

BY-LAWS OF THE VINEYARDS OF SMYRNA HOMEOWNER'S ASSOCIATION, INC

ARTICLE ONE

NAME AND LOCATION

The name of the corporation is THE VINEYARDS OF SMYRNA HOMEOWNER'S ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 105 St. Michaels Lane, Smyrna, Tennessee, 37167, but meetings of members and directors may be held at such places within the State of Tennessee, County of Rutherford, and City of Murfreesboro as may be designated by the Board of Directors.

ARTICLE TWO

DEFINITIONS

SECTION 1: "Association" shall mean and refer to, THE VINEYARDS OF SMYRNA HOMEOWNER'S ASSOCIATION, INC., its successors and assigns.

SECTION 2: "Property" (whether singular or plural) means all the land, property and space specifically referred to and designated as The Vineyards, Phase 1.

SECTION 3: "Common area" shall mean all real property and the improvements thereon owned and maintained by the Association for the common use and enjoyment of the owners. The common area contemplated to be owned by the Association in the- future includes, but is not limited to, and without limiting the definition of tire Common areas, swimming pool, decorative entrances into the subdivision, street islands, street signs and so forth.

SECTION 4: "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the properties with the exception of the common area and dedicated streets, if any. Title to lots will be held by an owner or owners in fee simple. Proposed lots in future sections which are not now platted and which are added to the subdivision shall automatically become a part of the Association when the first lot is sold in the new platted Section. An Amendment to this Declaration and a new or amended Plat shall be recorded simultaneously.

SECTION 5: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or unit which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 6: "Declarant" shall mean and refer to THE VINEYARDS DEVELOPMENT CONIPANY, LLC, its successors and assigns if such successors and assigns should acquire more than one undeveloped lot from the developer for the purposes of development.

SECTION 7: "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the properties recorded in the Office of the Register of Deeds for Rutherford County, Tennessee.

SECTION 8: "Member" shall mean and refer to those persons entitled to membership as provided in the Declarations.

SECTION 9: "Residence or Unit" shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by a single family.

SECTION 10: "Board of Directors or Board" shall mean the governing body of the Association as provided in this instrument, the Articles of Incorporation and the By-Laws thereof.

SECTION 11: "Common Expenses" shall mean and "include (a) expenses of administration, operation, management, repair or replacement of the common areas of the project; (b) expenses declared common by the provisions of the Declaration, or the Charter, or the By-Laws of the Association against the Common areas of the project; (c) all sums lawfully assessed by the Board; and (d) expenses as provided in any duly authorized management agreement.

ARTICLE THREE

MEMBERSHIP

SECTION 1: Qualifications: Each owner (including Declarant) of lots in The Vineyards, Phase I, shall automatically be a member of the Association, and shall be entitled to one (1) membership for each lot owned.

SECTION 2: Members Rights and Duties: Each member shall have the rights, duties and obligations set forth in the applicable THE VINEYARDS documents.

SECTION 3: Transfer of Membership: The Association membership of each owner (including Declarant) shall be appurtenant to the lot or unit giving rise to such membership, and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon the transfer of title to such lot or unit, and only to the transferee of the title to such lot or unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a lot or unit shall operate automatically to transfer the membership in the Association appurtenant thereto to the new owner thereof.

SECTION 4: Classes: There shall be two (2) classes of membership designated Class A and Class B. Rights of a member in any class shall be identical in all respects to the rights of a member in any other class except regarding voting. The class of membership of any owner will be determined as set forth in the Article of Incorporation. Class B membership shall be the Declarant and shall be entitled to three (3) votes for each lot owned. Class A membership shall be all other owners and shall be entitled to one (1) vote for each lot or unit owned. However, Class B membership shall cease and be converted to Class A membership on the happening of the following:

- (a) When the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership

ARTICLE FOUR

MEETING OF MEMBERS

SECTION 1: Annual Meetings: The first annual meeting of the members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

SECTION 2: Special Meetings: Special meetings of the members may be called any time by the President or the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all votes of

the Class A membership. No business shall be transacted at a special meeting except as stated in the notice, unless by consent of the owners of two-thirds (2/3) of the units, either in person or by proxy.

SECTION 3: Notice of Meetings: Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote therein, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

SECTION 4: Quorum: The presence at the meeting of members entitled to cast, or proxies entitled to cast, fifteen percent (15%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or the By-Laws. If, however, such quorum shall not be present, or represented, at any meeting, the members entitled to vote therein shall have the power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum as aforesaid shall be present to be represented.

SECTION 5: Proxies: At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot or unit.

ARTICLE FIVE

BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE

SECTION 1: Number: The affairs of the Association shall be managed by a Board officer (5) Directors, who need not be members of the Association or officers, agents, directors, representatives, or employees of Declarant.

SECTION 2: Term of Office: At the first annual meeting, the members shall elect two (2) Directors for a term of one (1) year, two (2) Directors for a term of two (2) years, and one(1) Director for a term of three (3) years; and at each annual meeting thereafter the members shall elect Directors for a term of three (3) years.

SECTION 3: Removal: Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

SECTION 4: Compensation: No Director shall receive compensation for any service he may render to the Association in directing the affairs of the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties, and may be paid for such professional services rendered to the Association at its request, if the Board so determines.

SECTION 5: Action taken Without a Notice: The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as if taken at a meeting of the Directors.

ARTICLE SIX

NOMINATION AND ELECTION OF DIRECTORS

SECTION 1: **Nomination for Election of the Board of Directors:** The nominating committee shall consist of a chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the annual meeting. An exception to this section may be made for the nomination and election of the Board of Directors named in the Charter and at the first annual meeting of the Association.

SECTION 2: **Election:** Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE SEVEN

MEETING OF DIRECTORS

SECTION 1: **Regular Meetings:** Regular meetings of the Board of Directors shall be held quarterly or more often if necessary, without notice, at such place and hour as may be fixed from time to time by Resolution of the board.

SECTION 2: **Special Meetings:** special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors, after not less than three (3) days' notice to each Director.

SECTION 3: **Quorum:** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE EIGHT

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

SECTION 1: **Powers:** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association, including, but not limited to, the following:

(a) Adopt and publish rules and regulations governing the use of the common area, facilities, the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof; and,

(b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed: sixty (60) days for infraction of published rules and

regulations; notice will be given to any member at least five (5) days in advance stating the violation, stating a time and place for such hearing, and allowing the member to present his rebuttal or explanation; if any, at such hearing; and,

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by the provisions of these By-Laws, the Articles of Incorporation or the Declaration; and,

(d) Establish, levy, assess, and collect the assessments or charges that may be necessary; and,

(e) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and,

(f) Appoint and remove at pleasure all officers, agents and employees of the corporation, prescribe their duties, fix their compensation, and require from them such bond as may be deemed necessary or required. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, officer or director of the Corporation in any other capacity whatsoever.

SECTION 2: Duties: It being the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs, and to present a statement thereof to the members at the annual meeting of the members, or any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote; and,

(b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed; and,

(c) As more fully provided in the Declaration, to (1) fix the amount of the annual assessment against each lot or unit at least thirty (30) days in advance of each annual assessment period; but failure to do so will not waive the Association's right to such assessment; (ii) send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and (iii) cause a lien to be placed against a lot and foreclose the lien within a reasonable time against any property for which assessments are not paid within thirty (30) days after due date, or to bring an action at law against the owner personally obligated to pay such assessments; and,

(d) Issue, or cause an appropriate officer to issue, upon demand by an interested person, a certificate setting forth whether or not any assessment has been made. A reasonable charge may be made by the Board for the issue of such certificates. If such certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment as of the date of issuance; and,

(e) To obtain, maintain and pay for such insurance policies or bonds, whether or not required by any provision of the Declaration or By-Laws, as the Association shall deem appropriate for the protection or benefit of the Association, the members of the Board or any standing committee, tenants or guests, including, but without limitation, worker's compensation, malicious mischief, automobile non-ownership insurance, performance or fidelity bonds, and area liability and hazard insurance; and,

(f) Cause all officers or employees having fiscal responsibility to be bonded, as it may deem appropriate; and,

(g) Cause the common area to be maintained; and,

(h) Cause the exteriors of the dwellings to be maintained as set forth in the Declaration.

ARTICLE NINE

OFFICERS AND THEIR DUTIES

SECTION 1: Enumeration of Officers: The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by Resolution create.

SECTION 2 Time of Election of Officers: The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

SECTION 3: Term: The officers of this Association shall be elected annually by the Board, and each shall hold office for one (1) year unless he or she sooner resigns, or shall be removed, or otherwise disqualified to serve.

SECTION 4: Special Appointments: The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority and perform such duties as the Board may from time to time determine.

SECTION 5: Resignation and Removal: Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notices or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6: Vacancies: A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of office he replaces.

SECTION 7: Multiple Offices: The office of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

SECTION 8: Duties: The duties of the officers are as follows:

President: The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall co-sign all promissory notes of the Association, leases, mortgages, deeds, and other written instruments.

Vice-President: The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current

records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer: The Treasurer shall receive and deposit in an appropriate bank account all monies of the Association and shall disburse such funds as directed by Resolution of the Board of Directors, shall sign all checks, and co-sign all promissory notes of the Association, leases, mortgages, deeds and other written documents; keep proper books of account, cause an annual audit of the Association's books to be made when required by the Board by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy to each of the members.

ARTICLE TEN

INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Association shall indemnify every director or officer, and his or her heirs, executors and administrators, against all losses, costs and expenses, including legal counsel fees, reasonably incurred by him or her in connection with any action, suit or proceeding in which he or she may be made a party by reason of his or her being or having been a director or officer of the Association, except as to matters as to which he or she shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his or her duty as such director or officer in relation to the matter involved. All liability, loss, damage, costs, and expenses incurred or suffered by the Association by reason arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses.

ARTICLE ELEVEN

OBLIGATIONS OF THE OWNERS

SECTION 1: Assessments: Except as otherwise provided herein, all owners shall be obligated to pay the annual assessments imposed by the Association to meet the common expenses. All such assessments, as set by the Board pursuant to the Declaration, Articles and the By-Laws, shall be due and payable quarterly in advance. Payment thereof shall be made not later than on the 10th day of the mailing of the quarterly statement to the address of the owner. A member shall be deemed to be in good standing and entitled to vote at any annual or special meeting of members, within the meaning of these By-Laws, if, and only if, he or she shall have fully paid all assessments made or levied against him or her. However, as an exception to this assessment of dues, any builder shall only pay dues beginning six (6) months after the closing of the purchase of tile lot. Furthermore, the Developer/Declarant shall pay no set homeowner's association dues whatsoever. The Developer/Declarant shall, at its sole discretion, however, make up any difference in amounts due and owing for common expenses if there is a deficiency in the amounts that are due to be collected from the individual lot owner.

SECTION 2: Compliance:

(a) Each owner shall comply strictly with the provisions of the Declaration.

(b) Each owner shall always endeavor to observe and promote the cooperative Purposes for the accomplishment of which The Vineyards Subdivision was built.

SECTION 3: Use of Common Areas: General common elements and any limited common elements shall be used in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other owners.

SECTION 4: Rules and Regulations:

(a) No resident of the subdivision shall in any way violate the rules and regulations set forth in the Declaration. In addition; owners and occupants of lots shall exercise extreme care to avoid making or permitting to be made loud or objectionable noises, and using or playing or permitting to be used or played any musical instruments, radios, phonographs, television sets, amplifiers, or any other instruments or devices in such a manner as may disturb or tend to disturb the owners, tenants or other occupants of units.

(b) Owners, tenants or guests shall not throw garbage or trash outside the disposal installation provided for those purposes.

(c) The Board of Directors reserves the power to establish, make and enforce compliance with such additional rules and regulations which may be necessary for the operation and use of the common areas, with the right to amend same from time to time.

ARTICLE TWELVE

COMMITTEES

The Association shall have the power to appoint an architectural control committee, as specifically provided in the Declaration, and a nominating committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE THIRTEEN

BOOKS AND RECORDS

Books, reports and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, Articles of Incorporation and By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, or copies may be purchased at a reasonable cost.

ARTICLE FOURTEEN

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may file a lien against the individual lot for the delinquency, or may bring a separate action at law against the owner personally obligated to pay the same, or, foreclose the lien against the property, and any interest, costs, and reasonable attorneys fees' in any such action shall add to the amount of such assessment. No owner

may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his or her unit or lot.

ARTICLE FIFTEEN

AMENDMENTS

SECTION 1: These By-Laws may be amended at a meeting called for such purpose, or at a regular meeting if notice is given that such action is to be taken, by a vote of owners representing an aggregate interest of at least fifty percent (50%) of the membership of units. Notice of such a meeting shall contain a summary of the proposed changes or a copy of such proposed changes. As long as there is Class B membership, the Federal National Mortgage Association, Federal House Administration or the Veterans Administration shall have the right to veto amendments.

SECTION 2: In the case of any conflict between the Articles of incorporation and these By-Laws, the Articles shall control: and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE SIXTEEN

MISCELLANEOUS

The fiscal year of the Association shall begin on the 1st day of January and end 011 the 31st day of December each year.

These By-Laws were approved by the initial meeting of the Board of Directors of the Homeowner's Association on May 20, 1999, and said Directors having the power to do so instructed the undersigned as President of the Homeowner's Association to sign said By-Laws on behalf of the Board of Directors.

IN WITNESS WHEREOF, the President of THE VINEYARDS OF SMYRNA HOMEOWNER'S ASSOCIATION, INC., has hereunto set his hand, this the 20th day of May, 1999.

THE VINEYARDS OF SMYRNA HOMEOWNER'S ASSOCIATION, INC.

PRESIDENT

STATE OF TENNESSEE
COUNTY OF RUTHERFORD

BEFORE ME, the undersigned authority, of the state and county aforesaid, personally appeared, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence); and who upon oath, acknowledged himself to be President of The Vineyards of Smyrna Homeowner's Association, Inc. the within named bargainer, a corporation, and that he as such President executed the foregoing By-Laws for the purposes contained therein, by signing the name of the corporation by himself as President.

WITNESS MY HAND and official seal, at Murfreesboro, Tennessee, on this the _____ day of _____, 1999.

NOTARY PUBLIC

My Commission Expires: _____

****For Reference Only****