

## **Recorded Documents**

***Applevew Farms Community Association***

**COVENANTS, RESTRICTIONS & BYLAWS**

***RIVER PLACE CONDOMINIUMS OWNER'S ASSOCIATION, INC.***

**MASTER DEED & AMENDMENTS**



## **COVENANTS, RESTRICTIONS & BYLAWS**

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This Instrument Prepared By:  
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State of Tennessee, County of SEVIER  
Received for record the 07 day of  
AUGUST 2000 at 12:12 PM. (REC# 28771)  
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Book 1097 Pages 198- 234  
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State Tax \$ .00 Clerks Fee \$ .00,  
Recording \$150.00, Total \$ 150.00,  
Register of Deeds SHERRY ROBERTSON  
Deputy Register SHARON

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR APPLE VIEW FARMS**

This Declaration of Covenants, Conditions, and Restrictions is made this 2 day of AUGUST, 2000, by **APPLE VIEW FARMS, LLC**, a Tennessee limited liability company qualified to do business in Tennessee (hereinafter referred to as "Declarant").

**\*\*\* WITNESSETH \*\*\***

**WHEREAS**, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Properties (as defined herein) made subject to this Declaration and amendments thereto by the recording of this Declaration. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties and the interrelationship of the component residential associations, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or may hereafter be subjected to this Declaration;

**NOW, THEREFORE**, Declarant hereby declares that all of the Properties described in Exhibit "A" and any additional property as may by Subsequent Amendment be added to and subject to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of the Tennessee Horizontal Property Act, T.C.A. § 66-27-101 et seq.

**ARTICLE I  
Definitions**

**Section 1.** "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by terms of this Declaration, any Subsequent Amendment, or by contract with any residential or condominium association, or with any apartment building owner or cooperative within the Project become the responsibility of the Association. In addition, the office of any property manager employed by or contracting with the Association and located on the Properties shall be part of the Area of Common Responsibility.

**Section 2.** "Association" shall mean and refer to Apple View Farms Community Association, Inc., a Tennessee nonprofit mutual benefit corporation, and its successors and assigns. The use of the term "association" or "associations" in lower case shall refer to any condominium or other owners association having jurisdiction over any part of the Properties.

**Section 3.** The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Tennessee law.

**Section 4.** "Bylaws" shall mean and refer to Bylaws of Apple View Farms Community Association, Inc., attached hereto as Exhibit "B" and incorporated herein by reference, as they may be amended from time to time.

**Section 5.** "Common Area" shall be an inclusive term referring to all General Common Area and all Exclusive Common Area, as defined herein.

**Section 6.** "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, both for general and Neighborhood purposes, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Charter of the Association.

**Section 7.** "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Project. Such standard may be more specifically determined and set forth by the New Construction Committee.

**Section 8.** "Declarant" shall mean and refer to Apple View Farms, LLC, a Tennessee limited liability company, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibit "A" for the purpose of development and/or sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

**Section 9.** "Declarant Control Period" shall mean and refer to a period of time ending fifteen (15) years from the date of recording of this Declaration and during which the Declarant is entitled to appoint the members of the Board of Directors, as provided in the Bylaws.

**Section 10.** "Exclusive Common Area" shall mean and refer to certain portions of the Common Area which are for the exclusive use and benefit of one or more, but less than all, Neighborhoods, as more particularly described in Article II of this Declaration.

**Section 11.** "General Common Area" shall mean all the real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all of the Members.

**Section 12.** "Member" shall mean and refer to a person who is an Owner of a Residential Unit.

**Section 13.** "Mortgage" shall include a deed of trust, as well as a mortgage.

**Section 14.** "Mortgagee" shall include a beneficiary or holder of a deed of trust, as well as a mortgagee.

**Section 15.** "Mortgagor" shall include the trustor of a deed of trust, as well as a mortgagor.

**Section 16.** "Neighborhood" shall mean and refer to each separately developed and denominated residential area comprised of one (1) or more housing types subject to this Declaration, whether or not governed by an additional association, in which owners may have common interests other than those common to all Association Members, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Association Members. For example, and by way of illustration and not limitation, each condominium, townhome development, cluster home development, and single-family detached housing development shall constitute a separate Neighborhood. In addition, each parcel of land intended for development as any of the above shall constitute a Neighborhood, subject to division into more than one (1) Neighborhood upon development.

**Section 17.** "Neighborhood Assessments" shall mean assessments levied against the Residential Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as more particularly described Article X, Section 1 of this Declaration.

**Section 18.** "Neighborhood Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the benefit of Members within a particular Neighborhood or Neighborhoods, which may include reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.

**Section 19.** "Owner" shall mean and refer to one or more persons or entities who hold the record title to any Residential Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Residential Unit is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the Owner. If the Residential Unit is an apartment, then the owner of the apartment building in which the tenant of such Residential Unit is located shall be considered an "Owner" for purposes herein.

**Section 20.** "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

**Section 21.** "Project" shall mean all property owned by Declarant held for development under a common plan from time to time, whether commercial or residential. As of the execution hereof, the Project consists of all that real property described in Exhibit "A", attached hereto and incorporated herein by reference.

**Section 22.** "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto and shall further refer to such additional property as may hereafter be annexed by Subsequent Amendment to this Declaration or which is owned by the Association.

**Section 23.** "Residential Unit" shall mean a portion of the Properties intended for any type of independent ownership for use and occupancy as a single family residence and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, apartment units, patio or zero lot line homes, and single family houses on separately platted lots, as may be developed, used and defined as herein provided or as provided in Subsequent Amendments covering all or a part of the Properties; provided, further, the term shall also include all portions of the lot owned as a part of any structure thereon; and provided, further, each apartment unit within an apartment building shall be a Residential Unit, but the apartment building itself shall not be or constitute a Residential Unit.

For the purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the appropriate agency of the City of Sevierville, Tennessee, or other local governmental entity.

**Section 24.** "Subsequent Amendment" shall mean an amendment to this Declaration which adds additional property to that covered by this Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Amendment to the provisions of this Declaration.

**Section 25.** "Voting Representative" shall mean and refer to the representative selected (most votes) by the Members of each Neighborhood to be responsible for casting all votes attributable to Residential Units in the Neighborhood for election of directors, amending this Declaration or the Bylaws, and all other matters provided for in this Declaration and in the Bylaws. The Voting Representative from each Neighborhood shall be the senior elected officer (e.g., Neighborhood Committee chairman or Neighborhood Association president) from that Neighborhood. The Board of Directors shall appoint a Voting Representative to fill the vacancy until an election can be held by the Neighborhood.

## **ARTICLE II**

### **Property Rights**

Every Member shall have a right and easement of enjoyment in and to the Common Area subject to this Declaration and to any restrictions or limitations contained in any Deed or amendment to this Declaration conveying to the Association or subjecting to this Declaration such property. Any Member may delegate his or her right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

The Board of Directors by resolution may extend permission to recognized community leagues to use certain of the recreation facilities within the Properties subject to such terms and conditions as the Board may impose.

**Section 1.** General. Every Member shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;
- (b) the right of the Board to limit the number of guests, and to adopt rules regulating the use and enjoyment of the Common Area;
- (c) the right of the Board to suspend the right of a Member to use recreational facilities within the Common Area (i) for any period during which any charge against such Member's Residential Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of the Declaration, Bylaws, or rules of the Association;
- (d) the right of the Board to dedicate or transfer all or any part of the Common Area pursuant to Article XIII, Section 6 hereof;
- (e) the right of the Board to impose membership requirements and charge admission or other fees for the use of any recreational facility situated upon the Common Area;
- (f) the right of the Board to permit nonmember and nonresident member use of any recreational facility situated on the Common Area upon payment of use fees established by the Board;

(g) the right of the Board to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(h) the rights of certain Members to the exclusive use of portions of the Common Areas, designated Exclusive Common Areas, as more particularly described in Section 2 below.

Any Member may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to regulation by the Board and in accordance with procedures it may adopt. A Member who leases his or her Residential Unit shall be deemed to have delegated all such rights to the Residential Unit's lessee.

**Section 2. Exclusive Common Areas.** Certain portions of the Common Areas may be designated as Exclusive Common Areas and reserved for the exclusive use of Members and occupants of Residential Units within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, management and insurance of Exclusive Common Areas shall be assessed against the Members of Residential Units in only those Neighborhoods which are benefitted therefrom as a Neighborhood Assessment, as defined herein. By way of illustration and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Members within a particular Neighborhood or Neighborhoods and supported exclusively by Neighborhood Assessments.

Initially, any Exclusive Common Areas shall be designated as such and the exclusive use thereof shall be assigned in the deed conveying the Common Area to the Association or on the plat of survey relating to such Common Area. A portion of the Common Area may be assigned as Exclusive Common Area of a particular Neighborhood or Neighborhoods and Exclusive Common Area may be reassigned upon the vote of a majority of total Association vote, including a majority of all Members within the Neighborhood(s) affected.

### **ARTICLE III Membership and Voting Rights**

**Section 1. Membership.** Every Member, as defined in Article I, shall be deemed to have a membership in the Association.

No Member, whether one (1) or more Persons, shall have more than one (1) membership per Residential Unit owned. In the event the Member is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member, subject to the provisions of this Declaration and the Bylaws. The membership rights of a Residential Unit owned by a corporation or legal entity shall be exercised by the individual designated from time to time by the Member in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the Bylaws.

**Section 2. Voting.** The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A" Member. Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) vote for each Residential Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote per Residential Unit.

Unless otherwise specified in this Declaration or the Bylaws, the vote for each Residential Unit shall be exercised by the Voting Representative representing the Neighborhood of which the Residential Unit is a part.

In any situation where a Member is entitled personally to exercise the vote for his Residential Unit and more than one (1) Person holds the interest in such Residential Unit required for membership, the vote for such Residential Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Residential Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The Class "B" Member shall be entitled to two (2) votes for each Residential Unit in the Project and may exercise all votes through its designated officer.

The Declarant shall be entitled to appoint the members of the Board of Directors during the Declarant Control Period, as specified in Article III, Section 2, of the Bylaws.



After the termination of the Declarant Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in Article III, Section 3, of the Bylaws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

- (i) upon the expiration of the Declarant Control Period ;
- (ii) when the Declarant or any successor developer no longer owns any portion of the property described on Exhibit "A"; or
- (iii) when, in its discretion, the Declarant so determines.

**Section 3. Neighborhoods.** Every Residential Unit shall be located within a Neighborhood as defined in Article I. The Residential Units within a particular Neighborhood may be subject to additional covenants and/or the Members may all be members of another owners association ("Neighborhood Association") in addition to the Association, but no such Neighborhood Association shall be required except in the case of a condominium or otherwise as required by law. Any Neighborhood which does not have a Neighborhood Association shall elect a Neighborhood Committee, as described in Article V, Section 3, of the Bylaws, to represent the interests of Residential Unit Members in such Neighborhood.

The senior elected officer of each Neighborhood Association or Neighborhood Committee shall serve as the Voting Representative for such Neighborhood and shall cast all votes attributable to Residential Units in the Neighborhood and all Association matters requiring membership vote, unless otherwise specified in this Declaration or the Bylaws.

The Voting Representative may cast all such votes as he or she, in their discretion, deems proper.

## **ARTICLE IV Maintenance**

**Section 1. Association's Responsibility.** The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon such areas.

The Association may, in the discretion of its Board, assume the maintenance responsibilities set out in any Subsequent Amendment or declaration subsequently recorded which creates any residential association or Neighborhood (including, but not limited to, condominium associations) upon all or any portion of the Properties. In such event, all costs of such maintenance shall be assessed only against those Members residing in the Neighborhood to which the services are provided. This assumption or responsibility may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Project. The provision of services in accordance with this Section shall not constitute discrimination within a class.

**Section 2. Member's Responsibility.** In accordance with any additional declaration and Subsequent Amendments to this Declaration which may be filed on portions of the Properties and in accordance with this Declaration, all maintenance of the Residential Units and all structures, parking areas, and other improvements within the Residential Unit shall be the sole responsibility of the Member thereof who shall perform such maintenance in a manner consistent with the Community-Wide Standard of the Project, rules and regulations adopted by the Board, and the applicable covenants; provided, further, if this work is not properly performed by the Member, the Association will perform it promptly and assess the Member; provided, however, whenever entry is not required in an emergency situation, the Association shall afford the Member reasonable notice and an opportunity to cure the problem prior to entry. The Association may elect to mow all grass within the Project and treat the expense of such mowing as a Common Expense, provided nothing herein shall require the Association to make such election.

**Section 3. Neighborhood's Responsibility.** Upon resolution of the Board of Directors, the Members within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, costs of maintenance of certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood, which may include, without limitation, the costs of maintenance of any right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

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Any Neighborhood Association whose common property is adjacent to any portion of the Common Area upon which a wall, other than a wall which forms part of a building, is constructed shall maintain and irrigate that portion of the Common Area between the wall and the Neighborhood or Neighborhood Association's property line. Any Neighborhood or Neighborhood Association whose common property fronts on any roadway within the Properties shall maintain and irrigate the landscaping on that portion of the Common Area or right-of-way between the property line and the nearest curb of such roadway. Any Neighborhood or Neighborhood Association whose common property abuts the water's edge, or a portion of the Common Area abutting the water's edge, of any lake or pond within the Properties shall maintain and irrigate all landscaping between the boundary of its common property and such water's edge; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

Any Neighborhood or Neighborhood Association having responsibility for maintenance of all or a portion of the property within a particular Neighborhood pursuant to additional covenants affecting the Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If any such Neighborhood or Neighborhood Association fails to perform its maintenance responsibility as required herein and in any additional covenants, the Association may perform it and assess the costs against all Residential Units within such Neighborhood as provided in Article X, Section 4, of this Declaration.

#### **ARTICLE V Insurance and Casualty Losses**

The following provisions are provided either for the benefit of the Association and/or Members or to meet the insurance requirements of certain institutional lenders who may hold, insure or guaranty Mortgages on portions of the Properties.

**Section 1. "Insurance".** The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to casualty insurance on the Common Area, the Association may, upon request of a Neighborhood, and shall, if so specified in a supplemental Declaration affecting the Neighborhood, obtain and continue in effect adequate blanket all-risk casualty insurance, if reasonably available, on properties within the Neighborhood. If all-risk insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board of Directors deems appropriate and the face amount of the policy shall be sufficient to cover the full replacement cost of all structures to be insured. The costs thereof shall be charged to the Members within the benefitted Neighborhood as a Neighborhood Assessment, as defined in Article I hereof.

Insurance obtained on the properties within any Neighborhood, whether obtained by such Neighborhood or the Association, shall at a minimum comply with the applicable provisions of this Section 1, including the provisions of this Article applicable to policy provisions, loss adjustment, and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be in a face amount sufficient to cover the full replacement cost of all insured structures. All such policies shall provide for a certificate of insurance provided by the Insurance Company to be furnished to each Member insured, to the Association, and to any Neighborhood Association.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents or any other person who has a right to occupy a Residential Unit. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Two Million (\$2,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association and shall be included in the Common Assessment, as more particularly described in Article X, Section 1; provided, in the discretion of the Board of Directors, premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefitted thereby unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate. The policies may contain a deductible, and, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the

party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefitted parties, as further identified in subsection (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in Tennessee which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.

(b) All policies on the Common Area shall be for the benefit of the Association and its Members; all policies secured at the request of a Neighborhood shall be for the benefit of the Neighborhood Association, if any, the Members within the Neighborhood, and their Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Members, occupants, or their Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and, if the policy contains a co-insurance clause, an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Sevier County, Tennessee area.

(f) The Association's Board of Directors shall attempt to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Declarant, Association's Board of Directors, its manager, the Members, and their respective tenants, servants, agents and guests;

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

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Members;

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

(v) a statement that any "other insurance" clause in any policy exclude individual Members' policies from consideration; and

(vi) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or nonrenewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, a worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than one-sixth (1/6) of the annual Common Assessments on all Residential Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or nonrenewal.

**Section 2. Individual Insurance.** By virtue of taking title to a Residential Unit, subject to the terms of this Declaration, each Member covenants and agrees with all other Members and with the Association that each Member shall carry, if reasonably available, blanket all-risk casualty insurance on the Residential Unit(s) and structures constructed thereon meeting the same

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requirements as set forth in Section 1 of this Article V for insurance on the Common Area, unless either the Neighborhood in which the Residential Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Member further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Residential Unit, the Member shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Member shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Neighborhood Association, in accordance with its Master Deed, may decide not to rebuild or to reconstruct, in which case the Member or Neighborhood Association shall clear the Residential Unit of all debris and ruins, and thereafter the Member or Neighborhood Association shall continue to maintain the Residential Unit in a neat and attractive condition consistent with the Community-Wide Standard.

A Neighborhood may have more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Residential Units within the Neighborhood and the standard for returning the Residential Units to their natural state in the event the structures are not rebuilt or reconstructed.

### **Section 3. Damage and Destruction.**

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Declarant and the Voting Representatives representing at least sixty-seven percent (67 %) of the total Class "A" Member vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be cleared of all debris and ruins and maintained by the Association, in a neat and attractive condition consistent with the Community-Wide Standard.

**Section 4. Disbursement of Proceeds.** If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Member or Members and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Residential Unit and may be enforced by such Mortgagee.

**Section 5. Repair and Reconstruction.** If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against those Members responsible for the premiums for the applicable insurance coverage under Section 1 of this Article. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

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## **ARTICLE VI No Partition**

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof or the common property of a

Neighborhood Association or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 3 of Article V in the case of damage or destruction, or unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

## **ARTICLE VII**

### **Condemnation**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, each Member shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Members to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and the Voting Representative representing at least sixty-seven percent (67 %) of the Class "A" Member vote of the Association or the Members representing at least sixty-seven percent (67 %) of the total vote of the Neighborhood Association whose common property is taken, if common property of a Neighborhood Association, shall otherwise agree, the Association or Neighborhood Association, as applicable, shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## **ARTICLE VIII**

### **Annexation of Additional Property**

**Section 1. Annexation Without Approval of Class "A" Membership.** As the owner thereof, or if not the owner, with the consent of the owner thereof, the Declarant shall have the unilateral right, privilege, and option, from time to time at any time until July 31, 2016, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "C", attached hereto and by reference made a part hereof, whether in fee simple or leasehold, by filing in the Register of Deeds Office of Sevier County, Tennessee, an amendment annexing such Properties. Such Subsequent Amendment to this Declaration shall not require the vote of Members. Any such annexation shall be effective upon the filing for record of such Subsequent Amendment unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transfer is memorialized in a written, recorded instrument.

**Section 2. Annexation With Approval of Class "A" Membership.** Following the expiration of Section 1 of this Article and subject to the consent of the owner thereof, upon the written consent or affirmative vote of a majority of the Members, the Association may annex real property other than that shown on Exhibit "C", and subject such property to the provisions of this Declaration and the jurisdiction of the Association by filing of record in the Register of Deeds Office of Sevier County, Tennessee, a Subsequent Amendment in respect to the Properties being annexed. Any such Subsequent Amendment shall be signed by the President and the Secretary of the Association, and the owner of the properties being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the Bylaws of the Association for regular or special meetings, as the case may be.

**Section 3. Condominium Conversions.** Rental apartment buildings may be built and operated on the Properties and included in the Properties. Such rental apartment buildings may subsequently be converted to the condominium form of ownership.

**Section 4. Acquisition of Additional Common Area.** Declarant may convey additional real estate, improved or unimproved, located within the Properties which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

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**Section 5. Withdrawal of Property.** Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the community pursuant to this Article VIII, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error, or to remove certain portions of the Properties then owned by the Declarant or its affiliates, but not property owned by the Association, as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

**Section 6. Amendment.** This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibit "A" hereof.

## **ARTICLE IX**

### **Rights and Obligations of the Association**

**Section 1. Common Area and Rights-of-Way.** The Association, subject to the rights of the Members set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto, including, without limitation, the private drainage facilities and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions thereof.

**Section 2. Personal Property and Real Property for Common Use.** The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

**Section 3. Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the recreational facilities. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the Bylaws of the Association. In addition, the Association, through the Board, may, by contract or other agreement, enforce county ordinances or permit the City of Sevierville to enforce ordinances on the Properties for the benefit of the Association and its Members.

**Section 4. Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**Section 5. Governmental Interests.** For so long as the Declarant owns any property shown on Exhibit "A", the Declarant shall have authority to designate sites then owned by the Declarant within the Properties for fire, police, water, and sewer facilities, public schools and parks, and other public facilities. In addition, upon the affirmative vote of the Voting Representatives representing at least sixty-seven percent (67%) of the total Class "A" Member votes in the Association, the Declarant shall also have authority to designate Common Area owned by the Association for such purposes. The recorded plats of Apple View Farms may designate certain sites as reserved for such facilities. These designations are solely for internal planning purposes and neither the Declarant nor the Association thereby represents that any such facilities will be built or that such sites will remain reserved for such facilities.

Each Member understands and agrees that its Residential Unit may be adjacent to or near any such facilities and that such location may result in nuisances to persons and property on the Residential Unit as a result of noise and other activity associated with the normal operation and use of such facilities. Each Member covenants for itself, its heirs, successors, successors-in-title and assigns that it shall assume all risks associated with such location.

**Section 6. Powers of the Association with Respect to Neighborhoods.** The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association or Neighborhood Committee which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association shall also have the power to require specific action to be taken by any Neighborhood Association or Neighborhood Committee in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Association may require specific maintenance or repairs or



aesthetic changes to be effectuated by the Neighborhood Association or Neighborhood Committee, may require that a proposed budget include certain items and that expenditures be made therefor, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by such Neighborhood Association or Neighborhood Committee.

Any action required by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood Association or Neighborhood Committee shall be taken within the time frame set by the Association in such written notice, which time frame shall be reasonable. If the Neighborhood Association or Neighborhood Committee fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association or Neighborhood Committee. To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Residential Units in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Article X, Section 4. Such assessments may be collected as a Special Assessment hereunder and shall be subject to all lien rights provided for herein.

## **ARTICLE X**

### **Assessments**

**Section 1. Creation of Assessments.** There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 7 of this Article. There shall be three (3) types of assessments: (a) Common Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Neighborhood Assessments for Neighborhood Expenses benefitting only Residential Units within a particular Neighborhood or Neighborhoods; and (c) Special Assessments as described in Section 4 below. Each Member, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

Common Assessments shall be levied as follows:

Each Residential Unit shall be levied for a full Common Assessment.

Neighborhood Assessments shall be levied equally against all Residential Units in the Neighborhood benefitting from the services supported thereby, provided that in the event of assessments for exterior maintenance of structures, or insurance on structures, or replacement reserves which pertain to particular structures, such assessments for the use and benefit of particular Residential Units shall be levied on each of the benefitted Residential Units in proportion to the benefit received, if so directed by the Neighborhood in writing to the Board of Directors.

Special Assessments shall be levied as provided in Section 4 below.

All assessments, together with interest not to exceed eighteen percent (18 %) as computed from the date the delinquency first occurs, late charges, costs, and attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Residential Unit against which each assessment is made until paid. Said lien shall relate back to the date of the original recording of the Declaration of Covenants, Conditions and Restrictions. Each such assessment, together with interest, late charges, costs, and attorney's fees, shall also be the personal obligation of the Member who was the occupant of such Residential Unit at the time the assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance subject to a right of contribution, except no first Mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Person liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Residential Unit. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee as determined by the Board from time to time for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the Common Assessment and any Neighborhood Assessment shall be paid in one annual installment. Each Member, by acceptance of a deed or lease to his or her Residential Unit, acknowledges that all Common Assessments and Neighborhood Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, the Board may permit any assessment to be paid in installments. If any Member is delinquent in paying any assessments or other charges levied on his Residential Unit, the Board may revoke the privilege of paying in installments and may require annual assessments to be paid in full immediately.

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If any Member is more than forty (40) days delinquent in the payment of any installment of any assessment contemplated by this Declaration, the entire unpaid balance of the assessment may be declared immediately due and payable by the Board of Directors. Additionally, any assessment or installment thereof, not paid within thirty (30) days after the date upon which it is due shall be assessed a late charge in an amount determined by the Board of Directors which shall not be in excess of the highest amount allowed by law. Moreover, if any assessment, or any installment thereof, is not paid within forty (40) days, after the date upon which it is due, the Association may bring action at law against the Member's property to which it attaches. The Association shall be entitled to collect all fees and costs of collection, including attorney's fees, and every Member by acceptance of a deed or lease to a Residential Unit in the Properties, whether so expressed in the deed or lease or not, covenants and agrees to pay the same. No Member may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by nonuse of Common Areas or abandonment of the Residential Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Member. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

So long as the Declarant Control Period exists, the Declarant may annually elect either to pay regular assessments on its unsold Residential Units or to pay to the Association the difference between the amount of assessments collected on all other Residential Units subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year.

**Section 2. Computation of Common Assessment.** It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve funded in accordance with a budget separately prepared as provided in Section 6 of this Article.

The Common Assessment to be levied against each Residential Unit for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Residential Units subject to assessment under Section 7 hereof on the first day of the fiscal year for which the budget is prepared and the number of Residential Units reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Article VIII hereof, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Common Assessments for any fiscal year by payment of a subsidy which shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied against each Residential Unit for the following year to be delivered to each Member at least thirty (30) days prior to the beginning of the fiscal year.

Notwithstanding the foregoing, however, in the event the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

**Section 3. Computation of Neighborhood Assessments.** It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a separate budget covering the estimated Neighborhood Expenses to be incurred by the Association for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration or the Bylaws specifically authorizes the Board to assess certain costs, such as the cost of maintaining Exclusive Common Areas, as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Neighborhood, as appropriate. Neighborhood Expenses shall be allocated equally among all Residential Units within the Neighborhood benefitted thereby and levied as a Neighborhood Assessment.



The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment to be levied on each Residential Unit in the Neighborhood for the coming year to be delivered to each Member in the Neighborhood at least thirty (30) days prior to the beginning of the fiscal year.

In the event the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

#### **Section 4. Special Assessments.**

(a) Entire Membership. The Association may levy Special Assessments from time to time provided such assessment receives the affirmative vote or written consent of the Members of the Association. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Members. The Association may levy a Special Assessment against any Member individually and against such Member's Residential Unit to reimburse the Association for costs incurred in bringing a Member and his Residential Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. The Association may also levy a Special Assessment against the Residential Units in any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, and the Association rules and regulations, which special Assessment may be levied upon the vote of the Board after notice to the Members of the Neighborhood and an opportunity for a hearing.

**Section 5. Lien for Assessments.** Upon recording of a notice of lien on any Residential Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Members, shall have the power to bid for the Residential Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Residential Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Residential Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Residential Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

**Section 6. Reserve Budget and Capital Contribution.** The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 2 and 3 of this Article.

**Section 7. Date of Commencement of Assessments.** The obligation to pay the assessments provided for herein shall commence as to each Residential Unit when the Residential Unit is conveyed by the Declarant to a Member or Owner. Any Member or Owner purchasing a Residential Unit for the purpose of constructing a dwelling thereon for resale shall only be required to pay fifty percent (50%) of the assessment obligation for the Residential Unit until the earlier of the following: (a) the month in which a certificate of occupancy is issued on such Residential Unit by the building department of Sevier County, Tennessee; or (b) actual occupancy of such Residential Unit. All other Members or Owners shall be obligated for one hundred percent (100%) of the assessments provided for herein upon taking title or possession to the Residential Unit. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment levied on each Residential Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Residential Unit.

**Section 8. Subordination of the Lien to First Mortgages.** The lien of assessments, including interest, late charges (subject to the limitations of Tennessee law), and costs

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(including attorneys' fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Residential Unit. The sale or transfer of any Residential Unit shall not affect the assessment lien. However, the sale or transfer of any Residential Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residential Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Residential Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Residential Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Residential Units, including such acquirer, its successors and assigns.

**Section 9. Capitalization of Association.** In order to meet the requirements of certain institutional lenders who may hold, insure or guaranty Mortgages on portions of the Properties, upon acquisition of record title to a Residential Unit by the first purchaser thereof other than the Declarant or a Member or Owner who purchases for the purpose of constructing a dwelling thereon for resale (i.e. the first home purchaser), such purchaser shall make a contribution to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Common Assessment per Residential Unit for that year as determined by the Board. This amount shall be in addition to, not in lieu of, the annual Common Assessment levied on the Residential Unit and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association, at the closing of the purchase of such Residential Unit by such purchaser, for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

**Section 10. Exempt Property.** Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Common Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any.

## **ARTICLE XI**

### **Architectural Standards**

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdictions decisions of either Committee established in Sections 1 and 2 of this Article XI. This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained.

**Section 1. New Construction Committee.** The New Construction Committee (NCC) shall have exclusive jurisdiction over all original construction on any portion of the Properties. The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate Design and Development Guidelines ("Guidelines") and Application and Review Procedures ("Procedures"). The Guidelines and Procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the Guidelines and Procedures. It shall make both available to Owners, Members, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and who shall conduct their operations strictly in accordance therewith. Until ninety (90%) percent of the Properties computed on an area basis have been conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC, which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members in the same manner as provided in Section 2 of the Modifications Committee.

**Section 2. Modifications Committee.** The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Residential Units or structures containing Residential Units and the open space, if any, appurtenant thereto; provided, however, the MC may delegate this authority to the appropriate board or committee of any Neighborhood Association subsequently created or

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subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards of at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice.

The MC shall promulgate detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such modifications, additions, or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his residence, or to paint the interior of his residence any color desired. In the event the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

**Section 3. No Waiver of Future Approvals.** The approval of either the NCC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

**Section 4. Variance.** The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

## **ARTICLE XII Use Restrictions**

The Association, acting through the Board of Directors, shall have standing and the power to enforce use restrictions contained in this Declaration and any amendments thereto or subsequently recorded declarations as if such provision were a regulation of the Association.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of Residential Units and Common Area, including the imposition of reasonable user fees for facilities, including, but not limited to, a vehicle storage area, the pathway system, swimming pools, tennis courts, community center and parking facilities, if any.

**Section 1. Signs.** No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except entry and directional signs installed by Declarant. If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors or Declarant shall have the right to erect signs as they, in their discretion, deem appropriate.

### **Section 2. Parking and Prohibited Vehicles.**

(a) **Parking.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Residential Units or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such rules and regulations as the Board of Directors, or any Neighborhood Association, if any, having concurrent jurisdiction over parking areas within the Neighborhood, may adopt. The Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to rules and regulations. Garage doors visible from any street within the Properties shall remain closed except during ingress or egress or when the garage is actively being used by the Member or occupant.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, unless previously approved in writing by the Board, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the

Neighborhood Association, if any, having jurisdiction over parking areas within a particular Neighborhood. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Residential Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed.

**Section 3. Occupants Bound.** All provisions of the Declaration, Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Members and which provide for sanctions against Members shall also apply to all occupants, guests and invitees of any Residential Unit. Every Member shall cause all occupants of his or her Residential Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Area caused by such occupants, notwithstanding the fact that such occupants of a Residential Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto.

**Section 4. Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of two (2) in number and a total aggregate weight of 175 pounds, may be permitted in a Residential Unit. However, those pets which are permitted to roam free, or, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Members or the owner of any portion of the Properties shall be removed upon request of the Board; if the Member pet owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Residential Unit be confined on a leash held by a responsible person and shall be walked in designated areas. Members shall be responsible for removal and clean up of all animal waste of their pets.

**Section 5. Quiet Enjoyment.** No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of garbage or household refuse shall be permitted within the Properties.

**Section 6. Unsightly or Unkempt Conditions.** It shall be the responsibility of each Member to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Residential Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly or disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties.

**Section 7. Antennas.** The following restrictions shall apply to all Members, in order to promote a high quality of life and to protect the individual values of the residents and property of the Apple View Farms community, while preserving the Member's ability to receive acceptable over-the-air signals. The term "antenna" shall include antennas, aerials, and satellite dishes which are designed to receive (i) direct broadcast satellite service (DBS), including direct-to-home satellite services; (ii) video programming services via multipoint distribution services, including multichannel multipoint distribution (MMDS); and (iii) television broadcast signals (TVBS).

(a) **One Meter or Less.** Antennas one meter (39 inches) or less in diameter shall be (i) mounted, installed, attached, or placed in the rear yard of the property or Residential Unit unless this requirement unreasonably impairs the viewer's ability to receive reception of an acceptable quality, in which case this requirement shall be diminished only to the extent absolutely necessary to allow reception of an acceptable quality; (ii) mounted, installed, attached, or placed no higher than absolutely necessary to obtain reception of acceptable quality; (iii) located so that it is not visible from the street or the adjoining property unless this requirement unreasonably impairs the viewer's ability to receive reception of an acceptable quality, in which case this requirement shall be

diminished only to the extent absolutely necessary to allow a reasonable cost and acceptable quality; and (iv) screened with landscaping (except for antennas which are attached to the home at or above the first story eaves) unless this requirement unreasonably impairs the viewer's ability to receive reception of an acceptable quality, in which case this requirement shall be diminished only to the extent absolutely necessary to allow a reasonable cost and acceptable quality. This Use Restriction is intended to and shall comply with and be subject to Section 207 of the Telecommunications Act of 1996 and any future amendments thereto (the "Act").

(b) Greater than One Meter. Antennas designed to receive direct broadcast satellite services or multipoint distribution services which are greater than one meter (39 inches) in diameter may not be installed.

(c) Installed by Declarant. Anything herein to the contrary notwithstanding, the requirements set forth in the immediate preceding subparagraphs (a) and (b) shall not apply to antennas installed by Declarant and/or the Association for the benefit of all or a portion of the Properties.

(d) Damage. Members shall be responsible to repair and pay for at their own expense any damage caused to their Residential Unit or any portion of the building in which their Residential Unit is located as a result of the installation or removal of any antenna.

**Section 8. Clotheslines, Garbage Cans, Tanks, Etc.** No clotheslines shall be erected or installed on the exterior portion of any Residential Unit. All garbage cans, above-ground storage tanks, mechanical equipment, and other similar items on Residential Units shall be located or screened so as to be concealed from view of neighboring Residential Units, streets, and property located adjacent to the Residential Unit; provided, concealment of garbage cans shall not be required during trash collection days. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

**Section 9. Subdivision of Unit and Time Sharing.** No Residential Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, with the prior approval of the appropriate reviewing agencies, hereby expressly reserves the right to replat any Residential Unit or Residential Units owned by Declarant. Any such division, boundary line change or replating shall not be in violation of the applicable subdivision and zoning regulations.

No Residential Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Residential Unit rotates among members of the program on a fixed or floating time schedule over a period of years, except that the Declarant hereby reserves the right for itself and its assigns to operate such a program with respect to Residential Units which it owns.

**Section 10. Firearms.** The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

**Section 11. Pools.** No above-ground swimming pools shall be erected, constructed or installed on any Residential Unit.

**Section 12. Irrigation.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or the ground or surface waters within the Properties shall be installed, constructed or operated within the Properties unless prior written approval has been received from the NCC. All sprinkler and irrigation systems shall be subject to any applicable water usage ordinances and to approval in accordance with Article XI of this Declaration. Private irrigation wells are prohibited on the Properties. Provided, however, this Section 12 shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to add property in accordance with Article VIII, Section 1.

**Section 13. Tents, Trailers and Temporary Structures.** Except as may be permitted by the Declarant or the NCC during initial construction within the Properties, no tent, utility shed, shack, trailer or structure of a temporary nature shall be placed upon a Residential Unit or any part of the Properties.

**Section 14. Drainage and Septic Systems.** Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas including without limitation any petroleum products, motor oils or other hazardous wastes. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainages, swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow.

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**Section 15. Tree Removal and Landscaping.** No trees shall be removed, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations as such committees may determine necessary in its sole discretion to mitigate the damage. All landscaping on the Properties shall be strictly in accordance with the landscaping requirements and guidelines of the NCC. No substantial alteration to the landscaping, including but not limited to paving, excavating or placing gravel or stones thereon, shall be permitted without prior written approval by the NCC. The NCC will establish rules and procedures for common landscaping of each Residential Unit and Neighborhood and all landscaping shall be done in accordance with such rules and procedures. No yard ornaments or exterior decorations are permitted without prior written approval by the NCC.

**Section 16. Sight Distance at Intersections.** All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

**Section 17. Lighting.** All exterior lights must be approved in accordance with Article XI of this Declaration including without limitation Christmas lights.

**Section 18. Energy Conservation Equipment.** All solar energy collector panels or attendant hardware or other energy conservation equipment shall be a harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof.

**Section 19. Wetlands, Lakes and Water Bodies.** The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by the Declarant or the Association.

**Section 20. Playground.** Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

**Section 21. Fences.** No hedges, walls, partitions, dog runs, animal pens or fences of any kind shall be permitted on any Residential Unit except as approved by NCC or MC in accordance with Article XI of this Declaration. The NCC, in its sole discretion, may prohibit any such structures from any Residential Unit, including but not limited to those Residential Units adjacent to or abutting Common Area.

**Section 22. Business Use.** No garage sale, moving sale, rummage sale or similar activity shall be permitted without prior written approval of the Board of Directors. No trade or business may be conducted in or from any Residential Unit, except that a Member or occupant residing in a Residential Unit may conduct business activities within the Residential Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether; (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Residential Unit shall not be considered a trade or business within the meaning of this section. This Section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Residential Units which it owns within the Properties, including without limitation the operation of a timeshare or similar program or the construction and operation of a bed and breakfast, hotel, motel or other lodging accommodations.

An occupant residing in the primary dwelling on a Residential Unit may conduct such activities from the primary dwelling or a garage apartment on the Residential Unit, or an occupant residing in a garage apartment may conduct such activities from the garage apartment, but no garage



apartment shall be leased or otherwise used for any business, trade or similar activity, except by a person residing in the primary dwelling or the garage apartment on the Residential Unit.

**Section 23. On-Site Fuel Storage.** No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to fifteen (15) gallons of fuel may be stored on each Residential Unit for emergency purposes, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

**Section 24. Occupancy.** Except as provided in this paragraph, no more than a single family shall occupy each Residential Unit. For purposes of this paragraph a "single family" shall mean one (1) or more persons related by blood, adoption, or marriage. If persons occupying a Unit are not all related by blood, adoption or marriage, then occupancy of such Unit shall be limited to a maximum of three (3) persons and their respective children. "By blood" shall include only children, grandchildren, grandparents, brothers, sisters, parents, wives and husbands, and no other kinship. The foregoing restriction on occupancy shall apply separately to the primary dwelling and any garage apartment comprising a Residential Unit in Apple View Farms which has been approved as a garage apartment in accordance with the architectural review procedures set forth in Article XI. "Occupancy" shall be deemed to mean staying overnight in a Residential Unit for a total of more than thirty (30) days, either consecutively or nonconsecutively, in any year.

**Section 25. Leasing of Units.**

(a) **Lease Provisions.** Any lease or overnight rental of a Residential Unit in the Properties shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Member covenants and agrees that if such language is not expressly contained therein, then such language shall be deemed incorporated into the lease by existence of this covenant and the lessee, by occupancy of the Residential Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) **Compliance with Declaration, Bylaws, and Rules and Regulations.** The lessee agrees to abide and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. The Member agrees to cause all occupants of his or her Residential Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto and is responsible for all violations thereof and resulting losses or damages caused by such occupants, notwithstanding the fact that such occupants of the Residential Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the lessee or a person living with the lessee violates the Declaration, Bylaws, or a rule and regulation then a violation notification shall be sent to the lessee and Member. If a fine is imposed, such fine shall be assessed against the lessee; provided, however, if the fine is not paid by the lessee within the time period set by the Board, the Member shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Residential Unit. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Member is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is deemed to be a violation of the terms of the lease and authorizes the Member to terminate the lease without liability and to evict the lessee in accordance with Tennessee law. The Member hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including, without limitation the power and authority to evict the lessee on behalf of and for the benefit of the Member, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Residential Unit and the Member thereof, such being deemed hereby as an expense which benefits the leased Residential Unit and the Member thereof.

(ii) **Use of Common Area.** The Member transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Member has to use the Common Area, including, but not limited to, the use of any and all common facilities and amenities.

(b) **Property Management.** The following restrictions apply to all Members, in order to promote a high quality of life and protect individual values of the residents and property of the Apple View Farms Community. The Association shall contract with a property management company to manage any and all leases or overnight rentals of a Residential Unit. Members wishing to rent their Residential Unit must do so through the property management company selected by the Association. The Association will endeavor to select a property management company which will uphold the Community-Wide Standard and protect the value and desirability of the Apple View Farms Community.

(c) **Restrictions on Leasing.** In order to promote harmony within a Neighborhood and uphold the quality of life within a Neighborhood, a Neighborhood may restrict

the leasing of Residential Units within the Neighborhood through its Master Deed or by resolution of its Board or Committee, as applicable.

**Section 26. Laws and Ordinances.** Every Member and occupant of any Residential Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

### **ARTICLE XIII General Provisions**

**Section 1. Term.** The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association, the Members or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Members, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

**Section 2. Amendment.** Prior to the conveyance of the first Residential Unit, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant, during the Declarant Control Period and the Board afterward may unilaterally amend this Declaration at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Residential Units; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Veterans Administration or, the Department of Housing and Urban Development, to enable such lender or purchaser to make or purchase mortgage loans on the Residential Units; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Residential Units; provided, however, any such amendment shall not adversely affect the title to any Residential Unit unless the Member shall consent thereto in writing.

Otherwise, this Declaration may be amended only by the affirmative vote or written consent of the Voting Representatives representing the Class A Members of the Association and by the affirmative vote or written consent of the Declarant during the Declarant Control Period. In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of Sevier County, Tennessee.

If a Member consents to any amendment to this Declaration or the Bylaws, it will be presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

**Section 3. Indemnification.** The Association shall indemnify every officer and director 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 settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), 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, or former officer or director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 4. Delegation of Use.** Any Member may delegate, in accordance with the Bylaws of the Association, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, and social invitees.



**Section 5. Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment as between each Residential Unit and such portion or portions of the Common Area adjacent thereto or as between adjacent Residential Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each Residential Unit and the adjacent portion of the Common Area or as between said adjacent Residential Units, as the case may be, along a line perpendicular to such boundary at such point; however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Member, tenant, or the Association.

**Section 6. Easements for Utilities, Etc.** Declarant hereby reserves for itself and its designees (including, without limitation, the City of Sevierville and any utility) blanket easements upon, across, over and under all of the Properties, Common Area and to the extent necessary over the Residential Units for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity. This reserved easement may be assigned by Declarant by written instrument to the Association, and the Association shall accept the assignment upon such terms and conditions as are acceptable to Declarant. If this reserved easement is assigned to the Association, the Board shall, upon written request, grant such easements as may be reasonably necessary for the development of any Properties described in Exhibit "A" or that may be annexed in accordance with Article VIII of this Declaration.

Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Properties, except as may be approved by the Association's Board of Directors or as provided in the development and sale by Declarant. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement on said Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate all or part of the Common Area to the City of Sevierville, or other local, state, or federal governmental entity.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier easements across all Residential Units and the Common Area for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved or authorized by the Association's Board of Directors or by the Declarant.

**Section 7. Construction and Sale.** Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Residential Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant and the community center, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section 7 shall terminate upon the earlier of (a) fifteen (15) years from the date of this Declaration is recorded, or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

**Section 8. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 9. Right of Entry.** The Association shall have the right, but shall not be obligated, to enter into any Residential Unit for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Member. This right of entry shall include the right to of the Association to enter a Residential Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Member fails or refuses to cure the condition upon request by the Board.

**Section 10. Perpetuities.** If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against

perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

**Section 11. Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of sixty-seven percent (67%) of the Voting Representatives representing Class "A" Members and the Declarant during the Declarant Control Period. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**Section 12. Cumulative Effect; Conflict.** The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, charters, bylaws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

**Section 13. Compliance.** Every Member and occupant of any Residential Unit shall comply with all lawful provisions of this Declaration, the Bylaws and rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Member or Owner.

**Section 14. Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, HOWEVER, AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL MEMBERS AND OCCUPANTS OF ANY RESIDENTIAL UNIT, TENANTS, GUESTS AND INVITEES OF ANY MEMBER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE NEW CONSTRUCTION AND MODIFICATIONS COMMITTEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE NEW CONSTRUCTION OR MODIFICATIONS COMMITTEES MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER AND OCCUPANT OF ANY RESIDENTIAL UNIT, AND EACH TENANT, GUEST AND INVITEE OF A MEMBER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH MEMBER AND OCCUPANT OF ANY RESIDENTIAL UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY MEMBER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENTIAL UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANT ABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

**Section 15. Notice of Sale or Transfer of Title.** In the event that any Member or Owner desires to sell or otherwise transfer title to his or her Residential Unit, such Member or Owner shall give the Board of Directors at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board

of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Member or Owner of the Residential Unit hereunder, including payment of assessments, notwithstanding the transfer of title to the Residential Unit.

#### **ARTICLE XIV Mortgagees' Rights**

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Residential Units in the Properties. To the extent applicable, necessary, or proper, the provisions of this Article XIV apply to both this Declaration and to the Bylaws of Apple View Farms Community Association. Where indicated, these provisions apply only to "eligible holders," as hereinafter defined; provided, however, voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

**Section 1. Notices of Action.** An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the unit number), (therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Residential Unit on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
- (c) any delinquency in the payment of assessments or charges owed by an Owner of a Residential Unit subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;
- (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (e) any proposed action which would require the consent of eligible holders, as required in Sections 2 and 3 of this Article.

**Section 2. Other Provisions for First Lien Holders.** To the extent possible under Tennessee law:

- (a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on Residential Units to which at least fifty-one (51%) percent of the votes of Residential Units, subject to mortgages held by such eligible holders are allocated, is obtained.
- (b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation must require the approval of the eligible holders of first mortgages on Residential Units to which at least fifty-one (51%) percent of the votes of Residential Units, subject to mortgages held by such eligible holders, are allocated.

**Section 3. Amendments to Documents.** The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Section 2 (a) and (b) of this Article XIV, or to the addition of land in accordance with Article VIII.

- (a) The consent of at least sixty-seven (67 %) percent of the Class "A" votes and of the Declarant so long as it owns any land subject to this Declaration and the approval of the eligible holders of first mortgages on units to which at least sixty-seven (67%) percent of the votes of Residential Units subject to a mortgage appertain, shall be required to terminate the Association.
- (b) The consent of at least sixty-seven (67%) percent of the Class "A" votes and of the Declarant so long as it owns any land subject to this Declaration and the approval of eligible holders of first mortgages on Residential Units to which at least fifty-one (51%) percent of the votes of Residential Units subject to a mortgage appertain, shall be required to materially amend any provisions of the Declaration, Bylaws, or Charter of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;

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- Common Area;
- (iii) reserves for maintenance, repair, and replacement of the
  - (iv) insurance or fidelity bonds;
  - (v) rights to use of the Common Area;
  - (vi) responsibility for maintenance and repair of the Properties;
  - (vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;
  - (viii) boundaries of any Residential Units;
  - (ix) leasing of Residential Units;
  - (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Residential Unit;
  - (xi) establishment of self-management by the Association where professional management has been required by an eligible holder; or
  - (xii) any provisions included in the Declaration, Bylaws, or Charter which are for the express benefit of holders, guarantors, or insurers of first mortgages on Residential Units.

**Section 4. Special FHLMC Provision.** So long as required by The Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing three (3) Sections of this Article. Unless two-thirds (2/3) of the first mortgagees or Owners give their consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Properties shall not be deemed a transfer);
- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;
- (c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residential Units and of the Common Area;
- (d) fail to maintain fire and extended coverage insurance, as required by this Declaration; or
- (e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such Properties.

The provisions of this Section 4 shall not be construed to reduce the percentage vote that must be obtained from mortgagees or Owners where a larger percentage vote is otherwise required for any of the actions contained in this Section.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of a policy, for the Common Area, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

**Section 5. No Priority.** No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Residential Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

**Section 6. Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of the Mortgage encumbering such Owner's Residential Unit.

**Section 7. Amendment by Board.** Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such

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requirements less stringent, the Board, without approval of the Members, may cause an amendment to this Article to be recorded to reflect such changes.

**Section 8. Applicability of Article XIV.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Tennessee law for any of the acts set out in this Article.

**Section 9. Failure of Mortgagee to Respond.** Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

**Section 10. HUD/VA Approval.** So long as there is a Class "B" membership and so long as the Department of Housing and Urban Development ("HUD") and/or the Veteran's Administration ("VA") is holding, insuring, or guaranteeing any loan secured by property subject to this Declaration, the following actions shall require the prior approval of HUD and/or VA, respectively: annexation of additional property other than that described on Exhibit "A" and Exhibit "C", dedication or mortgage of Common Area, merger or consolidation in which the Association is a participant, dissolution of the Association, or material amendment of this Declaration.

#### **ARTICLE XV Declarant's Rights**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the Bylaws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of Sevier County, Tennessee. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "A" and Exhibit "C" in any manner whatsoever.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) fifteen (15) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Any and all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws shall terminate automatically in the event the Declarant abandons development of the Properties. In no event, however, shall the Declarant be deemed to have abandoned development of the Properties unless the Declarant, and any of its affiliates, successors, or assigns, have failed to conduct any construction, marketing, or any other development activity relating to the Properties for a period in excess of five (5) consecutive years.

**APPLE VIEW FARMS, LLC**

By: 

Christopher A. Gettefenger

Its: Chief Manager

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STATE OF TENNESSEE   )  
                                  )  
COUNTY OF KNOX       )

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared **CHRISTOPHER J. GETTELFINGER**, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the Chief Manager of **APPLE VIEW FARMS, LLC**, the within named bargainer, a limited liability company, and that he as such Chief Manager being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as Chief Manager.

Witness my hand and seal at office, this 2<sup>nd</sup> day of August, 2000.

Wanda G. McWilliams  
Notary Public

My Commission expires: 9/30/2001



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## EXHIBIT A

### PARCEL 1:

SITUATE in the Fifth (5<sup>th</sup>) Civil District of Sevier County, Tennessee, being **Tract 1-Apple View Farms**, Re-subdivision of Lots 2-10, Lonesome Valley Subdivision, as shown on plat of record in Large Map Book 2, page 155, Register's Office, Sevier County, Tennessee, to which plat specific reference is hereby made for a more particular description.

SUBJECT TO setback lines, easements, rights of way, notations and all other matters as shown on plats of record in Large Map Book 1, page 146, in Large Map Book 1, page 193 and in Large Map 2, page 155, in said Register's Office.

SUBJECT TO Restrictions-Lonesome Valley Subdivision, of record in Miscellaneous Book 319, page 174, in said Register's Office.

BEING THE SAME PROPERTY that Apple View Farms, LLC acquired from Anthony J. Whaley and wife, Nancy Ann Whaley, by General Warranty Deed dated December 19, 1997, of record in Deed Book 616, page 084, Register's Office, Sevier County, Tennessee.

### PARCEL 2:

SITUATE in the Fifth (5<sup>th</sup>) Civil District of Sevier County, Tennessee, being **Tract 2-Apple View Farms**, Re-subdivision of Lots 12-18 and part of 19, Lonesome Valley Subdivision, as shown on plats of record in Plat Book 31, page 80 and in Large Map Book 2, page 155.

SUBJECT TO easements, setback lines, rights of way, notations and all other matters as shown on plats of record in Large Map Book 1, page 146 and in Large Map Book 2, page 155, Register's Office, Sevier County, Tennessee.

SUBJECT TO Restrictions-Lonesome Valley Subdivision, of record in Miscellaneous Book 319, page 174, in said Register's Office.

BEING PART OF THE SAME PROPERTY that Apple View Farms, LLC, a Tennessee Limited Liability Company acquired from Jack Conner, a single person, by deed dated June 1, 1999, of record in Deed Book 659, page 40, Register's Office, Sevier County, Tennessee.

## **EXHIBIT "B"**

### **BYLAWS**

#### **OF**

#### **APPLE VIEW FARMS COMMUNITY ASSOCIATION, INC.**

### **ARTICLE I**

#### **Name, Applicability, and Definitions**

**Section 1.** Name. The name of the Association shall be Apple View Farms Community Association, Inc., (hereinafter sometimes referred to as the "Association").

**Section 2.** Principal Office. The principal office of the Association in the State of Tennessee shall be located at 4840 Harvest Mill Way, Knoxville, Tennessee 37918. The Association may have such other offices, either within or without the State of Tennessee, as the Board of Directors may determine or as the affairs of the Association may require.

**Section 3.** Definitions. The words used in these Bylaws shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Apple View Farms (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

### **ARTICLE II**

#### **Association: Meetings, Quorum, Voting, Proxies**

**Section 1.** Membership. The Association shall have two (2) classes of membership, Class "A" and "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

**Section 2.** Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either in the Project or as convenient thereto as possible and practical.

**Section 3.** Annual Meeting. The first meeting of the Members, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent regular annual meetings of the Members shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors.

**Section 4.** Special Meeting. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by a Voting Representative representing at least ten (10%) percent of the total Class "A" votes of the Association. The notice of any special meeting shall state the date, 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 5.** Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Voting Representative and Declarant entitled to vote at such meeting, not less than five (5) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Representative or Declarant at his address as it appears on the records of the Corporation, with postage thereon prepaid.

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**Section 6. Waiver of Notice.** Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any Voting Representative or the Declarant may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Voting Representative or the Declarant, whether in person or by proxy, shall be deemed waiver by such Voting Representative or Declarant of notice of the time, date, and place thereof, unless such Voting Representative or Declarant specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

**Section 7. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the persons representing votes of the Association who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given in the manner prescribed for regular meetings.

The persons present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough persons to leave less than a quorum, provided that at least twenty-five (25%) percent of the total votes of the Association remains present in person or by proxy, and provided further that any action taken shall be approved by at least a majority of the persons required to constitute a quorum.

**Section 8. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 9. Voting Representatives.** At all meetings of Members, the Voting Representative for each Neighborhood shall cast all votes of the Class "A" Members of his or her Neighborhood, except for the election of directors after the expiration of the Class B membership and otherwise specified herein.

**Section 10. Majority.** As used in these Bylaws, the term "majority" shall mean those votes totaling more than fifty (50%) percent of the total number.

**Section 11. Quorum.** Except as otherwise provided in these Bylaws or in the Declaration, the presence of persons representing at least fifty (50%) percent of the total votes of the Association shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

**Section 13. Action Without A Meeting.** Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Voting Representatives entitled to vote with respect to the subject matter thereof and the Declarant, and such consent shall have the same force and effect as a unanimous vote of the Members.

### ARTICLE III

#### Board of Directors: Number, Powers, Meetings

##### A. Composition and Selection.

**Section 1. Governing Body; Composition.** The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members.

**Section 2. Directors During Declarant Control Period.** The Directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant so long as the Class "B" membership exists, as set forth in the Declaration, unless the Declarant shall earlier surrender this right to select Directors. The Directors selected by the Declarant need not be Owners or residents in the Project. After the period of Declarant appointment, all Directors must be Members of the Association.

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**Section 3. Veto.** This Section 3 may not be amended without the express, written consent of the Declarant.

From the termination of the Class "B" membership, the Declarant shall have a veto power over all actions of the Board and the Modifications Committee, as is more fully provided in this Section. This power shall expire on December 31, 2020, unless earlier surrendered. This veto power shall be exercisable only by Declarant, its successors, and assigns who specifically take this power in a recorded instrument. The veto shall be as follows:

(a) Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or Modifications Committee by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with Article III, Sections 9, 10, and 11, of those Bylaws as to regular and special meetings of the Directors and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, the Modifications Committee, or the Association. Declarant and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the Modifications Committee or the Association and/or Board. At such meeting, Declarant shall have and is hereby granted a veto power over any such action, policy, or program authorized by the Modifications Committee or the Board of Directors and to be taken by said Committee or Board or the association or any individual member of the Association if Board, Committee, or Association approval is necessary for said action. Said veto may be exercised by Declarant, its representatives, or agents at the meeting held pursuant to the terms and provisions hereof. Any veto power shall not extend to the requiring of any action or counteraction on behalf of the Committee or Board or Associations.

**Section 4. Number of Directors.** The number of Directors in the Association shall be not less than three (3) nor more than nine (9), as the Board of Directors may from time to time determine by resolution. The initial Board shall consist of five (5) members and are identified in the minutes of the first meeting of the Board.

**Section 5. Nomination of Directors.** Except with respect to Directors selected by the Declarant, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days 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 such 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 in no event less than the number of vacancies or terms to be filled. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

**Section 6. Election and Term of Office.** At the first annual meeting of the membership after the termination of the Class "B" membership and at each annual meeting of the membership thereafter, Directors shall be elected by the Members and not the previous Voting Representative. There shall be at least one (1) Director elected from and representing each of the Neighborhoods. There shall, in addition, be directors elected at-large. All Members of the Association and not the Voting Representatives shall vote upon the election of at-large Directors; separate slates shall be proposed for candidates specifying those representing a Neighborhood and those running at-large, and only those Members in a Neighborhood shall vote on the representatives for that Neighborhood. The candidate receiving a majority vote shall be elected. In the event no candidate receives a majority vote at the first balloting, a run-off shall be held between the top two (2) candidates.

The initial terms of the Directors shall be fixed at the time of their election as they among themselves shall determine. So long as there are three (3) Directors, the term of one (1) Director shall be fixed at one (1) year, the term of one (1) Director shall be fixed at two (2) years, and the terms of one (1) Director shall be fixed at three (3) years. So long as there are six (6) or more Directors, there shall be concurrent terms for no less than three (3) members. At the expiration of the initial term of office of each respective member of the Board of Directors, a successor shall be elected to serve for a term of three (3) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

**Section 7. Removal of Directors and Vacancies.** A Director appointed by the Declarant may be removed prior to the expiration of his or her term upon two (2) days written notice from the Declarant. A Director who was elected solely by the votes of Members other than the Declarant may be removed from office prior to the expiration of his or her term by the votes of a majority of Members other than the Declarant.

In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

## **B. Meetings.**

**Section 1. Organization Meetings.** The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

**Section 2. 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. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 3. Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President, or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) by written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by fax. All such notices shall be given or sent to the Director's address or telephone or fax number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or fax shall be delivered, telephoned, or faxed at least seventy-two (72) hours before the time set for the meeting.

**Section 4. Waiver of Notice.** The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

**Section 5. Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 6. Compensation.** No Director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

**Section 7. Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceeding occurring at such meetings.

**Section 8. Executive Session.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

**Section 9. Action Without a Formal Meeting.** Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote. An explanation of the action taken shall be posted at a prominent place or places within the Common Area within three (3) days after the written consent of all the Board members have been obtained.

## **C. Powers and Duties.**

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**Section 1. Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the Managing Agent or Manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these Bylaws or by an resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Member to the Common Expenses and Neighborhood Expenses;

(b) making assessments to defray the Common Expenses and Neighborhood Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessments. Provided as otherwise determined by the Board of Directors, the annual assessments against the proportionate share of the Common Expenses and Neighborhood Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;

(c) providing for the operating, care, upkeep, and maintenance of all of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the other provisions of the Declaration and these Bylaws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf or against the Members concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable to Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Members. All books and records shall be kept in accordance with generally accepted accounting practices;

(m) make available to any prospective purchaser of a Residential Unit, any Owner of a Residential Unit, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Residential Unit,

current copies of the Declaration, the Charter, the Bylaws, rules governing the Residential Unit, and all other books, records, and financial statements of the Association; and

(n) permit utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Project.

**Section 2. Management Agent.**

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these Bylaws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 18 of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days' or less written notice.

**Section 3. Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of the Common Area and facilities without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided in the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five (5%) percent of the budgeted gross expenses of the Association for that fiscal year.

**Section 4. Rights of the Association.** With respect to the Common Area or other Association responsibilities owned, and in accordance with the Declaration, Charter and Bylaws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other homeowners or residents associations, both within and without the Properties. Such agreements shall require the consent of two-thirds (2/3) of the total votes of all Directors of the Association.

**ARTICLE IV  
Officers**

**Section 1. Officers.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The Board of Directors may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

**Section 2. Election, Term of Office and Vacancies.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 3. Removal.** Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

**Section 4. Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 5. Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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**Section 6.** Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by the President and Treasurer or by such other person or persons as may be designated by resolution of the Board of Directors.

## ARTICLE V Committees

**Section 1.** General. Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by law and operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

**Section 2.** Covenants Committee. The Board of Directors may appoint a Covenants Committee consisting of at least five (5) and no more than seven (7) members which shall act, in accordance with the provisions of the Declaration, these Bylaws, and resolutions the Board may adopt.

**Section 3.** Neighborhood Committees. In addition to other committees, as provided in Section 1 of this Article V, there shall be a Neighborhood Committee for each of the Neighborhoods contained in the Project. Each Neighborhood Committee shall consist of three (3) members; provided, however, by vote of at least fifty (50%) percent of the residents of the Neighborhood this number may be increased to five (5). The Neighborhood Committees shall be appointed and elected in the manner provided for Directors in Article III, Sections 5 and 6. Any Directors elected from a Neighborhood shall be an ex officio member of the Committee. It shall be the responsibility of the Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Neighborhood Committee may advise the Board on any other issue, but shall not have the authority to bind the Board of Directors.

In the conduct of its duties and responsibilities, each Neighborhood Committee shall comply with Article III, Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of these Bylaws. Each Committee shall elect a chairman from among its members who shall preside at its meetings and who shall be responsible for transmitting any and all communications to the Board of Directors.

Notwithstanding the foregoing, no Neighborhood Committee shall be required where a Neighborhood Association has been created to represent a particular Neighborhood.

## ARTICLE VI Miscellaneous

**Section 1.** Fiscal Year. The initial fiscal year of the Association shall be set by resolution of the Board of Directors.

**Section 2.** Parliamentary Rules. Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with the Declaration, the Bylaws, the Charter or Tennessee Law.

**Section 3.** Conflicts. If there are conflicts or inconsistencies between the provisions of the Charter, the Declaration, Tennessee law and these Bylaws, the provisions of the Declaration, the Bylaws, the Charter and Tennessee law (in that order) shall prevail.

**Section 4.** Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration and Bylaws, membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Project as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

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- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requests.

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

**Section 5. Notices.** Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by regular mail, postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Residential Unit of such owner; or

(b) if to the Association, the Board of Directors, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the Owners pursuant to this Section.

**Section 6. Amendment.** Prior to the sale of the first Residential Unit, Declarant may unilaterally amend the Bylaws. Thereafter, these Bylaws may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total votes of the Association. However, the percentage of votes necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

#### CERTIFICATION

The undersigned incorporator hereby certifies s/he adopted the foregoing Bylaws on the 2nd day of August, 2000, and approved the same on the same day.

INCORPORATOR:

  
Christopher J. Gettenfinger

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## EXHIBIT C

### PARCEL 1:

**Tract 3-Apple View Farms**, Re-subdivision of Lots 20-22 and part of 19, Lonesome Valley Subdivision, as shown on plats of record in Plat Book 31, page 81 and Large Map Book 2, page 155, Register's Office for Sevier County, Tennessee, to which plats specific reference is hereby made for a more particular description.

BEING PART OF THE SAME PROPERTY that Apple View Farms, LLC, a Tennessee Limited Liability Company, acquired from Jack Conner, a single person, by deed dated June 1, 1999 of record in Deed Book 659, page 40, Register's Office, Sevier County, Tennessee.

### PARCEL 2:

SITUATE in the Fifth (5<sup>th</sup>) Civil District of Sevier County, Tennessee, more particularly described as follows:

BEGINNING at an iron pin in the eastern edge of Little Pigeon River, North 39 deg. 47 min. 51 sec. West 895.433 ft. to a point where the Little Pigeon River and Mullendorre Road intersects; thence with Little Pigeon River, North 66 deg. 15 min. 04 sec. West 309.883 ft. to an existing iron pin at a sycamore; thence North 10 deg. 23 min. 56 sec. West 323.028 ft. to an existing pin; thence North 57 deg. 26 min. 37 sec. East 706.99 ft. to a point, corner to Howard and William R. Hounshell; thence with Hounshell, South 35 deg. 54 min. 47 sec. East 574.592 ft. to an iron pin; thence South 58 deg. 49 min. 34 sec. West 532.202 ft. to an iron pin; thence South 57 deg. 17 min. 53 sec. West 157.831 ft. to a persimmon; thence North 41 deg. 43 min. 49 sec. West 4.223 ft. to the point of BEGINNING, and containing 10.0184 acres more or less.

BEING the same property conveyed to Donald L. Trotter and wife, Marilyn, of Sevier County, Tennessee, by General Warranty Deed dated July 3, 1981, and recorded in Note Book 29, Page 190, and in Warranty Deed Book 304, Page 45, Item 3782, in the Register's Office of Sevier County, Tennessee.

### PARCEL 3:

SITUATE in the Fifth (5<sup>th</sup>) Civil District of Sevier County, Tennessee, and more particularly described as follows:

BEGINNING at an iron pin, common corner to Billie H. Marshall, et al, on the Eastern edge of the road right of way; thence with Billie H. Marshall, et al, North 57 deg. 26 min. 37 sec. East, 431.681 feet to an iron pin, common corner to property retained by the Grantors; thence with the Grantors, South 32 deg. 33 min. 23 sec. East, 147.58 feet to an iron pin; thence 33 min. 23 sec. West, 97.58 feet to an iron pin; thence South 57 deg. 26 min. 37 sec. West, 248.443 feet to an iron pin on the Eastern edge of the right of way; thence with the Eastern edge of the right of way, North 68 deg. 3 min. 5 sec. West, 61.413 feet to the POINT OF BEGINNING and containing 0.8056 acres according to survey of Ronnie L. Sims, RLS.

The foregoing description is taken from a Deed of Correction which is recorded as set forth below. The Grantor conveyed this property to the Grantee by Warranty Deed dated January 13, 1986, and recorded March 21, 1989, in the Sevier County, Tennessee, Register's Office in Warranty Deed Book 415, Page 341. The Grantor intended to retain a life estate in this property which life estate was not specifically retained in the deed. The parties corrected said deed by adding the following clause: The Grantor John M. Trotter hereby retains a life estate for himself in the above described property.

BEING the same property conveyed to Donald L. Trotter by John M. Trotter (a widower), by Deed of Correction dated September 26, 1990, and recorded in Note Book 45, Page 49, and Warranty Deed Book 451, Page 523, Item 1940, in the Register's Office for Sevier County, Tennessee.



**PARCEL 4:**

SITUATE in the Fifth (5<sup>th</sup>) Civil District of Sevier County, Tennessee, and BEGINNING at a point common corner to William R. Hounshell and Tract Two of property conveyed to James M. Marshall of even date herewith located North 35 deg. 54 min. 47 sec. East, 1,531.132 feet from the Northern edge of Mullendore Road; thence with Tract Two of the property conveyed of even date herewith to the grantor, South 57 deg. 26 min. 37 sec. West, 706.99 feet to an iron pin, corner to Brenda A. Marshall; thence North 35 deg. 26 min. 2 sec. West, 72.871 feet to an iron pin; thence South 68 deg. 16 min. 57 sec. West, 229.073 feet to an iron pin; thence South 05 deg. 57 min. 11 sec. East, 245.441 feet to an iron pin at a Sycamore on the Eastern edge of the West Prong of the Little Pigeon River; thence with the Eastern edge of said River, North 83 deg. 42 min. 17 sec. West, 661.594 feet to an iron pin common corner to Floyd Thornton, et ux; thence North 16 deg. 55 min. 26 sec. East, 280.722 feet to a Pine Stump; thence North 0 deg. 34 min. 19 sec. East, 267.345 feet to a marked White Oak; thence South 89 deg. 20 min. West, 384.169 feet to a Post; thence with Thornton and then Osie Rasor, North 23 deg. 30 min. 13 sec. West, 2,072.417 feet to a post; corner to C.M. Henderson and Ades Hounshell, et al; thence with Hounshell, South 56 deg. 34 min. 23 sec. East, 154.069 feet to an iron pin at a post, corner to Charles L. Giavelli, et ux; thence with Giavelli, South 17 deg. 56 min. 36 sec. East, 222.613 feet to an existing iron pipe at a marked Black Oak; thence South 81 deg. 7 min. 39 sec. East, 871.144 feet with Giavelli, then Ades Hounshell, et al, to a White Oak; thence with Hounshell, South 74 deg. 15 min. 03 sec. East, 116.963 feet to a Post Oak; thence South 16 deg. 17 min. 1 sec. East, 183.859 feet to an existing iron pipe; thence South 32 deg. 54 min. 12 sec. East, 131.143 feet to an iron pin; thence South 67 deg. 39 min. 49 sec. East, 276.128 feet to an iron pin; thence North 75 deg. 24 min. 40 sec. East, 210.389 feet to a Post; thence South 60 deg. 57 min. 34 sec. East, 295.189 feet to a White Oak, corner to Ades Hounshell, et al, and Howard Hounshell, et al; thence with Howard Hounshell, South 14 deg. 54 min. 52 sec. East, 132.763 feet to a Hickory; thence South 35 deg. 54 min. 47 sec. East, 958.850 feet to the point of BEGINNING, and containing 63.1551 acres, according to survey by Ronnie L. Sims, dated May 8, 1980, and revised March 2, 1981.

BEING the same property conveyed to Billie H. Marshall, et al, by James M. Marshall by General Warranty Deed dated March 8, 1981 and recorded in Warranty Deed Book 301, Page 346, Item 507 in the Office of the Register of Deeds for Sevier County, Tennessee.

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This Instrument Prepared By:  
Virginia L. Couch  
The Elmore Law Firm  
A Professional Corporation  
5301 Kingston Pike  
Knoxville, TN 37919

BK/PG: 2946/329-331

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|                       |       |
|-----------------------|-------|
| 3 PGS : RESTRICTIONS  |       |
| BATCH: 117094         |       |
| 11/02/2007 - 08:00 AM |       |
| VALUE                 | 0.00  |
| MORTGAGE TAX          | 0.00  |
| TRANSFER TAX          | 0.00  |
| RECORDING FEE         | 15.00 |
| DP FEE                | 2.00  |
| REGISTER'S FEE        | 0.00  |
| TOTAL AMOUNT          | 17.00 |

STATE OF TENNESSEE, SEVIER COUNTY  
SHERRY ROBERTSON HUSKEY  
REGISTER OF DEEDS

**SUPPLEMENT TO DECLARATION**  
**OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**APPLE VIEW FARMS**

THIS SUPPLEMENT to Declaration of Covenants, Conditions and Restrictions for Apple View Farms is made as of the 15<sup>th</sup> day of October, 2007, by Apple View Farms, LLC, a Tennessee limited liability company ("Declarant"), Apple View Farms Community Association, Inc. (the "Association"), River Place Condominiums Owners Association, Inc., and The Orchards and Villas Condominiums Owners Association, Inc.

**WHEREAS**, Declarant previously recorded the Declaration of Covenants, Conditions and Restrictions for Apple View Farms dated August 2, 2000, of record in the Sevier County, Tennessee Register's Office at Book 1097, Page 198 (the "Declaration"); and

**WHEREAS**, the parties hereto wish to supplement the Declaration to clarify that no "Common Area" has been specifically designated as "Exclusive Common Area";

**NOW, THEREFORE**, the undersigned hereby supplement the Declaration as follows:

1. Unless otherwise defined herein, all capitalized terms shall have the meaning set forth in the Declaration.
2. The Declaration provides that a Common Area may become an "Exclusive Common Area" and, therefore, be reserved for the exclusive use of Members or occupants of Residential Units within a particular Neighborhood or Neighborhoods, by Declarant designating it as such on the deed conveying the Common Area to the Association or on the plat of survey relating to such Common Area or by the Association and affected Members taking affirmative action to reassign such Common Area for exclusive use.
3. This Supplement is intended to clarify that no Common Area has been designated as an Exclusive Common Area by the Declarant or reassigned as such by the Association. Specifically, without limitation, the Common Area and improvements known as the pool, the sauna, the clubhouse and the riverwalk, though located within or adjacent to particular Neighborhoods, are not Exclusive Common Areas and thus are General Common Area and are for the use and benefit of all Members and occupants of Residential Units.
4. Except as otherwise provided herein, the Declaration is hereby ratified and confirmed.

IN WITNESS WHEREOF, the undersigned have executed this supplement as of the  
15<sup>th</sup> day of October, 2007.

APPLE VIEW FARMS, LLC

By: 

Christopher J. Gettelfinger, Chief Manager

APPLE VIEW FARMS COMMUNITY  
ASSOCIATION, INC.

By: 

RIVER PLACE CONDOMINIUMS OWNERS  
ASSOCIATION, INC.

By: 

THE ORCHARDS AND VILLAS  
CONDOMINIUMS OWNERS ASSOCIATION,  
INC.

By: 

STATE OF TENNESSEE     )  
COUNTY OF KNOX        )

Before me, Cynthia R. Gentry, a Notary Public in and for said County and State,  
personally appeared CHRISTOPHER J. GETTELFINGER, with whom I am personally acquainted (or  
proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the  
Chief Manager of APPLE VIEW FARMS, LLC, a Tennessee limited liability company, the within named  
bargainor, and that he, as such Chief Manager, being authorized to do so, executed the foregoing  
instrument for the purposes therein contained, by signing the name of the limited liability company  
himself as Chief Manager.

Witness my hand and seal at office, this 15<sup>th</sup> day of October, 2007.

Cynthia R. Gentry  
NOTARY PUBLIC

My Commission expires: 3/14/09

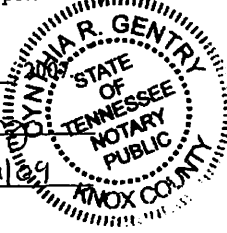


STATE OF TENNESSEE )  
COUNTY OF KNOX )

Before me, Cynthia R. Gentry, a Notary Public in and for said County and State, personally appeared Chris Gettelinger, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of APPLE VIEW FARMS COMMUNITY ASSOCIATION, INC., a Tennessee corporation, the within named bargainor, and that he, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

Witness my hand and seal at office, this 15<sup>th</sup> day of October

Cynthia R. Gentry  
NOTARY PUBLIC  
My Commission expires: 3/14/09

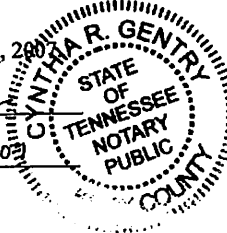


STATE OF TENNESSEE )  
COUNTY OF KNOX )

Before me, Cynthia R. Gentry, a Notary Public in and for said County and State, personally appeared Chris Gettelinger, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of RIVER PLACE CONDOMINIUMS OWNERS ASSOCIATION, INC., a Tennessee corporation, the within named bargainor, and that he, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

Witness my hand and seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, 200

Cynthia R. Gentry  
NOTARY PUBLIC  
My Commission expires: 3/14/09



STATE OF TENNESSEE )  
COUNTY OF KNOX )

Before me, Cynthia R. Gentry, a Notary Public in and for said County and State, personally appeared Chris Gettelinger, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of THE ORCHARDS AND VILLAS CONDOMINIUMS OWNERS ASSOCIATION, INC., a Tennessee corporation, the within named bargainor, and that he, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

Witness my hand and seal at office, this 15<sup>th</sup> day of October

Cynthia R. Gentry  
NOTARY PUBLIC  
My Commission expires: 3/14/09

