Harborview Homeowners Association, Inc.

Governing Documents

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

&

Bylaws
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

HARBOR VIEW, A PLANNED DEVELOPMENT

(LEGALLY KNOWN AS ISLAND CREST 111, AS FILED ON PLAT BOOK 165, PAGE 4.)

• THIS DECLARATION is made, published and declared this 10th day of August, 1997, by Miller-Bronze, LLC (the "Declarant" or "Developer) and any and all persons, firms or corporations hereinafter acquiring any of the within described property:

WHEREAS, the Declarant is the fee simple owner of a certain tract of real property in Memphis, Shelby County, Tennessee, which property is more particularly described in Exhibit "A" attached hereto (the "Property"); and

WHEREAS, the Developer has caused to be prepared a plan for the development of the Property, to be known as "Harbor View" into residential lots, together with certain common areas for the use, benefit and enjoyment of the owners of the lots in common with each other; and

WHEREAS, the Developer has caused a plat of the Property, to be filed in Plat Book 165, Page 4 in the Register's Office of Shelby County, Tennessee ("Plat"); and

WHEREAS, it is to the benefit, interest and advantage of the Declarant, the Lot Owners, and of each and every person or other entity, hereafter acquiring any interest in the Property that certain covenants, restrictions, easements, assessments and liens governing and regulating the use and occupancy of the same be established, fixed, set forth and declared as covenants running with the land;

NOW THEREFORE, in consideration of the premises, the Declarant does hereby publish and declare that all or any portion of the Property described in Exhibit "A" is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following obligations (and subject to all easements, conditions, restrictions, etc., as set out in the Plat, Exhibit "B"), all of which are declared and agreed to be in furtherance of the plan for the development and improvement of the said Property, and the said covenants, conditions, restrictions, uses, limitations and obligations shall run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns, and any person or legal entity acquiring or owning any interest in any portion of the said Property or any improvements thereon, their grantees, successors, heirs, executors, administrators, devisees, and assigns.
ARTICLE I.
DEFINITIONS

The following words when used in the Declaration shall have the following meanings:

Section 1. "Association" shall mean and refer to Harbor View Homeowners Association, Inc., a nonprofit, non-stock corporation incorporated under the laws of the State of Tennessee, its successors and assigns. The Association's Charter and Bylaws are attached hereto marked Exhibits "C" and "D", respectively, and made a part hereof.

Section 2. "Declarant" shall mean Miller-Bronze, LLC with offices at 1364 Cordova Cove, Germantown, TN 38138, its successors and assigns. "Declarant" shall be synonymous with "Developer" for purposes of the Declaration.

Section 3. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, and any supplementary declaration filed hereto, as this Declaration may, from time to time, be amended in accordance with its terms.

Section 4. "Lot" shall mean and refer to the plots of land designate with Numbers 90 through 178 inclusive, as shown on Exhibit "B" attached hereto. For all purposes hereunder, it shall be understood and agreed that Declarant shall be the Owner of all of said Lots, save and except only those particular Lots which Declarant conveys in fee simple title by recordable deed from and after the date hereof. Ownership of the Lot hereunder shall include an undivided pro rate interest in the Common Area owned by the Association.

Section 5. "Member" shall mean and refer to every Person who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simply title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, provided, however that the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 7. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.
Section 8. "Property" or "Properties" shall mean that real property described in Exhibit "A" attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 9. "Common Area" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is to include the private roads within Harbor View with the entire Common Area described as follows:

Lots "A" and "B" being common open space, Lots "E" and "F": being private drives, and private service drives "A," "B," "C" and "D:" to include encompassing drive and street R.O.W., drainage and sewer.

Section 10. "Improvements" shall mean the structures, walls, pavement, plantings and other additions built or placed on the Lots. It is intended that the Improvements reasonably meant for the Owner of a particular Lot will lie entirely within said Lot, except for party walls, as referred to hereafter. In the event that, by reason of construction, settlement, reconstruction or shifting of the Improvements, any minor part of the Improvements reasonably intended for a particular Lot lie outside that Lot, an easement of use shall apply thereto in favor of the Lot to be benefited.

Section 11. "Adjoining Lot Owners" shall mean and refer to the Owners of Lots that share a common boundary on which there is constructed a party wall.

ARTICLE II
PROPERTY

Section 1. Property Subject to Declaration. That certain real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration located in Memphis, Shelby County, Tennessee, and which is more particularly described in the legal description, Exhibit "A," attached hereto and made a part hereof. Island Place East is a public road and not owned by the Association.

Section 2. Roads and Sewers. The roads and sewers within Harbor View are, and shall remain, private roads and sewers, and have not been dedicated to the City of Memphis, or any other governmental body except for Island Place East. By remaining private, the responsibility for payment of maintenance and repair expenses for said roads and sewers shall remain the
responsibility of the individual Lot Owners, and be paid for by assessments levied by the Association as provided herein.

ARTICLE III
THE ASSOCIATION

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

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of a Lot, each Owner of a Lot being entitled to one (1) vote for each Lot owned.

Section 3. Secured Parties. No individual or legal entity holding title to a Lot as security for any debt or obligation shall be considered as Owner of such Lot, and such individual or entity shall not be entitled to membership in the Association or to cast a vote on any question or matter affecting the administration of the Association.

Section 4. Voting. At every meeting of the Members, each of the Members shall have the right to cast his vote on each question. The vote of the Members representing a fifty-one percent (51 %) majority of the total votes cast shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute or of the corporate Charter, or this Declaration, or of the Bylaws, a different vote is required, in which case such express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by any other owner of such membership is noted at such meeting. In the event all of the co-owners of any membership who are present at any meeting of the Members are unable to agree on the manner in which the vote for such membership shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question. No Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

ARTICLE IV.
PROPERTY RIGHTS
Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association to suspend any enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;
(b) The right of the Association to provide for and establish easements and rights-of-ways on all streets, and to regulate parking, motorized and non-motorized vehicular traffic, and to maintain the private street and sewers within Harbor View;
(c) The right of the Association, in accordance with its Charter and Bylaws, to borrow money for the purpose of improving the streets and Common Area which the Association is to maintain;
(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, transfer or mortgage shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes hereof has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less that thirty (30) days nor more than sixty (60) days in advance of such dedication or transfer.
(e) No conveyance or encumbrance of the Common Area shall prevent any Lot Owner from using the Common Area for ingress and egress to his Lot.

Section 2. Fence Easement. As the Association may decide in the future, Lots chosen by the Association in Harbor View shall be subject to an easement in order to allow the Association to construct, maintain, repair or replace the perimeter fence which may be constructed on the perimeters of the Property and its entrances.

Section 3. Parking. The Lot Owners shall be entitled to use parking spaces as may from time to time be created within the Common Area, subject to such rules as may be adopted by the Association.

Section 4. Additional Building. No additional buildings for permanent occupancy shall be constructed on the Common Area. This shall not prohibit the easements and parking area described above.
ARTICLE V.
MAINTENANCE AND REPAIR

Section 1. Association Responsibilities. The Association shall provide and pay for all maintenance and expenses for the Common Area including the private road, the sewers (both sanitary and surface water), the landscaping of the Common Area and fencing, if any, of the Property. The Association may also contract for the maintenance of the individual yards on each Lot in HarborView. The real property taxes on the Common Area, if any, shall also be paid for by the Association.

Section 2. Individual Lot Owners. Each Owner of a Lot shall be responsible for all interior and exterior maintenance, painting, repair and upkeep on his Lot and the improvements thereon. If the event an Owner of any Lot in the Property shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, or restore the Lot and the exterior of the building and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VI.
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall or fence which is built upon the Property and placed on a dividing line between residential Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall in equal proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who uses the wall may restore it, and if the other Owner(s) thereafter makes use of the wall, he shall contribute to the cost or restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner(s) to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts of omissions.
Section 4. Damage. Notwithstanding any other provisions of the Article, an Owner, who, by his negligent or willful act, causes a party wall to be damaged shall pay the replacement cost, except to the extent insurance shall provide payment. An Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing protection against the elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall run with the land and shall pass to successors in title.

Section 6. Arbitration. Any dispute concerning a party wall, or other provision of this Article, shall be resolved by arbitration. Each party to the dispute shall choose an arbitrator, such arbitrators shall choose one additional arbitrator, and a resolution shall be by a majority of the arbitrators, which decision shall be final and binding on all parties.

ARTICLE VII
ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, including road and sewer maintenance; and (3) emergency assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual, special and emergency assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due.

Section 2. Annual Assessments and Carrying Charges of the Association. Each Member of the Association shall pay to the Association an annual sum (herein sometimes referred to as "assessments" or "carrying charges") equal to the Member's proportionate share (1.124%) of the sum required by the Association, as estimated by its Board of Directors, to meet its annual expenses, including, but in no way limited to, the following:

(a) The cost of all operating expenses of the Association and services furnished, including charges by the Association for its facilities, if any; and
(b) The amount of all taxes and assessments levied against the Association or upon any property which it may own or which it is otherwise required to pay, if any; and

(c) The cost of extended liability insurance and the cost of such other insurance as the Association may effect; and

(d) The cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and/or reserve for replacements; and

(e) The estimated cost of repairs, maintenance and replacements of the roads, sewers, walls, perimeter fences, and landscaping in the Common Areas and entrance gate, if any, and any other item the Association may be responsible for; and

(f) The cost of yard maintenance should the Association elect to contract for every Lot.

Except as provided in Section 11 of this Article VII, the Board of Directors of the Association shall determine the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period, but may do so at more frequent intervals should circumstances so require as provided in the Bylaws. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a letter signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid.

Section 3 Special Assessments In addition to the regular assessments authorized by this Article, the Association may levy in any assessment year a special assessment or assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement for which the Association is specifically responsible or for such other purposes as the Board of Directors may consider necessary, provided that such assessment shall have the assent of the Members representing two-thirds (2/3) of the total number of votes cast. A meeting of the appropriate Members shall be duly called for this purpose, written notice of which shall be sent to all Members at least ten (10) days but no more than thirty (30) days in advance of such meeting, which notice shall set forth the purpose of the meeting. Such a referendum may also be conducted by written ballots, email or by and online ballot service. Voters shall have 10 days to cast their ballots after they are distributed.

Section 4. Emergency Assessments. In the event of any emergency situation, condition, or occurrence affecting the life, health, safety or welfare of Members of Property of Members, the
Board of Directors, acting pursuant to this section, may declare an emergency assessment in such amount and payable at such time as the Board of Directors, in its sole discretion, shall deem necessary. Such emergency assessment, except for the amount and time of payment, shall be governed by all other provisions of the Declaration. Such assessment shall be borne pro rata by all Members of the Association. The Board of Directors shall be fully protected and not liable for any mistake in judgment hereunder if the emergency assessment is made in good faith.

Section 5. Non-Payment of Assessments. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the Lot or Lots belonging to the Member against whom such assessment is levied and shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. To evidence the lien of any unpaid and delinquent assessments, the Board of Directors shall prepare a written notice setting out the amount of the unpaid indebtedness, the name of the Owner of the Lot, and description of the Lot. Said notice shall be signed by a member of the Board and recorded in the Shelby County Register's Office. The personal obligation of the Member to pay such assessment shall, however, remain his personal obligation for the statutory period, and a suit to recover a money judgment for non-payment of any assessment levied pursuant to this Declaration or the Bylaws, of any installment thereof, may be maintained without foreclosing or waiving the lien-created herein.

Any assessment levied pursuant to this Declaration or any installment thereof, which is not paid within ten (10) days after it is due, may, upon resolution of the Board of Directors, bear interest at a rate not to exceed the highest rate allowed under the laws of the State of Tennessee, and may, by resolution of the Board of Directors, subject the Member obligated to pay the same payment of such penalty or "late charge" as the said Board may fix. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Lot or Lots subject to prior mortgages or deeds of trust upon the Lot or Lots, then belonging to said Member; in either of which events, the Association may collect from the said Member interest, costs and reasonable attorneys' fees. The Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

For the purpose of enforcing the lien of any unpaid and delinquent assessment, each Lot Owner grants the Board of Directors of the Association irrevocably the power to sell his Lot at public outcry to the highest and best bidder for cash. The Board of Directors is authorized to make such a public sale if and only if the sale is made subordinate to any prior recorded mortgage or deed of trust upon the Lot. The Association is hereby authorized to take any and all courses of action available to them for collection of the assessment which the laws of the State of Tennessee allow. Any such sale shall be made after first advertising the sale of said property for twenty-one (21) days by three (3)
weekly publications in some newspaper in the County of Shelby, State of Tennessee, giving notice of the time and place of such sale and by written notice of time and place of such sale to the Owner of the Lot at his last known address. Any sale of a Lot to enforce a lien for delinquent and unpaid assessments shall be free from equity of homestead, and dower and all other exemptions, all of which are lien enforced thereby shall take precedence over and have priority over any and all other liens of every nature against the Lot, except real estate and ad valorem taxes assessed against the Lot and prior recorded mortgages or deeds of trust. The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied first to the payment of the expenses of protecting the Property and the expenses of litigation, attorneys' fees, and sales commission; and second, to the payment of real estate and ad valorem taxes assessed against the Lot and any prior recorded mortgages or deeds of trust (unless sold subject to said mortgage or deed of trust); and third, to the payment of all amounts due the Association under the terms of the Declaration and Bylaws; and the balance, if any, to the Lot Owner whose Lot is sold, and his assigns. Upon any default in the payment of any assessment, the Board of Directors shall have the right to all rents, issues, and profits from the Lot in default and shall have the right to secure the payment through notice to those in possession of the Lot or by entry into possession following default. The Association may enforce its lien by whatever means available, including the power of sale granted herein or filing suit for foreclosure in the appropriate court.

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

The Association may notify the holder of the first mortgage on any Lot for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of sixty (60) days and in any other case where the Owner of such Lot is in default with respect to the performance of any other obligation hereunder for a period in excess of ninety (90) days.

Section 6. Acceleration of Installments. Upon default in the payment of any one or more installments of any assessment levied pursuant to this Declaration, or any other installment thereof, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.
Section 7. Priority of Lien. The lien established by this Article shall have preference over any other assessments, liens, judgments or charges of whatever nature, except the following:

(a) General and special assessments for real estate taxes on a Lot; and

(b) The liens of any deeds of trust, mortgage instruments or encumbrances duly recorded on the Lot prior to the assessment of the lien thereon or duly recorded on said Lot after receipt of a written statement from the Board of Directors reflecting that payments on said lien were current as of the date of recordation of said deed of trust, mortgage instrument or encumbrance.

Section 8. Subordination and Mortgage Protection. NOTWITHSTANDING any other provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration upon any Lot shall be subordinate to and shall in no way affect the rights of the holder of any indebtedness secured by any recorded first mortgage (meaning a mortgage with priority over other mortgages) upon such interest made in good faith and for value received, provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a foreclosure or any other proceeding in lieu of foreclosure. Any such delinquent assessments which are extinguished pursuant to the foregoing provision may be reallocated and assessed to all Owners as a common expense, including the purchaser at foreclosure. Such sale or transfer shall not relieve the purchaser at such sale of the Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment which said lien, if any, claimed shall have the same effect and be enforced in the same manner as provided herein. No amendment to this Section shall affect the rights of the holder of any such mortgage (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof shall join in the execution of such amendment.

Section 9. Additional Default. Any recorded trust mortgage secured by a Lot in Harbor View may provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise by a default in such mortgage (or the indebtedness secured thereby), but the failure to include such a provision in any such mortgage shall not affect the validity or priority thereof, and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 8 of this Article shall not be altered, modified, or diminished by reason of such failure.

Section 10. Uniform Value of. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.
Section 11. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots upon conveyance of the Common Area to the Association. The first annual assessment shall be paid in full for twelve months at time of any sale and/or transfer of a Lot. The second annual assessment shall be adjusted according to the number of months remaining in the calendar year. Until December 31, 1998, the maximum assessment shall be Fifty Dollars ($50.00) per Lot per month.

Until December 31, 1998 the Declarant shall have the sole authority to determine whether an assessment shall be levied. After December 31, 1998, the assessment shall be fixed by the Board of Directors as set out in Section 2 of this Article VII.

ARTICLE VIII.
ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. An "Architectural Control Committee" is hereby established. The Board of Directors of the Association shall appoint the Architectural Control Committee, which shall be composed of three (3) or more individual Lot Owners. The affirmative vote of a majority of the membership of the Architectural Control Committee, shall be required to decide any issue over which it has control. The Architectural Control Committee shall be required to adopt or promulgate any rule or regulation, or to make any findings, determinations, ruling or order, or to issue any permanent authorization or approval pursuant to the directives or authorizations contained herein.

Section 2. Approvals Necessary, Rules of Committee and Remedies for Violation. With the exception of Developer, no structure of any kind or nature or any fence or barrier shall be commenced, erected, placed, moved onto, or permitted to remain on any of the Lots within Harbor View, nor shall any existing structure, fence or barrier upon any Lot be altered in any way which changes the exterior appearance (which includes but is not limited to changes in paint color and re-roofing) thereof, nor shall there be any additions, attachments, or deletions to improvements, nor shall there be any change in landscaping, without the written consent of the Architectural Control Committee; nor shall any new use be commenced on any Lot unless plans and specifications (including a description of any proposed new use) shall have been submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be required by the Architectural Control Committee, but in any event shall include:
(1) A site plan of the Lot showing the nature, exterior, color scheme, kind, shape, height, materials, and location with respect to said Lot (including proposed front, rear, and side setback) of all structures, fences or barriers, and location of all parking spaces and driveways on the Lot; and

(2) Grading and landscaping plans for the particular Lot.

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

In the event the Architectural Control Committee fails to approve or disapprove any plans and specifications or other requests as herein provided within thirty (30) days after submission thereof, the same shall be deemed to have been approved as submitted and no further action shall be required.

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

If fifteen (15) days after the notice of such violation, the Owner or Owners of the Lot upon which such violation exists shall not have taken reasonable steps towards the removal or termination of the same, the Association by its officers or directors shall have the right through its agents and employees to enter upon such Lot and to take such steps as may be necessary to extinguish such violation, and the costs thereof shall be binding personal obligation of such Owner as well as a lien upon the Lot in question upon the recording of such with the Office of the Register of Shelby County, Tennessee.

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

The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to these restrictions payable at the time such plans and specifications are so submitted.

Any agent of Developer or the Architectural Control Committee may, at reasonable times, enter upon and inspect any Lot and any improvements thereon for the purposes of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of structures thereon are in compliance with the provisions of these restrictions, and no such persons shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.
The Association or any Owner of any Lot contained within Harbor View shall have the right to enforce by any proceeding at law or in equity all -conditions, restrictions, covenants, reservations and easements herein or hereinafter contained or otherwise contained in any deed to any Lot. Failure by any Owner to enforce any of such proceedings shall in no event be deemed a waiver of the right to do so thereafter.

Should a request to the Committee come from a Committee member, the other members of the Committee shall select a disinterested Lot Owner to take the place of the Committee member making the request.

ARTICLE IX,
RESTRICTIVE COVENANTS

Section 1. Residential Use. Lots 90 through 178, inclusive, shall not be used except for private residential purposes.

Section 2. Prohibited Uses and Nuisances. In order to provide for a congenial occupation of the homes within Harbor View and to provide for the protection of the values of the entire development, the use of the residences shall be in accordance with the following provisions:

(a) Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction, and no buildings or structures shall be moved from other locations onto said Property, and no subsequent buildings or structures, other than single family houses shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.

(b) Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof and all easements, restrictions and covenants set out in the Plat attached hereto as Exhibit "B."

(c) No animals, livestock or poultry of any kind shall be raised, bred, or kept on any said Lots, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

(d) No advertising signs (except one (1) of not more that five (5)- square feet "for rent" or "for sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the
Owner of any Lot or any resident thereof. No business activity of any kind whatever shall be conducted in any building or in any portion of said Property, provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agents, and assigns during the development and sales period of Lots in Harbor View.

(e) All equipment, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of the private drives and streets. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

(f) No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

(g) Grass, weeds, vegetation and debris on each Lot shall be kept mowed and cleared at regular intervals by the Owner thereof so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines, debris and plants which die shall be promptly removed from such Lots, Developer, at its option and its discretion, may mow and have dead trees and debris removed from such Lots and the Owner of such Lot shall be obligated to reimburse Developer for the cost of such work should he refuse or neglect to comply with the terms of this paragraph.

(h) No obnoxious or offensive trade or activity shall be carried on upon any Lot in this planned development nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners within Harbor View.

(i) No building material of any kind or character shall be placed or stored upon any of said Lots until the Owner is ready to commence improvements. Building materials shall not be placed or stored in the street or between the curb and property lines.

(j) No building material of any kind or character shall be placed or stored upon any of said Lots until the Owner is ready to commence improvements. Building materials shall not be placed or stored in the street or between the curb and property lines. There shall be no violation of any rules which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere-in the Bylaws authorized to adopt such rules..

ARTICLE X.
COMMON EASEMENTS
Section 1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to unintentional placement or settling or shifting of Improvements constructed, reconstructed or altered thereon.

Section 2. Easement for Utilities, Etc. Declarant hereby reserves for itself and its designees (including without limitation, the City of Memphis, County of Shelby or any utility) blanket easements upon, across, over and under all of the Common Area and to the extent shown on any plat over the Lots for ingress, egress, installation, replacing, repairing and maintaining cable television systems, master television antenna systems, security, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, 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 the Property described on Exhibit "A."

ARTICLE XI.
INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area (including perimeter fences). The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have a One Million Dollar ($1,000,000) single person limit as respected bodily injury and property damage, a One Million Dollar ($1,000,000) limit per occurrence and a Thirty Thousand Dollar ( $30,000) minimum property damage limit.

No building material of any kind or character shall be placed or stored upon any of said Lots until the Owner is ready to commence improvements. Building materials shall not be placed or stored in the street or between the curb and property lines. There shall be no violation of any rules which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere-in the Bylaws authorized to adopt such rules.

Premiums for the insurance on the Common Area shall be common expenses of the Association. The policy may contain a reasonably deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least
equals the full replacement cost of the improvements. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance.

Cost of insurance coverage obtained by the Association for the Common Area and other improvements for which the Association is responsible shall be included as an Assessment as defined in Article VII.

The Association's Board of Directors shall make every reasonable effort to secure insurance policies that will provide for the following:

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

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

(iii) that no policy may be canceled, invalidated, or suspended on account of the 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 Owner, or mortgage;

(iv) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(v) that no policy may be canceled or substantially modified without at least ten (10) days prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 2. Individual Insurance - Repair and Reconstruction. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees
with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance on the Lot and structures construed thereon for full replacement cost. In the event of damage or destruction by fire or other casualty, the Owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damage or destroyed portions of the improvements in a workmanlike manner in conformance with the original plans and specifications of the building (including landscaping). In the event the Owner refuses or fails to so repair or rebuild any and all such damage to his improvements within thirty (30) days, the Association, by and through its Board of Directors, is hereby authorized by such Owner to repair and rebuild the improvements in a good workmanlike manner in conformity with the original plans and specifications.

The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association will have a lien securing the payment of same identical to that provided for in Article VII, securing the payment of said sums expended and subject to the power of sale and foreclosure as set forth in said Article.

The individual Owners shall make every reasonable effort to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Association, other Lot Owners, and their respective tenants, servants, agents and guests.

The individual Owners shall furnish a certificate of insurance to the Association or its manager.

ARTICLE XII.
MORTGAGEE'S RIGHTS

Upon request, the Association shall make available to any Lot Owner and lender, and to any holder, insurer, or guarantor of any first mortgage, current copies of this Declaration, the Bylaws, and other rules concerning the affairs and management of Harbor View, and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours.

Upon request, the Association shall furnish to any holder of a first mortgage a financial statement for the Association's immediately preceding fiscal year.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the unit number or address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of: any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage;
(a) any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;

(b) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association;

(c) any proposed act that requires the consent of a specified percentage of mortgage holders.

The consent of at least sixty-seven percent (67%) of the votes and the approval of the eligible holders of first mortgages on Lots to which at least sixty-seven percent (67%) of the votes subject to a mortgage appertain, shall be required to terminate the Association.

The consent of at least sixty-seven percent (67%) of the votes and the approval of eligible holders of first mortgages on individual Lots to which at least fifty-one percent (51%) of the votes subject to a mortgage appertain, shall be required to materially amend any provisions of the Declaration, Bylaws, or Charter of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following: (1) -voting; (ii) assessments, assessment liens, not including a subordination of said lien; (iii) reserves for maintenance, repairs, and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) rights to use of the Common Area; (vi) responsibility for maintenance and repair of the Property; (vii) boundaries of any residential Lot; (viii) imposition of any right of first refusal or similar restrictions of the right of any Owner to sell, transfer or otherwise convey his Lot; (ix) any provisions included in the Declaration, Bylaws, and Charter of Incorporation which are for the express benefit of holders, guarantors or insurers of first mortgages on residential units, which provisions do not set out a required number of votes to amend the particular provision.

ARTICLE XIII. GENERAL PROVISIONS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land 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, unless otherwise expressly limited herein, after which time said covenants shall be automatically extended for successive periods of ten (10) years each. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Owners holding not less than sixty-seven percent (67%) of the votes of the membership at any time. Any amendment must be properly recorded to be effective.
Section 2. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when emailed to the address on record with the Association or, if no email address exists, when mailed, postpaid, to the last known address of the person who appears as a Member on the records of the Association at the time of such mailing.

Section 3. Enforcement. The Declarant, the Association, or any Member, shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any Member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Association shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

Section 5. Waiver. No restriction, condition, obligation or provision of the Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 6. Gender, Etc. Whenever in this Declaration the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.
Description of the Saxon 18.39 acre partition of the Gerber, Et. Al. 138,448 acre tract located on Mud Island, as shown in Instrument No. TS-2076 in the Shelby County Register's Office, being more particularly described as follows:

Beginning at a point in the east property line of Riverset Development recorded in Plat Book 126, Page 37 in the S.C.R.O., said point also being approximately 535.52 feet north of north line of Island Place (60' R.O.W.) as measured along the west line of said Saxon tract; thence South 85 degrees 27 minutes 29 seconds East along the north line of said Saxon tract, a distance of 1253.80 feet (called 1253.76 feet) to a point of cusp on a curve concave to the west, said point being in the west line of Wolf River recorded in Book 494, Page 254 in the S.C.R.O., having a radius of 805.60 feet and a central angle of 11 degrees 28 minutes 54 seconds and being subtended by a chord which bears South 19 degrees 11 minutes 15 seconds West 161.17 feet; thence southerly and southwesterly along said curve, a distance of 161.44 feet (called 161.33 feet) to a point; thence South 24 degrees 49 minutes 29 seconds West along the west line of said Channel, a distance of 723.68 feet to a point in the northeast corner of Wolf River Company Inc. recorded in Inst. No. 58-5075 in the S.C.R.O.; thence North 85 degrees 26 minutes 21 seconds West along the north line of said Company, a distance of 707.59 feet to a point in the southeast corner of Watersedge P.D. recorded in Plat Book 148, Page 26 in the S.C.R.O.; thence North 03 degrees 13 minutes 06 seconds West along the east line of said Watersedge P.D., a distance of 280.72 feet (called 280.70 feet) to a point; thence North 13 degrees 20 minutes 25 seconds West along the east line of said Watersedge P.D. and Phase II, Island Crest P.D. (Harbour Pointe) as recorded in Plat Book 147, Page 69 in the S.C.R.O., a distance of 234.85 feet (called 234.93 feet) to a point; thence North 18 degrees 56 minutes 11 seconds West along the east line of said Harbour Pointe and aforesaid Riverset Development, a distance of 362.89 feet (called 362.82 feet) to the POINT OF BEGINNING. Containing 18.39 acres of land.
CHARTER
OF
HARBOR VIEW
HOMEOWNERS ASSOCIATION.

The undersigned person undersigned Tennessee Nonprofit Corporation Act adopts the renewing charter for the above listed corporation.

1. The name of the Corporation is Harbor View Homeowners Association, Inc

2. This corporation is a mutual benefit corporation

3. This is not a religious corporation.

4. (a) The complete address of the corporation’s initial registered office is 1354 Cordova Cove, Germantown, Shelby County, Tennessee, 38138

    (b) The name of the initial registered agent to be located at the address listed in 4 (a) is Jeffrey L. Bronze

5. The name and complete address of the incorporator is

    Jeffrey L. Bronze

    1364 Cordova Cove

    Germantown, TN 38138

6. The complete address of the corporation’s principal office is 1364 Cordova Cove, Germantown, TN 38138

7. This corporation is a nonprofit corporation

8. The Corporation will have members
9 The Association may be dissolved with the assent given in writing and signed by not less that sixty seven percent (67%) of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation association trust or other organization to be devoted to such similar purposes.

10 No director shall be personally liable to the corporation or its shareholder for monetary damages for breach of fiduciary duty as a director, except as otherwise provided in subparagraphs (A) (B) and (C) of T.C.A. Section 48-52-102(b) (3). The foregoing shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when this paragraph becomes effective.
BYLAWS OF
HARBOR VIEW HOMEOWNERS ASSOCIATION, INC.

ARTICLE I.

Section 1. Name. The name of this corporation is HARBOR VIEW HOMEOWNERS ASSOCIATION, INC. Its principal place of business is 1364 Cordova Cove, Germantown, TN 38138. The corporation may have such other offices within or without the State of Tennessee as the Board of Directors or the Members may from time-to-time designate.

ARTICLE II.

Section 1. Applicability. These Bylaws and each provision thereof shall be applicable to all Lots and Members, as defined, within the residential planned development known as Harbor View Plat Book 165, Page 4, Shelby County Register's Office.

ARTICLE III.

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

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

Section 2. Voting Rights. The Owner or Owners of a Lot shall be entitled to one (1) vote for each Lot owned at all meetings of the Association. Where two or more persons own a Lot, the vote allocated to that Lot shall be cast by the one authorized by such two or more Owners, and in the event of failure of such authorization, no vote shall be recorded for that Lot. Where only one of two or more owners of a Lot is present in person at a meeting, such one shall be presumed to be authorized by all Owners of said Lot and shall be entitled to cast the vote with respect for that Lot. Where one person or a group of persons owns more than one Lot, such person or group shall be entitled to cast one (1) vote for each Lot owned.

ARTICLE IV.

Section 1. Place of Meeting. Meetings of the membership shall be held at the principal office or the place of business of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.
Section 2. Annual Meetings. The annual meetings of the Members of the Association shall be held at 6:30 PM on the second Monday of September of each year, beginning in 1998, or such date and time established by the Board of Directors. Concurrent with this meeting a new Board of Directors shall be elected in accordance with Article V Section 5 of these ByLaws. The election may be conducted by written ballots, email or by an online ballot service. Voters shall have 10 days to cast their ballots after they are distributed. Voters will be allowed to cast affirmative votes for up to 5 candidates. The top five vote getters shall be elected to the new Board of Directors. In instances when only 5 candidates have asked to be on the ballot, the vote may be dispensed with and the election of the 5 candidates shall be considered official. The vote tally will be announced at this meeting. The Members may also transact such other business of the Association as may properly come before them.

Section 3. Special Meeting. It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a petition signed by Members representing at least ten percent (10%) of the total number of votes entitled to be cast on any issue proposed to be considered at the proposed special meeting having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Board of Directors to email a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at his email address as it appears on the membership book of the Association, if any, or if no such email address appears, at his last known place of address, no earlier than 40 day and no later than 30 days prior such meeting. It is the responsibility of the homeowner to inform the Board of Directors of any change in email address. Service may also be accomplished by the delivery of any such notice to the Member at his last known address by deposit in the box or slot for the United States mail. Notice by any of the above such methods shall be considered as notice served. Attendance by a Member at any meeting of the Members shall be by him of the time, place and purpose thereof.

Section 5. Voting. At every meeting or referendum of the Members, each of the Members shall have the right to cast his vote on each question. The vote of members representing a fifty-one percent (51%) majority of the total votes cast, shall decide any question brought before such meeting, unless the question is one upon which, by express provision of statute or of the Charter of Incorporation, or the Declaration, or of these Bylaws, a different vote is required, in which case such express provision shall govern and control. No Member shall be eligible to vote, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

Section 6. Whenever the vote of Members at a meeting thereof is required or permitted to take any action in accordance with any statute, the Declaration or these Bylaws, such meeting and vote may be dispensed with if all Members who would have been entitled to vote upon such action receive a ballot from the corporation delivered by email or an online
ballot service. The ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval shall be valid if greater than 50% of the ballots cast are in favor of the proposal.

**ARTICLE V.**

Section 1. Number and Qualification. The affairs of the Association shall be governed by the Board of Directors composed of five (5) persons (after the current Board of 7 members is reduced by attrition to 5 members), all of whom shall be Members of the Association.

Section 2. Power and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and the residential planned development and may do all such acts and things as are not by law or by these Bylaws directed to be exercised and done by the Members. The powers and duties of the Board of Directors shall include, but not be limited to, the following:

To provide for:

(a) Care and upkeep of the roads, sewers, utilities, perimeter fence, wall, common area, and any other properties charged to the care of the Association, including establishing reserves for repairs or replacements.

(b) Establishment and collection of assessments and/or carrying charge from the Members and for the assessment and/or enforcement of liens therefor in a manner consistent with law and the provisions of these Bylaws and the Declaration.

(c) Designation, hiring and/or dismissal of the personnel necessary for the good working order of Harbor View and to provide services for the community in a manner consistent with law and the provisions of these Bylaws and the Declaration.

(d) Promulgation and enforcement of such rule and regulations and such restrictions or requirements as may be deemed proper respecting the use occupancy and maintenance of Harbor View, all of which shall be consistent with law and the provisions of these Bylaws and the Declaration.

(e) Elect an Architectural Control Committee.

Section 3. Nomination. Ballots for election to the Board of Directors shall be collected by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members. The ballot for candidates for the Board of Directors shall
be established from an email solicitation sent to all homeowners asking for volunteers to serve on the Board for the upcoming year. This email will be sent 30-40 days prior to the upcoming election. Affirmative responses must be received by the Nominating Committee within 10 days of the solicitation being sent.

Section 4. Election and Term of Office. The term of the Directors named herein and in the Charter of Incorporation shall expire when their successors have been elected. The term of office of each Director thereafter shall be for a period of one (1) year or until their successors shall have been elected and hold their first meeting.

Section 5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the membership shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected by the Members at the next annual meeting.

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

Section 7. Compensation. No compensation shall be paid to Directors or Officers for their services as Directors or Officers unless approved by a 2/3 vote of the homeowners in a referendum conducted to establish such compensation. After the first annual meeting of the Members, no remuneration shall be paid to any Director who is also a Member of the Association for services performed for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before the services are undertaken.

Section 8. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 9. The regular business of the Board of Directors may be conducted by physical meetings arranged at the convenience of Board Members or may be conducted by emails among themselves. Such emails will constitute meeting minutes and will be subject to inspection by the homeowners. Any proposal to be enacted will require an affirmative vote of a majority of Board members expressed in an email or voice vote at any physical
meeting.

Section 10. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for the Association or trust funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE VI.

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

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

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

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

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

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

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

ARTICLE VII.

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

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

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

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

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

ARTICLE VIII

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

(a) The cost of such insurance as the Association may effect.

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

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

(d) The cost of the maintenance or repair on any Lot in the event such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the Common Area or to preserve the appearance or value of Harbor View or is otherwise in the interest of the general welfare of all Owners of the Lots; provided, however that o such maintenance or repair shall be undertaken without a resolution by the Board of Directors and not without reasonable written notice to the Owner of the Lot proposed to be maintained and provided, further, that the cost thereof shall be assessed against the Lot on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be sent promptly to the then Owner of said Lot at which time the assessment shall become due and payable an a continuing lien and obligation of said Owner,

(e) All other items which are listed as responsibilities of the Association as found in the Declaration.

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

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

Section 4 Removal of Renters. By an affirmative vote of ¾ of the Board of Directors any renter found to be in violation of the rules and regulations of Harborview HOA will be evicted from the rental premises and the rental agreement between Member and renter shall provide for adherence to said rules and regulations.

ARTICLE IX.

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

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

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

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

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

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

ARTICLE X.

Section 1. Amendments. These Bylaws may be amended by the affirmative vote of Members representing a majority (unless the Declaration calls for a greater number with respect to a particular clause) of all votes entitled to be cast at any meeting of the Members duly called for such purpose, and only after thirty (30) days' prior written notice to the institutional holders of all first mortgages on the Lots in Harbor View. Amendments may be proposed by the Board of Directors or by petition signed by members representing at least thirty percent (30%) of the total number of votes entitled to be cast. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

ARTICLE XI.

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

Section 2, Definition. As used in this Article, the term "mortgagee" shall mean any mortgages and shall not be limited to institutional mortgagees and the term "mortgage" shall include a deed of trust. As used generally in these Bylaws, the term "institutional holder" or "institutional mortgagee" shall include banks, trust companies, insurance companies, savings and loan associations, pension funds and any corporation, including a corporation of, or affiliated with, the United States government, or any agency thereof.
ARTICLE XII.

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

Section 2. Notices. Unless another type of notice is herein or elsewhere specifically provided for, any and all notices called for in the Declaration or these Bylaws shall be given by email at the address on record with the Association or, if no email address, at the street address on record with the Association.

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

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

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

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