

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
THE TRAILS AT SPRING CREEK RANCH
PLANNED DEVELOPMENT
COLLIERVILLE, TENNESSEE

THIS DECLARATION is made, published and declared as of the 19th day of June, 2023, by and among CREEKSIDE HOMES LLC, a Tennessee limited liability company, referred to as "Declarant".

WHEREAS CREEKSIDE HOMES LLC is the owner of a certain tract of real property (the "Property") in Shelby County, Tennessee, known or to be known as *The Trails at Spring Creek Ranch Planned Development*; and

WHEREAS CREEKSIDE HOMES LLC has caused to be prepared a Development Plan for the subdivision of said real property shown on Exhibit "A" divided into residential lots and common areas, said subdivision to be known as *The Trails at Spring Creek Ranch Planned Development*; and

WHEREAS it is to the benefit, interest and advantage of the Declarant and of each and every person or other entity presently owning or hereafter acquiring any interest in any of the real property described in Exhibit "A", that certain covenants, restrictions, easements, assessments and liens governing and regulating the use and occupancy of all of the same be established, fixed, set forth and declared as covenants running with the land.

NOW THEREFORE, in consideration of the premises, the Declarant does hereby publish and declare that all, and each and every part of, said real property shown in Exhibit "A" is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and otherwise held and used subject to the following covenants, conditions, restrictions, uses, limitations and obligations and all easements, conditions, restrictions, etc., as set out in the subdivision plat previously mentioned, all of which are hereby declared and agreed to be in furtherance of a plan for the development and improvement of said real property, and that said covenants, conditions, restrictions, uses, limitations and obligations shall run with the land and shall be a burden and a benefit to the land and to the Declarant, its successors and assigns, any association which is formed, and any person or legal entity acquiring or owning any interest in any portion of said real property or any improvements thereon, and their respective grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I.

DEFINITIONS

The following words, when used in this Declaration, shall have the following meaning:

Section 1. "Association" shall mean and refer to the *Trails at Spring Creek Ranch Homeowners Association, Inc.*, a non-profit, non-stock corporation incorporated under the laws of the State of Tennessee, its successors and assigns. The Association's Charter and By-Laws are attached hereto marked Exhibits "B" and "C" respectively and are hereby made a part hereof.

Section 2. "Board of Directors" or "Board" shall mean the Persons who are duly elected or appointed, as applicable, from time to time in the bylaws of the Association to the board of directors of the Association.

Section 3. "Common Area" shall mean and refer to all that land (and improvements thereon) located within the Subdivision Plat for The Trails at Spring Creek Ranch Planned Development, as shown on the Development Plan as mentioned above and hereinafter defined and now owned or hereinafter acquired by the Association and the easements granted thereto for the common use and enjoyment of the Owners from time to time. Declarant may from time to time in its sole discretion convey to the Association, and the Association shall be obligated to accept, additions to the Common Area.

Section 4. "Declarant" shall mean either or both CREEKSIDE HOMES LLC, a Tennessee limited liability company as previously set forth herein, with offices in Fayette County, Tennessee.

Section 5. "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions, and any supplementary declaration filed hereinafter, as this Declaration may, from time to time, be amended in accordance with its terms.

Section 6. "Improvements" shall mean the structures, walls, pavement, plantings, and other additions built or placed on the lots.

Section 7. "Lot" or "Lots" shall mean and refer to the plots of land designated on the Subdivision Plat. For all purposes hereunder, the Declarant shall be the representative of all said Lots, save and except only those particular lots which the Declarant may have conveyed in fee simple title by recordable deed.

Section 8. "Member" shall mean and refer to any Person who holds membership in the Association.

Section 9. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation. The purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 10. "Person" shall mean an individual, firm, company, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 11. "Property" shall mean all of that certain real property hereinabove described in Exhibit "A".

ARTICLE II.

THE PROPERTY

Section 1. Property Subject to Declaration. The Property shall be held and used subject to this Declaration.

Section 2. Roads and Utilities. The roads within the Property are public property. Pipes, lines, cables and other means of utility services, etc., shall also be public.

ARTICLE III.

THE ASSOCIATION

Section 1. Members. Every Person who is a record owner of a fee or an undivided fee interest of any Lot shall be a Member of the Association; provided, however, that anyone who holds such interest merely as security for the performance of an obligation, shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for Membership.

Section 2. Control by Declarant. The Declarant shall be a Member for each lot owned by it until the same is sold and title transferred. Notwithstanding any other provisions of this Declaration, or any related document, or the By-Laws of the Association, the Declarant, or any party or parties to which Declarant may assign its rights and privileges as Declarant, shall retain total control of the Association, the Property, the development thereof, and the improvements thereon, including, without limitation, Architectural Control (as defined in ARTICLE IX.), until the development is complete and all of the Lots have been improved with residences and sold and until all of its development contract bonding instruments

associated with the construction of the Property have been released. However, Declarant may, at its sole discretion, transfer said control to the other Members at such earlier time as it deems appropriate.

Section 3. Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of a Lot, each Owner of a Lot being entitled to **one (1) Vote** for each Lot owned. The Declarant's vote on any matter shall outweigh the aggregate vote of all other Members until the control granted to Declarant in this Article is voluntarily transferred to the other Members.

Section 4. Secured Parties. No individual or legal entity holding title to a Lot as security for any debt or obligation shall be considered an Owner of such Lot, and such individual or entity shall not be entitled to Membership in the Association or to cast a vote on any questions or matter affecting the administration of the Association.

Section 5. Voting. At every meeting of the Members, each of the Members shall have the right to cast his vote on each question. Subject to the Declarant's control and other rights set forth in this Declaration, the vote of the Members representing a **fifty-one (51 %) percent majority** of the total votes cast, with respect to any question, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute, the Association's Charter or By-Laws, or this Declaration, a different vote is required. In such case, such express provision shall govern and control. The vote of any Lot which is owned by more than one person may be exercised by any of them present at any meeting unless an objection or protest by a co-owner of such Lot is noted at such meeting. In the event that all of the co-owners of any such Lot who are present at any meeting of the Members are unable to agree on the manner in which the vote for such Lot shall be cast on any question, then such vote shall not be counted for purposes of deciding that question. No Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books of the Association to be more than **ten (10)** calendar days delinquent in any payment due the Association.

Section 6. Proxies. A Member may appoint any other Member or the Declarant, or any other person permitted by law or by the By-Laws, as such Member's proxy. In no case may any Member, except the Declarant cast more than **one (1)** vote by proxy in addition to his own vote. Any proxy must be in writing and must comply with all requirements imposed by applicable law or by the By-Laws.

Section 7. Quorum. The presence, either in person or by proxy, of Members representing at least **twenty-five (25%)** percent of the total votes entitled to be cast with respect to any question shall be requisite for and shall constitute a quorum for the transaction of business at all meetings of the Members. If the number of Members at a meeting drops below the quorum and the question of a lack of quorum is raised, no business may thereafter be transacted.

ARTICLE IV.

PROPERTY RIGHTS AND EASEMENTS

Section 1. Owner's Easements of Enjoyment Over the Common Area.

Every owner shall have a right and easement of enjoyment over and across the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Common Area subject to this Declaration and the following specific provisions:

- (a) The right of the Association, as provided in its Charter and/or By-Laws, to suspend any enjoyment rights of any Member;
- (b) The right of the Association, in accordance with its Charter and/or By-Laws to improve and maintain the Common Area and any improvements thereon.
- (c) The right of the Declarant and the Association, but not the obligation, to protect, maintain, and inspect the Common Area.

Section 2. Easements for Utilities and Related Purposes.

The Declarant and/or the Association are authorized and empowered to grant such licenses, easements and/or rights-of-way for water lines, electrical cables, telephone cables, television and other communication cables, internal and external wiring and antennae, gas lines, storm drains, underground conduits and/or other common services to the Property over, under or upon the Property, as may be considered necessary, appropriate or desirable for the orderly maintenance, preservation of health, safety, convenience and/or welfare of the Owners and the Declarant.

Section 3. Association Property.

Any and all property, easements and/or common open space owned by the Homeowner's Association cannot be transferred to another party without prior approval by the Town, and if such a transfer does occur or the Homeowner's Association shall cease to exist either through dissolution or other means, then the responsibility of the maintenance of said property, easements and common open space shall become the personal liability and responsibility of every lot owner in the subdivision.

ARTICLE V.

MAINTENANCE AND REPAIR

Section 1. Association Responsibilities.

Except as otherwise stated in this Declaration, the Association shall provide and pay for all maintenance and expenses for the Common Area and all improvements thereon. Upon recordation

of the subdivision plat in the Shelby County Registers Office, the Association shall be completely and solely responsible for the upkeep, maintenance and repair of the Common Areas including any walls, the private roadways, pedestrian ways, gates, ancillary structures and common parking areas, and drainage facilities serving the Property and any improvements thereon including but not limited to the replacement of dead, dying, or otherwise unhealthy plant material, repair and maintenance of any erosion control measures, repair and replacement of any Common Area or improvement thereon damaged, vandalized, or stolen, and furthermore shall reimburse the Declarant for any costs or fees incurred by same due to any negligence or failure by the Association in keeping the Common Area and all improvements thereon in a like new condition.

If the Declarant advances operating expenses to the Association, it shall be booked as a loan at **eight percent (8%) interest**, compounded continuously to the Association and the Association must reimburse the Declarant when funds become available or immediately at such time as the Declarant demands payment.

Section 2. Maintenance During Construction. During construction the Owner shall prevent the runoff / migration of soil from their Lot onto adjacent properties or into the street through the use of proper erosion control measures. Streets impacted by the construction shall be promptly cleaned by the Owner or the Owner's contractor *(as required by the Declarant or the Association but at least once a week as a minimum)* to remove soil resulting from the construction.

Section 3. Individual Lot Owners. Each Owner shall be responsible for the repair and maintenance, painting, and proper upkeep of their Lot and all improvements thereon, including, without limitation, all areas within easements. Grass, weeds and vegetation shall be kept mowed and all debris, garbage and animal waste shall be cleared (removed from Lot) at regular intervals (as reasonably required, but not to exceed **seven (7)** calendar days in any circumstance) from each Lot so as to maintain same in a neat and attractive manner. All equipment, garbage cans, woodpiles, storage piles and all debris shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring streets. (This provision shall not apply to any Lot owned by Declarant or any lot on which a home is being constructed.)

Further, each Owner shall keep his residence and all improvements in a condition comparable to its condition when initially constructed. In the event that all or any portion of the residence or any other improvement is damaged or destroyed by fire, wind, or other casualty, then the Owner shall rebuild, repair, or reconstruct said residence or other improvement in a manner which will substantially restore same to its original (or better) condition or demolish the residence or improvement, at his discretion. Any rebuilding, repairing, reconstruction, or demolition shall be completed within **nine (9)** months of the occurrence of the casualty.

In the event the Owner of any Lot shall fail to comply with the terms and conditions of this Article in a manner reasonably satisfactory to the Declarant or

the Association and in keeping with other Lots, the Declarant, in its sole discretion, or the Association, after approval of **two-thirds (2/3)** vote of the Board of Directors, shall have the right, through agents and/or employees, to enter upon said Lot and to repair, maintain and restore the Lot and to repair, maintain restore or demolish the damaged residence and/or other improvements thereon. The costs thereof, together with reasonable interest thereon and costs of collection thereof, shall be a binding personal obligation of such Owner, as well as a continuing lien upon the subject Lot upon the recording of a notice of lien with the Office of the Register of Shelby County, Tennessee. The rights and remedies given to the Association by the Article of this Declaration dealing with assessments and non-payment thereof shall apply fully to the debt obligations, including reasonable interest and costs of collection, and the lien rights created in this Section. Likewise, the terms and conditions of said Article dealing with subordination and mortgage protection shall be fully applicable.

ARTICLE VI.

ASSIGNMENT OF RIGHTS AND OBLIGATIONS AS A DECLARANT

The Declarant specifically reserves the right to assign their respective rights and obligations as a Declarant hereunder to any third party.

ARTICLE VII.

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to be a Member of the Association and to covenant and agree to pay to the Association the assessments provided in this Article. Said assessments shall be fixed, established and collected from time to time as herein provided. All such assessments, together with such reasonable 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 such assessment is made. Each such assessment, together with reasonable interest thereon and cost of collection thereof, shall also be a personal obligation of the Owner of such lot at the time when the assessment becomes due.

Section 2. Annual Assessments.

- (a) Each Member shall pay to the Association an annual sum equal to the Member's proportionate share of the sum required by the Association, as estimated by its Board of Directors, to meet its annual expenses, including but in no way limited to the following:
 - (1) The cost of all operating expenses of the Association and services furnished, including charges by the Association for its facilities, if any, any repayment of any indebtedness incurred by the Association and interest thereon; and
 - (2) The amount of all taxes and assessments levied against the Association or upon any property which it may own or which it is otherwise required to pay, if any; and
 - (3) The cost of extended liability insurance, the cost of directors' and officers' liability insurance, and the cost of other such insurance as the Association may effect; and
 - (4) The cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and/or reserve for replacements; and
 - (5) The estimated cost of repairs, maintenance and replacement of the Common Area and other items for which the Association is responsible.
- (b) For each Lot the annual assessment shall first become due on the date of the closing of the sale of said Lot from Declarant or builder to the Owner. The assessment shall be prorated for the month of its commencement to the **July 1** due date. In addition, a one-time fee for "Working Capital Reserve" shall be paid to the Association by the Owner at the closing of the sale of the Lot from the Declarant or any builder to the Owner.
- (c) Until such time as the Declarant turns control of the Association over to the other Members, the annual assessment per lot shall be as determined and set by the Declarant at its sole and absolute discretion.
- (d) After the Declarant has granted control of the Association to the other Members, the Board of Directors shall determine the amount of the annual assessment against each Lot at least **thirty (30)** calendar days in advance of each annual assessment period but may do so at more frequent intervals should circumstances so require as

provided in the By-Laws. The general annual assessment for each Lot shall be computed by dividing the total assessment attributable to the Property by the total number of Lots, excluding any Common Area. Unless modified by the Declarant or the Board of Directors, the annual assessment shall be due and payable on **July 1** of each calendar year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, furnish a certificate signed by an officer of the Association setting forth whether the assessment of a specified Lot has been paid. The Association may, at its option, charge a reasonable fee for the furnishing of such a certificate.

Section 3. Special Assessments. In addition to the regular assessments authorized by this Article, the Association may levy a special assessment or assessments in any assessment year, in whole or in part, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement for which the Association is responsible or for such other purposes as the Declarant in its sole and absolute discretion or the Board of Directors may consider necessary, provided that for such assessment the Board shall have the assent of the Members representing **two-thirds (2/3)** of the total number of votes eligible to be cast. A meeting of the Members shall be duly called for this purpose, written notice of which shall be sent to all Members at least **ten (10)** calendar days, but not more than **thirty (30)** calendar days, in advance of such meeting, which notice shall set forth the purpose of the meeting. Such assessment shall be prorated among the Members on the same basis as the annual assessments.

Section 4. Emergency Assessments. In the event of any emergency situation, condition, or occurrence affecting the life, health, safety or welfare of the Members or the property of the Members, the Board of Directors may declare an emergency assessment in such amount and payable at such time as the Board, in its sole discretion, shall deem necessary. Such emergency assessment, except for the amount and time of payment, shall be governed by all other provisions of this Declaration. Such assessment shall be prorated among the Members on the same basis as the annual assessments. The Board of Directors shall be fully protected and not liable for any mistake in judgment hereunder if the emergency assessment was made in good faith.

Section 5. Funds for the Common Area. Notwithstanding any other provision of this Declaration, all expenses incurred by reason of the Common Area shall be paid from assessments on all Lots without regard as to whether any such Lot is contiguous to or touches the Common Area and shall be used to maintain the Common Area in accordance with this Declaration.

Section 6. Non-Payment of Assessments. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid when due, shall be delinquent and shall, together with reasonable interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing

lien upon the Lot or Lots belonging to the Member against whom such assessment is levied and shall bind such Lot or Lots in the hands of the then Owner, such Owner's successors, heirs, devisees, personal representatives and assigns. In order to evidence said lien, a notice of lien setting forth the amount of the indebtedness, the Owner's name, and a description of the Lot shall be recorded with the Office of the Register of Shelby County, Tennessee. However, a failure to record or a delay in recording any such notice of lien shall not operate as a waiver of said lien. The personal obligation of the Owner to pay such assessment shall, however, remain such Owner's personal obligation for the statutory period and a suit to recover a money judgment for non-payment of any assessment levied pursuant to the By-Laws, or any installment thereof, may be maintained without foreclosing or waiving the lien herein.

Any assessment levied pursuant to this Declaration or any installment thereof, which is not paid within **ten (10)** calendar days after it is due may, upon resolution of the Board of Directors, bear interest at a rate not to exceed the highest rate allowed under the applicable laws of the State of Tennessee and may, in addition, by resolution of the Board of Directors, subject the Member obligated to pay the same to the payment of such penalty or "late charge" as the said Board may fix. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Lot or Lots, subject to prior mortgages or deeds of trust upon the Lot or Lots. In either event, the Association may collect from the Owner reasonable interest, costs, penalties, late charges and reasonable attorneys' fees. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Property or abandonment of such Owner's Lot.

For the purpose of enforcing the lien of any unpaid and delinquent assessment, each Owner irrevocably grants the Board of Directors of the Association the power to sell such Owner's Lot at public outcry to the highest and best bidder for cash. The Board of Directors is authorized to make such a public sale if and only if such sale conforms with Sections 8 and 9 of this Article. The Association is hereby authorized to take any and all courses of action available to it for collection of the assessment which the laws of the State of Tennessee allow. Any such sale shall be made after first advertising the sale of said property for **twenty-one (21)** calendar days by **three (3)** weekly publications in some newspaper in the County of Shelby, State of Tennessee, giving notice of the time and place of such sale. Any sale of a Lot to enforce a lien for delinquent and unpaid assessments shall be free from equity of redemption, statutory right of redemption, marital rights, homestead, and dower and all other exemptions, all of which are expressly waived by the Owners; and any such sale and the lien enforced thereby shall take precedence over any all other liens of every nature against the Lot except real estate and advalorem taxes assessed against the Lot and prior recorded mortgages or deeds of trust described in Section 8 of this Article. The proceeds of any such sale, whether under the power of sale or foreclosure suit, shall be applied first to the payment of the expenses protecting the Property and the expenses of litigation, attorneys' fees, and sale commission; and second, to the payment of real

estate and advalorem taxes assessed against the Lot and any prior recorded mortgages or deeds of trust as described above; and third, to the payment of all amounts due the Association under the terms of the Declaration and By-Laws; and the balance, if any, to the Owner whose Lot is sold, and his assigns. Upon any default in the payment of the assessment, the Board of Directors shall have the right to all rents, issues, and profits from the Lot in default and shall have the right to secure the payment through notice to those in possession of the Lot or by entry into possession in the same manner as the mortgage entering into possession following default.

All rights, remedies and privileges granted to the Board of Directors or an Owner, pursuant to any terms, provisions and covenants and conditions of the Declaration and By-Laws shall be deemed to be cumulative, and the exercise of one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Declaration and the By-Laws at law or in equity.

Section 7. Acceleration of installments. Upon default in the payment of any one or more installments of any assessment levied pursuant to this Declaration, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.

Section 8. Priority of Lien. The lien established by this Article shall have preference over any other assessments, liens, judgments or charges of whatever nature, except the following:

- (a) General and special assessments for real estate taxes on a Lot; and
- (b) The liens of any deeds of trust or mortgage instruments duly recorded on the Lot prior to the assessment of the lien thereon or duly recorded on said Lot after receipt of a written statement from the Association reflecting that payments on said lien were current as of the date of recording of said deed of trust or mortgage instrument.

Section 9. Subordination and Deed of Trust/Mortgage Protection.
Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration upon any Lot shall be subordinate to, and shall in no way affect the rights of the holder of any indebtedness secured by, and recorded first deed of trust or mortgage (meaning a lien with priority over all other liens), if such deed of trust or mortgage is made in good faith and for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure, and shall not in such instance apply to claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Owners, including the mortgaged

Lots. Such sale or transfer shall not relieve the purchaser at such sale of the Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. Said lien, if any, shall have the same effect and be enforced in the same manner as provided herein.

No amendment to this Section shall affect the rights of the holder of any such deed of trust or mortgage (or the indebtedness secured thereby) recorded prior recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 10. Additional Default. Any recorded first deed of trust or mortgage secured by a Lot shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such deed of trust or mortgage (or the indebtedness secured thereby), but failure to include such a provision in any such instrument shall not affect the validity of priority thereof, and the protection extended to the holder of such instrument (or the indebtedness secured thereby) elsewhere in this Article shall not be altered, modified, or diminished by reason of such failure.

Section 11. Declarant's Assessments. Notwithstanding any provisions of this Declaration, the Declarant, as owner of Lots within ***The Trails at Spring Creek Ranch Planned Development***, may but shall not be responsible for or obligated to pay any assessments toward the expenses of the administration, maintenance and repair of the Common Area, utility expenses within the common areas or the operation of the Association. Declarant shall not have any responsibility for the maintenance, repair or replacement of any part of the Common Area after the date this Declaration is recorded, other than those duties and obligations as stated in the subdivision development agreement, the applicable subdivision regulations and approved conditions of The Trails at Spring Creek Ranch Planned Development. The Declarant shall be entitled to credit against any common expenses which it owes for any sums which it has advanced in payment of common expenses occurring from and after the date of recording of this Declaration.

ARTICLE VIII.

ARCHITECTURAL

CONTROL

Section 1. Architectural Control Committee. An Architectural Control Committee is hereby established and shall consist of **three (3)** entities or persons (the "Committee"). The initial Committee shall consist of the Declarant and **two (2)** other entities or persons to be selected by the Declarant. The Committee members may be officers of Declarant. These Committee members shall serve for a period of **two (2)** years unless they are replaced by the Declarant, resign, or otherwise fail to serve. Upon the expiration of **two (2)** years from the date hereof, or the earlier termination of any Committee member, the Declarant shall then appoint substitute Committee members until control of the Association is transferred to the Members, at which time, the Board of Directors of the Association shall have the authority to make said appointments; provided, however, that the Declarant shall have the absolute right to be one of the **three (3)** Committee members until the development is complete, all development bonds have been released, and all of the Lots have been sold. The affirmative vote of a majority of the membership of the Committee shall be required to adopt or promulgate any rule or regulation, or to make any findings, determinations, ruling or order, or to issue any permanent authorization or approval pursuant to directives or authorizations contained herein.

Section 2. Approvals Necessary. Rules of Committee and Remedies for Violation. With the exception of improvements desired by the Declarant, no structure or improvement of any kind or nature, or any fence or barrier shall be commenced, erected, placed, moved onto, or permitted to remain on any of the Lots, nor shall any existing structure (including the primary residence), improvement, fence or barrier upon any Lot be altered in any way which materially changes the exterior appearance thereof, without the written consent of the Committee; nor shall any new use be commenced on any Lot without the written consent of the Committee. Plans and specifications of all such improvements and uses shall be submitted to and retained by the Committee. They shall be in such form and shall contain such information as may be required by the Committee, but in any event shall include, without limitation, (1) a building plan and site plan showing the floor plans, exterior elevations, color scheme, kind, shape, height, materials and location with respect to said Lot (including proposed front, rear, and side setbacks) of all structures, fences or barriers, and location of all parking spaces and driveways on the Lot and proposed surface thereof, (2) grading and landscape plans, and (3) a selection of

one of several landscape designs which the Committee may make available and which will represent the minimum landscape requirements. Declarant recommends that each owner procure a soil test report prepared by a soils engineering firm approving the intended use of the Lot and recommends that all plans and specifications be prepared by a registered and licensed professional architect or engineer.

The Committee may promulgate rules governing the forms and content of plans to be submitted for approval or requiring specific improvements on the Lots, including, without limitation, the exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details or other matters which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Committee at any time, and no inclusion in, or omission from or amendment of any such rule of statement shall be deemed to bind the Committee to approve or disapprove any feature or matter subject to approval or to waive the exercise of the Committee's discretion as to any such matter; however, no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver by the Committee in its discretion to disapprove such plans, specifications, features or elements as are subsequently submitted for use on any other Lot. Approval of any such plans and specifications relating to any Lot shall be final as to that Lot, and such approval may not be revoked or rescinded thereafter provided that the plans and specifications as approved and as condition attached to any such approval have been adhered to and complied with in regard to all structures, improvements, fences or barriers on and uses of the Lot in question.

In the event the Committee fails to approve or disapprove any plans and specifications as herein provided within **forty-five (45)** days after proper submission thereof, the same shall be deemed to have been approved as submitted and no further action shall be required.

If any structure, improvement, fence or barrier shall be altered, erected, placed or maintained upon any Lot or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the Committee as required herein, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of the restrictions herein and without the approval required herein; and upon written notice from the committee, such structure, improvement, fence or barrier so altered, erected, placed or maintained upon any Lot, in violation hereof, shall be removed or altered, and such use shall be terminated so as to extinguish such violation.

If **fifteen (15)** days after the notice of such violation, the Owner of the Lot in question shall not have taken reasonable steps toward the removal, alteration or termination of the same, the Association, by its officers or directors, shall have the right, through its agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish such violation and the costs thereof shall be

a binding personal obligation of such Owner, as well as, a continuing lien with the Office of the Register of Shelby County, Tennessee. The provisions of the Article of this Declaration dealing with assessments and non-payment thereof, including, without limitation, the rights and remedies given to the Association therein, shall apply fully to the debt obligations, including interest and costs of collection, and the lien rights created in this section. Likewise, the terms and conditions of said Article dealing with subordination and mortgage protection shall be fully applicable.

Upon completion of the construction or alteration of any structure in accordance with the plans and specifications approved by the Committee, the Committee shall, upon written request of the Owner thereof, issue a letter of compliance identifying such structure and the Lot on which such structure is placed and stating that the plans and specifications, location of such structure and the use or uses to be conducted thereon have been approved and that such structure complies therewith. Preparation of such letter shall be at the expense of the Owner of such Lot. Any compliance letter issued in accordance with the provisions of this paragraph shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrances in good faith and for value, or as to any title insurer, such compliance letter shall be conclusive evidence that all structures and improvements described therein, and the use or uses described therein, comply with all the requirements of these restrictions.

Any agent of the Declarant or the Committee, may, at reasonable times, enter upon and inspect any Lot and any improvements thereon for the purposes of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of structures and improvements thereon are in compliance with the provisions of this Declaration, and no such persons shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE IX.

CONSTRUCTION OF RESIDENCE

Section 1. Completion of Construction. Once construction of a residence is commenced, the particular Owner shall proceed diligently therewith and complete construction within **eighteen (18)** months after said commencement.

If said construction is not completed within said **eighteen (18)** months, then the Owner shall owe to the Declarant a penalty equal to **twenty percent (20%)** of the original price of the Lot. Said amount shall be payable within **thirty (30)** days after the end of said eighteenth month and shall increase by an additional penalty of one percent (1%) of said price for each additional **thirty (30)** days it remains unpaid. Said penalties, together with costs of collection thereof, shall be

a binding personal obligation of such Owner, as well as a continuing lien upon the subject Lot upon the recording of a notice of lien with the Office of the Register of Shelby County, Tennessee. The rights and remedies given to the Association by the Articles of this Declaration dealing with assessments and non-payment thereof shall apply fully to the debt obligations, including costs of collection, and the lien rights created in this Section for the benefit of the Declarant.

The terms and conditions of this Section, including, without limitation, the time period set forth for completion of construction, shall apply fully to any subsequent purchasers of any Lot.

Section 2. Pre-Existing Soil Conditions. The Trails at Spring Creek Ranch Planned Development may be on filled or partially filled land. The Declarant makes no representation as to this development being on undisturbed ground. Declarant shall not be responsible nor liable for any claims of any kind or character regarding fill material or underground conditions within this development that existed prior to the construction of this subdivision or planned development.

Section 3. Subordination and Mortgage Protection. The subordination and mortgage protection provisions of the Article of this Declaration dealing with assessments and non-payment thereof shall be fully applicable to all the rights and remedies of the Declarant created by this Article.

ARTICLE X.

RESTRICTIVE COVENANTS

Section 1. Land use and Building Type. No Lot shall be used except for residential purposes and except for those uses permitted to the Declarant as shown in this Declaration. However, nothing contained in these restrictions is intended to limit or restrict, and same shall not limit or restrict, Declarant from constructing any structure upon, or moving any mobile home or trailer onto, the Property whether any of same be new or used, for use as an office or any other purpose related to the development, marketing and management of the Property. Nor shall same limit or restrict Declarant from placing such signs or billboards or engaging in such trades, businesses or activities on the Property which Declarant, in its sole discretion, shall deem appropriate and proper related to the development, marketing and management of the Property.

Section 2. Easements. There are perpetual easements shown on the Subdivision Plat reserved for utility installation and maintenance for drainage installation and maintenance and for sanitary sewer installation and maintenance.

Section 3. Building Location. The location of any building constructed shall be in accordance with the *Town of Collierville, Tennessee*, zoning regulations. However, in no case shall a building be located nearer than the minimum building setback from any street in the subdivision. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of the building, providing however, that this provision shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 4. Nuisances. No noxious or offensive activity, whether legal or not shall be carried on or upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance (including business activity of any kind) to any Owner or to the neighborhood in general.

Section 5. Temporary Structure. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, other than in connection with the Declarant as set forth herein.

Section 6. Plan Approval. No structures of any kind (including but not limited to swimming pools, satellite dishes, walls and fences) shall be erected on or moved onto any Lot or any structure on any Lot until the design and plot / site plan thereof have been approved in writing by the Declarant, or a committee appointed by them. However, in the event that Declarant, or such committee fails to approve or disapprove such design and plot plan within **forty-five (45)** days after submission to them, then such approval shall not be required. The approval of Declarant, or its committee may restrict the quality of workmanship, materials, harmony of external design with the existing structures, and as to location with respect to topography and finished grade elevation. Reference is hereby made to Article VIII of this Declaration for additional terms and conditions regarding approval of plans. Notwithstanding the foregoing language and any approval granted by the Committee, the Owner of any Lot shall be solely responsible for procuring any city or county permits that may be required for the construction or placement of any improvement of any kind and further shall be responsible for ensuring that the construction and location of any improvement of any kind meets all applicable ordinances, codes, and regulations.

Section 7. Boats, Trailers, Vehicles. No recreational vehicle, boat, or any type trailer may be parked or stored on any Lot unless same is in an enclosed garage. All passenger automobiles shall be parked either on the driveway or in the garage. No tractor or trailer may be parked on any Lot or in the street in front of any Lot or Common Area.

Section 8. Vehicles. No a-frame or motor mount may be placed on any Lot nor shall any disabled or inoperable vehicle be stored on any Lot unless in an enclosed garage.

Section 9. Fences and Walls. All fences are to be **aluminum** and **four (4) feet** in height with a flat top rail and square pickets. All fences must be approved on a case-by-case basis by the Architectural Control Committee and must also be permitted by Shelby County. No fence may exceed **four (4)** feet in height. No Owner shall construct any fence, hedge, or other separating device within the Common Area. The design and location of any fence must be approved as required in Section 6 of this Article as shown above and must comply with the provisions of Article VIII of this Declaration. The Declarant / Committee shall have the right to grant approval for such variations or exceptions to any of the above restrictions related to fences as it, in its sole discretion, shall deem proper.

Section 10. Swimming Pools. No private swimming pools of any kind shall be allowed without the written approval of the Architectural Control Committee. **Under no circumstances shall any above-ground pool be allowed.**

Section 11. Basketball Goals. No basketball goals either permanent or temporary shall be allowed.

Section 12. Playground Equipment. No playground equipment including but not limited to swing sets, trampolines, soccer goals, and playhouses shall be allowed.

Section 13. Signs & Flags. No advertising signs (except for **one [1]** of "For Rent" or "For Sale" sign per Lot that is not more than **six [6]** square feet area), billboards, unsightly objects or nuisances shall be erected, placed, or permitted to remain on the Property. No permanent in-ground flag poles or permanently flown flags will be allowed.

Section 14. Clotheslines. No clotheslines or other outside apparatus for the drying of clothes shall be allowed.

Section 15. Statuary. There shall not be any statues or fountains of any kind within the front yard of any Lot.

Section 16. Stone & Gravel Yards & Beds. Stone or gravel will not be permitted in the planting beds or in the front yard.

Section 17. Gardening and Livestock. Vegetable gardening will not be allowed. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except dogs, cats, and other household pets may be kept provided that they are not bred or kept for commercial purposes.

Section 18. Landscaping. Any special landscaping screens including earthen berms or embankments, fencing, entryways, and plant material shall remain in place and may not be removed or altered without the Committee's approval.

Section 19. Lot Grading and Drainage. Each Lot owner is prohibited from obstructing the free flow of storm or irrigation water drainage, or diverting or changing any such drainage pattern in any manner which may result in damage or inconvenience to any other Lot, Common Area, or Owner.

Section 20. Membership. All Owners shall be required to maintain membership in the Association and shall be jointly responsible for the maintenance of all common areas within the Property.

Section 21. Planned Development. The approved conditions of The Trails at Spring Creek Ranch Planned Development are incorporated into this document by this reference. These approved conditions shall not be modified without the express written consent of the Town of Collierville.

Section 22. Storage Buildings. Storage Buildings are not allowed.

Section 23. Exterior Painting. All changes to exterior paint colors must be approved by the Architectural Control Committee.

Section 24. Additional Restrictions. The Declarant reserves unto itself the right to approve additional and separate restrictions at the time of sale or at any time thereafter for any of the Lots, which restrictions may differ from Lot to Lot. This right shall not transfer to the Association nor any of its Members at the time they assume control of the Association.

Section 25. Declarant's Facilities. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant to maintain, during the time period necessary for the sale of said Lots, upon such portion of the premises as the Declarant deems necessary, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient or incidental to the development of the Property and the sale of the Lots, including, without limitation, a business office, storage area, construction yard, signs, model units, and sales office.

Section 26. No Violations. There shall be no violation of any rules which may from time to time be adopted by the Board of Directors for the operation and use of the Property and promulgated among the membership by them in writing. The Board of Directors is hereby authorized to adopt such rules including the levying of appropriate fines.

Section 27. Enforcement. The Declarant, in its sole discretion, or the Association, after approval by a majority vote of the Board of Directors, shall have the right, through agents and/or employees to enforce the aforesaid restrictive

covenants and to enter upon any Lot in violation thereof for such purpose. Upon written notice from either the Declarant or the Association, any such violation shall be corrected by the Owner of the subject Lot. If **fifteen (15)** days after the notice of such violation, the Owner shall not have taken reasonable steps toward correction thereof, the Declarant or the Association, by their officers and directors, shall have the right, through agents and employees, to enter upon such Lot and take such steps as necessary to extinguish such violation. The costs thereof shall be the binding personal obligation of such Owners, as well as, a continuing lien upon the subject Lot upon the recording of a notice of lien with the Office of the Register of Shelby County, Tennessee. The provisions of the Article of this Declaration dealing with assessments and non-payment thereof, including, without limitation, the right and remedies given to the Association therein, shall apply fully to the debt obligations including interest and costs of collection, and the lien created in this section. Likewise, the terms and conditions of said Article dealing with subordination and mortgage protection shall be fully applicable.

ARTICLE XI.

MISCELLANEOUS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, shall inure to the benefit of the Declarant, the Association, and the Owners of any real estate subject to this Declaration, their respective legal representatives, heirs, successors and assigns, and shall remain in effect until **January 1, 2050**, unless otherwise expressly limited herein, after which time said covenants shall be automatically extended for successive periods of **ten (10)** years each, unless an instrument signed by a majority of the then Owners of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. Any amendment must be properly recorded to be effective.

NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DECLARANT RESERVES AND SHALL HAVE THE RIGHT FOR A PERIOD OF TEN (10) YEARS FROM THE DATE OF THE INITIAL RECORDING HEREOF TO UNILATERALLY AMEND THIS DECLARATION IN WHOLE OR IN PART IN ORDER (1) TO CONFORM THIS DECLARATION TO THE REQUIREMENTS OF ANY GOVERNMENTAL AGENCY, FEDERAL STATE OR LOCAL, (2) TO CONFORM TO THE REQUIREMENTS OF ANY MORTGAGE LENDER, OR (3) TO INSURE THE REASONABLE DEVELOPMENT OF THE PROPERTY.

Section 2. Enforcement The Declarant, the Association, or any Member, shall have the right to enforce the terms and conditions of this Declaration by any proceeding at

law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Declarant or the Association shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 3. Hold Harmless and Owners' Responsibility. Each Owner, recognizing that certain risks are inherent in the building of houses, in activities in and about lakes and silt / sediment basins and in other aspects of building and recreation, does upon taking title to a Lot, hold harmless the Declarant, the Association, any other entity managing or supervising the aforesaid activities which is owned and/or controlled or employed by the Declarant, by the Association or by some or all of the Members, and their directors, officers and employees, from any and all losses, liabilities, or damages which said owner, his family, or guests may sustain resulting from the acts, and/or omissions of said entities, except for their gross negligence. Further, said Owner shall be fully responsible for any and all losses or damages which might be caused by himself, his family, or their invitees.

Section 4. Disclaimer. The Property may include some land that is filled or partially filled or that contains abandoned wells, underground springs or other characteristics which may affect its suitability for building. The Declarant makes no warranty or representation, express, implied or otherwise, as to the Property being undisturbed land or suitable for building, and shall not be liable for claims, losses or damages of any kind or character resulting from such conditions.

Section 5. Casualty and Liability Insurance. Each Owner shall carry in full force and effect casualty insurance in limits for the replacement value of Lot improvements located thereon and normal and reasonable general liability insurance.

Upon request by the Association, each Owner shall provide the Association a copy of the policies providing such coverage, and the policies shall contain a thirty (30) day notice of cancellation provision running to the benefit of the Association. Insurance on the Common Area shall be carried and paid by the Association.

Section 6. Interest and Late Charges. Any amount due to the Association, which is not paid within **ten (10)** days after it is due, may, upon resolution of the Board of Directors of the Association, bear interest at a rate not to exceed the highest rate allowed under the laws of the State of Tennessee, and may, by resolution of said Board, be subject to such penalty or "late charges" as said Board may fix.

Section 7. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when

mailed, postpaid, to the last known address of the person who appears as Member on the records of the Association at the time of such mailing.

Section 8. Headings. All headings appearing herein are for convenience only and shall be disregarded in construing the substantive provisions hereof.

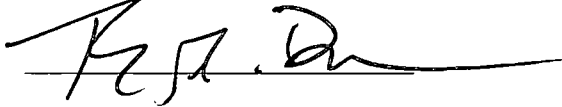
Section 9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

Section 10. Waiver. No restriction, condition, obligation or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 11. Gender, etc. Whenever in this Declaration the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

In witness whereof, the undersigned has caused these presents to be signed by the officers duly authorized so to do the day and year first above written.

CREEKSIDE HOMES LLC

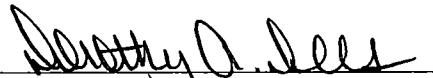


By: Barry A. Duke, Chief Manager

**STATE of TENNESSEE
COUNTY of SHELBY**

Before me, the undersigned Notary Public, of the State and County aforesaid, personally appeared **Barry A. Duke**, 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 Creekside Homes LLC, the within name bargainer, limited liability company, and that he, as such Chief Manager, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of said limited liability company by himself as such Chief Manager.

Witness my hand and Notarial Seal, at office, this 12th day of July, 2023.



Dorothy Dees, Notary Public

My Commission Expires: 6-29-25

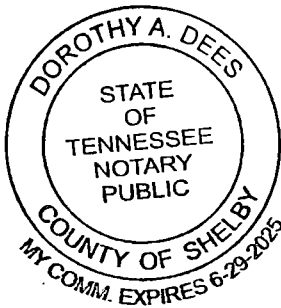
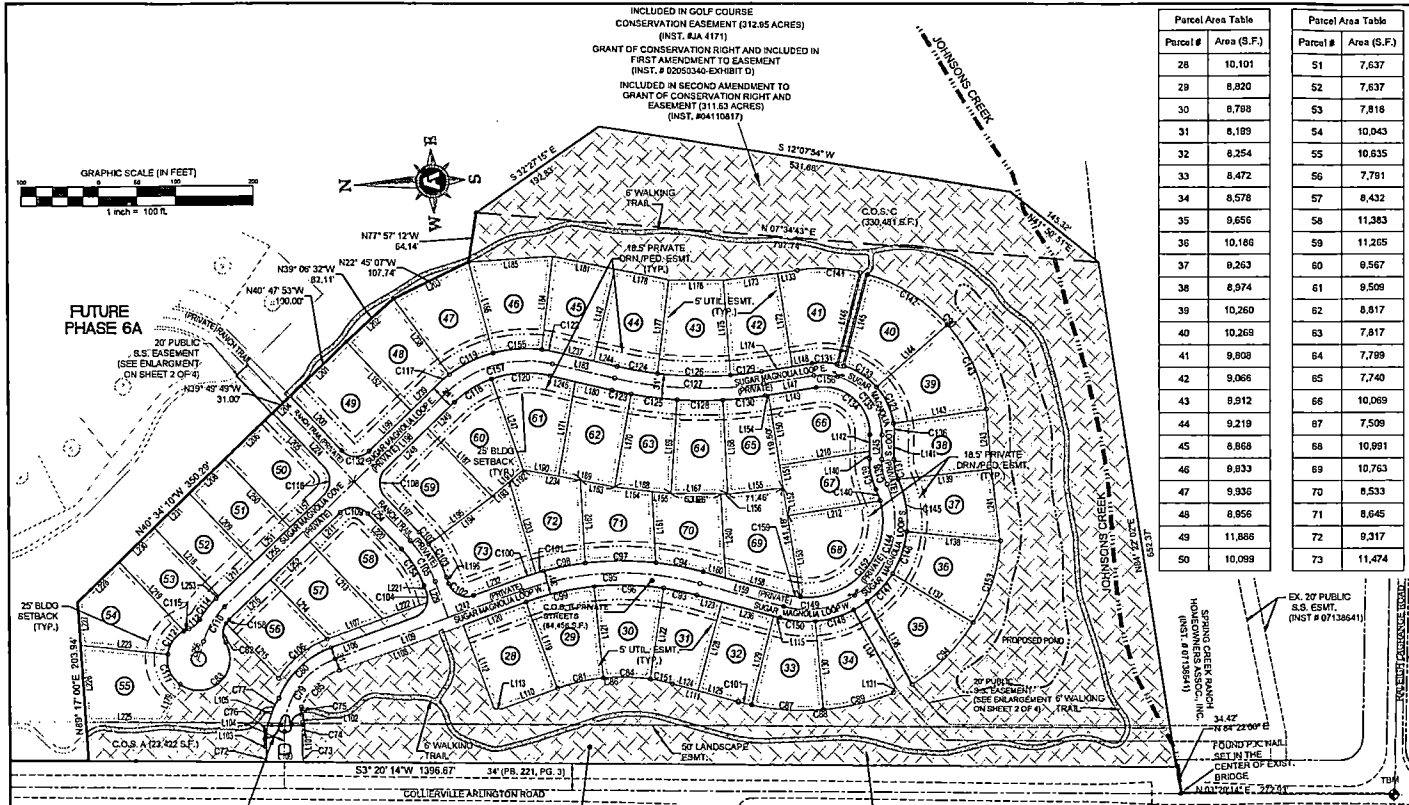


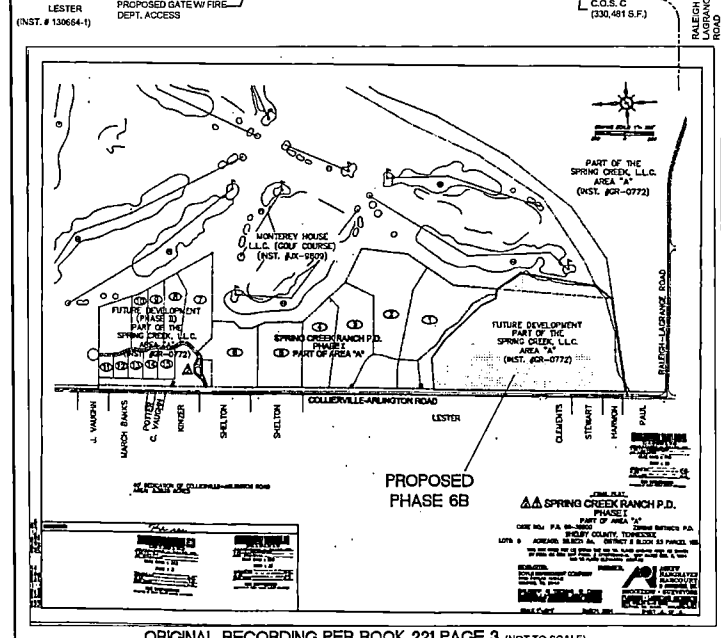
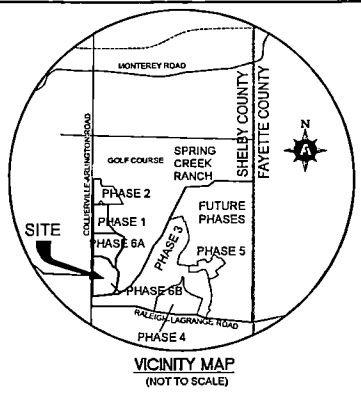
EXHIBIT "A"
(Development Plan)

TO

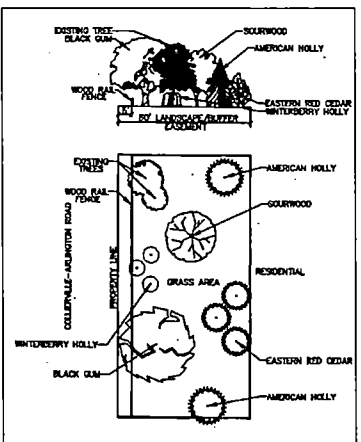
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
THE TRAILS AT SPRING CREEK RANCH PLANNED DEVELOPMENT



Parcel Area Table		Parcel Area Table	
Parcel #	Area (S.F.)	Parcel #	Area (S.F.)
28	10,101	51	7,637
29	8,820	52	7,637
30	8,798	53	7,816
31	8,199	54	10,043
32	8,254	55	10,635
33	8,472	56	7,781
34	8,578	57	8,432
35	8,656	58	11,383
36	10,160	59	11,265
37	9,263	60	9,567
38	8,974	61	9,509
39	10,260	62	8,817
40	10,269	63	7,817
41	9,808	64	7,789
42	9,066	65	7,740
43	8,912	66	10,089
44	9,219	67	7,509
45	8,868	68	10,991
46	8,833	69	10,763
47	9,936	70	8,533
48	8,956	71	8,645
49	11,865	72	9,217
50	10,099	73	11,474



EXISTING LANDSCAPE ESMT. TREES TO REMAIN UNDISTURBED WITH EXCEPTION OF ENTRY STREET CONSTRUCTION AREA; WALKING TRAIL TO BE ALIGNED TO PRESERVE TREES.



50' LANDSCAPE EASEMENT BUFFER
COLLIERVILLE-ARLINGTON ROAD
N.T.S.

18.5' PRIVATE PEDESTRIAN/ DRAINAGE ESMT.
5' UTIL. ESMT.
ALL SURFACE SWALES LOCATED WITHIN THE 18.5' WIDE PRIVATE PEDESTRIAN DRAINAGE EASEMENTS SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS WHERE SAID SWALES ARE CONSTRUCTED ACROSS INDIVIDUAL LOTS AND BY THE HOME OWNER ASSOCIATION WHERE SAID SWALES ARE CONSTRUCTED ACROSS COMMON AREAS. THE PEDESTRIAN SIDEWALK SHALL BE MAINTAINED BY THE HOME OWNER ASSOCIATION IN ALL LOCATIONS.

ALL C.O.S.'S INCLUDING THE 50' LANDSCAPE BUFFER ALONG COLLIERVILLE-ARLINGTON ROAD, SHALL BE OWNED AND MAINTAINED BY THE HOME OWNERS ASSOCIATION. INSTRUMENT # [REDACTED]. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF SUCH AREAS UNTIL THE H.O.A. IS ESTABLISHED.

THE PRIVATE STREET RIGHT-OF-WAYS SHALL BE DEDICATED AS A PUBLIC SANITARY SEWER EASEMENT FOR BENEFIT OF THE TOWN OF COLLIERVILLE TO MAINTAIN AND OPERATE THE PUBLIC SANITARY SEWER WITHIN THE STREETS. WHERE THE SEWER LINE IS CLOSER THAN FIVE FEET (5') OF THE EDGE OF RIGHT-OF-WAY, THE TOWN SHALL HAVE RIGHT TO USE THE ADJACENT 18.5' PRIVATE DRAINAGE/PEDESTRIAN EASEMENT FOR ADDITIONAL SANITARY SEWER EASEMENT.

FISHER ARNOLD
ENGINEERS | ARCHITECTS | CONSULTANTS | PLANNERS

FINAL PLAT		
SPRING CREEK RANCH P.D.		
PHASE 6B, PART OF AREA "A-1"		
CASE NO.: P.D. 13-314 CO	FORMER CASE NUMBERS: N/A	
NUMBER OF LOTS: 45 RES. & 3 C.O.S.	ACREAGE: 19.440 (846,819 S.F.)	DISTRICT: D2, BLOCK 23, PARCEL 158
DEVELOPER: CREEKSIDE HOMES, LLC 7390 HIGHWAY 84 OAKLAND, TN 38006	ENGINEER: FISHER & ARNOLD, INC. 9180 CRESTWYN HILLS DR. MEMPHIS, TN 38125	
100 YEAR FLOOD ELEVATION: 285.0	FEMA MAP PANEL NUMBER: 47157C 0485G	FEMA MAP DATE: FEB. 6, 2013
DATE: APRIL 2023	SCALE: 1" = 100'	SHEET 1 OF 4.

THE TOWN OF COLLIERVILLE SHALL HAVE THE RIGHT TO ENTER THE PROPERTY FOR THE PURPOSE OF MAINTAINING THE SEWER SYSTEMS WITHIN PUBLIC EASEMENTS. HOWEVER, THE TOWN DOES NOT HAVE THE RESPONSIBILITY TO REPAIR ANY DAMAGE TO THE YARDS, PARKING LOT, STREETS OR DRIVES CAUSED BY SOIL SETTLEMENT OR OTHER REASONS THAT ARE NOT DIRECTLY CAUSED BY THE TOWN'S ACTION OF PERFORMING MAINTENANCE TO THE UNDERGROUND SYSTEMS. GATE ACCESS CODE SHALL BE PROVIDED TO TOWN OF COLLIERVILLE PUBLIC SERVICES FOR ACCESS TO MAINTAIN PUBLIC SANITARY SEWER.

NO TREES ARE TO BE PLANTED WITHIN A SANITARY SEWER EASEMENT.

TBM: P.I.K. NAIL SET AT THE INTERSECTION OF RALEIGH LAGRANGE & COLLIERVILLE-ARLINGTON ROADS ELEV. 328.79
THIS PROPERTY IS NOT LOCATED IN A 100 YEAR FLOOD HAZARD AREA.
F.E.M.A. PANEL 47157C 0485G, DATED FEBRUARY 6, 2013

EXHIBIT "B"
(Charter)

TO

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE TRAILS AT SPRING CREEK RANCH PLANNED DEVELOPMENT



001435502

**CHARTER
NONPROFIT CORPORATION**

SS-4418



Tre Hargett
Secretary of State

**Division of Business Services
Department of State
State of Tennessee**
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: \$100.00

For Office Use Only

-FILED-

Control # 001435502

The undersigned, acting as incorporator(s) of a nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, adopt the following Articles of Incorporation.

1. The name of the corporation is: TRAILS AT SPRING CREEK RANCH HOMEOWNERS ASSOCIATION INC

2. Name Consent: (Written Consent for Use of Indistinguishable Name)

This entity name already exists in Tennessee and has received name consent from the existing entity.

3. This company has the additional designation of: None

4. The name and complete address of its initial registered agent and office located in the State of Tennessee is:

TRAILS AT SPRING CREEK RANCH HOMEOWNERS ASSOCIATION INC
7390 HWY 64
OAKLAND, TN 38060
FAYETTE COUNTY

5. Fiscal Year Close Month: December **Period of Duration:** Perpetual

6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:
(none) (Not to exceed 90 days)

7. The corporation is not for profit.

8. Please complete all of the following sentences by checking one of the two boxes in each sentence:

This corporation is a public benefit corporation / mutual benefit corporation.
This corporation is a religious corporation / not a religious corporation.
This corporation will have members / not have members.

9. The complete address of its principal office is:

7390 HWY 64
OAKLAND, TN 38060
FAYETTE COUNTY

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

B1411-6685 06/12/2023 1:18 PM Received by Tennessee Secretary of State Tre Hargett



**CHARTER
NONPROFIT CORPORATION**

SS-4418



Tre Hargett
Secretary of State

**Division of Business Services
Department of State
State of Tennessee**
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: \$100.00

For Office Use Only
-FILED-
Control # 001435502

The name of the corporation is: TRAILS AT SPRING CREEK RANCH HOMEOWNERS ASSOCIATION INC

10. The complete mailing address of the entity (if different from the principal office) is:
7390 HWY 64
OAKLAND, TN 38060

11. List the name and complete address of each incorporator:

Title	Name	Business Address	City, State, Zip
Incorporator	BARRY DUKE	7390 HWY 64	OAKLAND, TN 38060

12. School Organization: (required if the additional designation of "School Organization - Exempt" is entered in section 3.)
 I certify that pursuant to T.C.A. §49-2-611, this nonprofit corporation is exempt from the \$100 filing fee required by T.C.A. §48-51-303(a)(1).
 This nonprofit corporation is a "school support organization" as defined in T.C.A. §49-2-603(4)(A).
 This nonprofit corporation is an educational institution as defined in T.C.A. §48-101-502(b).

13. Insert here the provisions regarding the distribution of assets upon dissolution:
 In the event of dissolution of the Corporation, the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.

14. Other Provisions:

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

Electronic Signature	BARRY DUKE	Incorporator Title/Signer's Capacity	Jun 12, 2023 1:18PM
Printed Name		Date	

B1411-6686 06/12/2023 1:18 PM Received by Tennessee Secretary of State Tre Hargett

EXHIBIT "C"
(By-Laws)

TO

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE TRAILS AT SPRING CREEK RANCH PLANNED DEVELOPMENT

**BYLAWS OF
TRAILS AT SPRING CREEK RANCH
HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I

Name. The name of this corporation is **TRAILS AT SPRING CREEK RANCH HOMEOWNERS ASSOCIATION, INC.** Its principal place of business is **7390 Highway 64, Oakland, TN 38060-3459.** The corporation may have such other offices within or without the State of Tennessee as the Board of Directors or the Members may from time to time designate.

ARTICLE II

Applicability. These Bylaws and each provision thereof shall be applicable to all Lots and Members, as defined in the Declaration to which this Document is attached, within the residential planned development known as **The Trails at Spring Creek Ranch Planned Development** together with such other real property which may become subject to the terms of said Declaration, (the "Property").

ARTICLE III

The following sections of this Article III shall apply to membership in the Association:

Section 1. Eligibility. The Owner or Owners of a Lot, who have become such in compliance with all of the requirements and conditions contained in the Declaration of Covenants, including these Bylaws, shall be entitled to attend and vote at all meetings of the Association. The Declarant shall be considered the Owner of each Lot which is unsold by it. Ownership of a Lot shall be the sole qualification for membership in the Association.

Section 2. Voting Rights. The Owner or Owners of a Lot shall be entitled to one (1) vote at all meetings of the Association, except for the Declarant their successors and assigns as to all or any portion of the Property or the Additional Property (as that term is defined in the Declaration), which shall be entitled to **one hundred (100)** votes for each Lot owned by it. After the expiration of **ten (10)** years from the date of the conveyance of the first Lot from Declarant to the purchaser, Declarant shall be entitled to **one (1)** vote for each Lot still owned by it. Where two or more persons own a Lot, the vote allocated to that Lot shall be cast by the one authorized by such two or more Owners, and in the event of failure of such authorization, no vote shall be recorded for that Lot. Where only one of two or more Owners of a Lot is present in person at a meeting, such one shall be presumed to be authorized by all Owners of said Lot and shall be entitled to cast the vote with respect for that Lot. Where one person or group of persons owns more than one Lot, such person or group shall be entitled to cast **one (1)** vote for each Lot owned.

ARTICLE IV

Section 1. Place of Meeting. Meetings of the membership shall be held at the principal office or place of business of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

Section 2. Annual Meetings. The annual meetings of the Members of the association shall be held at a designated time each year, **beginning after the Declarant has turned over the Association control to the Members.** At such meeting there shall be elected by secret written ballot of the Members, a Board of Directors in accordance with the requirements of Section 5 of Article V of these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a petition signed by Members representing at least **twenty-five percent (25%)** of the total number of votes outstanding having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meeting. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at his address as it appears on the membership book of the Association, if any, or if no such address appears, at his last known place of address, at least **ten (10)** days but no more than **ninety (90)** days prior to such meeting. Service may also be accomplished by the delivery of any such notice to the Member at his last known address by deposit in the box or slot for the United States mail. Notice by either such method shall be considered as notice served. Attendance by a Member at any meeting of the Members shall be a waiver of notice by him of the time, place and purpose thereof.

Section 5. Quorum. The presence, either in person or by proxy, of Members representing at least **twenty-five percent (25%)** of the total votes entitled to be cast with respect to any question, shall be requisite for, and shall constitute a quorum for, the transaction of business at all meetings of Members. If the number of Members at a meeting drops below the quorum and the question of a lack of a quorum is raised, no business may thereafter be transacted.

Section 6. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than **forty-eight (48)** hours from the time the original meeting was called.

Section 7. Voting. At every meeting of the Members, each of the Members shall have the right to cast his vote on each question. The vote of Members representing **fifty-one percent (51%)** majority of the total votes cast, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of statute or of the Charter of Incorporation, or the Declaration or of these Bylaws, a different vote is required, in which case such express provision shall govern and control. No Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than **ten (10)** days delinquent in any payment due the Association.

Section 8. Proxies. Any Member may appoint any other Member or the Declarant or any other person permitted by law or by these Bylaws as his proxy. In no case may any Member (except the Declarant) cast more than one vote by proxy in addition to his own vote. Any proxy must be in writing and must comply with all requirements imposed by law or by these Bylaws.

Section 9. Action Without Meeting. Whenever the vote of Members at a meeting thereof is required or permitted to take any action in accordance with any statute, the Declaration or these Bylaws, such meeting and vote may be dispensed with if all Members who would have been entitled to vote upon such action receive a written ballot from the Association. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approvals shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equal or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Section 10. Order of Business. The order of business at all regularly scheduled meetings of the Members shall be as follows:

- (a) Roll call and certificate of proxies
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of Officers, if any
- (e) Reports of Committees, if any
- (f) Unfinished business
- (g) New business
- (h) Election or appointment of inspectors of election
- (i) Election of Directors

In the case of a special meeting, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meeting.

ARTICLE V

Section 1. Number and Qualification. The affairs of the Association shall be governed by the Board of Directors composed of at least three (3) persons and not more than seven (7) persons, a majority of whom (after the second annual meeting of the Members) shall either be Members of the Association or elected by the Declarant.

Section 2. Initial Directors. The Initial Directors shall be elected by the Declarant and need not to be Members of the Association. The names of the directors who shall act as such from the date upon which the Declaration is recorded in the Register's Office of Shelby County, Tennessee, until the first annual meeting of the Members or until such time as their successors are duly chosen and qualified are as follows:

Barry Duke
Karen Hickman

Section 3. Power and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and the residential planned development and may do all such acts and things as are not by law or these Bylaws directed to be exercised and done by the Members. The powers and duties of the Board of Directors shall include, but not be limited to, the following:

To provide for:

- (a) Care and upkeep of the **Common Area**, and any other properties charged to the care of the Association, including establishing reserves for repairs or replacements.
- (b) Establishment and collection of assessments and/or carrying charges from the Members and for the assessment and/or enforcement of liens therefore in a manner consistent with law and the provisions of these Bylaws and the Declaration.
- (c) Designation, hiring and/or dismissal of the personnel necessary for the good working order of **The Trails at Spring Creek Ranch Planned Development** and to provide services for the community in a manner consistent with law and the provisions of these Bylaws and the Declaration.
- (d) Promulgation and enforcement of such rules and regulations and such restrictions or requirements as may be deemed proper respecting the use, occupancy and maintenance of **The Trails at Spring Creek Ranch Planned Development** all of which shall be consistent with law and the provisions of these Bylaws and the Declaration.

(e) Elect an Architectural Control Committee.

Section 4. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members.

Section 5. Election and Term of Office. The terms of the Directors named herein and in the Charter of Incorporation shall expire when their successors have been elected at the first annual meeting of Members and are duly qualified. At the first annual meeting of the Members, the Members shall determine the number of Directors consistent with these Bylaws, who shall constitute the Board of Directors to serve until the annual meeting in the year control of the Association is turned over to the Members. The term of office of each Director thereafter shall be for a period of **one (1)** year and until their successors shall have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Membership shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected by the Members at the next annual meeting.

Section 7. Removal of Directors. At a regular meeting or special meeting duly called for such purpose, any Director may be removed with or without cause by the affirmative vote of the majority of the entire membership of record and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. The term of any Director who becomes more than **sixty (60)** days delinquent in payment of any assessments and/or carrying charges due the Association shall be automatically terminated and the remaining Directors shall appoint his successor as provided in Section 6 of this Article.

Section 8. Compensation. No compensation shall be paid to Directors for their services as Directors. After the first annual meeting of the Members, no remuneration shall be paid to any Director who is also a Member of the Association for services performed for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Section 9. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within **ten (10)** days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least **one (1)** such meeting shall be held during each calendar year. Notice of regular meetings of the Board of directors shall be given to each Director, personally or by mail, telephone or telegraph, at least **six (6)** days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on **three (3)** days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time and place (as hereinabove provided), but not necessarily the purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on written request of at least **one-third (1/3)** of the Directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present and remain present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 13. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Action Without Meeting. Any action of the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting, if all of the members of the Board of Directors shall individually or collectively consent in writing to take such action without a meeting. Such written consent or consents describing the action taken and signed by each Director shall be filed with the minutes of the proceedings of the Board of Directors. If all Directors consent to taking such action without a meeting, the affirmative vote of the number of Directors that would be necessary to take such action at a meeting is the act of the Board.

Section 15. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for the Association's trust funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE VI

Section 1. Designation. The principal officers of the Association shall consist of a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. Prior to the first annual meeting of Members, the officers of the Association need not be members of the Association. The Directors may appoint an assistant secretary and an assistant treasurer and such other officers as, in their judgment, may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the Members of the Board of Directors, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors called for such purpose.

Section 4. President. The President shall be the Chief Executive Officer of the Association. In the event he is also a Member of the Board of Directors, he shall preside at all meetings of the Members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the membership from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other Member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated to him by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Members of the Association; he shall have custody of the seal of the Association, if any; he shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct; and he shall, in general perform all of the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for corporate funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors.

ARTICLE VII

Section 1. Liability and Indemnification of Officers and Directors. The Association shall indemnify every Officer and Director of the Association against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any Officer or Director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding) if approved by the then Board of Directors of the Association to which he may be made a party by reason of being or having been an Officer or Director of the Association, whether or not such person is an Officer or Director at the time such expenses are incurred. The Officers and Directors of the association shall not be liable to the Members of the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Officers and Directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of **Trails at Spring Creek Ranch Homeowners Association Inc.** (except to the extent that such Officers or Directors may also be Owners of lots within the subdivision), and the Association shall indemnify and forever hold each such Officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Officer or Director of the Association or former Officer or Director of the Association may be entitled.

Section 2. Common or Interested Directors. The Directors shall exercise their powers and duties in good faith, and with a view to the interests of the Association and the planned development. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association (including the Declarant) in which one or more of the Directors of this Association are Directors or Officers or are peculiarly or otherwise interested, is either void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; and

(b) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Common or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes approves or ratifies any contract or transaction with like force and effect as if he were not such Director or Officer of such other corporation or not so interested.

ARTICLE VIII

Section 1. Management and Common Expenses. The Association, acting by and through its Board of Directors, shall manage and operate the affairs of the Association and, for the benefit of the Lots and the Owners thereof, shall enforce the provisions hereof and shall pay out of the common expense fund herein and elsewhere provided for, the following:

(a) The cost of such insurance as the Association may effect. As a minimum, the Association shall provide Directors and Officers Liability insurance, to cover the Directors and Officers including the Declarant until such time as the Declarant turns over the control of the Association to the Members, at which time the Declarant will no longer be covered.

(b) The cost of providing such legal and accounting services as may be considered necessary to the operation of the Association and the planned development.

(c) The cost of any and all materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like, which the Association secures in the discretion of the Board of Directors or by the vote of the Members shall be deemed necessary or proper.

(d) The cost of the maintenance or repair on any Lot in the event such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the **Common Area** or to preserve the appearance or value of **The Trails at Spring Creek Ranch Planned Development** or is otherwise in the interest of the general welfare of all Owners of the Lots; provided, however, that no such maintenance or repair shall be undertaken without a resolution by the Board of Directors and not without reasonable written notice to the Owner of the Lot proposed to be maintained and provided further that the cost thereof shall be assessed against the Lot on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be

sent promptly to the then Owner of said Lot at which time the assessment shall become due and payable and a continuing lien and obligation of said Owner.

(e) All other items which are listed *as* responsibilities if the Association is found in the Declaration of Covenants, Conditions and Restrictions.

Section 2. Duty to Maintain. Except for maintenance requirements herein imposed upon the Association, the Owner of any Lot shall, at his own expense, maintain the interior and exterior of any improvements on his Lot, including all driveways and any and all equipment and fixtures therein situate, and its other appurtenances, in good order, condition and repair, and in clean and sanitary condition and shall do all redecorating, painting and the like which may at any time be necessary to maintain the good appearance of his Lot and appurtenances. All exterior maintenance is subject to approval of the Architectural Control Committee.

Section 3. Authority to Repair. For the purpose solely of performing any of the repairs or maintenance required or authorized by these Bylaws, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, through its duly authorized agents or employees, shall have the right, after reasonable efforts to give notice to the Owner or occupant, to enter upon any Lot at any hour considered to be reasonable under the circumstance.

ARTICLE IX

Section 1. Fiscal year. The fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association, which shall begin at the date of incorporation. The commencement day of the fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

Section 2. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practice. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures affecting the Association and its administration and shall specify the maintenance and repair expenses incurred. That amount of any assessment required for payment of any capital expenditures of the Association shall be credited upon the books of the Association to the "Paid-in-Surplus" account as a capital contribution by the Members.

Section 3. Reports. The Association shall furnish its Members and the holders of first mortgages requesting same within **ninety (90)** days from date of close of each fiscal year, with an annual financial statement, including the income and disbursements of the Association.

Section 4. Inspection of Books. The books and accounts of the Association and vouchers accrediting the entries made thereupon, shall be available for examination by the Members of the Association and/or their duly authorized agents or attorneys and to the institutional holder of any first mortgage or any Lot and/or its duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their interests as Members.

Section 5. Execution of Association Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice President, and all checks shall be executed on behalf of the Association by such Officers, agents or other persons as are from time to time so authorized by the Board of Directors.

Section 6. Employment of Management Company. The Association shall be authorized to employ a management company to aid the Association in carrying out its duties and responsibilities. Prior to passage of control of the Association from the Declarant, no management or service contract shall be entered into unless there is a right of termination, without cause, upon **ninety (90)** days written notice.

ARTICLE X

Amendments. These Bylaws may be amended by the affirmative vote of Members representing a majority (unless the Declaration calls for a greater number with respect to a particular clause) of all votes entitled to be cast at any meeting of the members duly called for such purpose, and *only* after thirty (30) days' prior written notice to the institutional holders of all first lien deeds of trust on the Lots or the Additional Property (as defined in the Declaration) in **The Trails at Spring Creek Ranch Planned Development.** Amendments may be proposed by the Board of Directors or by petition signed by Members representing at least **thirty (30%)** percent of the total number of votes entitled to be cast. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted on.

ARTICLE XI

Section 1. Notice to Board of Directors. Any owner of any Lot in the planned development who mortgages such Lot shall promptly notify the Board of Directors of the name and address of his mortgagee and, if requested so to do, shall file a conformed copy of such mortgage with the Board of Directors. The Board of Directors shall maintain suitable records pertaining to such mortgages.

Section 2. Definition. As used in this Article, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees and the term "mortgage" shall include a deed of trust. As used generally in these Bylaws, the term "institutional holder" or "institutional mortgagee" shall include banks, trust companies,

insurance companies, savings and loan associations, pension funds and any corporation, including a corporation of, or affiliated with, the United States government, or any agency thereof.

ARTICLE XII

Section 1. Resident Agent. The resident agent shall be designated as the person authorized to accept service of process in any action relating to two or more Lots or to the Common Areas.

Section 2. Notices. Unless another type of notice is herein or elsewhere specifically provided for, any and all notices called for in the Declaration of these Bylaws shall be given in writing.

Section 3. Severability. In the event any provision or provisions of these Bylaws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 4. Waiver. No restriction, condition, obligation or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failures to enforce the same.

Section 5. Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

Section 6. Gender, Etc. Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

Section 7. Conflicts. THESE BYLAWS ARE SUBORDINATE TO ALL PROVISIONS OF THE DECLARATION. ALL OF THE TERMS HEREOF, EXCEPT WHERE CLEARLY REPUGNANT TO THE CONTEXT, SHALL HAVE THE SAME MEANING AS IN THE DECLARATION. IN THE EVENT OF ANY CONFLICT BETWEEN THESE BYLAWS AND THE DECLARATION, THE PROVISIONS OF THE DECLARATION SHALL CONTROL, AND IN THE EVENT OF ANY CONFLICT BETWEEN THE AFORESAID DECLARATION AND ANY OF THE LAWS OF THE STATE OF TENNESSEE, THE PROVISIONS OF THE STATUTE SHALL CONTROL.