

File: Grant, Konvalinka & Harrison, P.C.

Prepared by:  
Matt Brownfield  
The Gardens at Heritage Green CAI  
800 Callaway Court  
Chattanooga, TN 37421

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69 Page MASTER DEED	
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<b>TOTAL FEES</b>	<b>\$347.00</b>
State of Tennessee Hamilton County Register of Deeds	<b>PAM HURST</b>

**COVER PAGE**  
**THE 8TH AMENDMENT TO**

**THE MASTER DEED (ATTACHED EXHIBIT A) FOR**  
**THE GARDENS AT HERITAGE GREEN CONDOMINIUM**  
**ASSOCIATION, INC.**

**FILED NOVEMBER 7, 2017**

**(The Attached Exhibit A includes the 1st through the 8th  
Amendments)**

**IMPORTANT - PLEASE READ**

**THIS DOCUMENT INCLUDES RESTRICTIONS ON YOUR ABILITY TO RENT OR  
LEASE THE PROPERTY IN THE GARDENS YOU ARE DESIRING TO PURCHASE.**

**PLEASE REVIEW THIS DOCUMENT CAREFULLY IF YOU INTEND TO RENT OR  
LEASE THE PROPERTY IN THE GARDENS AFTER PURCHASE.**

REFER TO ARTICLE X, SECTION 2 OF THE MASTER DEED. ALSO RULE #32 AND  
RULE #37 OF THE GARDENS RULES AND REGULATIONS (WHICH ARE ATTACHED  
TO THE END OF THE MASTER DEED, BYLAWS.

RENTALS IN THE GARDENS AS OF NOVEMBER 7, 2017 ARE NOW CAPPED AT 8% OR  
10 UNITS. WE ARE AT FULL CAPACITY AT PRESENT.

PLEASE CONTACT THE FOLLOWING BOARD MEMBERS IF YOU HAVE QUESTIONS  
AS TO THE STATUS OF RENTALS:

MATTHEW BROWNFIELD - [mbrownfield@gkhpc.com](mailto:mbrownfield@gkhpc.com) or  
URSULA JENKINS-TURNER - [Ursula@epbfi.com](mailto:Ursula@epbfi.com)

THANKS

THE BOARD FOR THE GARDENS AT HERITAGE GREEN CAI

CK- 2835

Prepared by and when recorded  
Return to:  
Matt Brownfield  
The Gardens at Heritage Green CAI  
800 Callaway Court  
Chattanooga, TN 37421

**EIGHTH AMENDMENT TO MASTER DEED**  
**FOR THE GARDENS AT HERITAGE GREEN CONDOMINIUM ASSOCIATION, INC.**

Re: Master Deed dated November 17, 2004 from A. L. James Construction and Development, LLC ("Developer") for The Gardens at Heritage Green Condominium Association, Inc., recorded in Book 7344, Page 922 in the Register's Office of Hamilton County, Tennessee.

The First Amendment to Master Deed was previously made as of the 22nd day of May, 2009 by the Board of Directors (the "Board") of The Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Second Amendment to Master Deed is made as of the 12th day of October, 2010 by the Board of Directors (the "Board") of The Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Third Amendment to Master Deed is made as of the 17th day of November, 2011 by the Board of Directors (the "Board") of The Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Fourth Amendment to the Master Deed is made as of the 30th day of May, 2014 by the Board of Directors (the "Board") of the Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Fifth Amendment to the Master Deed is made as of the 31st day of October, 2014 by the Board of Directors (the "Board") of the Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Sixth Amendment to the Master Deed is made as of the 25th day of August, 2015 by the Board of Directors (the "Board") of the Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Seventh Amendment to the Master Deed is made as of the 13th day of February, 2017 by the Board of Directors (the "Board") of the Gardens at Heritage Green Condominium Association, Inc. (the "Association").

The Eighth Amendment to the Master Deed is made as of the 7th day of November, 2017 by the Board of Directors (the "Board") of the Gardens at Heritage Green Condominium Association, Inc. (the "Association") and the Master Deed is filed as Exhibit "A." This Exhibit A includes the entire 1st through 8th Amendments of The Gardens at Heritage Green CAI.

**WITNESSETH:**

WHEREAS, the developer, A.L. James previously turned the homeowner's association over to the members on March 2, 2009 at which time a Board was elected; and

WHEREAS, the Board would like to Amend Article X of the Master Deed: Use Restrictions, Section 2. Renting or Leasing Of Units which currently states:

"Units may be rented or leased only by written leases and subject to the following restrictions: All tenants shall be subject to the terms and conditions of this Master Deed, the Charter, the Bylaws and the rules and regulations adopted by the Board as though such tenant were an Owner. Each Owner shall cause his, her or its tenant, occupant or persons living with such Owner or with his, her or its tenant to comply with the Master Deed, the Articles, the Bylaws and the rules and regulations adopted by the Board, and shall be responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Unit

are fully liable for any violation of said documents and regulations. A copy of the lease for a Unit will be given to the Board."

The Association would like to add to the above paragraph in the Master Deed, the following below language:

The Homeowner's Association has voted per the Master Deed (75%) in favor of capping the rental of units as follows:

- The number of rented units is restricted to no more than 8% (approximately 10) of the 129 units in the complex without a waiver from the Board. The waiver would be for financial hardship, the inability to get enough money out of the unit to sell; anyone having to move due to job or care for sick relative, divorce, etc.
- It is required that a unit must be owner-occupied for a minimum of two (2) years before it can be rented. This is to discourage corporations from acquiring properties in our complex as rental investments.
- It is required that certain legal documentation exists between the owner and the tenant, such as a lease agreement which is to be given to the Board and is currently already stated in Article X, Section 2 in the Master Deed.
- The Board will develop/provide procedures for the resolution of any disputes relating to this issue.
- The Board MAY charge a small fee to be paid to the Association by owners who rent their properties. These fees, if ever implemented, would offset legal and administrative costs incurred by the Association.
- Current existing leases will not be affected by the passage of this amendment. Rental is permitted until the owner transfers or sells his unit, then they lose rental permission.

NOW THEREFORE, the Secretary of the Board does hereby publish and declare on behalf of and with the approval of the Board, that the amendment is hereby submitted.

IN WITNESS WHEREOF, the undersigned executed this Amendment to Master Deed as of the 7<sup>th</sup> day of November, 2017.

For and on behalf of the Board:

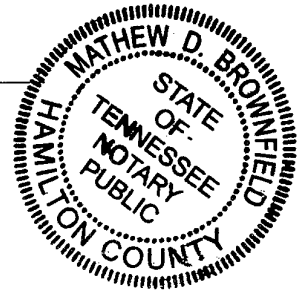
By: Ursula W. Jenkins-Turner  
Ursula W. Jenkins-Turner, Secretary

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, MATHEW D. BROWNFIELD a Notary Public in and for said State and County aforesaid, duly commissioned and qualified, personally appeared Ursula W. Jenkins-Turner, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be the Secretary of and a member of the Board of The Gardens at Heritage Green Condominium Association, LLC, and that she, as such Secretary and a member of the Board, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal at office on this 7<sup>th</sup> day of November, 2017.

Mathew D. Brownfield  
Notary Public



My Commission Expires:  
01/12/2019  
(Notary Seal)

EXHIBIT "A"

CURRENT MASTER DEED

FOR

THE GARDENS AT HERITAGE GREEN CONDOMINIUM ASSOCIATION, INC.

(INCLUDING ALL AMENDMENTS FROM THE 1ST TO THE 8TH AMENDMENT)

THIS MASTER DEED is made as of the 17th day of November, 2004, by A. L. James Construction and Development, LLC, a Tennessee limited liability company (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of that certain parcel of land more particularly described in Exhibit "A" attached hereto and made a part hereof, upon which Developer has constructed and is in the process of constructing certain buildings, structures, improvements and other permanent fixtures (together with all rights and privileges belonging or in anywise appertaining thereto hereinafter collectively "the Property"), which Developer desires to submit to a horizontal property regime pursuant to the Tennessee Horizontal Property Act, Tennessee Code Annotated 66-27-101, et seq., as now or hereafter amended (hereinafter the "Act"); and

WHEREAS, Developer intends to sell to various purchasers the fee title to individual Units (as hereinafter defined) together with an undivided percentage ownership interest in the Common Elements (as hereinafter defined) subject to the covenants, conditions, restrictions, limitations and easements herein set forth; and

WHEREAS, Developer desires to establish for its own benefit and for the mutual benefit of all future owners, occupants or Mortgagees of the Property, including additional Parcels, or any part thereof, certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial restrictions, obligations and liens with respect to the proper use, conduct and maintenance thereof, hereinafter set forth, all of which rights, easements, privileges, restrictions, obligations and liens are declared to be in furtherance of a plan to promote and preserve the cooperative aspects of ownership of and residence on the Property and are established for the purpose of facilitating the proper administration of the Property and enhancing and perfecting the value, desirability and attractiveness of the Property.

NOW, THEREFORE, Developer does hereby publish and declare that all of the Property is herewith submitted to a horizontal property regime pursuant to the Act, and from this date, the Property shall be held, converted, hypothecated, encumbered, leased, used, occupied, and improved subject solely to the provisions of the Act and the following covenants, conditions, restrictions, uses, limitations and obligations contained herein, and the Charter, By-laws, Plat (as hereinafter defined) and other exhibits attached hereto and made a part hereof, all of which are declared and agreed to be covenants both running with and encumbering the Property, binding upon and benefiting Developer, its successors and assigns and any present or future Owner (as hereinafter defined) of all or any interest in the Property and their respective grantees, successors, heirs, executors, administrators and other personal representatives, devisees and assigns. Developer does hereby further declare as follows:

ARTICLE I  
NAME

The Property shall be named and may be commonly referred to as The Gardens at Heritage Green Condominiums.

ARTICLE II  
Definitions

Section 1. "Association" shall mean and refer to The Gardens at Heritage Green Condominium Association, Inc., a Tennessee non-profit corporation, and its successors and assigns.

Section 2. "Board of Directors" or "Board" shall mean and refer to the group or body of persons elected in accordance with the provisions of the Charter, the Bylaws and the statutes and regulations of the State of Tennessee, in which group or body is vested the management of the affairs of the Association.

Section 3. "Bylaws" shall mean and refer to the Bylaws of the Association, a copy of which is attached as Exhibit D, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Master Deed, the Articles and the statutes and regulations of the State of Tennessee.

Section 4. "Charter" shall mean and refer to the Charter of the Association, a copy of which is attached as Exhibit C, as the same maybe amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Master Deed, the Bylaws and the statutes and regulations of the State of Tennessee.

Section 5. "Common Elements" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including the General Common Elements and Limited Common Elements.

Section 6. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserves, an as may be found to be necessary and appropriate by the Board pursuant to this Master Deed or pursuant to the Charter or the Bylaws.

Section 7. "Eligible Mortgage Holder" shall mean and refer to any holder (as evidenced by an instrument recorded with the Register) of a First Mortgage who or which shall have made written request to the Association for notice of any proposed action that, pursuant to Article XII, Section 2 hereof or Article XII, Section 12 hereof, requires the consent of a specified percentage of Eligible Mortgage Holders (which written request must contain the name and address of said Eligible Mortgage Holder and the lot or unit number or street address of the Unit securing the First Mortgage held by said Eligible Mortgage Holder).

Section 8. "First Mortgage" shall mean and refer to a Mortgage or Deed of Trust secured by a Unit which has priority over any and all other Mortgages or Deeds of Trust secured by such Unit.

Section 9. "General Common Elements" means and includes all of the Property not contained within the cubic boundaries of any Unit, including but not limited to: Roofs, foundations, pipes, ducts, flues, chutes, floors, ceilings, conduits, wires, and other utility installations to the outlets, bearing walls, perimeter walls, columns and girders, to the undecorated and/or unfinished interior surfaces thereof, regardless of location and whether exterior or interior windows and window frames, doors and door frames and trim, except the interior surfaces thereof; hallways, lobbies, elevators, basements, mechanical equipment areas, storage areas, furnace rooms, stairways, walkways, driveways (unless designated as Limited Common Elements on the Plat), outside parking areas, gardens, lakes, recreational areas and facilities which are now or hereafter contained within the Property and are not designated as Limited Common Elements; all installations of, and wires, pipes, ducts, flues and conduits for, power, cable television, heating and air conditioning, lights, gas, hot and cold water and sewage existing for common use, and all other parts of the Property desirably or rationally of common use or necessary or convenient for the Property's existence, maintenance and safety, and all areas and facilities designated as General Common Elements herein and in the Plat and in the Act. Structural columns and load bearing walls located within the boundaries of a Unit shall be part of the General Common Elements. Any reference to "General Common Elements" appearing on the Plat shall be deemed solely for purposes of general information and shall not be limiting in any way.

Section 10. "Limited Common Elements" means all Common Elements serving or designated either herein or in the Plat as serving exclusively a single Unit or one or more adjoining Units to the exclusion of other Units as an appurtenance thereto, the enjoyment, benefit or use of which is reserved for the lawful Occupants of such Unit or Units either in this Master Deed or on the Plat or by the Board. Said Limited Common Elements shall include, but shall not be limited to, such portions of the perimeter walls, roofs, floors and ceilings, doors, vestibules, windows, balconies or patios, decks, porches, entryways, stairways, walkways, driveways, gardens, courtyards, storage areas, and all associated fixtures and structures therein, as lie outside the Unit boundaries and serve exclusively a single Unit, as aforesaid. Each Unit Owner, by accepting a deed to his Unit, agrees to the designation of Limited Common Elements herein and in the Plat.

Section 11. "Majority of the Owners" mean the owners of more than fifty percent (50%) in the aggregate of the undivided ownership interest in the Common Elements. Any specified percentage of Owners means that percentage of Owners who in the aggregate own such specified percentage of the entire undivided ownership of the Common Elements.

Section 12. "Master Deed" shall mean this instrument by which the Property is submitted to the provisions of the Act, as the Master Deed may be amended from time to time.

Section 13. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein, provided, however, that there shall be only one Class "A" membership for each Unit, as further provided in Article IV below.

Section 14. "Mortgage" shall include a recorded deed of trust, as well as a recorded mortgage, which, in either case, is secured by a Unit or any other part of the Property.

Section 15. "Mortgagee" shall include a beneficiary or holder of a recorded deed of trust, as well as a mortgagee under a recorded mortgage, which, in either case, is secured by a Unit or any other part of the Property.

Section 16. "Mortgagor" shall include the trustor of a recorded deed of trust, as well as a mortgagor under a recorded mortgage which, in either case, is secured by a Unit or any other part of the Property.

Section 17. "Owner" shall mean and refer to the owner (as evidenced by an instrument recorded with the Register) whether one or more persons or entities, of fee simple title to a Unit which is part of the Property or, in the case of any valid and outstanding executory agreement of sale recorded with the Register with respect to a Unit, the seller under such agreement of sale. The term "Owner" shall exclude in all cases any party holding an interest merely as security for the performance of an obligation.

Section 18. "Parcel" or "Parcels" shall mean and refer to separately designated, developed residential areas initially or subsequently subjected to this Master Deed. In the absence of a specific provision to the contrary in the instrument subjecting additional property to this Master Deed, each piece or portion of real property subject to this Master Deed, from the date of recordation of such instrument, shall be considered a separate and distinct parcel; provided, however, that Developer (with the consent of the owner thereof, if other than Developer) may designate in any instrument adding property to the terms and conditions of this Master Deed that such property shall constitute a part of any parcel theretofore subject to this Master Deed.

Section 19. "Person" means a natural person, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 20. "Plat" means the plats of survey of the Property and/or the floor and elevation plans and drawings of all Units in the Property submitted to the provisions of the Act, the initial version of which is attached hereto as Exhibit "B" and made a part hereof. "Plat" also includes any future revisions of or supplements to the Plat, when recorded, which may change the proposed location of Units to be constructed or identify the actual location of Units that have been constructed. In interpreting the Plat or any deed or other instrument affecting a Unit, the boundaries of the Unit constructed or reconstructed in substantial accordance with the Plat shall be conclusively presumed to be the actual boundaries rather than the description expressed in the Plat, regardless of the settling or lateral movement of the Unit and regardless of minor variances between boundaries shown on the Plat and those of the Unit.

Section 21. "Property" 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 subjected to this Master Deed or which is now or may hereafter be owned in fee simple by the Association.

Section 22. "Register" shall mean and refer to the Register for Hamilton County, Tennessee, or such other governmental authority, office or official with which or whom the applicable laws of the State of Tennessee prescribe that documents affecting title to real property in the area including the Property are to be recorded or filed for public record. Further, the term "recorded" shall include "filed" or "lodged" or any similar term indicating placing such an instrument of public record with the Register.

Section 23. "Residential Association" shall mean any homeowners, condominium or other such association created with respect to property now or hereafter subjected to this Master Deed containing (or to contain) units, homes, apartments or other structures for residential purposes, but shall not include the Association.

Section 24. "Unit" means "Apartment" as defined in the Act, but shall not include the Common Elements. A Unit does not include an exclusive interest in the underlying real estate, other than as a Limited Common Element. Specifically, "Unit" means a part of the Property designated and intended for any type of independent use so specified as a Unit and listed on the Plat, and including the garage designated on the Plat as part of a Unit. The boundary lines of each Unit shall be the undecorated and/or unfinished interior surfaces of its perimeter walls, lowermost floors and uppermost ceilings and the interior surfaces of the door and door frames, window and window frames and trim, and the Unit shall include both the portions of the Building within such cubic boundary lines and the space so encompassed. If a Unit includes an attic, the reference to "uppermost ceilings" in the preceding sentence shall mean the lowermost surface of the rafters or other similar structures supporting the roof. However, a Unit shall not include pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utilities or other services to other Units and/or the Common Elements. If any chutes, flues, ducts, pipes, conduits, wires, compressors, furnaces, hot water heaters, HV AC systems, bearing walls, bearing columns, or any other apparatus lies partially within and partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a part of the Common Elements. A Unit shall include all improvements and decorating contained within the designated boundaries of a Unit, including any plumbing and electrical fixtures, wall and floor coverings, paneling, molding, tiles, wallpaper, paint, finished flooring and any other materials that form any part of the finished interior surfaces of the walls, floors and ceilings constituting the perimeter boundaries of such area. Any Unit may be jointly or commonly owned by more than one person. Notwithstanding the foregoing, for the purpose of measuring the Unit Square Footage and only for that purpose, the horizontal boundary line of a Unit shall be the outermost stud face of a perimeter wall of a Unit, exclusive of the Unit's bay window alcove, if any, and exclusive of the Unit's garage, and further shall not include the attic space above the Unit or the foundation or crawl space beneath the Unit.

ARTICLE III  
Property Rights

Any conveyance of a Unit shall be deemed also to convey the undivided interest of the Owner thereof in the Common Elements, subject to any adjustment made necessary by the adjustment in the total number of units constructed by Developer. Every Unit Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Elements, subject to any restrictions or limitations contained herein or in any instrument conveying to the Association or subjecting to this Master Deed the Property, and subject further to the reasonable rules and regulations of the Association. Any Owner may assign their right of enjoyment to (and share the same with) the members of their household and assign the same to and share the same with their tenants and invitees, subject to the provisions of this Master Deed and to reasonable regulation by the Board and otherwise in accordance with such procedures as the Board may adopt.

ARTICLE IV  
Membership and Voting Rights

Section 1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

- (a) Class "A". There shall be one Class "A" membership in the Association for each Unit. Each such membership shall be held by the Owner (from time to time) of such Unit and



shall be appurtenant to and may not be separated from ownership of such Unit. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Unit owned. In the event any Unit is owned by two or more persons or entities, whether by joint tenancy, tenancy in common or otherwise, the membership as to such Unit shall be joint, provided, however, that such owners shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall make such designation and such designation shall be binding for all purposes. In no event shall more than one (1) Class "A" membership exist for each Unit.

(b) Class "B". Class "B" members shall be Developer and any assignee of all or any part of Developer's Class "B" membership rights.

Section 2.: Voting. The voting rights of the Class "A" and Class "B" members are as

(a) Class "A". Each Class "A" member shall be entitled on all issues to one (1) vote for each Unit with respect to which such member holds the interest required for membership by Section I of this Article IV. When more than one person holds such interest in any Unit, there shall be only one (1) vote with respect to such Unit, which vote shall be exercised by the person designated to exercise the power to cast such vote, as provided in Section I of this Article IV. Any attempt to cast a vote appurtenant to a Unit in a manner inconsistent with the aforescribed designation shall result in the suspension of the power to cast such vote until such time as such vote is cast in accordance with such designation. Any Owner of a Unit which is leased or which is subject to a valid, outstanding and recorded executory agreement of sale may, in the lease, agreement of sale or other written instrument, assign the voting right appurtenant to the Unit to the lessee or purchaser of the Unit under such lease or agreement of sale, as applicable, provided that a copy of such instrument is furnished to the Secretary of the Association prior to any meeting.

(b) Class "B". The Class "B" member or members shall originally be entitled to one hundred twenty nine (129) votes; provided, however, this number shall be adjusted for any change in the number of units to be built and decreased by one (1) vote for each Class "A" vote existing at any one time. Developer shall have the right, at any time and from time to time, to assign all or any part of its voting rights appurtenant to its Class "B" membership rights (as well as all or any other rights appurtenant thereto) to one or more persons acquiring, for purposes of development and sale, any part of the Property. Further, Developer shall have the right, at any time and from time to time, to designate an individual or individuals (including, but not limited to, officers or employees of, or other individuals affiliated with, Developer) to exercise Developer's voting rights (whether appurtenant to its Class "A" or Class "B" memberships),

Section 3. Developer Rights. Until the first Unit is conveyed to a retail purchaser, Developer shall have no obligation to form the Association and all rights, powers, privileges and duties of the Association shall be exercised by the Developer.

ARTICLE V  
Maintenance

The Association shall maintain and keep, in accordance with the terms of this Master

Deed, the Common Elements, and the cost of such maintenance shall be a Common Expense of the Association. 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 the Common Elements, including any perimeter or boundary walls;

(ii) Exclusive authority to adjust losses under policies in force on property owned by the Association shall be vested in the Board;

(iii) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual owners, occupants or their Mortgagees, and the insurance carried by the Association shall be primary;

(iv) The Board shall be required to 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 Board or the Owners and their respective tenants, servants, agents and guests (if securing same will impose on the Association no additional cost or only such reasonable cost as the Board may determine in its discretion);

(v) Each policy providing such insurance coverage shall require the applicable insurer to give not less than ten (10) days written notice to the Association, and to each holder of a First Mortgage which shall have given such insurer written notice of such holder's interest in the Property (which notice must include the name and address of such holder), of any cancellation or material modification of such policy.

(e) Fidelity Bonds. The Board, acting on behalf of the Association, shall obtain and maintain at all times adequate fidelity bond coverage to protect against dishonest acts on the part of officers, directors and employees of the Association and all others who handle, or are responsible for handling, funds held or administered by the Association, whether or not such officers, directors, employees or others receive compensation for services they render to or on behalf of the Association. Any independent management agent which handles funds for the Association shall also obtain (and pay for) such fidelity bond coverage with respect to its own activities (and those of its directors, officers and employees, whether or not such directors, officers or employees receive compensation for services rendered). Such fidelity bonds (i) shall name the Association as obligee, (ii) shall be issued by one or more companies authorized to issue such bonds in the State of Tennessee and (iii) shall be in an amount sufficient to cover the maximum total of funds reasonably expected by the Association to be in the custody of the Association or such agent at any time while such bond is in force, but in no event shall the amount of such fidelity bond coverage be less than the sum of three (3) months' general assessments on all Units, plus the total funds held in the Association's reserves. Each such fidelity bond shall provide that the issuer thereof shall provide not less than ten (10) days written notice to the Association and to each Eligible Mortgage Holder before such bond may be cancelled or substantially modified for any reason,

(f) Cost of Insurance. All premiums for the insurance or bonds required to be obtained by the Board by this Section 1 shall be Common Expenses (except that, as provided in Subsection 1 (e) above, the cost of the fidelity bond required to be furnished by any independent management agent shall be paid by such agent).

Section 2      Insurance to be Obtained by the Owners.

(a) Public Liability Insurance. It shall be the individual responsibility of each Owner to provide, as such Owner sees fit and at such Owner's sole expense, comprehensive public liability insurance against loss or liability for damages and any expense of defending against any claim for damages which might result from the ownership, use or occupancy of such Owner's Unit.

(b) Hazard Insurance. It shall be the individual responsibility of each Owner to provide, as such Owner sees fit and at such Owner's sole expense, fire, liability, theft and any other insurance covering fixtures and personal property within such Owner's Unit.

ARTICLE VI

Insurance and Fidelity Bonds: Casualty Losses

Section 1. Insurance to be Obtained by the Association.

(a) Hazard Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times insurance for all insurable improvements on the Property, exclusive of the additions within, improvements to and decorating of the Units or Limited Common Elements, by the Owner, against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Tennessee, against all other perils customarily covered for similar types of projects (including those covered by the standard "all risk" endorsement available from time to time in the State of Tennessee), and against loss or damage due to vandalism and malicious mischief. Said insurance shall be in an amount equal to 100% of the current replacement cost, from time to time, of all such insurable improvements (excluding land, foundations, excavations and other items usually excluded from such insurance coverage). The policy or policies providing such insurance shall also contain (if available at no additional cost or at such additional cost as may be determined to be reasonable by the Board in its discretion) the following endorsements (or the equivalents): (i) "agreed amount" and "inflation protection" endorsements; (ii) "increased cost of construction" endorsement (iii) "contingent liability from operation of building laws or codes" endorsement (iv) "demolition cost" endorsement; and (v) a steam boiler coverage endorsement.

(b) Liability Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times a comprehensive public liability policy covering the Association for all damage or injury caused by the negligence of the Association or any of its agents, and at the Board's discretion and if reasonably available, directors' and officers' liability insurance. Said comprehensive public liability policy shall provide coverage of not less than One Million Dollars (\$1,000,000.00) for bodily injury and property damage for any single occurrence.

(c) Flood Insurance. In the event any part of the Common Area is in a "special flood hazard area," as defined by the Federal Emergency Management Agency (or its successors), the Board, acting on behalf of the Association, shall obtain (and maintain at all times during which any part of the Common Area is in such a "special flood hazard area ") a "master" or "blanket" policy of flood insurance covering any personal property owned from time to time by the Association (to the extent such personal property is normally covered by the standard flood insurance policy available from time to time in the State of Tennessee). Said insurance shall be equal to not less than the lesser of (i) 100% of the current replacement cost, from time to time, of all such insurable improvements (and insurable personal property owned by the Association)

located in the "special flood hazard area," or (ii) the maximum coverage available for such insurable improvements and insurable personal property under the National Flood Insurance Program.

(d) General Provisions Governing Insurance. The insurance required to be obtained under Subsection 1 (a), 1 (b) and 1 (c) of this Article VI shall be written in the name of the Association as trustee for each of the Owners and for each holder of a Mortgage secured by a Unit (as their respective interests may appear) and shall be governed by the provisions hereinafter set forth:

(i) All policies shall be written with one or more companies authorized to provide such insurance in the State of Tennessee;

Section 2. Casualty Losses.

(a) Damage and Destruction.

(i) Immediately after any damage or destruction by fire or other casualty to all or any part of the property required to be insured by the Association under Section I above, the Board or its duly authorized agent shall (a) proceed with the filing and adjustment of all claims arising under such insurance, (b) obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property, and (c) upon receipt of the proceeds of such insurance and except as is otherwise provided herein, use such proceeds to repair or reconstruct the damaged or destroyed property. Repair or reconstruction, as used in this Article VI, means repairing or restoring the improvements in question to substantially the same condition as that in which it existed prior to the fire or other casualty (or, where applicable, replacing the damaged or destroyed property with property substantially similar to the damaged or destroyed property as it existed prior to such damage or destruction).

(ii) Any major damage or destruction to the Property shall be repaired or reconstructed unless, at a special meeting of the Members of the Association duly noticed and convened within sixty (60) days after the occurrence of such damage or destruction, the Members determine, by a vote of not less than seventy-five percent (75%) of all votes represented at such meeting (either in person or by valid proxy), not to so repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made or become available; provided, however, that such extension shall not exceed sixty (60) days. No Mortgagee (except for one holding a Mortgage executed and delivered by the Association upon any portion of the Common Area) shall have the right to participate in the determination of whether any Common Area damage or destruction shall be repaired or reconstructed. The Board shall determine whether any minor damage or destruction to the Common Area should be repaired or reconstructed.

(iii) In the event that it is determined by the Association in the manner described above that the damage or destruction of any part of the improvements on the Property shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event such property shall be maintained by the Association in a neat and attractive condition as an undeveloped portion of the Common Area.

(b) Excess or Deficiency of Proceeds. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy an equal assessment against the Owner of each Unit. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be used to meet Common Expenses.

Section 3. EMINENT DOMAIN

(a) Procedures. If all or any part of the Property (excluding personalty) is taken or threatened to be taken by eminent domain, the Board is authorized and directed to proceed as follows:

(i) To obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Board in its discretion deems necessary or advisable to aid and advise it in all matters relating to such taking and its effect, including, but not limited to (A) determining whether or not to resist such proceedings or convey in lieu thereof, (B) defending or instituting any necessary proceedings and appeals, (C) making any settlements with respect to such taking or attempted taking, and (D) deciding if, how and when to restore the Property;

(ii) To negotiate with respect to any such taking, to grant any permits, licenses and releases, to convey all or any portion of the Property, and to defend or institute, and appeal from, all proceedings as it may deem necessary or advisable in connection with the same; and

(iii) To have and exercise all such powers with respect to such taking or proposed taking and restoration as those vested in boards of directors or corporations with respect to corporate property, including but not limited to purchasing, improving, demolishing and selling real estate.

(b) Owners and Mortgagees. Each Owner and each Mortgagee shall be given reasonable written advance notice of all final offers before acceptance, proposed conveyances, settlements and releases contemplated by the Board, legal proceedings and final plans for restoration, and reasonable opportunity to be heard with respect to each of the same, and to participate in and be represented by counsel in any litigation and at all hearings, at such Owner's or Mortgagee's own expense.

(c) Compensation Fund. The Board shall be reimbursed for all attorneys', engineers', architects' and appraisers' fees, costs and expenses paid or incurred by it in preparation for and in connection with, or as a result of, any such taking, out of the compensation, if any, by whomsoever received, for any such taking, or for any conveyance in lieu thereof, and the net amount of such compensation shall be deposited into a fund for the Owners and pooled. Such compensation, together with any amounts added thereto as provided hereinafter, is sometimes hereinafter called the "Compensation Fund" and shall be allocated and used, or distributed by, or at the direction of, the Board as follows:

(i) Any portion of such Compensation Fund specifically designated and determined by the court having jurisdiction over the eminent domain proceedings (the "Court"), or, if not, by the Board, to have been paid by the condemnor for reasonable and

necessary moving expense, additional refinancing expense, relocation expense, attorneys' fees, litigation costs and expenses, or other costs or expenses, individually incurred by any Owner or lienor, shall first be allocated and paid to the persons who incurred same.

(ii) If all of the Property is taken, this horizontal property regime shall terminate as of the date of taking and the balance of the Compensation Fund shall be distributed among the Owners in proportion to their respective undivided percentage interests in the Common Elements at the time of the taking by, or conveyance to, the condemnor. If there is a recorded mortgage on any Unit to secure any indebtedness, distribution with respect to such Unit shall be by check payable jointly to the Owner of the Unit and the Mortgagee holding the recorded mortgage.

(iii) If not all of the Property is taken and the remainder thereof cannot, or, in the opinion of the Owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association and of the Mortgagees who represent at least fifty-one percent (51 %) of the votes of Units that are subject to Mortgages, should not be continued as a common enterprise, whether for physical reasons, lack of sufficient remaining Units, expense or other reasons, this horizontal property regime shall terminate as of the date of taking, except to the extent necessary to wind up the affairs of the regime as provided herein, and the remaining Units and Common Elements shall be sold by the Board for the best prices reasonably obtainable, at public or private sale, and the amount thus obtained, less sales expense, shall be pooled and added to the Compensation Fund, the balance of which shall then be distributed among the Owners and their Mortgagees, if any, in the proportions and manner specified in subparagraph (b) of this Paragraph. The respective Owners of Units, or portions thereof, thus to be sold shall have a first refusal option to purchase, and thus, if practicable, retain their own Units and purchase fee simple interests in Common Elements of sufficient nature and extent to enable their respective Units to be reasonably tenantable and habitable. Such refusal option shall be given and exercised as follows: The Board shall notify each such Owner in writing, sent by certified mail to his/her last address known to the Board, of the price at which it will offer the Owner's Unit or what is left of it, of what former Common Elements will be sold with such Unit as appurtenances thereto, and any other substantive matters relating to the proposed sale, and such Owner shall have the right within fifteen (15) days after the mailing of such notice to exercise his/her option to purchase such Unit and appurtenances at a specific price by notice of such acceptance delivered to the Board, accompanied by a deposit of ten percent (10%) of the offering price, whereupon such Owner shall be entitled and obliged to purchase, and the Board shall be entitled and obliged to sell to him/her, such Unit and appurtenances at said price and upon the terms specified in the notice. If such Owner shall not exercise such option as aforesaid, the Board shall be free to sell the Unit and such appurtenances to whomsoever it elects without any further option or other rights in favor of such Owner but shall not sell the same at any lower price or more favorable terms without again giving such Owner the same right of refusal in the same manner.

(iv) If, in the opinion of the Board, the remainder of the Property can be and should be continued as a common enterprise, the following provisions shall be applicable:

(A) The respective net amount by which the fair cash market value of each Unit has been diminished, if any, at the time of and by reason of such taking shall be determined. The amount of such diminution, and the value of any remainder

interest in any such Unit, if not determined by the Court, shall be:

(B) The amount allocated to each Unit which in the judgement of the Board is not restorable or replaceable shall be distributed from the Compensation Fund (together with the fair cash market value, at time of taking by the condemnor, of the remainder of such Unit, and any remaining interests appertaining to such Unit in any portion of the Property) by joint check, to each Owner of, and Mortgagee or Mortgagees on, each such Unit in return for conveyance of such remainder and remaining interests to the Board which shall hold same for and on behalf of the Owners. Such conveyance shall convey good and marketable title, free and clear of any encumbrances.

(C) The balance of the Compensation Fund shall next be used to such extent and in such manner as the Board shall determine for the restoration and replacement of Common Elements and then for the restoration and replacement of the affected Units, all in keeping with the character or the Property as a whole, and the Board is authorized and directed to hire, and be reimbursed out of the Compensation Fund for payment to, all such architects, engineers, builders and other persons, if any, whom it deems necessary or advisable to plan and effectuate such restoration and replacement. The remaining amount, if any, in the Compensation Fund after payment for such restoration and replacement shall be distributed to the Owners of, and Mortgagees on, the Units that have not been eliminated and which have suffered diminution as above determined, to compensate such Owners for any diminution remaining, after taking into account the effects of such restoration or replacement in the market value of their Units and, so that as near as may be possible, each remaining Owner will be proportionately as well off as before the taking; provided that compensation distributed to a Owner for diminution in value shall in all such cases be made only upon a simultaneous and equitable adjustment in such Owner's undivided percentage interest in the Common Elements.

(v) If any Unit shall have been specially benefited by the taking, or by any such restoration or replacement, the Owner thereof and his/her Unit shall be debited, charged or assessed by the Board in favor of the Compensation Fund for the amount by which, in the Board's judgment, the fair cash market value of his/her Unit has been enhanced due to such taking or due to such restoration or replacement. Thereafter, the Owner and his/her Unit shall receive and accept a correspondingly acceptable adjustment in such Owner's undivided percentage interest in the Common Elements.

(vi) If, after all such payments, distributions, replacement and restoration costs, and other expenses and all such debits, charges and assessments, there should remain any surplus in the Compensation Fund, the same shall be placed in the Reserve Fund or at the option of the Board, distributed to the Owners in proportion to their respective percentage interests in the Common Elements. If there is any shortage, the same shall be assessed to the remaining Owners in The Renaissance in the same manner as Common Expenses.

(d) **Board's Power.** The Board is hereby appointed as attorney-in-fact for each Owner to convey any Owner's and Mortgagee's interest in lieu of condemnation or in connection with restoration and replacement and to make any other conveyances and to execute, acknowledge, deliver and Record any and all instruments deemed necessary or advisable in

connection with the subject matter of this Paragraph, including without limitation amendments to this Master Deed and/or the Plat to reflect a taking and its resulting effect on the remaining Owners' undivided percentage interests in the Common Elements, and is hereby authorized and empowered to take all such steps and do all such things as in its judgment may be necessary or advisable to effectuate and implement the powers granted to it hereunder.

(e) **Execution of Documents.** Each Owner and Mortgagee shall upon request execute, acknowledge and deliver to the Board or to such person(s) as the Board may specify, all such instruments and documents as may be reasonably necessary to effectuate and implement this Paragraph, and shall do all such other things reasonably necessary or incidental to the specific requirements of this Paragraph.

(f) **Determination of Value.** All determinations of value, changes in value, restorability, replaceability, damages, benefits, proper proportions, allocations and other matters necessary for the administration of the provisions of this Paragraph shall, to the extent not finally determined by the Court in the applicable condemnation proceedings, if any, be made impartially, reasonably and in good faith by a majority of the Board who shall act as fiduciaries and shall endeavor at all times to deal equitably with each respective Owner, any Mortgagee and other person having any legal or equitable interest in the Property, or any portion thereof. No member of the Board shall vote on the amount to allocate to his/her own Unit, any amount to be paid, credited or charged to him/her, or shall vote on whether or not a Unit owned by him/her shall be restored or replaced. Any Owner, Mortgagee, or other person dissatisfied with any determination or action of the Board, insofar as adversely affecting any Property in which he has a legal or equitable interest, shall be entitled to seek a determination by the Grievance Committee as provided herein, and after such determination, to seek other remedies provided by law.

(g) **Termination of Regime.** The word "taken" as used in this Paragraph shall include the word "damaged." In the event of termination of the horizontal property regime as herein provided, the filial estates shall be deemed merged into and become a part of the "Property" and the Property shall be subject to partition at the suit of any Owner, and with the exception for the first refusal rights of Owners hereunder, the Master Deed, Bylaws and Plat shall cease to apply.

ARTICLE VII  
Rights and Obligations of the Association

Section 1. **The Common Area.** The Association, subject to the rights of the Owners set forth in this Master Deed, shall be responsible for the exclusive management and control of the Common Area and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof

Section 2. **Personal Property and Real Property for Common Use.** The Association, through action of the Board, may acquire, hold and dispose of tangible and intangible personal property and real property, except that, subject to the provisions of Article XII, Section 4 hereof, no dedication, sale or transfer of all or any part of the Common Area shall be made or effective unless approved by not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within, adjacent to or related to all or any part of the



Property as may be conveyed or assigned to the Association by Developer (or Developer's successor or assigns). The portion of the Property intended to be Common Elements shall be transferred to the Association prior to conveyance of the first Unit by Developer to an Owner (other than Developer). The portions of the Property intended to be Common Elements serving less than all of the Property shall be transferred to the Association prior to conveyance of the first Unit in the area to be served by such Common Elements by Developer to an Owner (other than Developer).

Section 4. Rules and Regulations. The Association, through the Board, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Master Deed. Sanctions for violation of such rules and regulations may be imposed by the Board and may include suspension of the right to vote and the right to use the recreational facilities of the Common Area, and where approved by a majority vote of each class of Members represented in person or by valid proxy at a meeting of Members duly called for such purpose, may also include reasonable monetary fines. No suspension of an Owner's right to vote or to use the recreational facilities on the Common Area due to a violation of the rules and regulations of the Association may be for a period longer than sixty (60) days.

Section 5. Availability of Books, Records and Other Documents. The Association shall maintain complete and current copies of this Master Deed, the Articles, the Bylaws and all rules and regulations of the Association (as well as any amendments to the foregoing) and of the books, records and financial statements of the Association, and, upon the prior written request of the Association by any Owner or by any holder, insurer or guarantor of the First Mortgage, shall make the same available for inspection, at reasonable times and under reasonable circumstances, by such Owner or such holder, insurer or guarantor.

Section 6. Audited Financial Statements. In the event any holder, insurer or guarantor of the First Mortgage submits to the Association a written request for an audited financial statement of the Association for the most recently concluded fiscal year of the Association, the Association shall promptly deliver such an audited financial statement to such holder, insurer or guarantor, and in the event no such audited financial statement has been prepared for the most recently concluded fiscal year, the Association shall cause the same to be prepared and delivered to such holder, insurer or guarantor as soon as reasonably possible. The cost of having such an audited financial statement prepared shall be a Common Expense.

Section 7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles 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 effectuation any such right or privilege.

Section 8. Owner Complaints.

(a) Scope. The procedures set forth in this Paragraph for Owner complaints shall apply to all complaints regarding the use or enjoyment of the Property or any portion thereof or regarding any matter within the control or jurisdiction of the Association, including, without limitation, decisions of the Association, decisions of the Board of Directors of the Association, or any questions or interpretation of the provisions of the Master Deed or Bylaws. This Paragraph shall not control disputes involving the Developer.

(b) **Grievance Committee.** There shall be established by the Board a Grievance Committee (referred to in this Paragraph as the "Committee") to receive and consider all Owner complaints. The Committee shall be composed of the President of the Association and two other Owners appointed by and serving at the pleasure of the Board of Directors.

(c) **Form of Complaint.** All complaints shall be in writing and shall set forth the substance of the complaint and the facts upon which it is based. Complaints are to be addressed to the President of the Association and sent in the manner provided herein for sending notices.

(d) **Consideration by the Committee.** Within twenty (20) days of receipt of a complaint, the Committee shall consider the merits of the same and notify the complainant in writing of its decision and the reasons therefore. Within ten (10) days after notice of the decision, the complainant may proceed under subparagraph (e) of this Paragraph; but if complainant does not, the decision shall be final and binding upon the complainant.

(e) **Hearing Before the Committee.** Within ten (10) days after notice of the decision of the Committee, the complainant may, in writing addressed to the President of the Association, request a hearing before the Committee. Such hearing shall be held within twenty (20) days of receipt of complainant's request. The complainant, at his/her expense, and the Committee, at the expense of the Association, shall be entitled to legal representation at such hearing. The hearing shall be conducted before at least two (2) members of the Committee and may be adjourned from time to time as the Committee in its discretion deems necessary or advisable. The Committee shall render its decision and notify the complainant in writing of its decision and the reasons therefore within ten (10) days of the final adjournment of the hearing. If the decision is not submitted to arbitration within ten (10) days after notice of the decision, as provided for in subparagraph (a) of this Paragraph, the decision shall be final and binding upon the complainant.

(f) **Questions of Law.** Unless and until the matter is submitted to arbitration as provided below, legal counsel for the Association shall decide all issues of law arising out of the complaint, and such decisions shall be binding on the complainant.

(g) **Questions of Law or Fact: Arbitration.** If there shall be any dispute as to any material fact or a dispute of a question of law, either the Committee or the complainant may, at their option, within ten (10) days after notice of the decision as provided for in this Paragraph, submit the same to arbitration in accordance with the provisions for arbitration adopted by the American Arbitration Association by filing with the other party a notice of its intention to do so. The decision of the arbitrator shall be final and binding upon the complainant and the Committee. In the event of arbitration, each party shall bear one-half of the expense thereof.

(h) **Exclusive Remedy.** The remedy for Owner complaints provided herein shall be exclusive of any other remedy, and no Owner shall bring suit against the Committee, the Association, the Board of Directors or any member of same in his/her capacity as such member without first complying with the procedures for complaints herein established.

(i) **Expenses.** All expenses incurred by complainant, including, without limitation attorneys' fees and arbitration expenses and the like, shall be the sole responsibility of complainant. All expenses of the Committee incident to such complaint shall be deemed a Common Expense of the Association.

Section 9. **Dispute Resolution.**

(a) **Scope.** Any controversy, dispute, or disagreement involving the Developer arising out of or relating to this Master Deed, the design or construction of any Unit or the Common Elements or in any way related to the Property (including tort actions and actions regarding the relationship of the parties with respect to the subject matter to this Master Deed), or the breach of this Master Deed, (referred to in this Paragraph as a "dispute") shall be settled according to the procedure set forth in this Paragraph. This Paragraph shall be binding on Owners, Mortgagees, the Board and the Association.

(b) **Informal Conference.** In the event a dispute arises between the parties, each party to the dispute shall be obligated to meet and confer with the other party to the dispute in good faith, on reasonable notice, and at a mutually agreeable location. The parties agree that if either party refuses to participate in such a conference, or if such a conference fails to produce a mutually acceptable resolution of the dispute within a mutually acceptable period of time, any party to the dispute may submit the matter to mediation or arbitration pursuant to this Paragraph.

(c) **Mediation.** In the event a dispute arises between the parties that cannot be settled by informal conference as set forth above, the parties may, on mutual agreement, submit the matter to mediation to be conducted in Chattanooga, Tennessee, in accordance with the Rules of Procedure for Mediation of Commercial Disputes of the American Arbitration Association. The consent of any party to the dispute to such mediation may be withdrawn at any time, without cause.

(d) **Arbitration.** In the event a dispute cannot be settled by informal conference or mediation as set forth above, or in the event any party to the dispute refuses or withdraws consent to mediation, the matter shall be settled by binding arbitration before a single arbitrator conducted in Chattanooga, Tennessee, in accordance with the Rules of Procedure for Arbitration of Commercial Disputes of the American Arbitration Association to the extent such procedures are not inconsistent with this Agreement. The same person may serve as both mediator and arbitrator only with the consent of all parties to the dispute. The arbitrator will only have the authority to award actual direct damages, and will not have the authority to award consequential or punitive damages. Any award rendered by the arbitrator shall be final and binding upon the parties hereto, and judgment upon any such award may be entered in any court having jurisdiction thereof. The fees and expenses of the arbitrator shall be borne equally by the parties. Each party shall pay its own fees and costs relating to any arbitration proceedings, including attorneys' fees. The parties to this Agreement agree that any action for the enforcement of an arbitration award or any judgment entered by any court in respect thereof shall be brought in the courts of state courts of Hamilton County, Tennessee, or in the U.S. District Court for the Eastern District of Tennessee, and each party consents to the personal and subject matter jurisdictions of such courts.

**Section 10. Trustee as Owner.** In the event title to any Unit is conveyed to a trust which holds title to a Unit under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Owners for all purposes and shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Master Deed against such Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or

obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

ARTICLE VIII  
Assessments

Section 1. Creation of Assessments. In order to provide funds to enable the Association to meet its financial and other obligations and to create appropriate reserves, there is hereby created a right of assessment exercisable by the Board. General Assessments and Special Assessments shall be allocated equally among all Units and shall be for Common Expenses.

Each Owner, by acceptance of his, her or its deed with respect to one or more Units, is deemed to covenant and agree to pay these assessments. All such assessments, together with interest from the date due at a rate equal to ten percent (10%) per annum, and together with such costs and reasonable attorneys' fees as may be incurred in seeking to collect such assessments, shall be a charge on and shall be a continuing lien upon the Unit against which each assessment is made.

Each such assessment, together with interest, costs and reasonable attorneys' fees as provided above, shall also be the personal obligation of the person who or which was the Owner of such Unit at the time the assessment arose with respect to such Unit, provided, that the personal obligation for delinquent assessments shall not pass to the successor in title of such Owner unless expressly assumed by such successors.

General Assessments for each fiscal year shall be due and payable in monthly installments on or before the first day of each month. Special Assessments, if any, shall be paid in such manner and on such dates as may be fixed by the Board. In addition to any other powers of collection or enforcement granted hereunder, in the event any assessments with respect to a Unit are delinquent, the Board shall have the right, in its sole discretion, to accelerate the date on which assessments with respect to such Unit are due and payable.

The General Assessments provided for herein shall not commence until the conveyance of the first Unit to a retail purchaser. Except as otherwise provided herein, assessments shall be payable in respect of each Unit from the date which is the earlier of (a) the closing of the sale of such Unit by Developer to an Owner (other than Developer), or (b) thirty (30) days after the issuance by the City of Chattanooga, Tennessee, or other applicable governmental agency, of a certificate of occupancy or similar document with respect to such Unit. As to any Unit conveyed by Developer to an Owner, assessments as to such Unit shall be prorated as of the closing of the sale of such Unit. In the event Developer elects at any time to sell undeveloped property to any person, assessments with respect to Units eventually located thereon shall commence and be prorated as of the date of the issuance by the City of Chattanooga, Tennessee (or other applicable local governmental agency), of a certificate of occupancy or similar document with respect to each such Unit.

No Owner shall be relieved of his, her or its obligation to pay any of the assessments provided or permitted hereunder by abandoning or not using his, her or its Unit or the Common Area.

The Association shall, upon the written request of any Owner or the holder, insurer or guarantor of any Mortgage and upon payment of such reasonable charge as may be determined by the Board, furnish to the requesting party a certificate, executed by an officer of the Association, stating the date to which assessments with respect to the Unit specified in the request have been paid and the amount, if any, of any assessments which have been levied with respect to said Unit but remain unpaid as of the date of such certificate, which certificate shall be binding upon the Association as to the matters set forth therein as of the date thereof

Section 2. Computation of Assessments: Annual Budget. The Board shall prepare and adopt an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated Common Expenses and cash requirements of the Association for the year. The annual budget shall also take into account the estimated net available cash income for the year, if any, from the operation or use of any of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year (or for subsequent fiscal years) and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board. The Board shall cause a copy of the budget and a statement of the amount of the assessments to be levied against each Unit for the following fiscal year to be delivered or mailed to each Owner not less than sixty (60) days, following the meeting of the Board at which such budget shall have been adopted.

Section 3. Special Assessments. In addition to the General Assessments, the Association may levy a Special Assessment in any year, provided, however, that any Special Assessment shall be effective only with the approval of not less than two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called and convened to consider such Special Assessment.

Section 4. Lien for Assessments. The assessments provided for herein shall constitute a lien on each Unit prior and superior to all other liens, except (1) all taxes, bands, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any First Mortgage made in good faith and for value. Such liens may be foreclosed in the manner provided for the foreclosure of mortgages. The sale or transfer of any Unit pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of the assessments provided for herein as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Unit from liability for any assessments becoming due after such sale or transfer, or from the lien thereof.

The Association shall have the power and authority to bid for any Unit at any sale to foreclose the Association's lien on the Unit, and to acquire and hold, lease, mortgage and convey the same. During the period any Unit is owned by the Association following foreclosure, no right to vote shall be exercised with respect to such Unit, nor shall any assessment (whether General or Special) be assessed or levied on or with respect to such Unit, provided, however, that the Association's acquisition and ownership of a Unit under such circumstances shall not be deemed to convert the same into Common Elements. Suit to recover a money judgment for unpaid assessments, rent, interest and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5. Notice and Quorum for Meeting to Consider Special Assessments and Certain Increases in General Assessments. Notwithstanding any other provision hereof or of the Charter, the Bylaws or the rules and regulations of the Association, written notice of any meeting called for the purpose of approving the establishment of any Special Assessment, as required by Article

VIII, Section 3 hereof, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in General Assessment, a quorum shall consist of sixty percent (60%) of the votes in each class of Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half(1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

ARTICLE IX

Development of Units; Supplemental Master Deeds and Plats

Section 1. Construction of Units and Common Elements. Developer shall have the right to construct the Units and Common Elements on such schedule as Developer shall elect. Following the occupancy of the first Unit by an Owner other than Developer, Developer shall use reasonable efforts to minimize the adverse impact of construction on the use and enjoyment of the Units so occupied.

Section 2. Supplemental Master Deeds and Plats. Developer shall have the right to record supplemental Master Deeds and Plats, without the joinder of any other party, to (a) modify the number and location of Units, (b) adjust the undivided percentage interests in the Common Elements to take into account any adjustment in the number of units, and (c) designate and redesignate Common Elements, provided such supplemental Master Deeds and Plats do not alter the location of existing roads and drives reflected in the original Plat, except to extend one or more of said roads or drives.

Upon the recordation of each supplemental Master Deed and Plat, the revised schedule of undivided percentage interests in the Common Elements set forth therein shall automatically become effective as provided in this Master Deed.

Section 3. Reservation of Easements. Developer reserves transferable easements in, on, over, across, through and under the Common Elements for the purpose of making improvements and doing all things reasonably necessary and proper in connection therewith and in connection with completion of the Units and Common Elements.

Section 4. Irrevocable Power. The authority and easements granted to Developer in this Article IX are irrevocable and not subject to amendment or modification, any other provision of this Master Deed to the contrary notwithstanding. The rights of the Developer granted in this Article IX shall constitute a power coupled with an interest which may not be revoked by death or otherwise.

ARTICLE X

Use Restrictions

Section I. Residential Purpose. The Units shall be used only for residential and related purposes. No Unit or any other part thereof shall be used, directly or indirectly, for any business, commercial, manufacturing, industrial, mercantile, vending or other similar purpose, except for (a) use by Developer in connection with its construction and sales activities with respect to the Property, and (b) for use by an Owner for a home office to the extent permitted by law.

Section 2. Renting or Leasing of Units. Units may be rented or leased only by written leases and subject to the following restrictions: All tenants shall be subject to the terms and conditions of this Master Deed, the Charter, the Bylaws and the rules and regulations adopted by the Board as though such tenant were an Owner. Each Owner shall cause his, her or its tenant, occupant or persons living with such Owner or with his, her or its tenant to comply with the Master Deed, the Articles, the Bylaws and the rules and regulations adopted by the Board, and shall be responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the Unit are fully liable for any violation of said documents and regulations. A copy of the lease for a Unit will be given to the Board.

The Homeowner's Association has voted per the Master Deed (75%) in favor of capping the rental of units as follows:

- The number of rented units is restricted to no more than 8% (approximately 10) of the 129 units in the complex without a waiver from the Board. The waiver would be for financial hardship, the inability to get enough money out of the unit to sell; anyone having to move due to job or care for sick relative, divorce, etc.
- It is required that a unit must be owner-occupied for a minimum of two (2) years before it can be rented. This is to discourage corporations from acquiring properties in our complex as rental investments.
- It is required that certain legal documentation exists between the owner and the tenant, such as a lease agreement which is to be given to the Board and is currently already stated in Article X, Section 2 above in the Master Deed.
- The Board will develop/provide procedures for the resolution of any disputes relating to this issue.
- The Board MAY charge a small fee to be paid to the Association by owners who rent their properties. These fees, if ever implemented, would offset legal and administrative costs incurred by the Association.
- Current existing leases will not be affected by the passage of this amendment. Rental is permitted until the owner transfers or sells his unit, then they lose rental permission.

In the event that a tenant, occupant or person living with the tenant violates a provision of this Master Deed, the Charter, the Bylaws or rules and regulations adopted by the Board, the Association shall have the power to bring an action or suit against the tenant to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity. The Association's costs in doing so, including, but not limited to, reasonable attorney's fees, together with interest as provided in Article XII, Section 8 hereof, shall be reimbursed by the tenant to the Association and constitute a lien on the applicable Unit which shall have the priority and may be enforced in the manner described in Article VIII, Section 4 hereof.

The Board shall also have the power to suspend the right of the tenant, occupant or person living with the tenant to use the recreational facilities on the Common Elements for any violation by the tenant, occupant or person living with the tenant of any duty imposed under this Master Deed, the Charter, the Bylaws or the rules and regulations adopted by the Board, and to impose reasonable monetary fines upon the tenant or the Owner of the applicable Unit, or both. No suspension hereunder of the right of a tenant, occupant or person living with the tenant to use the recreational facilities on the Common Elements may be for a period longer than sixty (60) days (except that the foregoing limitation shall not affect or prevent termination of the applicable lease if permitted by the terms of said lease or otherwise by applicable law).

Section 3. Miscellaneous. The Board, in its good faith discretion, is hereby authorized to grant such waivers of the restrictions contained in this Article X as it shall be appropriate in the circumstances, so long as the use permitted by such waiver shall not result in an unsafe, unsanitary or aesthetically displeasing condition and shall not result, in the Board's opinion, in a substantial departure from the common plan of development contemplated by this Master Deed. In addition, all portions of the Property shall continue at all times to be subject to any and all applicable zoning laws and ordinances, provided, however, that where the provisions of this Master Deed are more restrictive than such laws or ordinances, the provisions of this Master Deed shall control.

ARTICLE XI  
Annexation of Additional Property

Developer contemplates, as of the date hereof, that additional, contiguous property (the "Annexable Property") may be added and annexed to the Property and subjected to the provisions of this Master Deed. Therefore, while Developer shall have no obligation or duty to so add and annex the Annexable Property to the Property or to subject the same to the provisions of this Master Deed, Developer hereby reserves the right, privilege and option to add and annex to the Property and to subject to the provisions of this Master Deed the Annexable Property, without the vote of the Members and without notice to or approval of any holder, insurer or guarantor of any Mortgage, provided, however, that the right, privilege and option reserved in this sentence shall expire and terminate ten (10) years after the date on which this Master Deed is recorded with the Register. Except for the rights of Developer with respect to Annexable Property, additional residential property and Common Elements may be annexed to the Property only by the affirmative vote of two-thirds (2/3) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called for that purpose, and only with the approval of the applicable percentage of Eligible Mortgage Holders, as provided in Article XII, Section 2 hereof. Further, no property may be added or annexed to the Property without the express written consent of each owner of all or any part of the property proposed to be annexed. Upon approval of any annexation of property to the Property to the extent required by this Article XI, Developer, in the case of annexation of all or any part of the Annexable Property, or the President and Secretary of the Association, in the case of any other annexation, shall execute, acknowledge and record with the Register an instrument effecting and evidencing such annexation (which instrument shall also be duly executed and acknowledged by each owner of all or any part of the property being annexed), and such annexation shall be deemed effective only upon such recordation.

Upon the effective date of any such annexation, as provided above, (a) the property so annexed shall immediately be and become a part of the Property and subject to all of the provisions hereof, (b) any Unit then or thereafter located upon the annexed property, and the Owner of such Unit, shall thereupon be subject to the provisions of this Master Deed, (c) any portion of the property annexed which is designated or declared to be Common Elements shall thereupon be subject to the provisions of this Master Deed, and (d) improvements then or thereafter situated upon the annexed property shall be consistent, in terms of quality of construction, with the improvements situated upon the Property prior to such annexation.

ARTICLE XII  
General Provisions

Section 1. Term. The covenants, conditions and restrictions of this Master Deed (a) shall run with and bind the Property, (b) shall inure to the benefit of and shall be enforceable by the Association or the owner of any property subject to this Master Deed, their respective legal representatives, heirs, successors and assigns, and (c) shall remain in full force and effect until January 1, 2050, at which time said conditions, covenants and restrictions, unless revoked by an affirmative vote of members holding, personally or by valid proxy, not less than seventy-five percent (75%) of all votes eligible to be cast at a meeting of Members, shall automatically be extended for successive periods often (10) years each, until revoked in the manner provided above. Notwithstanding any such revocation of this Master Deed, each Owner of a Unit (and such Owner's occupants, tenants, residents, guests and invitees) shall nevertheless have a permanent easement across the Common Elements for access to such Unit and for access to and use of such recreational facilities as may exist on the Common Elements at the time of such revocation.

Section 2. Amendment. Except as otherwise provided herein, this Master Deed may be amended only by the affirmative vote (in person or by proxy) or written consent of not less than seventy-five percent (75%) of the votes in each class of Members. No vote of Class A Members shall be required until there are Class A Members. No amendment shall be effective unless and until such amendment is recorded with the Register. In addition to and notwithstanding the foregoing, no amendment of a material nature to this Master Deed (or to the Charter or the Bylaws) shall be effective unless approved by Eligible Mortgage Holders representing at least



fifty-one percent (51%) of all Units subject to First Mortgages held by Eligible Mortgage Holders. A change to any of the following will be considered to be a change of a material nature:

- (i) provisions relating to voting rights in the Association;
- (ii) provisions relating to assessments, assessment liens or subordination of assessments;
- (iii) provisions relating to reserves for maintenance and repairs;
- (iv) provisions relating to Owner's rights to use the Common Elements;
- (v) boundaries of any Unit;
- (vi) conversion of any Unit into Common Elements or vice versa;
- (vii) addition or annexation of property to, or withdrawal of property from, the Property, or addition or annexation of any property to, or withdrawal of any property from, the Common Elements (except to the limited extent certain additions or annexations are expressly permitted without approval of or notice to the holders, insurers or guarantors of any Mortgage by Article XI of this Master Deed);
- (viii) provisions relating to insurance or fidelity bonds;
- (ix) provisions relating to the leasing of Units;
- (x) provisions relating to the right of an Owner to sell or transfer such Owner's Unit;
- (xi) restoration or repair of any structures or improvements on the Common Elements following a hazard damage or condemnation in a manner other than as specified in this Master Deed;
- (xii) any action to dissolve or otherwise terminate the Association or the legal status of the Property after substantial destruction or condemnation of improvements on the Property occurs; or
- (xiii) any provisions that expressly benefit the holders, insurers or guarantors of Mortgages.

In the event a proposed addition, amendment or change to this Master Deed, the Charter or the Bylaws is deemed by the Board as not being of a material nature, the Association shall nevertheless provide written notice to each Eligible Mortgage Holder of the proposed addition, amendment or change (and of the Board's determination that the same is not of a material nature), and each Eligible Mortgage Holder which shall not have made written response to such notice within thirty (30) days after the date of such notice shall automatically be deemed to have approved the proposed addition, amendment or change.

Section 3. Indemnification. The Association shall indemnify every officer and director of the Association against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or director of the Association 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 of the Association, except for their own individual willful misfeasance, malfeasance, 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 indirectly to the extent that such officers or directors may also be Members of the Association and therefore subject to assessment to fund a liability 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 of the Association, may be entitled.

Section 4. Easements for Utilities, Etc. There is hereby reserved to the Association the power to grant blanket easements upon, across, over and under all of the Common Elements for ingress, egress, installation, replacing, repairing, and maintaining master television antenna systems, security and similar systems, and all utilities, including, but not limited to, water, sewers, telephones, cable television and electricity, provided, that no such easement shall interfere with a Unit or its reasonable use and such easements shall require the holder of the easement to repair any damage caused to the property of any Owner. Should any entity furnishing a service covered by the general easement herein provided request a specific easement: by separate recordable document, the Association shall have the right to grant such easement on said property in accordance with the terms hereof.

Section 5. No Partition. No person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Elements. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of title to real property which may or may not be subject to this Master Deed.

Section 6. Severability. Invalidation of any 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 7. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Master Deed shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until one (1) day less than ninety (90) years from the date this instrument is recorded in the Register's Office of Hamilton County, Tennessee.

Section 8. Enforcement. The Association shall have the standing and power to enforce the provisions of this Declaration and the provisions of any other recorded document pertaining to any Unit or Units and its costs in doing so, including, but not limited to, reasonable attorneys' fees, together with interest thereon from the date the costs are expended at a rate equal to ten percent (10%) per annum, shall constitute a lien on all Units owned by the Owner or Owners against whom the action is taken, which lien shall have the priority and may be enforced in the manner described in Article VIII, Section 4 hereof.

Section 9. Notices to Certain Mortgage Holders, Insurers or Guarantors. The Association shall give timely written notice of any of the following actions, events or occurrences to any holder, insurer or guarantor of a Mortgage who or which, prior to such action, event or

occurrence, shall have made written request to the Association for such notice (which written request shall state the name and address of such holder, insurer or guarantor and the unit number or street address of the Unit to which the applicable Mortgage pertains):

(a) Any condemnation or casualty loss that affects either a material portion of the Property or the Unit securing the applicable Mortgage;

(b) Any delinquency lasting sixty (60) days or more in payment of any assessments or other charges owed to the Association by the Owner of the Unit securing the applicable Mortgage;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders, as provided in Article XII, Section 2, hereof;

Section 10. Changes to Interiors of Units. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his, her or its Unit or to paint the interior of his, her or its Unit any color desired, except to the extent such remodeling or painting is visible from outside such Unit or affects the exterior appearance of such Unit.

Section 11. Dissolution or Termination of the Association or Legal Status on the Property. No action to dissolve or otherwise terminate the Association or alter the legal status of the Property for any reason other than the substantial destruction or condemnation of the Property shall be taken without the consent of Eligible Mortgage Holders representing not less than sixty-seven percent (67%) of all Units subject to First Mortgages held by Eligible Mortgage Holders.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 7<sup>th</sup> day of November, 2017.

THE GARDENS AT HERITAGE GREEN  
CONDOMINIUM ASSOCIATION, INC.

By: Matthew Brownfield  
Name: Matthew Brownfield  
Title: President

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me personally appeared Matthew Brownfield, 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 Gardens at Heritage Green Condominium Association, Inc., the within named bargainer, a Tennessee corporation, and that he as such President executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as such President.

Witness my hand and official seal at Chattanooga, Tennessee on this the 7<sup>th</sup> day of November, 2017.

Shawnda D. Holden  
Notary Public

My Commission Expires: 2-1-2020



## EXHIBIT "A"

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:  
Being a portion of the property described in Book 1727, Page 43, et seq., in the Register's Office of Hamilton County, Tennessee, being also a part of the southwest quarter of section 24, Range 6 North or 2 South, Township 3, West of the Basis Line, Ocoee District and being more particularly described as follows: Beginning at a point in the South line of Davidson Road at the East line of the lands conveyed to the United States of America (TVA) by deed of record in Book 1775, Page 634, in said Register's Office; thence South 65 degrees 38 minutes 34 seconds East 828.40 feet along the South line of Davidson Road to the northwest corner of lands conveyed to Frank B. Laskowski and wife, Elizabeth Laskowski by deed recorded in Book 4438, Page 192, in said Register's Office; thence South 24 degrees 25 minutes 06 seconds West 304.88 feet along the West line of Laskowski, as aforesaid, and as further granted in Book 4854, Page 263, in said Register's Office; thence South 66 degrees 39 minutes 11 seconds East 116.85 feet along the South line of Laskowski to the western border of Heritage Green Subdivision, as defined by plats of record in said Register's Office in Plat Book 58, Page 109, Plat Book 58, Page 35, Plat Book 59, Page 385, Plat Book 57, Page 274, and Plat Book 62, Page 312, all in said Register's Office; thence along said western border in the following calls: South 24 degrees 50 minutes 55 seconds West 140.28 feet; North 76 degrees 36 minutes 12 seconds West 75.83 feet; south 24 degrees 43 minutes 52 seconds West 99.88 feet; South 31 degrees 47 minutes 58 seconds West 40.30 feet; South 25 degrees 18 minutes 48 seconds West 270.00 feet; South 00 degrees 10 minutes 03 seconds West 22.00 feet; South 25 degrees 18 minutes 48 seconds West 324.79 feet and South 32 degrees 16 minutes 15 seconds West 78.04 feet the Northwest corner of Lot 26, said subdivision; thence South 38 degrees 59 minutes 30 seconds West, a distance of 33.07 feet to a point in the rear line of Lot 27 said subdivision, said point being the beginning of a curve to the left having a radius of 250 feet and a central angle of 02 degrees 02 minutes 47 seconds; thence southwesterly along the arc a distance of 8.93 feet to a point in the rear line of Lot 27 said subdivision; thence along a division line of the Rhodes property described in Book 1727, Page 43, said Register's Office, North 65 degrees 01 minute 16 seconds West a distance of 383.79 feet to a point in the East line of Lot 51 said subdivision; thence North 0 degrees 20 minutes 2 seconds West, a distance of 8.03 feet to the Northeast corner of Lot 51 said subdivision; thence with the Northern line of said Lot 51, North 62 degrees 22 minutes 08 seconds West, a distance of 81.26 feet to the Northwest corner of said Lot 51; thence South 51 degrees 12 minutes 03 seconds West, a distance of 12.28 feet to a point in the western line of Lot 51 said subdivision; thence along a division line of the Rhodes property described in Book 1727, Page 43, said Register's Office, North 65 degrees 01 minute 16 seconds West, a distance of 295.66 feet to the East line of lands granted to United States of America (TVA) in Book 1775, Page 634, as aforesaid; thence along said TVA lands in the following calls: North 49 degrees 21 minutes 33 seconds East 496.95 feet; North 40 degrees 38 minutes 27 seconds West 242.64 feet and North 19

degrees 44 minutes 55 seconds East 771.30 feet to the point of beginning. According to a survey by James G. Copp, Tennessee Registered Land Surveyor No. 1096, whose address is 6117 Dayton Boulevard, Hixson, Tennessee 37343, said drawing bearing date of May 22, 2001.

REFERENCE for prior title is made to deed of record in Book 5887, Page 698, in said Register's Office.

SUBJECT to 10 foot drainage appurtenant to Heritage Green Subdivision as shown by plat of record in Plat Book 58, Page 109, said Register's Office.

SUBJECT to any part of community lot B appurtenant to Heritage Green Subdivision, which may be within the bounds of the herein described property.

SUBJECT to application for agricultural use of record in Book 3594, Page 303, said Register's Office.

SUBJECT to easement to City of Chattanooga (Electric Power Board) for transmission line along West boundary of property, as shown on a survey by James G. Copp, Tennessee Registered Land Surveyor, dated May 22, 2001.

SUBJECT to governmental zoning and subdivision ordinances or regulations in effect thereon.

SUBJECT to easement to City of Chattanooga (Electric Power Board) dated October 28, 2004, and of record in Book 7320, Page 732, in said Register's Office, said easement superceding the easement of record in Book 7312, Page 908.

SUBJECT to Blanket Deed of Easement and Right-of-Way to Tennessee-American Water Company dated March 5, 2004, and appearing of record in Book 7073, Page 155, in said Register's Office.

SUBJECT to easements and restrictions as shown on plat appearing of record in Plat Book 77, Page 5, in said Register's Office.

SUBJECT to 50 foot building setback along the east line of the above described property.

SUBJECT to ingress and egress easement in favor of the Gardens of Heritage Green from an street located on the above described property to the community lot for said borders at Heritage Green.

SUBJECT to ingress and egress easement from the end of the private street to property now or formerly owned by the Rhodes family along the southerly portion of the above described property.

2004 taxes are to be prorated between grantor and grantee.

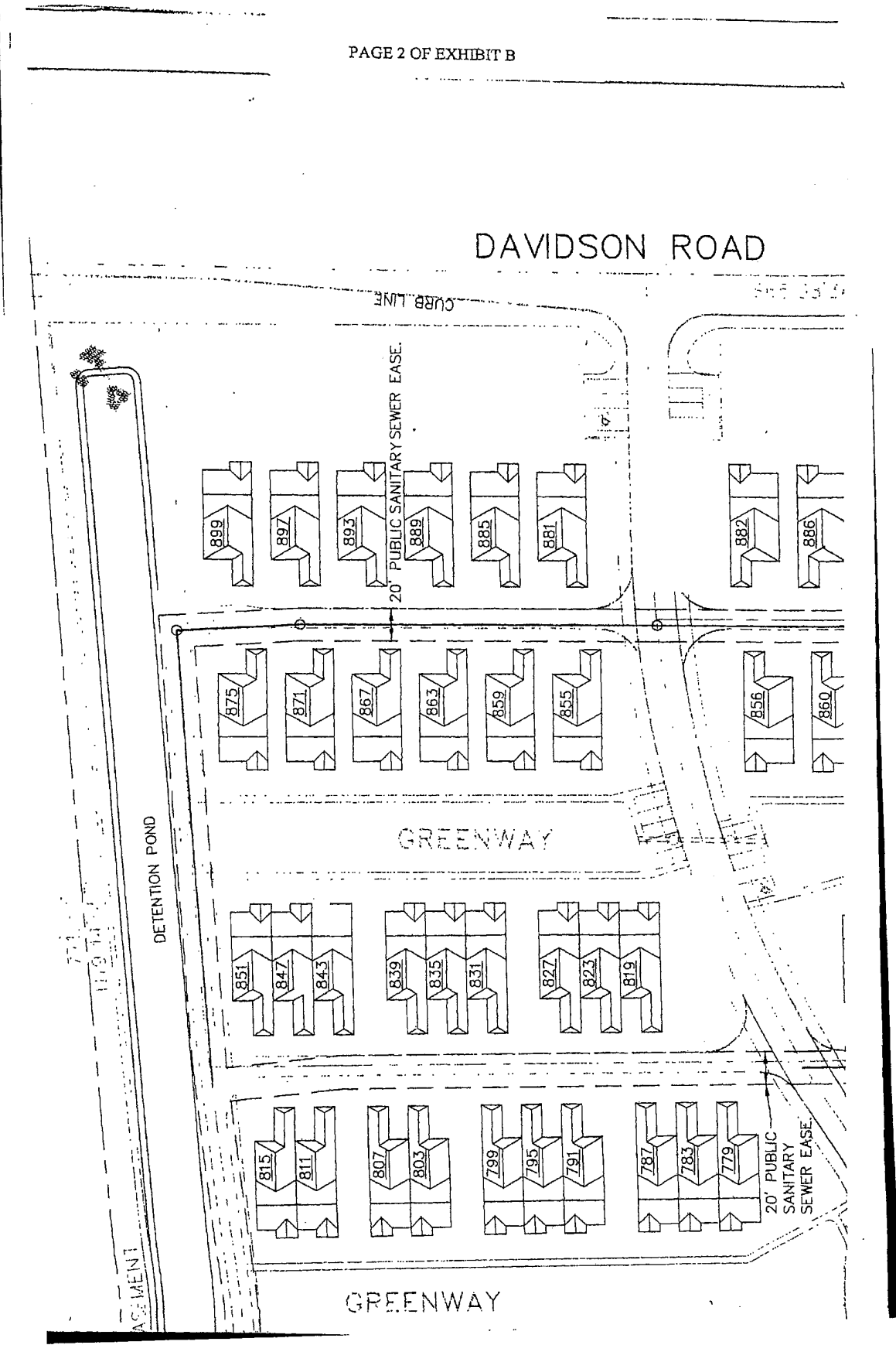
EXHIBIT B TO MASTER DEED

This is page 1 of Exhibit B.

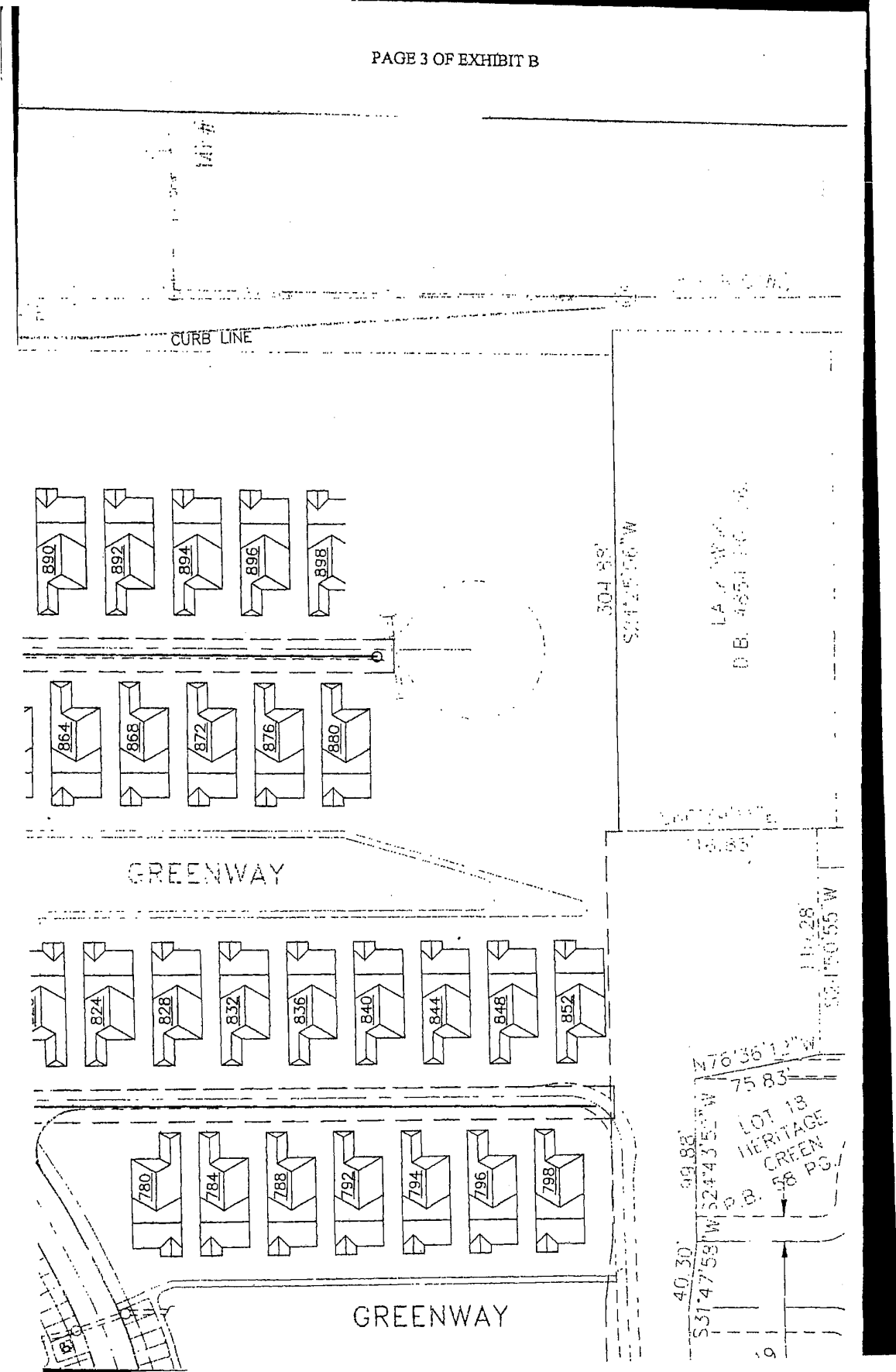
The following four pages show the anticipated locations of the Units as of November 16, 2004. The locations are subject to change. Additional recordings may change the proposed location of Units to be constructed or identify the actual location of Units that have been constructed.

Page 2 of Exhibit B shows the northwest part of the Property, Page 3 of Exhibit B shows the northeast part of the Property, Page 4 of Exhibit B shows the southwest part of the Property, and Page 5 of Exhibit B shows the southeast part of the Property,

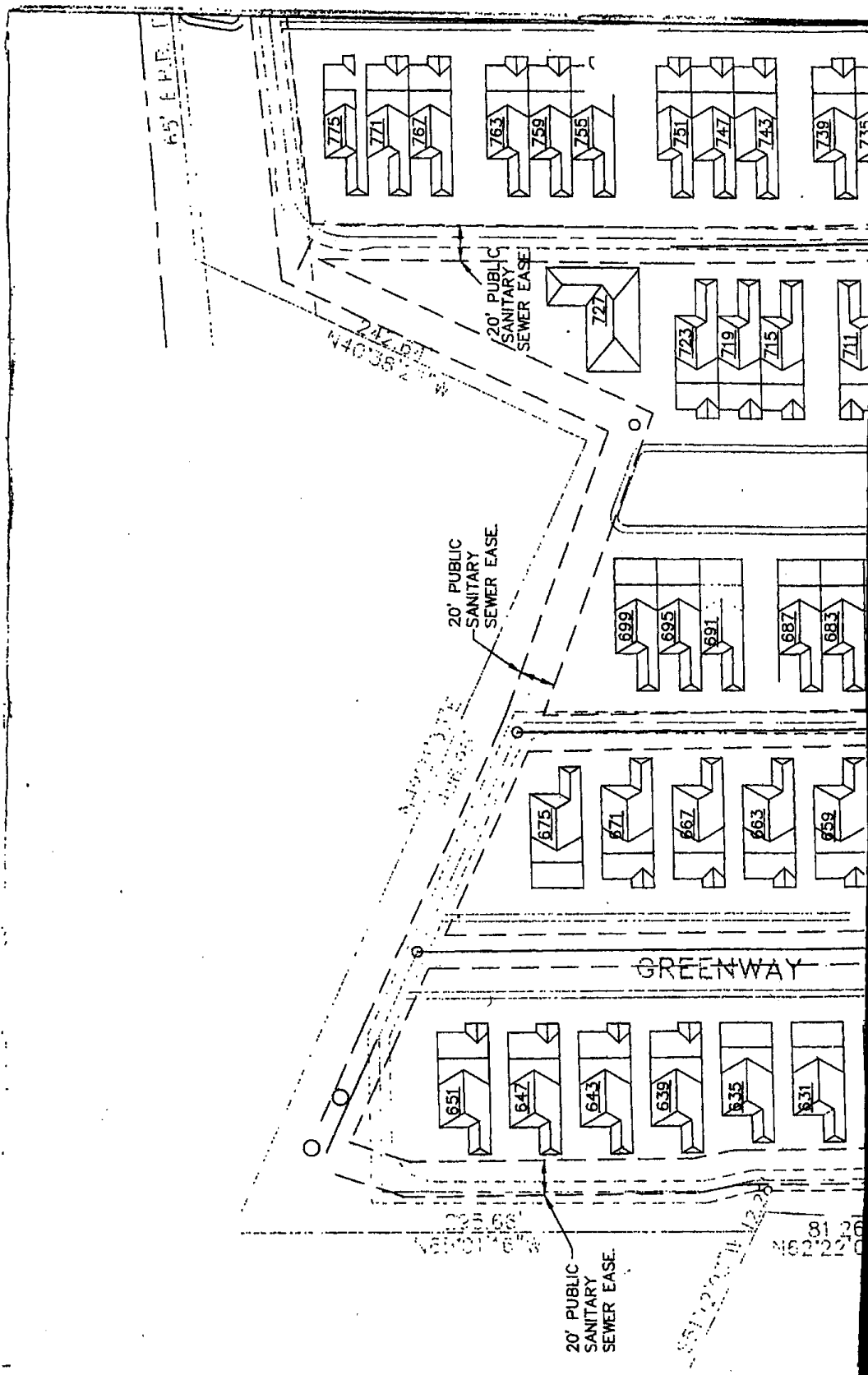
The remaining pages of Exhibit B show proposed floor plans of the various units. The names of the styles that may be constructed using a floor plan are set out on each pages. Each style on a page uses the floor plan on that page with minor variations.

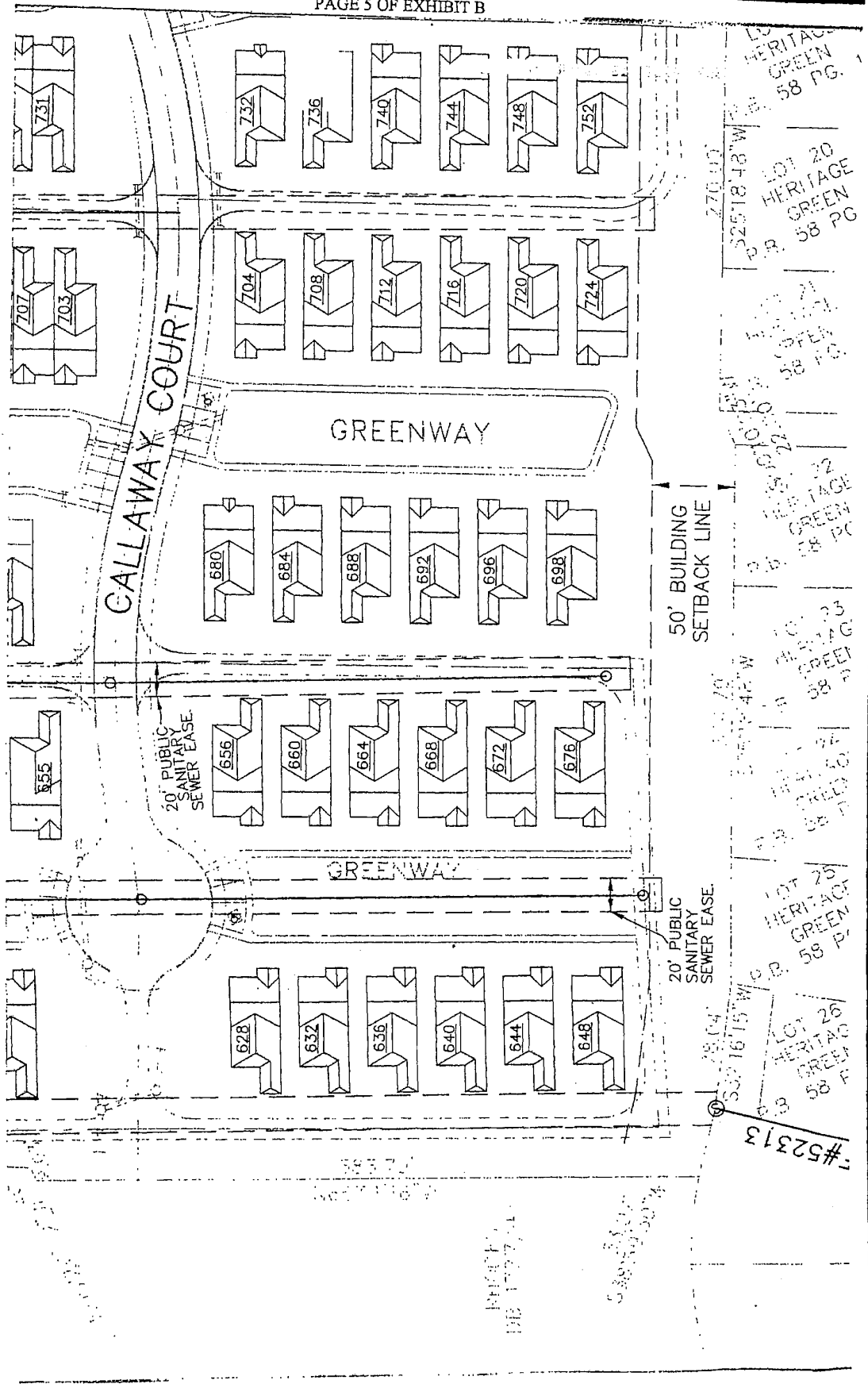


PAGE 3 OF EXHIBIT B









LOT 20  
HERITAGE  
GREEN  
58 PG.

LOT 20  
HERITAGE  
GREEN  
58 PG.

LOT 21  
HERITAGE  
GREEN  
58 PG.

LOT 22  
HERITAGE  
GREEN  
58 PG.

LOT 23  
HERITAGE  
GREEN  
58 PG.

LOT 24  
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#52313

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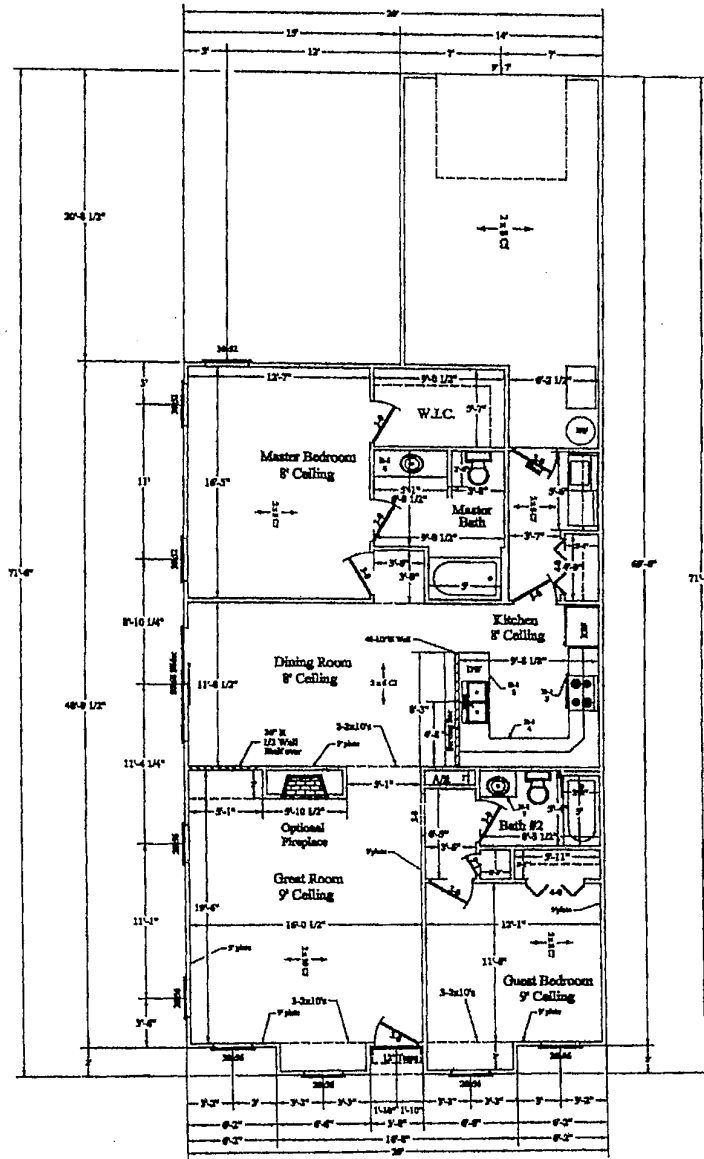
225 18 48 W

225 18 48 W

# The Gardens at Heritage Green Condominiums

**PLANS:**  
Barton, Battery Place, Dartmouth, Georgian  
Highland, Victorian, Williamsburg

**SQUARE FOOTAGE**  
1st Floor = 1361 s.f.  
Garage = 310 s.f.



**NOTE:**  
Floor plans and square footage are subject to change  
with changes in exterior building elevations

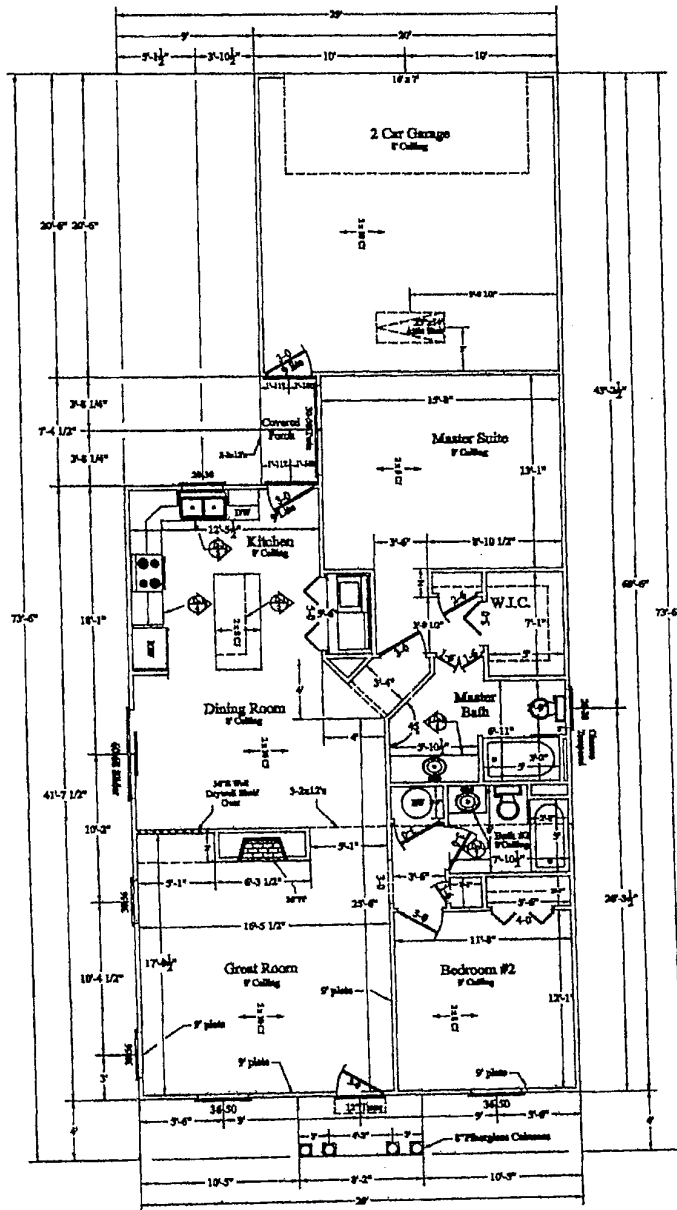
© 2004, Michael T. Moon



# The Gardens at Heritage Green Condominiums

**PLANS:**  
Jamestown, East Lake

**SQUARE FOOTAGE**  
1st Floor = 1291 s.f.  
Garage = 386 s.f.



**NOTE:**  
Floor plans and square footage are subject to change  
with changes in exterior building elevations

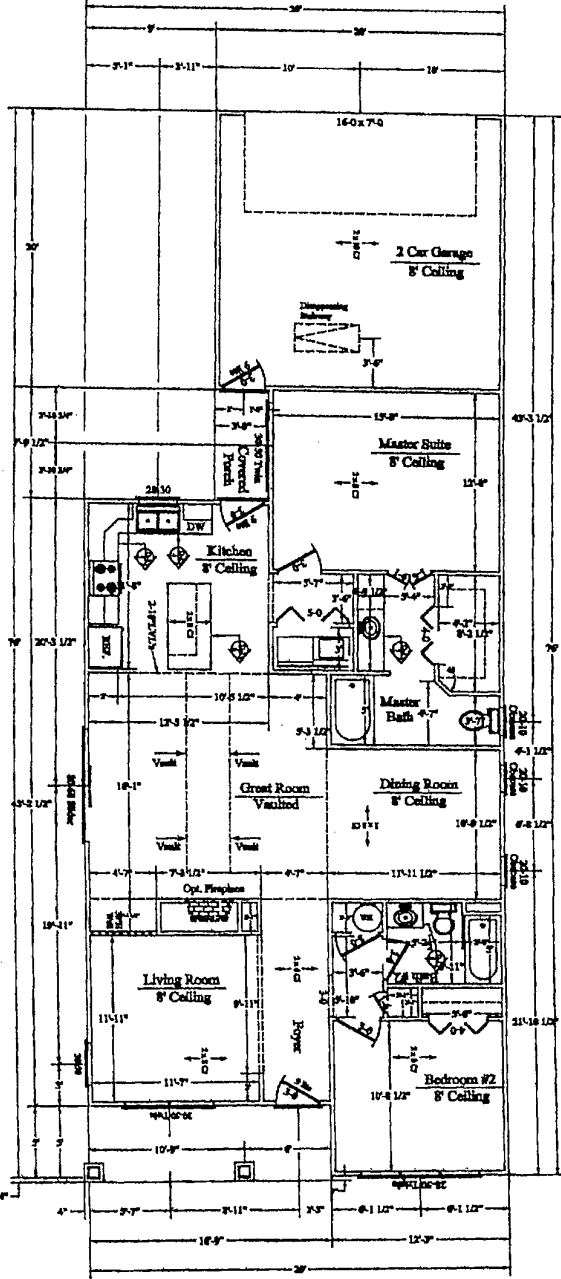
# The Gardens at Heritage Green Condominiums

**PLANS:**

Colville, Fortwood, Glenwood,  
Virginian, Young Avenue

**SQUARE FOOTAGE**

1st Floor = 1400 s.f.  
Garage = 377 s.f.



**NOTE:**  
Floor plans and square footage are subject to change  
with changes in exterior building elevations

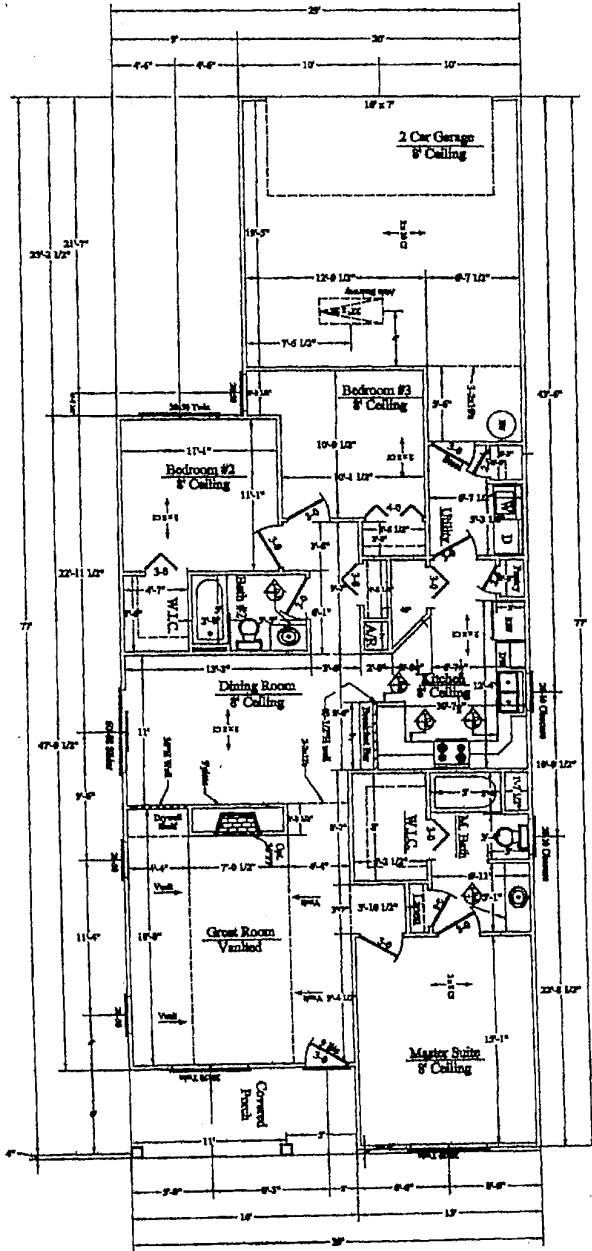
# The Gardens at Heritage Green Condominiums

**PLANS:**

Belvoir, Dalewood, Fairmount,  
Orchard Park, Treemont

**SQUARE FOOTAGE**

1st Floor = 1453 s.f.  
Garage = 413 s.f.

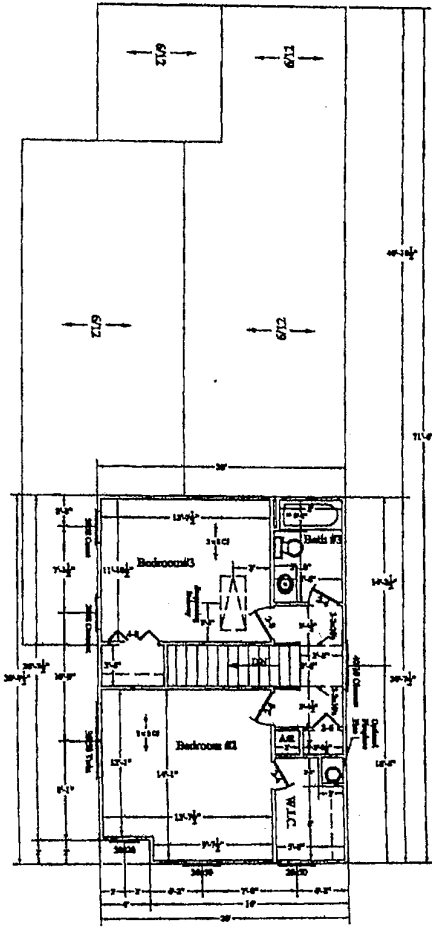


**NOTE:**  
Floor plans and square footage are subject to change  
with changes in exterior building elevations

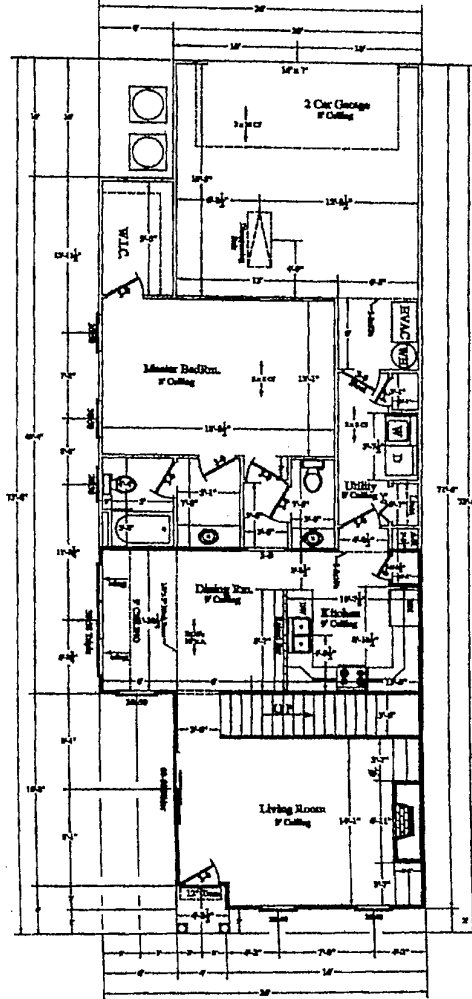
The Gardens at Heritage Green  
Condominiums

PLANS:  
Alexandria, Charleston, Victoria Park, Walden

SQUARE FOOTAGE  
1st Floor = 1209 s.f.  
2nd Floor = 575 s.f.  
Garage = 415 s.f.



2nd Floor



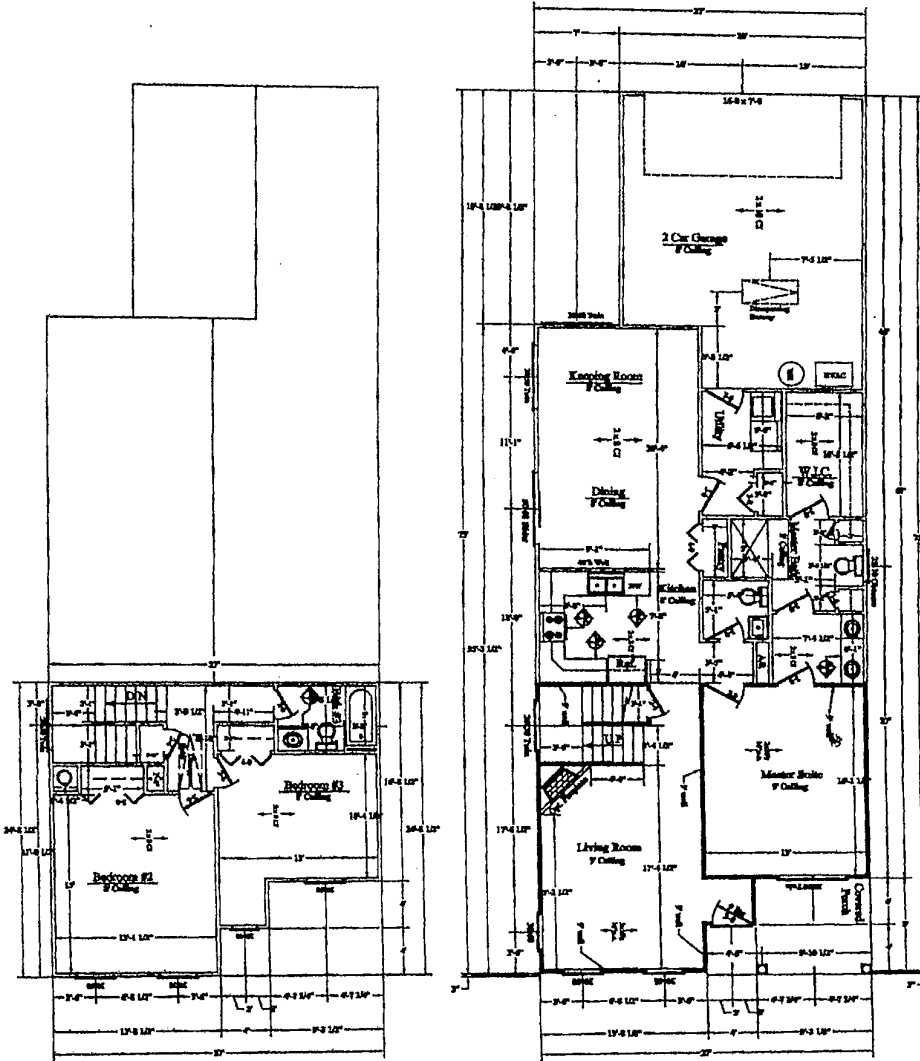
1st Floor

NOTE:  
Floor plans and square footage are subject to change  
with changes in exterior building elevations

The Gardens at Heritage Green  
Condominiums

PLANS:  
Forest Park, Mission Ridge, North Crest, Savannah

SQUARE FOOTAGE  
1st Floor = 1291 s.f.  
2nd Floor = 546 s.f.  
Garage = 445 s.f.



2nd Floor

First Floor

NOTE:  
Floor plans and square footages are subject to change  
with changes in exterior building elevations



# The Gardens at Heritage Green Condominiums

1st Floor Plan 520

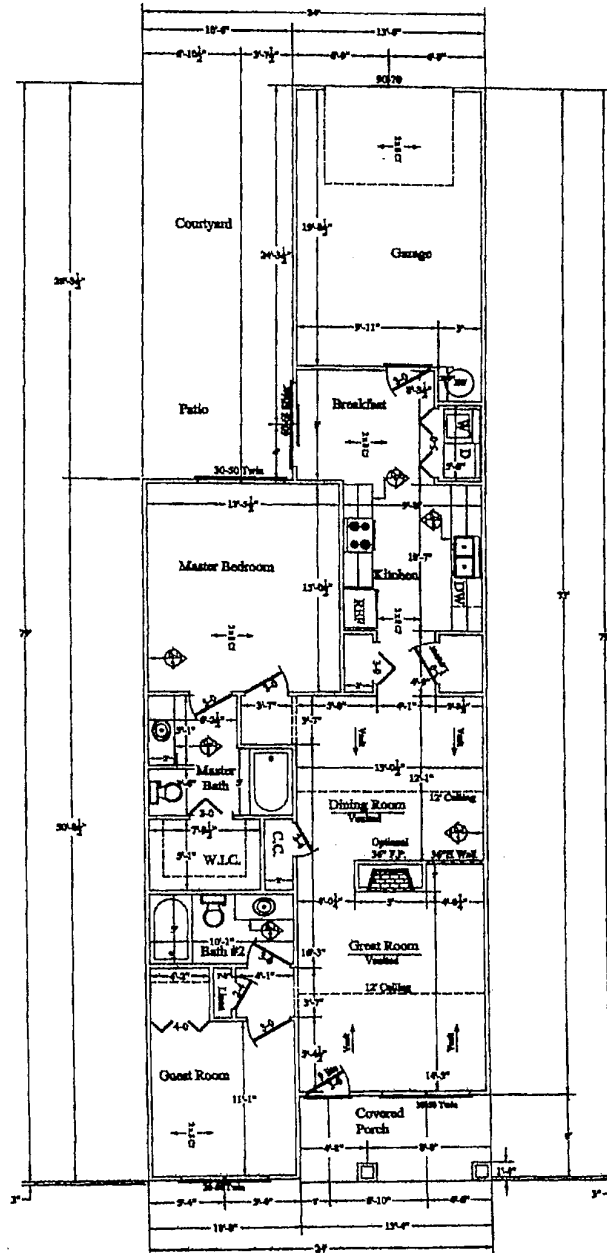
**PLANS:**

Baker Street, Parsons Lane, Prairie, Victorian

**SQUARE FOOTAGE**

1st Floor = 1197 s.f.

Garage = 262 s.f.



**NOTE:**

Floor plans and square footage are subject to change with changes in exterior building elevations

**CHARTER OF  
THE GARDENS AT HERITAGE GREEN CONDOMINIUM ASSOCIATION, INC.**

Under Section 48-52-102 of the Tennessee Non-Profit Corporation Act

1. **Name.** The name of the corporation is  
The Gardens At Heritage Green Condominium Association, Inc.
2. **Mutual Benefit.** This corporation is a mutual benefit corporation.
3. **Registered Office.** The address of the corporation's initial registered office in Tennessee is: Suite 202, Market Court, 537 Market Street, Chattanooga, Tennessee 37402.
4. **Registered Agent.** The name of the name of the initial registered agent is: Steven M. Jacoway.
5. **Incorporator.** The incorporator is B. Paul Hatcher, whose address is 701 Market Street, Suite 1000, Chattanooga, Tennessee 37402.
6. **Principal Office.** The principal office of the corporation is: 4000 Igou Crossing, Chattanooga, Tennessee 37421.
7. **Non-Profit.** The corporation is not for profit.
8. **Members.** The corporation will have members.
9. **Purposes.** The corporation is organized for the purposes of carrying on one or more of the functions of a homeowners' association, including, without limitation, the administration, through a Board of Directors, of the condominium project known as The Gardens at Heritage Green Condominiums, which includes the acquisition (either in its own name or as nominee for the Unit Owners of said condominium project), construction, management, maintenance, and care of the corporation's property as well as the preservation and architectural control of the improvements and common areas of said condominium project. Further purposes of the corporation include the promotion of the health, safety and welfare of the residents of the condominium and any additions thereto, including the power to:
  - (a) Exercise all of the powers and privileges, and perform all of the duties and obligations, of the Association as set forth in the Master Deed for



The Gardens at Heritage Green Condominiums, as the same may be amended from time to time;

(b) Fix, levy, collect and enforce payment of all charges and assessments pursuant to the terms of the Master Deed, pay all expenses called for thereunder, including such licenses, taxes or other governmental charges levied or imposed against the property of the corporation.

(c) Have and exercise any and all powers, rights and privileges that a corporation organized under the provisions of the Tennessee Nonprofit Corporation Act relating to not-for-profit corporations may now or hereafter have or exercise.

**10. Liquidation, Dissolution.** In the event of liquidation, dissolution, or winding up of the corporation, whether voluntary or involuntary or by operation of law, the residual assets of the corporation shall be distributed to the members of the corporation in accordance with their respective percentages of ownership in the common elements.

**11. Person Authorized to Perform Functions of Board.** The rights, duties and functions of the Board of Directors shall be solely exercised by A. D. James Construction and Development, LLC, a Tennessee limited liability company, or its successors or assignee ("Developer") until such time as Developer in its sole discretion determines to call a special meeting of the members of the corporation to elect a Board of Directors to succeed Developer.

**12. Directors' Liability.** A director of the corporation shall not be personally liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director, except for liability arising out of:

- a. any breach of the director's duty of loyalty to the corporation or its members;
- b. for acts or omission not in good faith or which involve intentional misconduct or in knowing violation of the law;
- c. under Section 48-58-304 of the Tennessee Non-Profit Corporation Act.

If the Tennessee Non-Profit Corporation Act is hereafter amended to authorize the further elimination or limitation of liability of the directors, then the liability of the corporation, in the addition to the limitations on personal liability

provided herein, shall be limited to the fullest extent permitted by the amended Tennessee Non-Profit Corporation Act.

**12. Indemnification.** The corporation shall have the power to indemnify its directors and officers to the fullest extent permitted by the Tennessee Non-Profit Corporation Act.

**IN WITNESS WHEREOF**, the undersigned Incorporator has signed this Charter, this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
B. Paul Hatcher, Incorporator

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**THE GARDENS AT HERITAGE GREEN  
CONDOMINIUM ASSOCIATION, INC.**

**BY-LAWS**

The Gardens at Heritage Green Condominium Association, Inc., a Tennessee non-profit corporation, created pursuant to the terms and provisions of the Master Deed for The Gardens at Heritage Green Condominiums recorded herewith in the Register's Office of Hamilton County, Tennessee, declaring that the provisions of these By-Laws were duly approved by the Board of Directors of Gardens at Heritage Green Condominium Association, Inc., on \_\_\_\_\_ does hereby publish these By-Laws pursuant to *Tenn. Code Ann. § 66-27-111*.

**ARTICLE 1**

**NAME**

The following provisions shall constitute the ByLaws (the "Bylaws") of The Gardens at Heritage Green Condominium Association, Inc. a not-for-profit corporation (the "Association") which shall, along with the provisions of the Master Deed and the Rules and Regulations adopted by the Board of Directors of the Association (the "Board"), govern the administration of Gardens at Heritage Green Condominium Association, Inc., Chattanooga, Tennessee (the "Property"). The terms in these Bylaws shall have the same meaning as the terms defined in the Master Deed for the Property.

**ARTICLE 2**

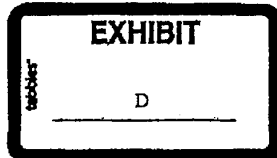
**OFFICES**

The principal office of the Association in the State of Tennessee shall be located at \_\_\_\_\_, Hamilton County, Tennessee, or at such other place either within the State of Tennessee, as shall be lawfully designated by the Association, or as the affairs of the Association may require from time to time.

**ARTICLE 3**

**PURPOSES**

The purpose of this Association shall be to provide for the establishment of an owner association for the government of the Property in the manner provided by these Bylaws and in its Charter (the "Charter"). The aims of this Association are to be carried out through any and all lawful activities, including others not specifically stated in the Charter or these Bylaws but incidental to the stated aims and purposes; provided, that any such activity or contribution shall conform to any applicable restrictions or limitations set forth in the Charter of which are imposed on real estate associations by those provisions described in Section 528(c) of the *Internal Revenue Code* and the regulations thereunder, as presently enacted, or as they may hereafter be amended or supplemented, or, if they are replaced, by new sections of similar import, and to the



final laws, rules and regulations thereunder. All present or future Owners or tenants, or their employees, or any other person who might use the facilities on the Property in any manner, shall be subject to the covenants, provisions or regulations contained in the Master Deed for the Association (the "Master Deed") and these Bylaws, and shall be subject to any restriction, condition or regulation hereafter adopted by the Association. The mere acquisition or rental of any Unit, or the mere act of occupying of any Unit, will constitute acceptance and ratification of the Master Deed and of these Bylaws.

ARTICLE 4

ASSOCIATION OF MEMBERS

4.1 MEMBERSHIP. The membership shall be limited to and shall consist of the Class "A" and Class "B" Members, as described in Article IV of the Master Deed (collectively, the "Members"). Upon acquisition of title to a Unit, a person shall automatically become a Member.

4.2 DUES. The Board may prescribe annual dues for Members as the Board sees fit for those reasons described in Paragraphs 8.2 and 8.3, which Members shall be required to pay, unless waived by the unanimous consent of the Association.

4.3 RIGHTS OF MEMBERS. All Members shall be entitled to vote as hereinafter described, shall be eligible to serve on the Board, and shall be entitled to all rights of membership.

4.4 TERMINATION. All memberships shall continue until automatically terminated by transferring title of such Member's Unit to another person.

4.5 VOTING RIGHTS.

(a) In General. Each Member shall be entitled to one (1) vote for each Unit owned by such Member. Any provision to the contrary notwithstanding, joint Owners shall be deemed one (1) Member. If any Unit shall be owned by more than one (1) person or by a corporation, partnership or one (1) or more fiduciaries, such Owner(s) shall designate one (1) person to represent such Unit with respect to the Association and to cast the vote of such Unit. The Association shall be entitled to reply in good faith upon the actions of, and votes cast by, such designee of the Owner.

(b) Developer's Rights. Developer or its successors or assigns shall have at all times the votes reserved for Class "B" Members.

ARTICLE 5

ASSOCIATION MEETINGS

5.1 FIRST ANNUAL MEETING. The first annual meeting of the Association shall be called by the Developer at such time as it is determined that a sufficient number (as determined by the Developer) of homeowners have established residence in the development.

5.2 ANNUAL MEETINGS. An annual meeting of the Association shall be held on the first Tuesday of February of each year, if not a legal holiday and if a legal holiday then on the next succeeding business day, for the purpose of electing the Officers of the Association, electing Members of the Standing Committees, and such other business as comes before the meeting.

5.3 SPECIAL MEETINGS. Special meetings of the Association may be called for any reasonable purpose by the President or by those Members representing not less than twenty-five percent (25%) of the total vote of the Association. Upon written request delivered either in person or by certified mail to the Secretary of the Association by any persons entitled to call a meeting of Members, the Secretary shall forthwith cause notice of the meeting to be given to the Members entitled thereto. Said meeting shall be held on a date not less than ten (10) nor more than sixty (60) days after the receipt of such request, as the Secretary may determine. If such notice is not given within thirty (30) days after the delivery or mailing of such request, the person(s) calling the meeting may fix the time of the meeting and give notice thereof. Each special meeting shall be called to convene at such time as may be designated and shall be held on the Property or at such other reasonable place within the Chattanooga Metropolitan Area as shall be specified in the notice of the meeting.

5.4 NOTICE OF MEETINGS. A written notice of every meeting of the Association stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place, day, and hour thereof, and the purpose therefore shall be given by the Secretary, or the person or persons calling the meeting, not more than sixty (60) days nor less than ten (10) days before the date set for such meeting. Such notice shall be given to each Member in any of the following ways: (a) by leaving the same with a Member personally, or (b) by leaving the same at the residence or usual place of business of such Member, or (c) by mailing it, postage prepaid, addressed to such Member's address as it appears on the records of the Association, or (d) if such Member cannot be located by reasonable efforts, by publishing such notice in any newspaper of general circulation in the City of Chattanooga, such notice to be published not less than two (2) times on successive days, the first publication thereof to be not less than ten (10) days prior to the date assigned for the meeting. If notice is given pursuant to the provisions of this section, the notice is given pursuant to the provisions of this section, the failure of any Member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceeding thereat. Upon written request for notices mailed by registered mail, addressed to the Secretary at the address of the Association, the holder of any duly recorded mortgage against any Unit may promptly obtain a copy of any and all notices permitted or required to be given to the holder of any mortgage requesting such notice until said request is withdrawn and said mortgage is discharged of record.

5.5 WAIVER OF NOTICE. The presence of a majority of Members, in person or by proxy, at any meeting shall render the same a valid meeting, unless any Member shall, at the opening of such meeting, object to the holding of the same for non-compliance with the provisions of Paragraph 5.4. Any meeting so held without objection shall, notwithstanding the fact that no

notice of the meeting was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken.

5.6 QUORUM. At any meeting of the Association, a fifty percent (50%) or more voting majority of all Members present, by person or by proxy, shall constitute a quorum, and action approved by a majority vote of the Members present shall be valid and binding upon the Association except as otherwise provided by law or these Bylaws. In the event a Member's vote is pledged by mortgage, deed of trust, or agreement of sale, such Member's vote will be recognized in computing a quorum with regard to any business conducted concerning such matters upon which said Member's vote is so pledged or mortgaged unless the mortgage, deed of trust, or agreement of sale provides otherwise, in which case such instruments shall control.

5.7 PROXIES. A Member may vote either in person or by proxy at a regular or special meeting of the Association. The authority given by a Member to another person to represent such Member at meetings of the Association shall be in writing, signed by such Member, or, if a Unit is jointly owned, by all joint owners, or if such Member is a corporation, by the proper officers thereof, and shall be filed with the Secretary, and unless limited by its terms, such authority shall be deemed good until revoked in writing. An executor, administrator, guardian, or trustee may vote in person or by proxy at any meeting of the Association with respect to any Unit owned or held by such person only after documenting to the Secretary's satisfaction that the Unit is owned or held in such capacity.

5.8 ORDER OF BUSINESS. The order of business at all meetings of Members shall, unless otherwise agreed upon by those Members present, by person or proxy, be as follows:

- (1) Calling of meeting to order.
- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading of minutes of preceding meeting.
- (4) Reports of officers.
- (5) Reports of committees.
- (6) Unfinished and/or old business.
- (7) New business.
- (8) Adjournment.

5.9 ADJOURNMENT. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by a majority vote of the Members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

## ARTICLE 6

### BOARD OF DIRECTORS

6.1 NUMBER AND QUALIFICATION. The direction and administration of the affairs of the Association shall be governed by a Board and shall constitute the "Board of Administration"



as required by Section 66-27-112 of the Horizontal Property Act of the State of Tennessee, as amended (the "Act"), and all rights, titles, powers, privileges and obligations vested in or imposed upon the "Board of Administration" in the Act, in the Master Deed or in these Bylaws may be held or performed by the board, or by the duly elected Members of the Association. Except as hereafter provided, the Board shall be initially composed of four (4) officers (President, Vice-President, Secretary and Treasurer) and the four (4) elected chairpersons of the four (4) standing committees of the Association, who shall be elected in the manner hereinafter provided and increased or decreased at any annual meeting by a majority vote, and all such Directors shall be Members, provided, however, that in the event a Member is a corporation, partnership, trust or other legal entity other than a natural person, then any majority shareholder, officer or director of such corporation, partner or such partnership, beneficiary or individual trustee of such trust, or manager of such other legal entity shall be eligible to serve as a Director. During that period prior to the election of the first Board, Developer shall have the powers and duties of the Board, and shall act for and on behalf of the Association.

6.2 ELECTION AND TERM OF OFFICE. The Officers and Members of the standing committees shall be elected by a majority vote of the Membership and each shall serve for a term of two (2) years.

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

6.4 REMOVAL. At any regular meeting of the Association or a special meeting called for such purpose, any one (1) or more of the Directors may be removed, with or without cause, by the majority vote of the Members, 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.

6.5 STANDING COMMITTEES. Below are listed the four (4) standing committees of the Association:

a. Finance and Accounting Committee. The chair of the Finance and Accounting Committee (FAC) is elected by the members of the FAC and is a voting member of the Board. The responsibilities of the FAC include, but are not limited to, establishing a uniform set of accounting procedures for the Association and administered by the Treasurer. The FAC also has responsibility for budgetary and financial projections regarding regular assessments. In the unlikely event of the need for a special assessment, it shall be the FAC's responsibility to consider, justify and recommend such action to the Board.

b. Architectural Standards Committee. The chair of the Architectural Standards Committee (ASC) is elected by the members of the ASC and is a voting Member of the Board. The ASC is responsible for recommending to the Board, rules, regulations and standards for the exterior appearance of all condominiums. In addition, the ASC should provide guidance and recommendations to the Board regarding rules and regulations related to pets, nuisances,

antennas, motor vehicles, trailers, etc., and other areas of concern which might have an adverse impact on the preservation and enhancement of the value of the properties within the Development.

c. Insurance and Asset Management Committee. The chair of the Insurance and Asset Management Committee (IAMC) is elected by the members of the IAMC and is a voting Member of the Board. The responsibilities of the IAMC include all aspects of risk and asset management for the Association. In addition, it is the responsibility of this Committee to make projections and recommendations for amounts needed to be set aside in a Reserve for Replacement account.

d. Landscaping and Common Areas Committee. The chair of the Landscaping and Common Areas Committee (LCAC) is elected by the members of the LCAC and is a voting Member of the Board. It shall be the LCAC's responsibility to continue with the current program of shrub planting and replacement. In addition, the Committee shall be responsible for landscape maintenance of all common areas, including planting of annuals and recommending to the Board an overall landscaping plan for the Development. The LCAC has responsibility for recommending sub-contractors to provide all budgeted services associated with maintenance of the landscaping and common areas of the development.

## ARTICLE 7

### DIRECTORS MEETINGS

7.1 ORGANIZATION MEETING. The first meeting of a newly elected Board shall be held within a reasonable time of their 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 to legally constitute such meeting, providing a majority of the whole Board shall be present. Until the first meeting of the first Board of Directors, Developer shall act as and for the Board.

7.2 REGULAR MEETINGS. Regular annual meetings of the Board shall be held within a reasonable time after the annual meeting of the Association, and at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, addressed to said Director's residence, or by telephone, at least five (5) days prior to the day named for such meeting.

7.3 SPECIAL MEETINGS. Special meetings of the Board may be called by the President on three (3) days notice to each Director, given personally or by mail, addressed to the Director's residence or place of business, or by telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board may be called in like manner and on like notice, by the written request to the President and at least one (1) Director.

7.4 WAIVER OF NOTICE. Before or at any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be deemed a waiver

of notice of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

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

## ARTICLE 8

### BOARD'S POWER AND DUTIES

8.1 DISPUTES. In the event of any dispute or disagreement between any Members relating to the Property, or any question of interpretation or application of the provisions of the Master Deed and the Exhibits thereof, the determination thereof by the Board shall be final and binding on the Members.

8.2 POWERS OF BOARD. The board shall exercise the powers necessary for the administration of the affairs of the Association and may do all such acts as are not by the Act or other laws, the Master Deed or by these Bylaws directed to be exercised and done by the Members, which shall include the following:

- (a) Engage the services of a manager or managing agent for the purposes of management and daily care of the Property who may be any person, firm or corporation, upon such terms and compensation as the Board deems reasonable, and to remove such manager or managing agent at any time;
- (b) Engage the services of any persons deemed necessary by the board, for the administration, operation, repair, surveillance and maintenance of the Property, upon such terms and compensation deemed reasonable by the board, and to remove at any time any such personnel;
- (c) Establish or maintain one or more bank accounts for the deposit of any funds paid to the Association, or received by the Board on behalf of the Association;
- (d) Make such charges and assessments as the Board sees fit for the operation, repair, surveillance and maintenance of the Common Elements, including the discharge of the duties of the Board, described in Paragraph 8.3 hereof, on such terms as the Board sees fit, and any funds received by the board for any such use shall become a part of a maintenance fund;
- (e) Appoint committees of the Association and to delegate to such committees the Board's authority to carry out certain duties of the Association, and to allow Members to attend the meetings of such committees;

(f) Bid and purchase, for and on behalf of the Association, any Unit, or interest therein, at a sale pursuant to a mortgage foreclosure, a foreclosure of the lien for common Expenses under the Act or the Master Deed, or an order or direction of a court or at any other involuntary sale, upon the consent or approval of not less than seventy-five percent (75%) of the total vote of the Association, provided that such consent shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for such Unit or interest therein;

(g) Make such mortgage arrangements, levy special assessments proportionately among the respective Members and make other financing arrangements, with the approval of not less than seventy-five percent (75%) of the total vote of the Association, in order to close and consummate the purchase of a Unit, or interest therein, by the Association, provided, however, that no such financing arrangement shall be secured by an encumbrance of any interest in the Property other than the Unit, or interest therein, to be purchased or leased;

(h) Unless otherwise provided herein or in the Master Deed, comply with the instructions expressed in a resolution duly adopted at any annual or special meeting of the Association;

(i) Act in a representative capacity in relation to matters involving the Common Elements, or more than one (1) Unit, on behalf of the Association and its Members as their interests may appear; and

(j) Exercise all other powers and duties of the Board or the Members as a group referred to in the Act and all powers and duties of a Board referred to in the Master Deed or these Bylaws.

8.3 DUTIES OF THE BOARD. The Board must perform those duties necessary for the proper administration of the affairs of the Association, including those duties imposed by the Act, the Master Deed, these Bylaws or resolution of the Association and shall be responsible for the following:

(a) CARE OF THE COMMON ELEMENTS. Care, upkeep, and surveillance of the Property, including the Common Elements and facilities, by performing, acting, acquiring, making arrangement for, and paying out of the maintenance fund the following:

(i) manager, managing agent or other personnel necessary for the maintenance, security and operation of the Property, its Common Elements and facilities, as specified and described in Paragraph 8.2;

(ii) water, waste removal, electricity, telephone and other necessary utility services for the Common Elements;

(iii) such insurance as the Association is required to obtain and such other insurance as the Board deems advisable in the operation and management of the Property (any losses under such policies of insurance shall be payable and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of the Act, the Master Deed, and the Exhibits thereto;

(iv) the services of a bank or trust company, authorized to do business in the State of Tennessee, to act as trustee or agent on behalf of the Association for the purpose of receiving and disbursing the insurance proceeds resulting from any loss and the proceeds from any condemnation, upon such terms as the Board shall determine consistent with the provisions of these Bylaws, the Master Deed and the Exhibits thereto;

(v) worker's compensation insurance to the extent necessary to comply with any applicable law;

(vi) landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, repair and replacement of the Common Elements and such furnishings and equipment for the Common Elements as the Board shall have the exclusive right and duty to acquire the same for the Common Elements;

(vii) any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, or assessments which the Board deems necessary or proper for the maintenance and operation of the Property as a first class condominium development, for the enforcement of any restrictions or provisions contained in these Bylaws, the Master Deed and the Exhibits thereto;

(viii) any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property or any part thereof which in the opinion of the Board constitutes a lien against the Property as a whole or against the Common Elements, rather than merely against the interest therein of particular Members (where one (1) or more Members are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any cost incurred by the Board by reason of said lien shall be specially assessed to said Members, and shall, until paid by such Members, constitute a lien on the interest of such Members in the Property as provided in the Act with respect to liens for failure to pay a share of the Common Expense); and

(ix) maintenance and repair under the terms of these Bylaws and Master Deed, or the Exhibits thereto, if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any portion of the Property.

(b) BUDGET AND COLLECTION OF ASSESSMENTS.

(i) Each year on or before September 1, the board shall estimate the annual budget of the Common Expenses (the "Annual Budget"), including the total amount required for the cost of wages, materials, insurance, services, and supplies which will be required during the ensuing calendar year for the rendering of all services together a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall notify each Member obligated by Article VIII of the Master Deed to share in General Assessments in writing as to the amount of such estimate with reasonable itemization thereof. The Annual Budget shall be composed of (a) the projected expenses to operate and maintain the Common Elements, and (b) the replacement reserve established by the Board for the Common Elements, based on the original construction cost of each Unit. The portion of the Annual budget attributable to (a) in

the immediately preceding sentence shall be assessed equally to each Member on a pro-rated basis, and the portion of Annual Budget attributable to (b) in the immediately preceding sentence shall be assessed to the Members based on their respective Unit ownership. On or before the first day of each month of said year, each such Member shall be obligated to pay to the board, or to such persons as it may direct, one-twelfth (1/12) of the assessment made pursuant to this subparagraph;

(ii) On or before the last day of February of each calendar year, the Board shall supply to all Members an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid together with the tabulation of the amounts collected pursuant to the estimates provided and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be added to the current Association miscellaneous operating budget category and the reserve for replacement category in equal proportion;

(iii) The Annual Budget shall include and the Board shall build up and maintain a reasonable reserve for, contingencies and replacements. Extraordinary expenditures not originally included in the Annual Budget which may become necessary during the year shall be charged first against such reserve, but if said Annual Budget provision is inadequate for any reason, including non-payment of any Member's assessment, the Board may at any time and from time to time propose an additional assessment in conformance with Article VIII, Section 3 of the Master Deed, which shall be assessed to the Members obligated by Article VIII of the Master Deed to share in General Assessments in equal proportions. Upon approval, the Board shall serve notice of such further assessment to such Members by a statement, in writing, giving the amount, and such assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice or further assessment, and all such Members shall be obligated to pay the adjusted monthly amount.

(iv) When the first Board elected hereunder takes office, it shall determine the first Annual Budget for the period commencing a reasonable time after said election and ending on the last day of the calendar year in which said election occurs. Assessments shall be levied against each Member obligated by Article VIII of the Master Deed to share in General Assessments during said period as provided in this Paragraph.

(v) Notwithstanding the foregoing, the Members shall not be responsible for payment of their respective assessments until they receive from Developer, or an Owner of a Unit, title to a Unit.

(c) INSURANCE. The Board, on behalf of the Association and its Common Expense, shall at all times keep the Common Elements insured under casualty insurance with an insurance company authorized to do business in the State of Tennessee in an amount as near as practicable to the full replacement value thereof without deduction for depreciation, in the name of the Association, as trustees for all Members and mortgagees, according to the loss or damage to their respective appurtenant common interests and payable in case of loss to such bank or trust company authorized to do business in the State of Tennessee as the Board shall designate for the custody and disposition, as herein provided, of all proceeds of such insurance, and from time to time upon receipt thereof cause to be deposited promptly with the Members and mortgagees of.

the Units or interests therein, true copies of such insurance policies or current certificates thereof, without prejudice to the right of each Member to insure the Unit for said Member's own benefit. In every case of such loss or damage, all insurance proceeds shall be used as soon as reasonably possible by the Association for rebuilding, repairing, or otherwise reinstating the same building in a good and substantial manner according to the original plan and elevation thereof, or such modified plans conforming to laws and ordinances then in effect as shall be first approved by the Association and all mortgagees of the Units or interests therein, and the Association at its common expense shall make up any deficiency in such insurance proceeds. Every such policy of insurance shall:

- (i) provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counter-claim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Member;
- (ii) contain no provision relieving the insurer from liability for loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty of condition or any other act or neglect by the Board or any Member or any other person under either of them;
- (iii) provide that such policy may not be cancelled (whether or not requested by the Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Association, Members, and every other person in interest who shall have requested such notice of the insurer;
- (iv) contain a waiver by the insurer of any right of subrogation to any right of the Association or Members against any of them or any other person under them;
- (v) contain a standard mortgagee clause which shall:
  - (A) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any Unit, in their respective order and preference, whether or not named therein;
  - (B) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board, Association, or Members or any persons under any of them;
  - (C) waive any provision invalidating such mortgagee clauses by reason of the failure to any mortgagee to notify the insurer of any hazardous use or vacancy, and require that the mortgagee pay any premium thereon, and any contribution clause; and
  - (D) provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to said bank or trust company designated by the Association.

8.4 LIABILITY OF BOARD. The Directors shall not be liable to the Association for any

mistakes of judgment or of any acts or omissions made in good faith as such Directors. The Association shall indemnify and hold harmless each Director against all liabilities to others arising out of contracts made or acts or omissions by such Directors on behalf of the Association, unless any such contract, act or omission shall constitute willful misconduct or gross negligence. The liability of any Member arising out of any contract, act or omission by such Director or out of the aforesaid indemnity shall be limited to a proportionate share of the total liability thereunder, which share shall be equal to that share borne by every other Member. Each agreement made by such Directors shall be executed by such Directors as agents for the Association.

8.5 COMPENSATION. No compensation shall be paid to Directors for their services as Directors. No remuneration shall be paid to a Director for services performed for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been adopted by two-thirds (2/3) vote of the Association before the services are undertaken. A Director may not be an employee of the Association. Directors may be reimbursed for out of pocket expenses.

## ARTICLE 9

### OFFICERS OF BOARD

9.1 DESIGNATION. The principal officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer.

9.2 ELECTION AND TERM OF OFFICE. The officers of the Board shall be elected by the Membership and shall serve for a term of two (2) years and thereafter until their successors are elected.

9.3 REMOVAL. Any officer may be removed from office by the affirmative majority vote of the Association at a special meeting called for such purpose.

9.4 POWERS AND DUTIES OF PRESIDENT. The President shall be the chief officer of the Association presiding over all meetings of the Association and of the Board, and having all of the general powers and duties which are usually vested in the office of president or an association, including, but not limited to, the power to appoint committees from among the Members from time to time which are appropriate to assist in the conduct of the affairs of the Association. The President shall have the power to sign, together with any one (1) other officer designated by the Association, any authorized contracts, checks, drafts, or other instruments designated or approved by the Board, and shall have such other authority and shall perform such other duties as may be determined by the Association or otherwise provided for in the Master Deed or these Bylaws. If the President is unable to act, the Board shall appoint one of the Vice-Presidents to do so on an interim basis.

9.5 POWERS AND DUTIES OF TREASURER. The Treasurer shall have the responsibility for Association funds and securities which includes keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association, and depositing 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.

9.6 POWERS AND DUTIES OF SECRETARY. The Secretary shall attend and keep the minutes of all meetings of the Board and of the Association, shall give all notices as provided by the Act, the Master Deed or these Bylaws and shall have other powers and duties as may be incidental to the office of secretary, or as determined by these Bylaws or assigned from time to time by the Association. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary *pro tempore* who shall keep the minutes of such meeting and record them in the books provided for that purpose.

9.7 POWERS AND DUTIES OF VICE-PRESIDENT. The Vice-President shall preside over all meetings of the Association at which the President is unable to preside and shall have all the powers of the President at such meetings. The Vice-President shall perform such other duties as may be determined by the Association or as otherwise provided for in the Master Deed or the Bylaws. If the Vice-President is unable to act in the place of the President, the Board shall appoint some other Director to do so on an interim basis.

9.8 DELEGATION OF AUTHORITY AND DUTIES. The Board is authorized to delegate the authority and duties of any officer to any other officer and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

9.9 AUDITOR. The Association may at any meeting appoint some person, firm, or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested by the Association.

9.10 LIABILITY OF OFFICERS.

(a) Exculpation. No officer of the Association shall be liable for acts or defaults of any other officer or Director, or for any loss sustained by the Association or any Member thereof, unless the same has resulted from the willful misconduct or gross negligence of said officer.

(b) Indemnification. Every officer shall be indemnified by the Association against all reasonable costs, expenses, and liabilities (including attorney's fees) actually and necessarily incurred by or imposed in connection with any claim, action, suit, proceeding, investigation, or inquiry of whatever nature in which said officer may be involved as a party or otherwise by reason of having been an officer of the Association whether or not said officer continues to be such officer of the Association at the time of the incurring or imposition of such costs, expenses or liabilities, except in relation to matters as to which said officer shall be finally adjudged in such action, suit, proceeding, investigation or inquiry to be liable for willful misconduct or gross negligence toward the Association in the performance of said officer's duties, or in the absence of such final adjudication, any determination of such liability by the opinion of legal counsel selected by the Association. The foregoing right of indemnification shall be in addition to and not in limitation of all rights to which such persons may be entitled as a matter of law and shall inure to the benefit of the legal representatives of such person.

9.11 COMPENSATION. The officers shall not be compensated for their services as officers, unless expressly provided for in a resolution duly adopted by a majority of the Association. Officers may be reimbursed for out of pocket expenses.

ARTICLE 10

OBLIGATIONS OF MEMBERS

10.1 EXPENSES, ASSESSMENTS. Every Member shall contribute an equal proportion toward the expense of administration of the Property, including, but not limited to, all types of insurance and the cost of operation, maintenance, repair and replacement of the Common Elements. The Board shall fix a monthly charge for each Unit in an amount sufficient to provide for its pro-rata share of all such current expenses, reasonable reserves for future expenses of administration, and such other expenses as the Board may deem proper, subject to adjustment from time to time as the Association may deem necessary. Such monthly charge shall be due and payable in advance on the first day of every month, shall bear interest at the rate of ten percent (10%) per annum from the due date until paid and with such interest shall be a lien on the Unit, assessed prior in right to all other charges whatsoever except assessments, liens, and charges in favor of the State of Tennessee for taxes past due and unpaid on such Unit and amounts and liabilities secured by mortgage instruments duly recorded.

10.2 BUDGET DELAY. The failure or delay of the Board to prepare or deliver the annual or adjusted budget to the Members shall not constitute a waiver or release in any manner of the Members' obligation to pay the maintenance and other costs and necessary reserves as herein provided, whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, the Members shall continue to pay the monthly assessment charges at the then existing monthly rate established for the previous period until the monthly assessment payment which is due more than ten (10) days after a new annual or adjusted budget shall have been mailed or delivered.

10.3 DEFAULT. If a Member is in default in the monthly payment of the aforesaid charges or assessments for twenty (20) days, the Board shall notify in writing said Member's first mortgagee and, in addition to any remedies or liens provided by law or equity, the Board may bring suit for and on behalf of itself as representative of the Association to enforce collection thereof or to foreclose a lien thereon as provided by law; and there shall be added to the amount due the costs of said suit, and reasonable attorney's fees to be fixed by the court. Notwithstanding the foregoing, any first mortgagee of a Member who is in default shall be given ten (10) days from receipt of said written notice to satisfy any delinquency.

10.4 MAINTENANCE AND REPAIR

(a) Every Member must perform promptly all maintenance and repair work within said Member's Unit, which, if omitted, would affect the Property in its entirety or in a part belonging to other Members, and is expressly responsible for the damages and liabilities that a failure to do so may engender.

(b) All the repairs of internal installations of the Unit, such as water, lights, power, sewage, telephones, sanitary installations, doors, windows, lamps, and all other accessories belonging to the Unit, shall be maintained at the Member's expense.

(c) A Member shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Elements and facilities damaged through said Member's fault.

10.5 USE OF UNITS. All Units shall be utilized in accordance with the provisions of these Bylaws, the Master Deed, the Act and the Rules and Regulations.

10.6 TITLE. Every Member shall promptly cause to be duly recorded with Register of Deeds in Hamilton County, Tennessee, the deed, or other conveyance evidencing title thereto.

## ARTICLE 11

### GENERAL PROVISIONS

11.1 INSTRUMENTS GENERALLY. All checks, drafts, notes, bonds, acceptances, contracts and all other instruments, except conveyances, shall be signed by such person or persons as shall be provided by general resolution of the Board applicable thereto. Such instruments shall be signed by the President and/or any two (2) other Directors.

11.2 FORECLOSURE OF LIEN. In any suit to foreclose the lien against any Member as specified and described in Paragraph 10.3, the Association may represent itself through its Board in like manner as any mortgagee of real property. The Board acting on behalf of the Association shall have the power to bid and acquire such Unit at a foreclosure sale. The delinquent Member shall be required to pay to the Association a reasonable rent for the Unit following foreclosure, together with all costs and reasonable attorney's fees. Suit to recover a money judgment for unpaid assessments, along with all costs and reasonable attorney's fees, shall be maintainable without foreclosing or waiving the lien securing the same.

11.3 RIGHT OF ENTRY. The Board, or any person authorized by the Board, shall have the right to enter each Unit in case of any emergency originating in or threatening such Unit whether or not the Member is present at the time. Every Member, when so required, shall permit the Board, or an authorized representative thereof, to enter such Member's Unit at reasonable times for the purpose of performing authorized installations, alterations, or repairs to the Unit, provided such requests for entry are made in advance.

11.4 WAIVERS. Whenever any notice is required to be given under the provisions of the Master Deed or the Exhibits thereto, including these Bylaws, a waiver thereof in writing by the person or persons entitled to such notice, whether before or at the time stated therein, shall be deemed equivalent to the giving of such notice.

11.5 RECORDS AND ACCOUNTS. The Association shall keep true and correct books of account and the same shall be open for inspection by any Member or any representative of a Member duly authorized in writing, at such reasonable time or times during normal business hours as shall be determined by the Board. All funds collected hereunder shall be held and

expensed solely for the purposes designated herein and (except for such special assessments as may be levied hereunder against less than all the Members and for such special adjustments as may be required to reflect delinquent assessments) shall be deemed to be held for the benefit, use and account of all the Members in the percentages provided.

11.6 FISCAL YEAR. The fiscal year of the Association shall be such as may from time to time be established by the Association.

11.7 MORTGAGES. Any mortgagee may file a copy of its mortgage with the Board through the Secretary who shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Board, through its Secretary shall be required to notify the mortgagee of any Member who is in default in payment of the expenses for the administration of the Property with respect to the Unit(s) encumbered by such mortgagee's mortgage, and the mortgagee at its option may pay the delinquent expenses. Any first mortgage or first deed of trust made, owned or held by a bank, savings and loan association, or insurance company or other institutional lender and recorded prior to the recording or mailing of a notice by the board of the amount owing by a Member, who has refused or failed to pay said Member's pro-rata share of the monthly assessment when due, shall be superior to the lien of such unpaid expenses set forth in said notice and to all assessments which shall become due and are unpaid subsequent to the date of the recording of such first mortgage or first deed of trust. The purchaser from such lender shall be responsible for all assessments levied after the date of such purchase.

11.8 RULES AND REGULATIONS. The Board of Directors may, from time to time, adopt or amend such Rules and Regulations governing the operation, maintenance, beautification and use of the Common Elements and the Units, not inconsistent with the terms of the Master Deed and the Exhibits thereto. Every Member shall conform to, and abide by, such Rules and Regulations. Upon adoption, amendment, modification or revocation of such Rules and Regulations, written notice shall be given to all Members. A violation of such Rules and Regulations shall be deemed a violation of the Master Deed and the Exhibits thereto.

11.9 BUSINESSES. Nothing contained in these Bylaws shall be construed to give the Board the authority to conduct any business for profit on behalf of the Association or any Member.

11.10 AMENDMENT. These Bylaws may be amended, modified, or revoked in any respect from time to time by the Board of Directors. PROVIDED, HOWEVER, that the contents of these Bylaws shall always contain those particulars which are required to be contained herein by the Act and other laws of the State of Tennessee; and PROVIDED, FURTHER, that no modification of or amendment to these Bylaws shall be valid unless set forth in an Amendment to the Master Deed and recorded with the Register's Office, Hamilton County, Tennessee.

11.11 TERMS. All terms used herein which are defined in the Master Deed or the Act shall have the same meaning as set forth therein.

11.12 CONFLICT. In the event of any conflict between these Bylaws and the provisions of the

Master Deed or Act, the provisions of the Master Deed or the Act, as the case may be, shall control.

11.13 NON-WAIVER OF COVENANTS. No covenants, restrictions, conditions, obligations or provisions contained in the Master Deed or these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

11.14 AGREEMENTS BINDING. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Master Deed and these Bylaws shall be deemed to be binding on all Owners, their heirs, successors and assigns.

11.15 SEVERABILITY. The invalidity of any covenant, restriction, condition, limitation or any other provision of these Bylaws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these Bylaws.

11.16 PERPETUITIES AND RESTRAINTS ON ALIENATION. If any of the options, privileges, covenants or rights created by these Bylaws shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until one (1) day less than ninety (90) years from the date the Master Deed is recorded.

In witness whereof, the undersigned has hereby signed this document for the Association on this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

The Gardens at Heritage Green Condominium Association, Inc., a Tennessee non-profit corporation

By \_\_\_\_\_  
President

STATE OF TENNESSEE )  
COUNTY OF HAMILTON )

On this First day of \_\_\_\_\_, 200\_\_\_\_\_, before me personally appeared \_\_\_\_\_, with whom I am personally acquainted and who upon oath acknowledged himself to be the President of The Gardens at Heritage Green Condominium Association, Inc., a Tennessee non-profit corporation, the within-named bargainer, and that he, as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the said bargainer, by himself as such officer.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**The Gardens at Heritage Green Condominium Association, Inc.**  
**Rules and Regulations as of November 7, 2017**

Defined Terms:

- The Gardens at Heritage Green Condominium Association, Inc. ("Association")
- Condominium Apartment ("Unit")
- Condominium Apartment Owner ("Owner")
- Board of Directors for The Gardens at Heritage Green Condominium Association, Inc. ("Board")
- All property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners ("Common Areas")

1.	<p><b><u>Access to Units and Common Elements:</u></b>                  The greens and walkways in front of the buildings and the entrances to the buildings shall not be obstructed or used for any purpose other than ingress to and egress from the Units.</p>
2.	<p><b><u>Additions to Exterior of the Building:</u></b>                  The Association has been charged with the responsibility of maintaining the aesthetic and architectural character of The Gardens at Heritage Green. The purpose of the Architectural Committee is not to discourage improvements but to oversee the nature of improvements in order that they enhance the value and protect your investment in the Association.</p> <p>Any Owner desiring to make any exterior change, improvement, or addition (<u>including any color change</u>) must first obtain approval for the change. All applications will be considered on an individual basis, and all reasons presented for the improvements will be weighed and evaluated, based on the following considerations: Color changes may <u>only</u> be made to front doors and shutters and it must be a color already existing in The Gardens.. A "Change Request Form" must be filled out and submitted to the Architectural Committee for Approval prior to any color change..</p> <ol style="list-style-type: none"> <li>1. The harmony and compatibility of the external design and location in relation to surrounding condos/carriage homes in the community.</li> <li>2. The recognition of future maintenance problems or expenditures the installation might cause the Association.</li> <li>3. Adherence to guidelines established in this Declaration.</li> </ol> <p>The procedure for making an architectural change request is as follows:</p> <ol style="list-style-type: none"> <li>1. Submit to the Architectural Committee via the "Change Request Form" (which is the last page of these Rules) a complete description of the addition, change or improvement with a drawing, photograph or catalog picture and specifications as necessary attached to a filled out application. Materials to be used, paint color, etc. should be included along with the estimated time of completion of the project. Attach to a completed application form.</li> <li>2. The Architectural Committee will review the application and it will be approved, disapproved, or additional or alternative recommendations for the improvement will be suggested. The Owner will receive a copy and notice of same within thirty days from the date of submittal. If the Architectural Committee requires additional information an extension on the thirty (30) day limit may be made.</li> <li>3. Upon completion, notify the Architectural Committee that approved work is ready for inspection.</li> <li>4. Any change or improvement made by an Owner or future owners is the responsibility of the Owner for maintenance, repair and/or replacement.</li> <li>5. Unauthorized changes or improvements must be removed or restored to original conditions at the discretion of the Board of Directors and will be at the expense of the Owner(s).</li> <li>6. Improvements may require you to obtain building permits from the City of Chattanooga Codes Department.</li> <li>7. All projects must have a completion date or an estimate of when a project will be completed.</li> <li>8. If a project is not completed on or before six (6) months, the project must be halted and resubmitted to the Architectural Committee for approval.</li> </ol>
3.	<p><b><u>Awnings:</u></b>                  Exterior awnings/window shades must be approved in advance by Architectural Committee due to insurance concerns (fire, etc.) Sun Setter type awnings also not allowed because it is a major installation to the fascia and has the potential to cause great harm if caught by a sudden wind.</p>

4.	<p><b><u>Building Materials:</u></b>          No lumber, brick, stone, block, concrete, telephone pole type cross tie or other building materials, nor any other thing used for building purposes shall be stored on any site except for the purpose of construction of the improvements then in progress.</p>
5.	<p><b><u>Camper, Trailer, Boat, Truck, etc. Storage:</u></b>          Automobiles and Vehicles:</p> <p>Every attempt should be made to park automobiles, small passenger trucks, passenger vans, and other commonly used private passenger vehicles in the garage. If your garage will not accommodate your vehicles, every attempt should be made to park in your driveway. This is both for the safety of others and to enhance the aesthetic quality of our neighborhood.</p> <p>Commercial vehicles, campers, mobile homes, boats and trailers shall not be parked outside of the garage. No vehicle shall be parked overnight outside if commercial equipment is exposed in or upon the vehicle. The foregoing restriction shall not be deemed to prohibit the temporary parking of commercial vehicles making delivery to and from, or used in connection with providing services to subject property of any Owner. (As per the "Declaration of Covenants, Conditions, Restriction, Liens, and Reservation of Easements.)</p> <p>No junk vehicle, inoperative, unlicensed motor vehicle, vehicles with expired tags, structure of a temporary character shall be parked or stored on the property. The repair or maintenance of an automobile or other vehicle must be carried out within your garage. (As per the Declaration of Covenants, Conditions, Restrictions, Liens, and Reservation of Easements.)</p>
6.	<p><b><u>Clothesline.</u></b>          No clothing, linens or other articles shall be hung or otherwise left or place in or on the Common Areas.</p>
7.	<p><b><u>Common Areas.</u></b> Owners cannot make ANY changes in common areas. Owners cannot make any changes in limited common areas that can be seen (such as installation of a pergola, etc.) unless a "Change Request Form" is submitted to the Architectural Committee for approval.</p>
8.	<p><b><u>Complaints:</u></b>          The Board shall create a "Rules-Court Committee" for the purpose of hearing complaints against members violating either the declaration, by-laws or rules. The form of receiving complaints would require the complainant to put the complaint in writing, appear before the committee and offer reasonable proof, not just "I saw." The Rules-Court Committee should have regular meetings, with minutes recorded, before assessing fines. The Board will set the fines and send to the Rules-Court Committee.</p>
9.	<p><b><u>Concrete.</u></b> If any unit owner orders concrete (i.e. for an extra driveway parking pad, sidewalk, etc.) the concrete company must be told they are not allowed to take their truck in the alleyways. The trucks are too heavy and will ruin our alleys. Please have the concrete company use a Georgia Buggy to bring concrete from our main road to the job in the alley. Please be sure and submit your "Change Request Form" to add on an extra pad or sidewalk to the Architectural Committee beforehand.</p>
10.	<p><b><u>Delegation:</u></b>          The Board shall have the authority and duty to enforce these Rules and Regulations. The Board will set the fines and send to the Rules-Court Committee for any violation.</p>
11.	<p><b><u>Exterior Lighting:</u></b>          Any exterior lighting shall not be allowed to "spill" onto adjoining properties to the extent it may cause a disturbance. Colored outdoor lighting is prohibited – only white lights are acceptable.</p>
12.	<p><b><u>Exterior Paint:</u></b>          Color changes of units are prohibited. Only color changes to shutters and front doors are allowed with proper approval of the Architectural Committee. A "Change Request Form" must be filled out and submitted to the Architectural Committee.</p>
13.	<p><b><u>Fences:</u></b>          Keep grounds as natural and unobstructed as possible. White vinyl privacy fences only are allowed (fences not to be attached to any unit). Fences, gates are to be kept clean and in good repair and are the responsibility of the unit owner. Fences may not be attached to any unit (whether it be the owner's unit or neighbor's unit).</p>
14.	<p><b><u>Fines.</u></b> All fines are set by the Board, are at the Board's discretion and are as follows for purposes of all of these rules:          1<sup>st</sup> offense - letter          2<sup>nd</sup> offense - \$50 fine          3<sup>rd</sup> offense - \$100 fine          4<sup>th</sup> offense - \$150 fine</p>

	Continued repeat of offense - the fine will be set at the discretion of the Board. All fines must be paid within 30 days of notification or the board, at its option, will place lien on owner's unit.
15.	<b>Fireworks.</b> All fireworks in Hamilton County are illegal. This includes the cities of Chattanooga, East Ridge, Red Bank, Soddy Daisy and Signal Mountain.
16.	<b>Flagpoles:</b> Flagpoles shall be attached to the Unit, not the roof, and be no more than six (6) feet in length.
17.	<b>Garage Doors:</b> The Architectural Committee shall approve any change from the standard style used on all the Units in the Association. [All garage doors were initially purchased by Northgate Doors.] Garage doors are covered by HOA in the case of a defect in materials, regular wear and tear. Garage doors are not covered if damage is the result of homeowner/other actions. Garage door rails must be maintained by unit owners. Rails must be lubed, etc. Garages may be used for personal property and storage only – not to be sublet or rented out.
18.	<b>Grills of Any Kind, Chiminias, etc.</b> Grills of any kind, chimineas cannot be placed under a covered porch/patio due to fire marshal regulations
19.	<b>Hot Tubs:</b> Hot Tub Guidelines All hot tubs and spas are to be screened from view. Hot tubs must have a locking cover and privacy fence with a locked gate so it is childproof while unattended. No piping, pumps, filters, or other mechanical equipment shall be exposed to view. No water from a hot tub or spa is to be allowed to drain onto adjoining property. No drain lines shall be connected to the local sewer system, nor said lines shall not cross the Common Areas, No lighting of hot tubs or spas shall be allowed to “spill” onto adjoining properties.
20.	<b>Household Pets:</b> All pets must be leashed at all times in all Common Areas, and no pet shall be left unattended in the Common Areas or Facilities. (This is McKamey Animal Center's ordinance/city ordinance which includes, among others, dogs and cats). If any pet creates offensive noise, is allowed outdoors except on a leash or in any way creates a disturbance the pet may be removed from the Condominium and the Owner of the pet shall immediately comply with such request.  The city of Chattanooga requires all dogs and cats to be restrained with a leash. We are within the city limits and must comply with this ordinance.  Hamilton County, and all cities in the county, requires all dogs to be under their guardian's control at all times. This means they must be on a leash, on a lead, or confined to their property by a fence. Dogs that run loose are subject to impoundment, and their guardians are responsible for impoundment and boarding fees. Guardians also must be cited and face fines. Such fees and fines are regulated by the city in which you reside, not by the Humane Society.  Dogs: Doghouses and Dog Runs are not allowed. Pets may be kept provided such pets are not kept, bred, or maintained for commercial purposes. Dogs shall be properly restrained and not allowed to run free.  Dog owners shall also be responsible and considerate of their neighbors by picking up after their pets on other's property and on common grounds. This is also a city ordinance.  Due to the unpredictability of aggression, tenacity "gameness," "the refusal to give up a fight," aggressive behaviors, as well as statistics citing the dangerous nature of certain breeds which have lead to many cases of death, the HOA will not allow Pit Bulls or Rottweilers into the complex.  Any violation of the above stated #17 by an Owner may be reported to the Rules-Court Committee.
21.	<b>Improper Use of Common Areas :</b> There shall be no use of the Common Areas which defaces, injures or scars them, increases the maintenance thereof, or embarrasses, disturbs or annoys any Owner or occupant. Yard sales, garage sales, estate sales or similar activities are not permitted out of consideration for nearby owner's privacy.
22.	<b>Landscaping Ornamentation:</b> Landscaping ornamentation is allowed within limits. The Landscaping Committee will be responsible for deciding if the ornamentation interferes with upkeep of lawn, landscaping and pest control services. Nothing shall be placed on any unit owner's roof, at any time, nor shall anything be allowed to penetrate the roof.



23.	<p><b><u>Maintenance of Units:</u></b>                  Each Owner is responsible for maintaining their Unit, including regular maintenance of their HVAC and hot water heater. All Units shall be maintained in a neat and attractive, uncluttered condition by their respective Owners. Fences, gates, if in place should be kept clean and in good repair. Nothing may be attached to a unit owners' exterior. This also includes the planting of plants, trees, shrubbery next to a unit. Plants/shrubbery, vines and trees planted too close to a unit which could cause disruption/damage, of unit's hardboard, and cause prevention of maintenance of units (such as painting) are not allowed.</p>
24.	<p><b><u>Noise:</u></b>                  All Owners, guests, tenants and occupants shall reduce noise levels between the hours of 10:00 PM and 9:00 AM so that neighbors are not disturbed. At no time are musical instruments, radios, stereos, boom boxes (cars with boom box devices) or televisions to be so loud as to create a nuisance.</p>
25.	<p><b><u>Offensive Activities:</u></b>                  No Owner or occupant may use or maintain his or her Unit or Common Area for any purpose or in any manner which is contrary to any applicable law, rule, regulation or requirement of any governmental authority or for any purpose which would constitute a nuisance or be offensive.</p>
26.	<p><b><u>Outbuildings:</u></b>                  No tent, shack, barn, storage or other outbuilding, shall be kept or used upon any lot.</p>
27.	<p><b><u>Outdoor Equipment and Children's Playthings</u></b>                  Swing sets and other playground equipment:                  Play equipment is allowed but only in the courtyard, constructed of durable material, maintained in good condition and hidden by a fence.                  Basketball goals are not acceptable.                  Go carts and similar type toys are not allowed on HOA streets/alleyways due to liability issues.                  The Gardens driveways, alleyways and streets are not a playground for children.                  Children riding bikes/roller blading in street, (and any similar type of activity) should wear proper safety attire (helmet, etc.) and should be accompanied in all cases by an adult if under 12.                  Bikes and similar equipment should not be ridden through grass areas of the Gardens.                  All children should play only in safe areas in the Gardens.                  Wood decks are not allowed</p> <p>All attached exterior areas shall be kept in an uncluttered, orderly and aesthetically pleasing condition (unless concealed by a private fence). Any gazebo type structure/pergola, etc. should be maintained, kept in good repair, aesthetically pleasing and is the responsibility of the unit owner who placed them in their patio area.</p>
28.	<p><b><u>Parking Spaces:</u></b>                  All unit owners and/or their tenants must park their vehicles in the garage or driveway.</p> <p>Visitor parking is for visitors only.</p> <p>No parking of commercial vehicles except for in a unit owner's garage or driveway. No commercial vehicles will be allowed to be parked adjacent to or within the permitted parking spaces of condominium units or in the cul-de-sac, other than vendors' vehicles that are actively servicing a Unit. No Advertising.</p> <p>If an Owner has special parking needs they are to contact the Board for approval</p> <p>No Owner, tenant or guest shall interfere with the rights of other Owners and tenants to use the parking spaces in their intended manner. Repairing or servicing of vehicles within the parking areas is prohibited. All washing/detailing of vehicles shall be performed in driveways (the rear of the buildings).</p> <p><u>No parking in grass at any time.</u></p> <p>Any violation of the above stated #24 by an Owner may be reported to the Rules-Court Committee.</p>
29.	<p><b><u>Pergolas/Trellis Type Structures.</u></b> Any pergolas or trellis type structures built by unit owners and placed in their courtyards must be approved by Architectural Committee, cannot be attached to any unit and must be totally maintained by unit owner - not HOA.</p>
30.	<p><b><u>Pools:</u></b>                  No above ground swimming/wading pools are to be visible.</p>
31.	<p><b><u>Proxy Voting by Board Members.</u></b> Board members may vote by proxy if a board member cannot attend a meeting. The proxy must be properly filled out. The proxy must state that it is a proxy for a specific meeting,</p>

	place and time; name a person or persons to vote on their behalf on any matter voted on in that meeting.; and the proxy must be dated and signed. The proxy authorizes another person to act in his or her place.
32.	<p><b><u>Rent/Leasing/Tenants:</u></b>  It is the desire of the members of the Gardens at Heritage Green Condominium Association that each Unit be Owner occupied . Per the Master Deed and Bylaws the Owner is responsible for his Unit and if such Owner rents, the Owner is 100% responsible for his/her tenant.</p> <p>Per the Master Deed, the Owner of any Unit being rented must provide the Board with a copy of the lease agreement being used for their particular unit. Also, per the Master Deed, it will be the Owner's responsibility to see to it that their tenant is not in violation of any of the Association's Rules and Regulations. The Owner will be informed, in writing of any violation by a tenant.</p> <p>As of November 7, 2017, the Master Deed has been amended to cap rentals in the Gardens to 8% or approximately 10 rentals. This was done per vote of the entire membership and with 75% approval per the Master Deed. The following now adheres to the Master Deed:</p> <ul style="list-style-type: none"> <li>• The number of rented units is restricted to no more than 8% (approximately 10) of the 129 units in the complex without a waiver from the Board. The waiver would be for financial hardship, the inability to get enough money out of the unit to sell; anyone having to move due to job or care for sick relative, etc.</li> <li>• It is required that a unit must be owner-occupied for a minimum of two (2) years before it can be rented. This is to discourage corporations from acquiring properties in our complex as rental investments.</li> <li>• It is required that certain legal documentation exists between the owner and the tenant, such as a lease agreement which is to be given to the Board and is currently already stated in Article X, Section 2 above in the Master Deed.</li> <li>• The Board will develop/provide procedures for the resolution of any disputes relating to this issue.</li> <li>• The Board MAY charge a small fee to be paid to the Association by owners who rent their properties. These fees, if ever implemented, would offset legal and administrative costs incurred by the Association.</li> <li>• Current existing leases will not be affected by the passage of this amendment. Rental is permitted until the owner transfers or sells his unit, then they lose rental permission.</li> </ul>
33.	<b><u>Roof.</u></b> At no time is anything allowed to be mounted onto a unit owner's roof. Nothing may penetrate the roof since it is an HOA responsibility.
34.	<b><u>Sale of Unit/Association Dues:</u></b> Any Owner must notify the Board in writing of the upcoming sale of their Unit and furnish the Board with the name of the prospective new Owner.
35.	<p><b><u>Satellite Dishes:</u></b>  Approval requests must be submitted to the Architectural Committee before installation of satellite dishes.</p> <p>The Architectural Committee is responsible for allowing placement of a satellite dish at a respective Unit. It is not up to the Owner to place the satellite dish at his/her Unit.</p> <p>Satellite Dishes may not be mounted on the roof of any unit due to roof damage/insurance concerns.</p> <p>Satellite Dishes in place as of 5/22/09 are grandfathered in. If the Unit of a "grandfathered in" satellite dish is sold, the new Owner must have the satellite dish removed from the roof and provide the Board with evidence that the roof, Unit's exterior structure is in proper working order and not damaged.</p> <p>NOTE: The Federal Communications Commission gives the individual Owner the right to install them, however, it did not take away the right of the Homeowner Associations to control their specific placement and size. The dish must not be visible from the front of the condo/carriage house.</p>
36.	<p><b><u>Seasonal Decorations:</u></b>  Seasonal decorations (lights, yard art, etc.) such as Halloween, Thanksgiving, Christmas, Easter, etc. shall not be installed more than 30 days prior to the event and shall be removed within 14 days after the event. At no time can any decoration be mounted on the roof of a unit.</p> <ol style="list-style-type: none"> <li>1. Seasonal decorations (lights, yard art, etc.) shall not be installed more than 30 days prior to the event and shall be removed within 14 days after the event.</li> <li>2. At no time can any decoration be mounted on the roof of a unit. This includes Santa Clause, reindeer,</li> </ol>

	<p>sleigh, etc. Seasonal decorations also should not be in the way of mowers or anyone maintaining common area.</p> <p>3. Seasonal decorations may be placed in the mulch area or in the common area immediately in front of the unit. If placed in the common area, when removed, the area must be left in its original condition. No extension cords should be placed across the sidewalk or in the common area.</p> <p>4. Residents are encouraged to add lights on the bushes in front of their homes. Lights may be all white or multicolored. White lights are preferred throughout the community but multicolored lights are permitted. They may also be added to porches, front area, posts and around doors, but NOT on the roof. Also these must be attached with removable attachments. Nothing may be nailed or screwed to any part of the exterior.</p> <p>5. No commercial type decorations such as inflatable snow globes, Santa Clause, etc. or large colored solid type figures will be allowed.</p> <p>6. However, figures (such as reindeer, etc.) made of wire and outlined in white lights will be acceptable.</p> <p>7. Spotlights to accent decorations may be used provided they are white or clear (no colors).</p> <p>8. The HOA board will make provisions to decorate the light posts in the greenway areas, postal unit, front fence and entrance sign.</p> <p>9. No banners of any type may be displayed.</p>
<p>37.</p>	<p><b><u>Short Term Vacation Rentals, Tourist Homes, Short Term Residential Rentals, etc.:</u></b> "Short Term Vacation Rentals", "Tourist Homes", "Short Term Residential Rentals", or any other names designated termed as short term rentals, etc. are not allowed in The Gardens at Heritage Green CAI.</p> <p>"Short Term Vacation Rentals", "Tourist Homes", "Short Term Residential Rentals", or any other names designated termed as short term rentals, etc. are also not allowed by City of Chattanooga per ordinance.</p> <p>Short Term Vacation Rentals are only permitted in zoning districts that specifically list them as a permitted use. The Gardens at Heritage Green CAI is zoned R-T/Z and is not zoned for short term rentals.</p> <p>Regardless of and separate from any applicable ordinance, regulation or statute, rentals in The Gardens at Heritage Green may not be for less than one (1) year. Any unit owner leasing a unit for less than one (1) year must provide a copy of that lease to the HOA Board (for review purposes only) per the <u>Master Deed, Article X, Use Restrictions, Section 2. Renting of Leasing of Units.</u></p> <p>Any violation by a unit owner of the City of Chattanooga Ordinance or The Gardens Rule #45 is subject to: (1) A report being filed with the Chattanooga City Chief Code Inspector at City Hall; and (2) Fines assessed to the unit owner in violation of The Gardens Rules per Rule #14 of The Gardens at Heritage Green CAI rules and regulations.</p>
<p>38.</p>	<p><b><u>Signs:</u></b> No signs shall be erected, posted or displayed except Street and identification signs installed by the association, security system identification signs. Only one (1) temporary FOR SALE OR FOR RENT real estate sign (not to exceed six square feet in area) per lot can be used in advertising condo/carriage home for sale. The sign should be placed in the mulch area of a unit's front yard only. No signs may be displayed in alleyways.</p> <p>Owners may not display any signs in windows of their Units or in the Common Areas nor may Owners place window displays or advertising materials in the windows or Common Areas.</p> <p>Sellers may display their realty signs for open house, etc. starting every Friday evening at 6:00 pm through Sunday evening 9:00 pm. If signs are not picked up by Sunday evening, 9:00 pm, they will be discarded.</p>
<p>39.</p>	<p><b><u>Solar Panels:</u></b> Solar panels are not allowed due to roof breaches.</p>
<p>40.</p>	<p><b><u>Speed Limit:</u></b> The Gardens speed limit is 20 mph and signs have been posted. Speeders or reckless drivers shall be reported to the Rules-Court Committee.</p>
<p>41.</p>	<p><b><u>Trash and/or Recyclable Pick Up:</u></b> Trash, garbage and recycling containers shall not be permitted to remain in the public view except on days of trash collection. All trash and recycling bins shall be placed outdoors either the night before or the morning of the designated trash collection day and brought back in the day of trash pickup. Trash containers of any type must be concealed out of site except on collection days. No burning of trash will be allowed at any time. Either trash cans or tied plastic bags may be used to dispose of garbage. If plastic bags are used be sure they</p>

	are tightly secured.
42.	<b><u>Trampolines:</u></b> No trampolines shall be allowed.
43.	<b><u>Tree Houses:</u></b> No tree houses shall be allowed.
44.	<b><u>Vegetable Gardens:</u></b> Vegetable gardens must be confined to a fenced in courtyard area and must be maintained so as not to be unsightly.
45.	<b><u>Window Air Conditioners:</u></b> No window air conditioners shall be allowed.

**CHANGE REQUEST FORM**

Please make sure to fill out this request form as completely as possible before submitting so as not to delay you request. Your submittal should be forwarded to the Architectural Committee either via e-mail or regular mail. Their e-mail addresses can be found on the Committee's list or mail to 800 Callaway Court, Chattanooga, TN 37421.

Submittal Date:	
Subdivision:	The Gardens At Heritage Green CAI
Name:	
Address:	Callaway Court
E-mail Address:	
Home Phone Number:	
Work Phone Number:	

Description of the request – plans and specifications showing the nature, type, height, materials and location of the change: