without Formal Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors. The written approval shall be filed with the minutes of the proceedings of the Board whether done before or after the action so taken.

5.11 Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Subdivision except such powers and duties as by law, by the Declaration, or by these Bylaws may not be delegated by the Owners to the Board of Directors. Without in any way limiting the powers and responsibilities conferred upon the Board of Directors by these Bylaws, the Declaration, or by law, the Board of Directors shall have the power to and shall be

responsible for the following:

(a) Providing for the operation, care, upkeep, replacement and maintenance of the Common Areas.

(b) Providing for the mowing, edging, blowing, leaf removal, shrub pruning, mulching, and other general landscaping maintenance of the yards of the Lots, including maintenance of shared sprinkler components and installation and maintenance of mail receptacle(s) for the Lots, the costs of which shall be designated a Common Expense to be assessed against the Owners.

(c) Determining the funds required for the operation, administration, maintenance, upkeep and other affairs of the Subdivision and the assessment and collection for the Common Expenses from the Owners as provided in the Declaration and these Bylaws.

(d) Employing and dismissing personnel necessary for the efficient operation and maintenance of the Subdivision and establishing and paying compensation for such personnel.

(e) Adopting rules and regulations covering the details of the operation and use of the Subdivision.

(f) Opening bank accounts on behalf of the Association and designating the signatories required therefor.

(g) Purchasing, leasing or otherwise acquiring in the name of the Association, or its designee, as agreed by the Association, Lots offered for sale or lease or surrendered by their Owners to the Association.

(h) Purchasing Lots at foreclosure or other judicial sales in the name of the Association or its designee.

(i) In the event the Association has purchased or otherwise acquired a Lot, the Association shall have the power to sell, lease, mortgage, vote the votes appurtenant (other than for the election of Directors) or otherwise deal with the Lots acquired by the Association or its designee.

(j) Granting licenses for vending machines.

(k) Purchasing personal property necessary to properly maintain the Subdivision and to provide for its operation.

(l) Obtaining insurance for the Subdivision and its officers and Directors pursuant to the provisions of the Declaration and these Bylaws.

(m) Subject to the provisions of the Declaration and Section 8 hereof, making repairs, additions and improvements to or alterations of the Common Areas and repairing and restoring the Subdivision and establishing reserves therefor.

(n) Keeping detailed accurate records in chronological order of receipts and expenditures of the Association, specifying and identifying the expenses incurred and funds received. All books and records shall be kept in accordance with generally accepted principles of accounting and shall be available for examination by all Owners or mortgagees or their duly authorized agents or attorneys at convenient hours on

business days. The Members may vote to have an independent audit of the Association's finances conducted.

(o) Keeping a complete record of the minutes of all meetings of the Board of Directors and members in a minute book in which shall be inserted all records of action taken by the Directors and/or members whether such meeting is held pursuant to written consent or by formal meeting.

(p) Supervising all officers, agents, and employees of the Association and ensuring that their duties are properly performed.

(q) Proposing an annual budget for consideration by the Members and proposing any special assessments the Directors deem necessary or advisable for the Association and Subdivision.

(r) Assessing fines and penalties for violations of the Declarations, the Bylaws, or any other Rules and Regulations of the Subdivision.

(s) Collecting any sums owed by an Owner or other person related to the Subdivision.

(t) Enforcing the provisions of the Declaration, these Bylaws and the Rules and Regulations and bringing or defending any legal actions that may be instituted on behalf of or against the Association.

(u) To do such other things and acts not inconsistent with the Declaration and these Bylaws or which may be authorized by appropriate action of the Board of Directors and/or the Association.

5.12 Managing Agent.

(a) Except as such right may be held by the Developer, the Board of Directors may retain enter into a management contract with any individual, firm, or entity that it deems qualified to manage the Subdivision in the best interests of its Owners. In the event the Board of Directors shall enter into such contract, it shall delegate to such management person, firm, or agent such duties and responsibilities in the management of the Subdivision as the Board deems appropriate; provided, the Board of Directors may not delegate to the managing agent the complete and total responsibilities and duties of the Association in violation of the laws of the State of Tennessee. Contracts with such managing agents shall not exceed one year and shall provide for the termination by the Association without cause and without payment of a termination fee upon not more than sixty (60) days' written notice. The Board shall maintain the authority to fix reasonable compensation for the managing agent.

(b) Alternatively, the Board may manage the Subdivision with the assistance of one or more employees or independent contractors.

(c) The managing agent and any employees/independent contractors retained by the Board shall answer to the Board and be subject to its direction.

Section 6: Committees

6.1. **Creation.** The Board of Directors, by resolution adopted by a majority of the number of Directors then holding office, may create such committees as it deems necessary and appropriate in aiding the Board of Directors to carry out its duties and responsibilities with respect to the management and administration of the Subdivision. Each committee so created shall have such authority and responsibilities as the Directors deem appropriate and as set forth in the resolution creating such committee. The Directors shall elect the members of each committee, provided that at least one member of the Board of Directors shall serve on each committee.

6.2. **Vacancy.** Any vacancy occurring on a committee shall be filled by a majority of the Directors at a regular or special meeting of the Board of Directors.

6.3. **Removal.** Any member of a committee may be removed any time, with or without cause, by a majority of the Directors.

6.4. **Minutes.** Each committee shall keep regular minutes of its proceedings and provide copies of same to the Secretary/Treasurer for the Association's records.

6.5. **Responsibility of Directors.** The designation of committees and the delegation thereto of authority shall not operate to relieve the Board of Directors or any Director of any responsibility or liability for the misuse of such authority. If action taken by a committee is not considered by the Board in advance when the Declaration or Bylaws require approval, a Director may dissent from such action by filing his or her written objection with the Secretary/Treasurer with reasonable promptness after learning of such action. This dissent shall relieve the Director of liability for the Board's ultra vires action, provided the Director does not participate in or otherwise condone the action at any time before or after filing the dissent with the Secretary/Treasurer.

6.6 **Advisory Committee.** The Advisory Committee shall be selected as indicated in the Declaration. Members of the SVAC may be removed and vacancies filled in the same manner as officers in Section 7. A majority vote of the committee members shall be required for any decision of a committee to take effect. If the SVAC fails to act upon a request for approval of any feature related to a Lot within sixty (60) days of the request being submitted to the SVAC, such request shall be deemed approved, and the Owner may proceed with the requested action/construction/modification.

Section 7: Officers

7.1. **Enumeration of Officers.** The officers of the Association shall consist of a president, a secretary/treasurer, and such other officers as the Board of Directors may from time to time elect. Each officer must be a Member of the Association but need not be a Director.

7.2. **Election and Term.** The officers of the Association shall be elected

annually by the Board of Directors. Elections of officers shall be held at the first meeting of the Board of Directors next following the annual or substitute annual meeting of the membership. Each officer shall hold office for a period of one (1) year.

7.3. Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board whenever, in its judgment, the best interest of the Association will be served thereby.

7.4. Vacancy. The Board of Directors may elect a successor to fill any vacancy in any office, and the person elected to fill such vacancy shall serve for the remainder of the term of the officer replaced.

7.5. Multiple Offices Prohibited. The person holding the office of President shall not also hold the office of Secretary/Treasurer at the same time. The same prohibition applies to any additional offices created in accordance with these Bylaws.

7.6. President. The Developer shall appoint the initial President of the Association. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and the Board of Directors. The President shall see that the resolutions of the Board of Directors are carried out, shall sign all the written instruments regarding the Association and management and operation of the Subdivision. In addition, the President shall have all of the general powers and duties which are incident to the office of President of a corporation organized under the laws of the State of Tennessee in the management of the Association in accordance with the Declaration and these Bylaws.

7.7. Secretary/Treasurer. The Secretary/Treasurer shall be responsible for keeping records of the activities and financial matters of the Association. More specifically:

(a) The Secretary/Treasurer shall keep the minutes of all meetings of members and of the Board of Directors, shall have charge of such books and papers as the Board of Directors may direct, shall attest promissory notes of the Association.

(b) The Secretary/Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial statements. The Treasurer shall prepare a proposed annual budget (to be approved by the Board of Directors) and a statement of income and expenditures to be presented to the membership at its annual meeting and shall deliver a copy of each to the members. The Treasurer shall cause an annual audit of the Association's books and records to be made upon Majority Vote of the membership interests.

(c) In addition, the Secretary/Treasurer shall perform all duties incident to the offices of Secretary and Treasurer of a corporation organized under the laws of the State of Tennessee.

Section 8: Miscellaneous

8.1 Owner Registry. The Secretary/Treasurer shall maintain a registry setting forth the names of the Owners and Lot Voters. In the event of the transfer of any Lot, the transferee shall notify the Association in writing of the transfer and the new Owner(s) of such Lot, together with recording information necessary to identify the instrument by which the transferor has divested its interest. Upon notice of a Lot transfer, the Secretary/Treasurer shall promptly send notice to the new Owner(s): informing the Owner(s) about the existence of the Association and contact information for all officers and committee members; informing the Owners about the amount of the annual assessment, to whom payments should be made, and the deadline for payments; and requesting preferred contact information (and Lot Voter documentation, if necessary) for the Owner(s).

8.2 Rules and Regulations.

(a) The Developer and/or the Board of Directors shall have the right to make and amend rules and regulations governing the use of the Lots, Common Areas, and Limited Common Areas within the Subdivision. In the event of any conflict between Rules and Regulations of the Developer and Board of Directors, the Developer's Rules and Regulations shall control.

(b) The initial Board of Directors appointed by Developer will adopt Rules and Regulations which shall be binding on the Owners from the time of their adoption. Such rules and regulations may limit the use of the Common Areas to Owners and their agents, as well as provide for the exclusive use of a part of the Common Areas by an Owner or his guests for special occasions, which exclusive use may be conditioned upon a fee to the Association. A copy of the rules and regulations shall be provided to all Owners. Any such rules and regulations may be amended from time to time by the Board of Directors, provided that such amendment may be vetoed by a Majority Vote of the Members. Such rules and regulations shall not be contrary to the provisions of the Declaration or these Bylaws or the laws of the State of Tennessee.

(c) The Rules and Regulations shall state the amount of any fine(s) (or a range of fine amounts) that may be levied by the Board of Directors for violation of the Declaration, Bylaws, or Rules and Regulations and the associated offense(s) for which a fine may be assessed.

8.3 Adoption and Amendment of Bylaws. These Bylaws may be initially adopted by the Developer on behalf of the Association, and thereafter amended at any time by an instrument in writing signed and acknowledged by the Owners holding seventy five percent (75%) of the votes in the Association, which instrument shall be effective upon recordation in the Office of the Sevier County Register of Deeds; provided, however, that where a larger vote in the Association is required for the Association to take or refrain from taking a specific action as set forth in these Bylaws, no amendment of these Bylaws shall be made unless and until the Owners holding such larger percentage of the vote in the Association execute such amendment and the same is duly recorded in Office of the Register of Deeds for Sevier County, Tennessee.

8.4 Partial Invalidity. Invalidation of any portion of these Bylaws shall not affect the validity of the remaining portions thereof which shall remain in full force and effect. In the event that any provision herein is in conflict with any provision of the Declaration, the Declaration shall be controlling.

8.5 Binding Effect. The provisions of these Bylaws shall be binding upon and inure to the benefit of the Owners, their heirs, successors and assigns.

8.6 Gender, Singular, Plural. Whenever the context so permits, the use of the singular and plural shall be interchangeable in meaning, and the use of any gender shall be deemed to include all genders.

8.7 Governing Law. These Bylaws shall be governed by and construed in accordance with the laws of the State of Tennessee.

8.8 Declaration Controls. The Bylaws are intended to be read in conjunction with the Declaration, and if there is any conflict between the Bylaws and said Declaration, the Declaration shall control.

8.9 Additional Provisions. To the extent permitted by Tennessee law, the provisions of this Declaration control. However, as to any conflict between the Bylaws and state law, or as to any matter not addressed in these Bylaws, such issues shall be decided pursuant to Tennessee law.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be duly executed and adopted by the Association, this the 7th day of November, 2020.

SIMMONS VIEW HOMEOWNERS'
ASSOCIATION, INC.

By: Stillwater Construction, LLC, Developer


By: 
Kenneth Bowman, Chief Manager

[Notary acknowledgment appears on following page.]

STATE OF TENNESSEE
COUNTY OF Knox

Personally appeared before me, the undersigned authority, a Notary Public in and for said County and State, Kenneth Bowman, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath, acknowledged himself to be Chief Manager of Stillwater Construction, LLC, the Developer of Simmons View Subdivision and the sole member of Simmons View Homeowners' Association, Inc., the within named bargainer, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the company by himself as such officer.

WITNESS my hand and official seal at office in Knox County, Tennessee, this the 7th day of November, 2020.


NOTARY PUBLIC

My Commission Expires: 2-15-2023



This instrument prepared by:
Robin M. McNabb, Esq.
Wise & Reeves, PLLC
625 S. Gay St., Ste. 160
Knoxville, TN 37902

DECLARATION OF COVENANTS AND RESTRICTIONS OF SIMMONS VIEW

This Declaration of Covenants and Restrictions of Simmons View (the "Declaration") is made and entered into as of April 16th, 2020, by Aberfoyle Development LLC, a Tennessee limited liability company ("Developer").

Whereas, Developer is the owner of certain real property located on Simmons Road in Seymour, Sevier County, Tennessee, more particularly described as follows (the "Property"):

SITUATED in Seymour, Tennessee, and being known and designated as Lots 1-21, as shown on the Final Plat of Simmons View dated March 9, 2019, and prepared by Ned D. Ferguson, R.L.S., of Professional Land Systems, which Plat is of record as Instrument No. 19011530 in the Register's Office for Sevier County, Tennessee (the "Plat").

Whereas, Developer desires to create on the Property a residential community known as Simmons View (the "Subdivision"), consisting of detached single family residences and common areas as depicted on the Plat.

Whereas, Developer desires to provide for the preservation of the values in the Subdivision and for the maintenance of common facilities and, to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof.

Whereas, Developer has deemed it desirable to create an entity to which Developer shall delegate and assign the power and responsibility for maintaining and improving the Common Elements, administering and enforcing the covenants and restrictions of the Subdivision, and imposing, collecting, and disbursing the assessments and charges hereinafter authorized. In order to carry out such duties, Developer has incorporated under the laws of the State of Tennessee a non-profit corporation known as SIMMONS VIEW HOMEOWNERS' ASSOCIATION, INC.

NOW, THEREFORE, the Developer declares that the Property and all Lots which are a part thereof are and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth.

ARTICLE I **DEFINITIONS**

1.1 The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

"Advisory Committee" shall mean the committee created by Article VIII of this Declaration to supervise construction and improvements within the Subdivision.

"Association" shall mean and refer to Simmons View Homeowners Association, Inc. A copy of the Charter of The Pryor Brown Owners Association, Inc. is attached hereto as Exhibit A and shall be hereinafter referred to as the "Charter".

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

"Bylaws" shall mean the By-Laws for the administration of the Association contained in Exhibit B attached hereto, as the same may be amended from time to time. The terms of the Bylaws are hereby incorporated into this Declaration, but this Declaration shall control in the event that any provision of the Bylaws shall conflict with any provisions of this Declaration.

"General Common Elements" shall mean and refer to those portions of the Property which shall be conveyed to the Association by the Developer and any improvements, entry features, and other items located on such portions of the Property. General Common Elements shall not include the Limited Common Elements as defined herein.

"Developer" shall mean Aberfoyle Development LLC, and its successors and assigns, until such time as Developer conveys the Common Elements to the Association, at which time the term "Developer" shall cease to have meaning in this Declaration.

"Director(s)" and "Board Member(s)" shall mean and refer to a Member or Members of the Board of Directors of the Association.

"Limited Common Elements" shall mean all components of a sprinkler system installed on a Lot, including the water meter, sprinkler heads, piping, timer, and all other components of said system serving a single Lot. These components are installed upon or under an owner's Lot and are reserved for the exclusive use of the Owner of such Lot to

which they may be appurtenant as herein set forth.

"Lot" shall mean and refer to any numbered plot of land shown on the Plat as part of the subdivision, with the exception of Common Elements and Limited Common Elements as defined herein.

"Member(s)" shall mean and refer to each Owner(s) who is/are a member(s) of the Association as provided in Article II hereof.

"Owner" shall mean and refer to the owner, whether one or more persons or entities, of the fee simple title to any Lot but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to a mortgagee or lien holder unless and until such mortgagee or lien holder has acquired fee simple title pursuant to foreclosure or any proceeding in lieu of foreclosure.

"Quorum" for purposes of an Association action/meeting shall mean the presence of Owners representing at least fifty percent (50%) of the votes eligible to be cast, keeping in mind the differences in voting power between the classes of members as set forth in Section 2.2 below. For actions by the Board of Directors and Advisory Committee, a quorum shall be a majority of the directors or committee members, as applicable.

"Rules and Regulations" shall mean the rules and regulations concerning the use of the Subdivision and operation and function of the Association as from time to time are in effect, whether contained in this Declaration, the Bylaws of the Association, or a separate document approved by the Board of Directors and distributed to all Owners.

ARTICLE II

MEMBERSHIP, BOARD OF DIRECTORS, AND **VOTING RIGHTS IN THE ASSOCIATION**

2.1 Membership. Every Owner shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be a Member. Membership shall commence on the date such person or entity becomes the owner of a fee or undivided fee interest in a Lot and shall expire upon the transfer or other conveyance of said ownership interest, other than a conveyance for security purposes.

2.2 Voting Rights. The Association shall have two classes of voting membership.

- (a) **CLASS A.** Class A members shall be all those Owners described in Section 2.1 with the exception of the Developer. Class A members shall be entitled to one

vote for each Lot owned. When more than one person or entity holds an ownership interest in any Lot, the vote for such Lot shall be exercised as the owners of the Lot among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. The owners of such a Lot shall provide a signed letter to the Board identifying the person entitled to cast a vote on behalf of the Lot.

- (b) CLASS B. The Class B member shall be the Developer, its successors and assigns. The Class B member shall be entitled to two votes for each Lot it owns. The Class B membership shall cease on the earlier of the following: (a) when the total votes outstanding in the Class A membership is equal to or greater than the total votes outstanding in the Class B membership, or (b) on April 30, 2027.

If the Developer later adds or annexes additional Lots to the Subdivision as permitted hereafter, Developer shall have Class B membership in regard to such additional Lots or property on the same basis as outlined herein.

Class B membership shall be non-transferable except to transferees of Developer's remaining interest in the Property and shall remain in the Developer, its successor or assigns, until such time as Class B membership terminates as provided herein. Developer's ownership of any Common Elements or Limited Common Elements shall be irrelevant for determining Class B ownership.

2.3 Votes Necessary for Action. Except as specifically provided herein, actions of the Association shall be effective if (a) a majority of the votes cast approve said action AND (b) a Quorum is present for the vote.

2.4 Board of Directors. The Association shall be governed by a Board of Directors of not less than three (3) nor more than five (5) members, to be elected annually by the Members. The members of the Board of Directors need not be owners of a Lot in the Subdivision. For so long as a Class B membership exists, the Developer shall determine on an annual basis the number of Board members, provided at least one of the Board members shall be a resident of the Subdivision. After Class B membership in the Association ceases, members of the Advisory Committee may not simultaneously serve as Board members.

ARTICLE III
PROPERTY RIGHTS IN THE COMMON ELEMENTS

3.1 Common Elements Defined. There shall exist in the Subdivision two types of common elements: general common elements and limited common elements.

(a) General Common Elements. The General Common Elements shall be for the use and benefit of all residents in the Subdivision. They are all property not delineated as Lots on the Plat. These Common Elements include the entry structure with landscaping, street and entrance lighting, all real estate within the Subdivision boundaries but outside the individual lot lines on the Plat, drainage areas, and the community mailbox structure.

(b) Limited Common Elements. During construction, each Lot shall have installed a sprinkler system with separate water meter to serve the yard of that Lot, which shall be deemed a Limited Common Element for the owner(s) of that Lot. The Limited Common Elements shall be for the exclusive use of the Unit to which they are appurtenant. Ownership of a Unit and its Limited Common Elements may not be divided, and any transfer of the Unit shall include a transfer of the Limited Common Elements appurtenant thereto. A Limited Common Element shall not be severed from the Unit to which it pertains, and shall be deemed to be conveyed or encumbered with the Unit to which such Limited Common Element is appurtenant even though such interest is not expressly mentioned or described in such conveyance or other instrument.

3.2 Members' Easements of Enjoyment. Subject to the provisions herein, every Member shall have a right and easement of enjoyment in and to the General Common Elements and any Limited Common Elements benefitting that Owner's Lot. Such rights and easements shall be appurtenant to and shall pass with the title to each Lot.

3.3 Extent of Members' Easements. The rights and easements of enjoyment in and to the General Common Elements and a Member's Limited Common Elements created hereby shall be subject to the following:

- (a) any rules and regulations reasonably adopted by the Association.
- (b) the right of the Association to take reasonable action to protect and preserve the rights of the Association and the individual Members in and to the Common Elements.
- (c) the right of the Association, as provided in its Articles and bylaws, to suspend the voting rights of any Member for nonpayment of any assessment or charge authorized by this Declaration or the bylaws of the Association; provided the suspension

shall not begin until an assessment is delinquent for at least thirty (30) days and shall be for a minimum of thirty (30) days, regardless of whether the assessment is paid in the interim. For second and subsequent violations, the Board of Directors may suspend voting rights for an additional sixty (60) days for each month that a debt to the Association remains unpaid. The Board may also suspend a Member's voting rights for a period not to exceed thirty (30) days for each infraction of rules and regulations reasonably adopted by the Association of which the Member had notice.

(d) the right of the Association, acting through its Board of Directors, to assess a fine for noncompliance with any restrictions, rules, or regulations applicable to Owners, residents, and/or the Lots. The amount or a dollar range for a fine and/or successive violations shall be set forth in writing in the Rules and Regulations of the Association and made available to all Owners. Any change to the fine amounts or structure must be approved by the Board and notice provided to the Owners before taking effect.

(e) The right of the Association to dedicate or transfer all or any part of the Common Elements or areas to any public agency, authority, utility, municipality or other governmental entity for any reasonable purposes or the right of the Association to mortgage or convey the Common Elements, and subject to such conditions as may be agreed upon by the Board of Directors of said Association; provided, however, that no such dedication or transfer, and the conditions and provisions incident thereto, shall be effective unless approved by two-thirds of the votes eligible to be cast by the Members of each class of membership in the Association, with each class of Members voting as a class.

(f) The rights of Members of the Association shall not be altered or restricted because Common Elements are located in a phase or portion of the Subdivision that does not include a Member's Lot. Notwithstanding the phase or portion of the Subdivision in which the Lot is located, the Owners of such Lots shall be entitled to full use and enjoyment of all Common Elements of the Subdivision as provided herein.

3.4 Maintenance of Common Elements.

(a) The Association acting by and through its Board of Directors shall have the right to engage and employ such individuals, corporations or professional managers for the purpose of managing and maintaining the Common Elements (both General Common Elements and Limited Common Elements) and performing such other duties as the Board of Directors shall from time to time deem advisable in the management of the Association. Such expenses shall be paid as a portion of the assessments to Owners. Notwithstanding the duty and right of the Association to maintain, repair and, if necessary, replace parts of the Property, the Association shall not be liable for injury or damage, other than the cost of maintenance, repair and, if necessary, replacement, caused by any latent condition

of the Property to be maintained and repaired by the Association, nor for injury or damage caused by the elements or other Owners or persons.

(b) A Lot Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by its act, neglect, or carelessness or by that of any member of its family or guests, tenants, employees, agents, or licensees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy, or abandonment of an Owner or its tenants.

(c) The prevailing party shall be entitled to recover the costs of any proceeding to enforce the remedies authorized hereby or by the Act and such reasonable attorneys' fees as may be awarded by the court.

(d) The failure of the Association or any Unit Owner to enforce any covenant, restriction, or other provision of the Act, this Declaration, the Charter of the Association, the Bylaws, or the Rules and Regulations of the Association shall not constitute a waiver of the right to do so thereafter.

3.5 Easement for Maintenance. Each Lot Owner hereby grants to the Association, its agents, employees, successors and assigns, a permanent, non-exclusive easement to go on and over such Owner's Lot for the purpose of allowing the Association to satisfy its obligations under this Article III.

3.6 Insurance for Common Elements. The Association shall obtain and maintain on the Common Elements comprehensive general liability insurance in the amount of One Million Dollars (\$1,000,000) per claim for bodily injury, death, and property damage. Such insurance policy shall name the Developer as an additional insured for so long as the Developer maintains any ownership interest in the Subdivision or any Lot. The Board of Directors may also cause the Association to obtain additional insurance if the Board deems it advisable to do so.

3.7 Maintenance of Lawns and Landscaping Beds. The Association shall maintain all lawns, flower beds, and other landscaped areas which are a part of Lots or General Common Elements in the Subdivision. This service shall include regular mowing of lawns, but not the cost of establishing the lawns. Landscaping beds shall also be mulched not less than two (2) times per year. Trees and bushes on Lots shall be trimmed as needed at the same time as the landscaping bed maintenance. The cost of all such services shall be paid by the Owners of the Lots in accordance with Article IV.

3.8 Maintenance of Sprinkler Systems (Limited Common Elements). The maintenance

obligations of the Association shall not include the cost of maintaining the sprinkler system on any Lot. As Limited Common Elements, each Owner shall pay the expenses of maintaining and repairing the sprinkler system on its own Lot. Notwithstanding the foregoing, the Association may choose to hire a sprinkler company to inspect each sprinkler system in the Subdivision on a regular basis (not more than once per year) to determine if any defects exist that are in need of repair. If the Association proceeds with such an inspection, the cost shall be assessed against the Owners equally as part of the Association's annual assessment amount. However, the cost of any repairs to a sprinkler system shall be paid by the Owner whose lot is serviced by the damaged sprinkler system. The Association shall arrange for such repairs, and the cost shall be paid directly by the Owner to the sprinkler company selected by the Association.

3.9 Uniform Lighting and Sprinkler Use. To ensure a uniform and pleasing appearance of the Lots in the Subdivision, each Owner shall program its sprinklers to operate for the length of time dictated by the Association in its Rules and Regulations or as otherwise provided in written notice approved by the Board of Directors of the Association. Each Owner also agrees to keep its landscaping and outdoor lighting on during the times indicated by the Board of Directors, provided either a dusk-to-dawn sensor or programmable timer is installed with the lights for easy operation. Failure to do so may result in imposition of a fine or other action against the non-complying Owner.

ARTICLE IV **COVENANT FOR MAINTENANCE ASSESSMENTS**

4.1 Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges determined in accordance with these Declarations; (2) special assessments for capital improvements and reserves to pay for future capital improvements or anticipated significant expenses (including legal actions); (3) any fines or penalties imposed in accordance with this Declaration or the Association's bylaws or rules and regulations; and (4) sprinkler repair/maintenance costs for each Owner's Limited Common Elements as provided herein. Items (1) and (2) shall be assessed equally among all Lot Owners, which Items (3) and (4) may vary among Lot Owners (collectively, the "Assessments").

4.2 Use Irrelevant to Assessment. Except as otherwise provided herein, an Owner cannot avoid or negate any assessment by not using the Common Elements or by not residing on or improving its Lot. An Owner is obligated to pay Assessments even if the Lot is unimproved.

4.3 Lien for Assessments. The Assessments, together with such interest thereon and costs

of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made. Upon default in the payment of the Assessments, the Association is authorized and entitled to record a notice of lien in the Register's Office for Sevier County, Tennessee, and to foreclose that lien in accordance with Tennessee law. A lien recorded by the Association against is a cloud against the title to the Lot and shall run with the land until released by the Association. It may affect an Owner's ability to sell or borrow money against the Lot while the lien remains effective.

4-4 Personal Obligation. Each Assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be the personal obligation, jointly and severally, of each person who was the Owner of such Lot at the time when the assessment accrued. The Association may bring an action in court to recover such assessment, together with interest, costs and reasonable attorney fees, from each person who was an Owner of such Lot at the time when the assessment fell due, which action may be brought in lieu or in addition to recording and/or foreclosing a lien against the Lot(s).

4-5 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare and beautification of the Property and the Subdivision generally, such as the improvement and maintenance of properties, services, and facilities occupying the Common Elements, as well as administrative costs related to all such items or purposes. Such uses shall include, without limitation, the payment of taxes and insurance for the Subdivision (but not real property taxes upon each Lot), the inspection, repair, replacement, and/or maintenance of Common Elements, the cost of utilities serving the General Common Elements, labor, equipment, materials, accounting and legal services, security services (if applicable), and management and supervision expenses for the Subdivision. The assessments shall not be specifically limited to the Common Elements, but shall extend to and include the right and duty to secure, maintain, and repair the lighting, traffic signals, sidewalks, and signs within or pertaining to the Subdivision, to the extent such items are the property and/or responsibility of the Association, any common easements, parking areas, detention basins, and driveways, and the satisfaction of the maintenance obligations of the Association as set forth in Article II. The costs of operation and maintenance of street lighting, to the extent such lights are the property and/or responsibility of the Association, shall be borne equally by the Owners as a portion of their annual assessment, it being the intent of this requirement to insure the safety, enjoyment, and marketability of the Subdivision as a whole.

4.6 Annual Assessment.

(a) The Developer shall have the right to determine and set the annual assessment for calendar years 2020, 2021, and 2022. The annual assessment for 2020

shall be \$1,800.00 per Lot, regardless of whether the Lot is improved.

(b) Beginning with calendar year 2023, the annual assessment shall be approved by Majority Vote at the annual membership meeting of the Association. The Secretary/Treasurer shall prepare a proposed budget not less than two months prior to the membership meeting. The Board of Directors shall meet to review and revise the budget as necessary, after which it shall deliver a copy of the recommended budget to each Member at least three weeks before the annual membership meeting. The Members shall vote upon the budget, as it may be amended, during the annual membership meeting. The annual assessment shall be the amount set forth in the adopted budget.

(c) The assessment shall be a sum reasonably necessary as deemed by the Developer (and later the Board and Members) to defray the expenses of each year, to build a reasonable reserve for future capital expenditures (if any), and to otherwise satisfy the Association's obligations.

4.7 Special Assessments. In addition to the annual assessments authorized by Sections 4.1 and 4.6 hereof, the Association may levy in any year a special assessment applicable to the time period set forth in such special assessment for the purpose of defraying in whole or in part the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Element, including the necessary fixtures and personal property related thereto, or any other matter as determined by the Association. A special assessment must be approved by not less than two-thirds of the total votes available to be cast by the membership.

4.8 Closing Charge. In addition to the assessment amount, each purchaser shall pay to the Association the sum of \$150.00 per Lot at the closing of the purchase of a Lot, which shall be applied to the expenses and capital reserves of the Association. The Closing Charge shall be in addition to, not as a substitute for, the monthly assessment amount. Payment of monthly assessments to the Association shall begin on the first full month following the Owner's purchase of a Lot. The Developer may change the Closing Charge at any time while he retains a Class B membership. After Class B membership in the Association ends, the Members may change the amount of the Closing Charge by Majority Vote.

4.9 Due Dates of Assessments. The first assessment payment shall become due and payable on the first day of the month following the Owner's purchase of its Lot. Upon a person or entity's ceasing to be a Member of the Association. Such Member shall not be entitled to any refund of its assessment.

It shall be the duty of the Board of Directors to notify each owner of any change in the annual assessment or any special assessment and the due date of such assessment (the "Due Date"). The requirement of notice shall be satisfied if such notice is given by regular deposit in the U.S. Mail to the Lot address of each such Owner, unless the Owner has provided an alternate address to the Board in writing. Any assessment not paid on or by the ninth (9th) day after the assessment is due shall be delinquent. The "Delinquency Date" shall mean the tenth day after the Due Date.

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

4.10 Non-Payment of Assessment. If any assessment is not paid prior to the Delinquency Date, then such assessment shall become delinquent and shall, together with interest thereon and cost of collection, as hereinafter provided, become a continuing lien on the Owner's Lot which shall bind such property in the hands of the then Owner, its heirs, devisees, personal representatives and assigns.

If the Assessment is not paid within thirty (30) days after the Delinquency Date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, may foreclose the lien against the Owner's Lot, or may take both such actions, and there shall be added to the amount of such assessment reasonable attorneys fees, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys fees together with the costs of the action.

4.11 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage created by the Owner's purchase of its Lot.

4.12 Exempt Property. Notwithstanding anything to the contrary in this Declaration, the following property to the extent it is subject to this Declaration, shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local authority and devoted to public use; (b) all General Common Elements; and (c) all properties exempt from taxation by the laws of the State of Tennessee or United States Government upon the terms and to the extent of such legal exemption. In addition, the Developer shall neither pay nor be liable for the amount of any annual or special assessment or for any Lot owned by Developer, as applicable.

4.13 Books and Records. The books and records of the Association shall be kept in such a

manner that is possible to determine and ascertain that i) such sums are expended by the Association for development, improvements, maintenance and upkeep of all Common Element of the Association, and (ii) such sums are expended for the purposes set forth herein.

4.14 Quorum for any Action by Association. The quorum required for any action to be taken by the Members of the Association shall be as follows: At the first meeting calling for a vote on the action by the Members, the presence at the meeting of Members in person or by proxy entitled to cast fifty one (51%) percent of all the votes of the membership shall constitute a quorum. If a quorum is present at the beginning of a meeting but Members subsequently leave, the vote may still take place and will be valid as if a quorum were still present. If the required quorum is not present at a meeting, another meeting may be called subject to the notice requirement and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE V **TERM**

These covenants are to take effect immediately and shall be binding on all parties and all persons claiming under them until January 1, 2030, at which time said covenants shall be automatically extended for successive periods of ten years unless amended or revoked pursuant to Article X.

ARTICLE VI **ENFORCEMENT**

6.1 Legal Action. If the parties hereto or any of their heirs and assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for the Association or any Owner to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other dues for such violation. If the plaintiff prevails in its action, it may recover its reasonable attorney fees and costs from the nonprevailing defendant(s).

6.2 Survival. Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

ARTICLE VII
USES OF PROPERTY

7.1 Residential Use. All Lots shall be restricted exclusively to single-family residential use and Home Office Use. No Lot, or any portion thereof, shall at any time be used for any commercial, business, or professional purpose other than Home Office Use; provided, however, that nothing herein to prohibit or prevent Developer or any developer of residences in Simmons View from using any Lot owned by Developer or such developer for the purpose of carrying on business related to the development, improvement and sale of Lots in Simmons View. Rental of a Unit in conformity with the provisions of this Declaration shall not be considered a commercial use for purposes of this Paragraph only.

7.2 Common Elements. The Common Elements shall be used only by the Owners and their agents, servants, tenants, family members, invitees, tenants, and licensees for access, ingress to and egress from their respective Lots, for recreational purposes as permitted by the Association, and for such other purposes as may be authorized by the Board.

7.3 Leasing Restrictions.

(a) No Lot shall be leased or rented by an Owner for less than a minimum term to be set by the Board, which minimum initial term shall not be less than ninety (90) days. Renewal terms may be permitted on a month-to-month basis. The Board may consider exceptions to the initial minimum lease term on a case by case basis. Each lease shall be in writing, and an executed copy of each such lease shall be furnished to the Board before the lessee occupies the Unit. The lessees shall be bound by and subject to the Declaration, Bylaws, and Rules and Regulations relating to the use and occupation of such Unit and use of the Common Elements and Limited Common Elements, and the lease shall expressly so provide. The Owner making such lease shall not be relieved thereby from any obligations under the Declaration or the Bylaws. The Board shall be a third-party beneficiary of any such lease and shall have the power to enforce its terms and conditions for the Association's benefit. The Board may establish a standard lease form, the use of which shall be a prerequisite to the leasing of any Unit, in which event the standard lease form shall be used exclusively by all Owners.

(b) A Lot must be rented in its entirety, if at all. No leasing of individual bedrooms in a House shall be permitted. No accessory structure shall be rented to a non-Owner. No accessory structure, camper, RV, boat, or other vehicle shall be occupied as a residence.

(c) If any lease of a Unit is made or attempted without complying with the provisions of this Section, the Association shall have the right to evict the tenant(s) and to pursue any other remedies available at law or in equity. The Association shall also be entitled to recover as damages all sums paid by the tenant(s) to the Owner(s)/landlord.

7.4 Nuisances.

(a) No unlawful, noxious or offensive activities shall be carried on in any Lot, or upon the Common Element, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others or unreasonably interferes with other Owners' use of their Lots and/or the Common Elements.

(b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property or any portion thereof.

(c) All alarms or security systems with a siren, bell, or other auditory warning device shall have an automatic device to stop the siren, bell, or other device from sounding after a five (5) minute period of time.

ARTICLE VIII **SIMMONS VIEW ADVISORY COMMITTEE**

8.1 Simmons View Advisory Committee. The Simmons View Advisory Committee ("SVAC" or "Advisory Committee") shall be responsible for reviewing and approving all building plans for construction in the Subdivision, as more particularly defined herein. This includes not only the original construction of a house, but also modifications, accessory structures, and changes to the exterior appearance of a Lot or House.

8.2 Election of SVAC Members. The initial members of the SVAC shall be Ken Bowman, Amy Garland Bowman, and one other person appointed by Ken Bowman. The Developer shall have full authority in its sole discretion to replace the third member at any time for any reason and/or to increase the number of members of the Advisory Committee, provided the SVAC must always have at least three and not more than five members. After Developer ceases to own any Lots in the Subdivision, the Advisory Committee members shall be elected by the Association in the same manner as Directors

of the Association. The Members may, by a majority membership vote, increase the number of SVAC members to a maximum of five or reduce the membership to not less than three after the Developer relinquishes control of the Advisory Committee.

8.3 Waiver Authority. Except as otherwise provided herein, the Simmons View Advisory Committee shall have the right in its sole discretion to release any Lot from any part of the building restrictions (including setbacks) if the Simmons View Advisory Committee determines that such release is reasonable and does not substantially affect any other building Lot. If any Owner disagrees with the decision of the SVAC, it shall be entitled to review of the decision by the Board of Directors. If displeased with the Board's decision, the Owner shall be entitled to review of the decision by the Association's Members.

ARTICLE IX

GENERAL RESTRICTIONS

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon.

9.1 Improvements. All construction of dwellings, accessory structures and all other improvements in Simmons View shall be undertaken and completed in accordance with the following conditions:

(a) All construction shall be carried out in compliance with the laws, code rules, regulations and orders of all applicable governmental agencies and authorities.

(b) All single-family residences constructed on the Lots shall be "traditional" in style. The determination of whether a residence is "traditional" shall be decided by the Simmons View Advisory Committee in its sole discretion.

(c) Concrete or concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot, and there shall be no chain link fence or fences or walls of any other material which the Simmons View Advisory Committee determines to be incompatible with dwellings or other structures in Simmons View

(d) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other material or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory structure on such Lot, nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.

(e) No exposed, above ground tanks for the storage of fuel or water or any other

substances shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Simmons View Advisory Committee.

(f) All garages must have doors of raised panel construction and each garage door must be coordinated with the dwelling to which it is appurtenant. Garage doors shall be kept in working order and shall be kept closed when not in use.

(g) No window air conditioning unit may be located in any part of any dwelling or accessory structure. All exterior compressor units shall be ground-mounted.

(h) Any screen porch which is part of any dwelling or accessory structure must have a dark color screen. No bright color or silver finish screens may be used.

(i) Any construction on a Lot shall be at the risk of the Owners of such Lot and the Owner of such Lot shall be responsible for any damages to any curbing, sidewalks, street, and Common Elements or Limited Common Elements resulting from construction on such Lot. Repairs of such damage must be made as soon as reasonably possible but in no event not more than thirty (30) days after completion of such construction.

(j) The enclosed, heated above-ground living area of one-story dwellings shall contain not less than 1,800 square feet. The enclosed, heated above-ground living area of all one and one-half story and two-story dwellings shall contain not less than 2,300 square feet. No dwelling shall be constructed exceeding two and one-half stories in height on any Lot.

(k) Utility Service. No lines, wires or other devices for communications purposes, including telephone, television, data and radio signals, or for transmission of electric current or energy, shall be constructed or placed on any Lot unless the same shall be in or by conduits or cables constructed, placed and maintained underground or concealed in, under or on building, or other approved improvement. Above-ground electrical transformers and other equipment may be permitted if properly screened and approved by the Simmons View Advisory Committee. In addition, all gas, water, sewer, oil, and other pipes shall also be placed underground or within or under buildings. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved improvements.

(l) Refuse and Storage Area. Garbage and refuse shall be placed in containers and shall be capped and containers in such a manner that they are inaccessible to animals. The containers shall be concealed within the garage. Garbage pickup will be contracted thru the Association and assessed accordingly.

(m) Lawn Furnishings. No bird baths, frog ponds, flag poles, lawn sculptures, artificial plants, bird houses, rock gardens, solar lights or similar types of accessories and lawn furnishings are permitted on any homesite without prior approval of the Simmons View Advisory Committee.

(n) **Lighting.** All exterior lighting shall be consistent within the Subdivision and be limited to the minimum necessary for safety, identification, and decoration. Exterior lighting of buildings for security and/or decoration shall be limited to concealed up lighting or down lighting. No color lens or lamps are permitted. All exterior lighting must be approved by the Simmons View Advisory Committee. Each Lot will have an approved yard lamp installed by the builder. The Association will be responsible for the maintenance of the approved yard lamp.

9.2 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Simmons View Advisory Committee of plans and specifications for the prevention and control of such erosion or siltation. The Simmons View Advisory Committee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as required by this Declaration.

9.3 Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the Simmons View Advisory Committee of plans and specifications for the landscaping to accompany such construction or alteration. If an Owner adds or changes any landscape element on a Lot which causes additional maintenance by the Association, the Owner may be billed by the Board of Directors for the additional expense. Such invoice shall be treated as an assessment for collection purposes.

9.4 Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications thereof approved by the Simmons View Advisory Committee. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot without the prior written consent of the Simmons View Advisory Committee; provided, however, that Developer may maintain an office trailer in the Subdivision for as long as Developer owns one or more Lots in the Subdivision.

9.5 Setbacks. In approving plans and specifications for any proposed Structure, the SVAC may establish setback requirements for the location of such Structure which are more restrictive than those established by the Plat. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

9.6 Fences and Walls. in general, fences and walls (except those installed by the Developer or otherwise permitted by this document) are not allowed in the Subdivision. However, in the backyard area of a Lot, fences will be permitted from an approved set of fencing types adopted for use by the Simmons View Advisory Committee. The fencing selected from the approved choices must match the materials of the House on the Lot. Fencing shall not be placed in the side yards or front yard of a house. No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the Simmons View Advisory Committee.

9.7 Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the Simmons View Advisory Committee of plans and specifications. Specifications shall include the proposed materials to be used in constructing such roads and driveways. A landscape designer appointed by the Developer will work with each homeowner to establish location, configuration and materials for road and driveways, subject to the approval by the Simmons View Advisory Committee. Parking spaces, garages, and the driveway to garage shall be planned and executed in an attractive and functional manner, consider the location of existing trees, topography, street scape, and compatibility with surrounding improvements. All home sites shall have a driveway of stable and permanent construction of at least twelve (12) feet in width. Unless prior approval is obtained from the Simmons View Advisory Committee, all driveways must be paved with brick, concrete, or stone. No gravel driveways shall be allowed.

9.8 Antenna. The Simmons View Advisory Committee shall have the authority to restrict the location, size, placement and type of antenna and other over-the-air transmission equipment to reduce the visual impact of such devices as much as possible. Further, the Simmons View Advisory Committee may require screening or landscaping to conceal such devices from the street or other Lots. Before any such device may be placed upon any Lot, the Lot owner must submit plans to the Simmons View Advisory Committee for its consideration and approval as required for any other structure.

9.9 Clotheslines. No outside clotheslines shall be placed on any Lot.

9.10 Recreational Vehicles and Trailers.

(a) No trailer, trailer house, boat, or recreational vehicle shall be parked on any Lot outside of a building or on any of the streets. However, an Owner may request approval for placement of an additional garage or enclosed storage building within which to place such accessory.

(b) While nothing contained herein shall prohibit the use of portable or

temporary buildings or trailers as field offices by contractors during actual construction, the use, appearance and maintenance of such a building or trailer must be specifically approved by the Simmons View Advisory Committee prior to its being moved onto the construction site. The placement of any portable toilets for workers must also be approved by the SVAC in advance.

9.11 Recreational Equipment, Pools, and Accessory Structures.

(a) No swimming pools, recreational and/or playground equipment, or accessory structures of any kind shall be erected, installed, maintained, or altered on any Lot without the prior written approval of the Simmons View Advisory Committee. Requests to the SVAC must be accompanied by a drawing showing the proposed structure, including materials to be used, and a diagram showing dimensions and placement of the structure on the Lot.

(b) All additions of this sort must be located in the backyard area (the space between the rear wall of the House and the rear property line).

(c) Playground equipment must be constructed of wood other than pressure treated pine. No above-ground clubhouses, forts, dollhouses, or tree houses are permitted.

(d) Swimming pools and spas must be inground, constructed of gunite, fenced, and located in the backyard of the home.

9.12 Mailboxes. Mailboxes will be located in a common location as selected by Developer. Mailboxes will be maintained as a Common Expense.

9.13 Animals. No animals, including birds, insects, and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No chickens or livestock may be kept in the Subdivision. No animal shall be allowed to become a nuisance. All pets shall be kept inside the residence (or in the Owner's fenced backyard area when an adult is present with the pet) except when being walked with a leash. No structure for the care, housing or confinement of any animal shall be constructed or placed on any Lot.

9.14 Water Supply. No individual water supply system shall be permitted on any Lot without the prior written approval of the SVAC. If such approval is given, such system must be located, constructed, and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system. The SVAC's approve of such a system shall not in any be interpreted as or signify that the

system is in compliance with government requirements, which remain the responsibility and expense of the Owner.

9.15 Trees and Shrubs. No trees measuring six (6) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without prior approval of the Simmons View Advisory Committee, except as such plants are located within ten (10) feet of an approved site for a House or within the right-of-way of driveways or walkways. This provision shall not apply to damaged or dead trees (or reasonable portions thereof) which must be removed due to an emergency.

9.16 Building Construction Standards.

(a) Exterior Materials. Finish building materials shall be applied consistently to all sides of the exteriors of buildings. Exterior materials shall be approved by the Simmons View Advisory Committee.

(b) Exterior Colors. Finish colors shall be applied consistently to all sides of the building. Color selections shall be harmonious with each other and with natural materials, and shall be compatible with colors of the natural surroundings and other adjacent property. All exterior wood, including decks, balconies, galleries, banisters, etc., must be painted to match the trim color or shall be complementary to the building exterior.

(c) Exterior Trim and Decorations. Exterior window and door trim and similar decorations shall all be the same color and materials, unless otherwise approved, and shall be either of the same material as exterior walls or directly compatible with the architectural detail of the exterior walls. Reflective glass is prohibited.

(d) Appurtenances. All exterior mechanical equipment including, but not limited to air conditioning compressors, pool pumps, meters, etc., shall be concealed from view as the building or by an opaque landscaping screen. No solar energy devices shall be allowed.

(e) Roofs. Roofing materials must be a minimum of a 30-year architectural dimensional shingle. Roof pitch must be 8/12 or higher. Metal roofing, slate, or simulated slate roofing will be approved subject to being architecturally adaptable and subject to Simmons View Advisory Committee approval. Porch or other adjoining roof structures below 8/12 may be approved by the Simmons View Advisory Committee.

9.17 Landscaping and Open Space Standards

(a) Site Design and General Landscaping Concepts. The architectural design and

the site planning of Simmons View Subdivision is intended to evoke the appearance of a turn-of-the-century architecturally planned neoclassical community. Building setbacks, site amenities, and landscape improvements for each Lot as well as the entire community are intended to create an overall feeling of unity and harmony. The community atmosphere will be created by the consistent use of materials and architectural styles described herein as well as disallowing fences and walls that define and separate individual lots. The guidelines and restrictions herein are intended to maintain the design intent of the Developer and sustain the attractive aesthetic appearance of the community. Developer may retain a landscape designer to assist the Developer and the Homeowner with the siting of the building, landscape designs for each Lot, location and design of walkways, driveways, outdoor entertainment areas, and other features outside the House as desired by the owner.

(b) Any homesite that is altered from its natural state shall be landscaped according to plans approved by the Simmons View Advisory Committee. All shrubs, trees, grass, and planting of every kind shall be kept well maintained, properly cultivated, and free of trash and other unsightly materials. Landscaping as approved by the Simmons View Advisory Committee shall be installed no later than thirty (30) days following completion of any building with weather permitting.

(c) Landscaping and site beautification is required within certain areas of each Lot. However, any landscaping in the side yards (areas parallel to the house and side property lines) must not restrict access/movement between front and rear property areas.

(d) Sod. All yards within each homesite not covered with pavement, buildings, shrubs, or ground cover shall be completely sodded. Sod shall extend to the rear corner sides of each dwelling.

(e) Mulch. All landscaped areas on a Lot that are not covered with pavement, buildings, sod, shrubs, or ground cover shall be covered with at least three (3) inches of mulch.

(f) Irrigation. Automatic sprinkler systems are required for complete coverage of all front, side, and rear yards. Automatic sprinkler system coverage shall also include the landscaping located between the subdivision sidewalks and the curbs throughout the subdivision. Each Owner shall utilize the sprinklers to maintain watering of the Lot yard to preserve the health and appearance of the plants (including grass) on the Lot, as directed by the Association.

9.18 Sidewalks, Walkways, Patios, and Decks. The Developer may designate a landscape designer to provide design consultation and plans for sidewalks and patios as part of the services for a Lot. Special design requests such as swimming pools, spas, fountains, or the extraordinary features will become part of the scope of the work if requested by the Owner, but those expenses shall be paid for separately by the Owner.

Article X
DEVELOPER'S RIGHTS

10.1 Developer hereby reserves the right in its absolute discretion at any time to annual, waive, change or modify any of the restrictions, conditions or covenants contained in this Declaration as to: (1) any part of the Subdivision then owned by Developer; (2) any Common Area or Limited Common Area; and (3) any other Lot in the Subdivision, provided the Owner(s) of said Lot consent to the changes.

10.2 Developer shall have the right before a sale of the affected property in the Subdivision to change the size of or locate or relocate any Lots, streets, or roads shown on any of the plats of the Subdivision.

10.3 Any or all of the rights and powers, titles, easements and estates reserved or given to Developer in this Declaration may be assigned to any one or more corporations or entities which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights and powers, and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by Developer, and Developer shall thereupon be released therefrom.

10.4 The Developer's rights in this Article X shall cease as of the date the Class B membership ceases to exist.

ARTICLE XI
FUTURE ADDITIONS

11.1 While a Class B membership exists, Developer may make additional land contiguous to the Property a part of the Subdivision without the consent of the Membership of the Association, provided Developer pays all expenses associated with adding the property to the Subdivision. The additions may be Lots, Common Elements, and/or Limited Common Elements. Such real estate shall then become part of the Subdivision and subject to the Declaration and any amendments thereto, including provisions related to voting rights and assessments.

11.2 In addition, the Association may add Lots, Common Elements, and/or Limited Common Elements to the Subdivision with each class of membership in existence approving the addition of such property to the Subdivision by approval of not less than two-thirds (2/3) of the Owners in that class, with each class voting as a class. If only one

class of membership approves the addition, the vote fails and the property may not be added to the Subdivision or another vote taken on the same subject for at least two (2) months.

ARTICLE XII
AMENDMENTS TO DECLARATION

12.1 During the first three (3) years after executing this Declaration or until the Class B membership ceases to exist (whichever occurs first), the Developer may amend this Declaration without the consent of the other Members, provided the amendments do not materially alter the other Owners' rights to use and enjoy their Lots. Any such amendment shall be executed by the Developer and duly recorded in the Register's Office for Sevier County, Tennessee. Developer shall deliver copies to each Owner by U.S. mail, postage prepaid.

12.2 The covenants, conditions and restrictions set forth herein may be amended before January 1, 2030, by an amended declaration approved by Owners holding ninety percent (90%) of the Lots in the Subdivision. After the initial ten-year period of the Declaration, the Owners may amend the Declaration by the affirmative vote of Owners holding not less than seventy five percent (75%) of the Lots in existence at that time. Any such amendment shall be executed by the President and one (1) other officer of the Association and duly recorded in the Register's Office for Sevier County, Tennessee.

[Signature and notary acknowledgment appear on following page.]

IN WITNESS WHEREOF, the Developer, Aberfoyle Development LLC, has caused this instrument to be executed and its name to be signed by its managing member as of the date set forth above.

ABERFOYLE DEVELOPMENT LLC

By: Anna Cicur
Anna Cicur, Managing Member

STATE OF TEXAS

COUNTY OF TARRANT

Before me, the undersigned Notary Public of the state and county aforesaid, personally appeared ANNA CICUR, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be the managing member of Aberfoyle Development LLC, the within named bargainer, a Tennessee limited liability company, and that she, as such managing member, executed the foregoing instrument for the purpose therein contained by signing the name of the company by herself as such officer.

Witness my hand and seal, this 7th day of November, 2020.



Aimee M Cross
Notary Public

My commission expires: 5/13/2021