

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TUSCANY/EAST POINTE RESIDENTIAL COMMUNITY**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TUSCANY/EAST POINTE RESIDENTIAL COMMUNITY (hereinafter referred to as this "Declaration") is made and effective as of the 27th day of June, 2005, by (i) C.M. GATTON, TRUSTEE OF THE C.M. GATTON TRUST UNDER AGREEMENT DATED JANUARY 7, 1995, having a mailing address of 1000 West State Street, Bristol, Tennessee 37620 (hereinafter referred to as "Gatton"), and (ii) HAYMAKER DEVELOPMENT CO., LLC, a Kentucky limited liability company, having a mailing address of 3120 Wall Street, Suite 300, Lexington, Kentucky 40513 (hereinafter referred to as "Haymaker") (Gatton and Haymaker being hereinafter collectively referred to as the "Declarants", and each individually as a "Declarant").

WITNESSETH:

WHEREAS, Gatton is the owner of certain real property in Lexington, Fayette County, Kentucky, consisting of approximately 484.42 acres, as more particularly described in Exhibit "A", attached hereto (the "Gatton Property"); and

WHEREAS, Haymaker is the owner of certain real property in Lexington, Fayette County, Kentucky, consisting of approximately 78.48 acres, as more particularly described in Exhibit "B" attached hereto (the "Haymaker Property"); and

WHEREAS, the Gatton Property and the Haymaker Property are hereinafter collectively referred to as the "Properties" and sometimes each individually as a "Property"; and

WHEREAS, the Declarants intend by this Declaration to impose upon the Properties mutually beneficial restrictions under a general plan of improvement for the

MAIL TO:
GLENN A. HOSKINS, ATTY.
P.O. BOX 88254
LEXINGTON, KY 40555

benefit of all owners of residential property within the Properties, to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Properties as are now or hereinafter subjected to this Declaration.

NOW, THEREFORE, the Declarants hereby declare that the Properties described in Exhibit "A" and Exhibit "B" (**but excluding the "P-1" parcel described in Paragraph 1 below and Exhibit "C" attached hereto**), and any additional property as may subsequently be annexed to the scope of this Declaration by "Subsequent Amendment" (as defined herein), shall be held, sold and conveyed subject to the following restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of the Properties subjected to this Declaration, and which shall be binding upon all parties having, or hereafter acquiring, any right, title or interest in the Properties or any portion thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof, the Declarants and the "Association" (as herein defined).

1. Submission of Properties to Association. Each of the Declarants do hereby submit the Properties to the scope of this Declaration and to the jurisdiction of the East Pointe Homeowners Association, Inc., a Kentucky non-profit corporation (the "Association"). The Articles of Incorporation for the Association are recorded in Corporate Records Book 311, Page 588, in the Fayette County Clerk's Office. A copy of the Bylaws of the Association (the "Bylaws") is attached hereto as Exhibit "D". Membership in the Association and voting rights by its members shall be as specified in the Bylaws. **Notwithstanding the foregoing, the so-called "P-1" parcel owned by Gatton, consisting of 10.00 acres, as more particularly described on Exhibit "C" attached hereto, is specifically excluded from the Properties being submitted herein, and shall not be subject to the scope of this Declaration or to the jurisdiction of the Association.**

2. Annexation of Additional Property to Scope of Association. For so long as either of the Declarants continue to own any portion of their respective Property, the Declarants, acting jointly, shall have the right to submit any additional property contiguous or in close proximity to the Properties (whether or not such additional property is owned by either or both of the Declarants or by third parties) to the scope of this Declaration and the jurisdiction of the Association. (Such a submission is hereinafter referred to as an "Annexation"). Such an Annexation shall be accomplished by the execution by both Declarants of a "Subsequent Amendment" to this Declaration, which shall set forth the effective date of the Annexation and include a legal description of the real property being annexed. The Subsequent Amendment shall be recorded in the Fayette County Clerk's Office, and a copy of same shall be furnished to the Secretary of the Association.

3. Removal of Property. The Declarants reserve the right, acting jointly, for so long as either of them continue to own any portion of their respective Property, to unilaterally amend this Declaration for the purpose of removing any portion of the Properties then owned by either of the Declarants or the Association from the scope of this Declaration and the jurisdiction of the Association, without the consent of any third parties. Any such removal shall be accomplished by the execution by both Declarants of a "Subsequent Amendment" to this Declaration, which shall set forth the effective date of such removal and include a legal description of the real property being removed. The Subsequent Amendment shall be recorded in the Fayette County Clerk's Office, and a copy of same shall be furnished to the Secretary of the Association.

4. Specific Restrictions. It is contemplated by the Declarants that as specific areas, portions, units, sections or tracts of the Properties (each being hereinafter referred to as a "Tract") are subdivided by the recording of a final record plat, the owner of that Tract may execute and record in the Fayette County Clerk's Office a specific "Deed of Restrictions" for that particular Tract, and which may or may not establish a separate "sub-association" for that particular Tract. In such event,

the terms of this Declaration shall continue to apply to such Tract, but should there be any inconsistency between the specific terms of any such "Deed of Restrictions" and this Declaration, the terms of the Deed of Restriction shall control, provided that (a) at least one of the Declarants has executed such Deed of Restrictions as the "Developer" of that specific Tract, or in the alternative (b) both of the Declarants have given their written consent to such Deed of Restrictions. It is further contemplated that each such Deed of Restrictions shall (a) set forth various design and construction criteria that each house and related improvements constructed on a lot within such Tract (including landscaping) must abide by, (b) impose certain restrictions on the use and occupancy of the houses built upon the lots therein, and (c) establish a mechanism to collect general and special maintenance fee assessments from the owner of each lot in each particular Tract (which shall be secured by a lien against that lot if the assessments are not paid when due).

5. Safety and Security. Either or both of the Declarants and/or the Association may, but shall not be obligated to, undertake certain measures designed to increase safety or security in the Properties. Whether or not such measures are taken, NEITHER THE ASSOCIATION NOR THE DECLARANTS SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES AND NEITHER THE ASSOCIATION NOR THE DECLARANTS SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANTS, THE ASSOCIATION AND ITS BOARD OF DIRECTORS DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANTS OR THE ASSOCIATION MAY NOT BE COMPRISED OR CIRCUMVENTED, THAT FIRE PROTECTION

AND SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLDUP, OR OTHERWISE, NOR THAT FIRE PROTECTION AND SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, TENANT, GUEST OR INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANTS, THE ASSOCIATION, AND THE ASSOCIATION'S BOARD OF DIRECTORS ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGES THAT DECLARANTS, THE ASSOCIATION, AND THE ASSOCIATION'S BOARD OF DIRECTORS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES UNDERTAKEN.

6. Declarant's Rights. Any or all of the rights and obligations of the Declarants as set forth herein may be assigned or transferred to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by both Declarants and duly recorded in the Fayette County Clerk's Office, in Lexington, Fayette County, Kentucky. Nothing in this Declaration shall be construed to require the Declarants, or any successor, to develop any adjoining property in any manner whatsoever.


So long as either Declarant continues to have rights under this Declaration, no person shall record any declaration of covenants, conditions and restrictions or declaration of condominium or similar instrument affecting any portion of the

Properties without the Declarants' review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by a recorded consent signed by both Declarants.

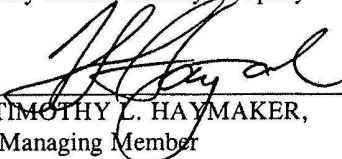
7. Amendments. The Declarants shall have the absolute right to amend this Declaration for any reason at any time for so long as either of them still own any portion of their respective Property, provided that the amendment is evidenced by a written instrument executed by both Declarants (or their successors or assigns).

8. Binding Effect. The rights and benefits set forth in this Declaration shall inure to the benefit of each of the Declarants and their successors and assigns.

IN WITNESS WHEREOF, the Declarants have executed this Declaration of Covenants, Conditions and Restrictions for Tuscany/East Pointe Residential Community on the day and year first above stated.


C. M. GATTON, TRUSTEE OF THE C. M. GATTON TRUST UNDER AGREEMENT DATED JANUARY 7, 1995

HAYMAKER DEVELOPMENT CO., LLC, a Kentucky limited liability company

BY: 
TIMOTHY L. HAYMAKER,
Managing Member

STATE OF TENNESSEE)
)
COUNTY OF SULLIVAN)

The foregoing Declaration of Covenants, Conditions and Restrictions for Tuscany/East Pointe Residential Community was acknowledged before me by C. M. Gatton as the duly-authorized Trustee of the C. M. Gatton Trust Under Agreement dated January 7, 1995, on this the 21st day of June, 2005.

My Commission Expires: 11-10-08

Reah Clabey
NOTARY PUBLIC

STATE OF KENTUCKY)
)
COUNTY OF FAYETTE)

The foregoing Declaration of Covenants, Conditions and Restrictions for Tuscany/East Pointe Residential Community was acknowledged before me by Timothy L. Haymaker, as the duly-authorized Managing Member of Haymaker Development Co., LLC, a Kentucky limited liability company, on this the 2nd day of June, 2005.

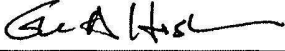
My Commission Expires: 11-10-08

Reah C Roney
NOTARY PUBLIC, KENTUCKY,
STATE AT LARGE

Presiding Judge: HON. LUCY A. VANMETER (622386)

EXH : 000008 of 000034

THIS INSTRUMENT
PREPARED BY:



GLENN A. HOSKINS
GLENN A. HOSKINS, P.S.C.
P.O. Box 55254
Lexington, Kentucky 40555
(859) 231-1077
GAH051045gh

EXHIBIT "A"

Being a certain tract or parcel of land located near the interchange of Interstate 75 with Winchester Road (US 60), being south of Winchester Road (US 60) and west of Sir Barton Way and being more particularly described as follows:

Beginning at the intersection of the southern right-of-way of Winchester Road (US 60) and the western right-of-way of Sir Barton Way; thence with said right-of-way of Sir Barton Way for the following four calls: S 46°17'15" E, 22.59 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 05°31'53" W, 453.89 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence with a curve to the left along a radius of 630.00 feet, whose chord bears S 21°44'35" E, 577.40 feet, for an arc distance of 599.79 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 48°59'38" E, 1,290.94 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence leaving the western right-of-way of Sir Barton Way with new division lines to Hamburg Place for the following seventeen calls: S 41°00'22" W, 47.20 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 25°10'18" E, 582.64 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 15°18'30" E, 1,329.80 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 05°26'13" E, 775.93 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 21°22'56" W, 37.97 feet to an iron pin with cap stamped KY 2115 (set, this survey) in the future right-of-way of Old Rosebud Road (now or formerly); thence with a curve to the right along a radius of 1,535.00 feet, whose chord bears S 67°09'51" E 84.04 feet, for an arc distance of 84.05 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 66°23'55" E, 313.12 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 68°36'04" E, 48.08 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 23°26'10" W, 153.00 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 21°23'55" W, 48.08 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 66°23'55" W, 338.44 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence with a curve to the left along a radius of 1,450.00 feet, whose chord bears N 84°29'09" W, 900.34 feet, for an arc distance of 915.47 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 77°16'45" W, 679.96 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 34°52'44" W, 21.67 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 77°08'18" W, 60.00 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 60°36'08" W, 21.67 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 77°15'56" W, 1,739.46 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 50°17'06" W, 178.34 feet to an iron pin with cap stamped KY 2115 (set, this survey) in the line of Eastwood Subdivision (Plat Cabinet J, Slide 389 and Plat Cabinet K, Slides 107, 403, and 554); thence with said Eastwood Subdivision N 47°31'39" W, 1,513.13 feet to

an iron pin with cap stamped KY 2115 (set, this survey); thence continuing with Eastwood Subdivision N 47°37'55" W, 1,660.80 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence with Eastwood Subdivision and the Brock McVey and Barry Dotson property (Plat Cabinet K, Slide 244 and Plat Cabinet L, Slide 207) N 47°18'49" W, 1,798.75 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence continuing with McVey and Dotson for the following two calls: N 47°25'45" E, 208.37 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 15°00'57" W, 142.86 feet to an iron pin with cap stamped KY 2115 (set, this survey) in the line of Fortune Business Centre (Plat Cabinet F, Slide 221); thence with Fortune Business Centre N 23°08'18" E, 1,779.13 feet to an iron pin with cap stamped KY 2115 (set, this survey) in the southern right-of-way of Winchester Road (US 60); thence with said Winchester Road right-of-way for the following seven calls: S 80°39'16" E, 384.18 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 85°18'33" E, 103.08 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 80°39'16" E, 250.00 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 66°37'06" E, 103.08 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 80°39'16" E, 635.90 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence with a curve to the left along a radius of 1,984.86 feet, whose chord bears S 89°24'52" E, 604.56 feet, for an arc distance of 606.92 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 81°49'33" E, 1,029.40 feet to an iron pin with cap stamped KY 2115 (set, this survey), being a corner to AKBAR, LLC and Mr. and Mrs. Preston Madden; thence with said AKBAR, LLC and Madden for the following twelve calls: S 29°58'59" E, 448.73 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 30°13'04" E, 541.69 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 66°03'04" E, 153.37 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 85°13'54" E, 62.42 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 66°26'51" E, 211.93 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 84°35'55" E, 149.84 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 58°17'40" E, 43.29 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 31°42'20" W, 582.37 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 16°58'25" E, 25.98 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 30°55'05" W, 46.96 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 85°45'13" W, 22.72 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence N 31°42'20" W, 217.31 feet to an iron pin with cap stamped KY 2115 (set, this survey); in the southern right-of-way of Winchester Road (US 60); thence with said Winchester Road right-of-way for the following two calls: with a curve to the right along a radius of 1,834.68 feet, whose chord bears S 87°54'24" E, 221.67 feet for an arc distance of 221.81 feet to an iron pin with cap stamped KY 2115 (set, this survey); thence S 84°26'37" E, 611.67 feet to the POINT OF BEGINNING and containing 562.90 acres.

Presiding Judge: HON. LUCY A. VANMETER (622386)

EXH : 000011 of 000034

The entire 562.90 acre parcel of land described above is shown on that Consolidation Minor Subdivision Plat of "Tuscany", of record in Plat Cabinet M, Slide 80, in the Fayette County Clerk's Office.

BEING the same property conveyed to C. M. Gatton, Trustee of the C. M. Gatton Trust under Agreement dated January 7, 1995, by Akbar, LLC, a Kentucky limited liability company, and Preston West Madden and Anita Madden, husband and wife, through deed dated November 17, 2003, of record in Deed Book 2413, Page 561, in the Fayette County Clerk's Office.

HOWEVER, there is EXCEPTED from the foregoing the following described property conveyed by C. M. Gatton, Trustee of the C. M. Gatton Trust under Agreement dated January 7, 1995, to The Bill Gatton Foundation through deed dated August 10, 2004, of record in Deed Book 2488, Page 596, in the Fayette County Clerk's Office:

BEING all of that 78.48 acre tract designated on that Non-Building Minor Subdivision Plat of the Tuscany Subdivision to Lexington, Fayette County, Kentucky (formerly a portion of 2030 Winchester Road), of record in Plat Cabinet M, Slide 286, in the Fayette County Clerk's Office.

GAH/051529gh

EXHIBIT "B"

BEING all of that 78.48 acre tract designated on that Non-Building Minor Subdivision Plat of the Tuscany Subdivision to Lexington, Fayette County, Kentucky (formerly a portion of 2030 Winchester Road), of record in Plat Cabinet M, Slide 286, in the Fayette County Clerk's Office; and

BEING the same property conveyed to Haymaker Development Co., LLC, a Kentucky limited liability company, by The Bill Gatton Foundation, through deed dated August 18, 2004, of record in Deed Book 2490, Page 579, in the Fayette County Clerk's Office.

GAH/051526gh

EXHIBIT "C"

BEING all of that remnant parcel consisting of 10.00 acres, situated in the southeastern corner of the property shown by that Non-Building Minor Subdivision Plat of "Tuscany", of record in Plat Cabinet M. Slide 286, in the Fayette County Clerk's Office.

GAH/051525gh

EXHIBIT "D"

**BY-LAWS
OF
EAST POINTE HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I

NAME, PRINCIPAL OFFICE AND DEFINITIONS

Section 1. Name. The name of the Association shall be East Pointe Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the Commonwealth of Kentucky shall be located in the County of Fayette, at such location as shall be determined by the Board of Directors. The Association may have such other offices, either within or without the Commonwealth of Kentucky, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in the various restrictive covenants for the "Tuscany" Subdivision in Lexington, Kentucky, and any other residential subdivisions in the Hamburg vicinity in Lexington, Kentucky, developed in the future by the Developer (as defined below) whose restrictive covenants subject such subdivision(s) to the scope and jurisdiction of the Association, including, but not limited to, those subdivisions named "Summerfield" and "Harper's Pointe" (said restrictive covenants, as amended, renewed, or extended from time to time, are hereinafter sometimes referred to collectively as the "Restrictions"), unless the context shall prohibit. The "Developer", as used herein, shall mean Haymaker Development Co., LLC, a Kentucky limited liability company.

ARTICLE II

ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

Section 1. Membership. The membership of the Association (the "Membership") shall consist of each person or entity who is the owner of record of a fee simple interest in any lot in the "Tuscany" Subdivision in Lexington, Fayette County, Kentucky, and any other residential subdivisions in the Hamburg vicinity in Lexington, Kentucky, developed in the future by the Developer whose restrictive covenants subject such subdivision(s) to the scope and jurisdiction of the Association, including, but not limited to, those subdivisions named "Summerfield" and "Harper's

Pointe", including any annexations thereto (the "Subdivisions"), which are subject to the Restrictions. Each person or entity is hereinafter referred to as a "Member".

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

Section 3. Annual Meetings. The first meeting of the Membership, whether a regular or special meeting, shall be held within two (2) years from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur no earlier than ninety (90) days and no later than thirty (30) days before the close of the Association's Fiscal Year. Subsequent regular annual meetings of the Membership shall be held within forty-five (45) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting shall be held at a date and time as set by the Board of Directors.

Section 4. Special Meetings. The President, or the Developer, may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by a resolution of a majority of a quorum of the Board of Directors. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than thirty (30) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

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

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

Section 6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance

at a meeting by a Member or alternate shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

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

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

Section 8. Voting and Control Rights.

A. **Voting Rights.** The owner(s) of each lot in the Subdivisions shall have, in the aggregate, one (1) vote for each lot owned.

B. **Control Rights.** The Developer shall be vested with total control rights regarding the Association, notwithstanding the number of lots in the Subdivisions which may have been conveyed to Members, until the Developer no longer owns any property within any of the land components comprising the Subdivisions (including any additional land which may be annexed and become subject to the scope of the Restrictions at a later date pursuant to Article VI, Section 7 hereof), or the date upon which the Developer relinquishes control of the Association over to the Association's Members via a written instrument, whichever event or date occurs first. For so long as all control rights of the Association remain vested in the Developer, the Developer shall have the sole right to appoint Directors to the Association's Board of Directors, establish the Association's

annual budget, and make all decisions regarding the affairs of the Association, notwithstanding any votes or actions by the Members of the Association taken to the contrary. The provisions of this Section shall supercede any other provisions of these Bylaws to the contrary.

Section 9. Proxies. Members may vote by proxy or through their designated alternates, provided that designation is in writing.

Section 10. Manner of Acting. At any meeting of the Membership of the Association at which a quorum is present, the acts of the Members of the Association shall be determined by a majority of the votes which may be cast by Members pursuant to these By-Laws.

Section 11. Majority. As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number.

Section 12. Quorum. Except as otherwise provided in these By-Laws, the presence in persons or by alternates of the Members representing ten (10%) percent of the total Membership of the Association shall constitute a quorum at all meetings of the Association.

Section 13. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

Section 14. Action Without a Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members.

ARTICLE III

BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of an Owner which is a corporation, limited liability company or partnership, the person designated in writing to the Secretary of the Association as the representative of such corporation, limited liability company or partnership shall be eligible to serve as a director.

Section 2. Initial Directors. Until such time as 100% of all lots within all of the Subdivisions (and any other lands annexed within the scope of the Restrictions by the Developer pursuant to Article VI, Section 7 hereof) have been conveyed to third parties (or such earlier date, at the sole option of the Developer), the Directors of the Association shall consist of those persons named in the Association's Articles of Incorporation, or such other persons who the Developer shall designate. At such time as the Developer no longer holds title to any the lots within any of the Subdivisions, the Developer shall call a special meeting of the Association for the purpose of electing new Directors.

Section 3. Number of Directors. The number of directors of the Association shall be not less than three (3) nor more than seven (7).

Section 4. Nomination of Directors. Except with respect to directors selected by the Developer pursuant to Section 2 above, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of two (2) members of the Board of Directors, and three (3) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 5. Election and Term of Office. Notwithstanding any other provision contained herein:

At the first annual meeting of the Membership after the Developer has relinquished the right to appoint all of the Directors, and at each annual meeting of the Membership thereafter, all directors shall be elected by the Members, pursuant to a formula based upon 1 vote for each lot in the Subdivisions.

All directors shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

Section 6. Voting Procedure for Directors. At any election of directors to the Board of Directors, each Member may cast, in respect to each vacancy, as many votes as he or she is entitled to exercise pursuant to those Bylaws. The candidates receiving the largest number of votes shall be elected.

Section 7. Removal of Directors and Vacancies. Directors may be removed, with or without cause, by a vote of the Members holding a majority of the votes of the Association. Any director whose removal is sought will be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall then and there be elected to fill the vacancy.

Any director who has three (3) consecutive unexcused absences from Board of Directors meetings or who is delinquent in the payment of any assessment for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board of Directors. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board of Directors and it may appoint a successor. Any director appointed by the Board of Directors shall serve for the remainder of the term such successor was appointed to fill.

B. Meetings.

Section 8. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by a majority of

directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) by facsimile, or (e) by electronic mail. All such notices shall be given at the director's telephone number, fax number or e-mail address, or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, facsimile, or electronic mail shall be delivered, telephoned, faxed, or e-mailed at least seventy-two (72) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or any approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by members holding a majority of the total vote of the Association at a regular or special meeting of the Association; provided that any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein

contained shall be construed to preclude any director from serving the Association in any other capacity and receiving reasonable compensation therefor.

Section 14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 15. Open Meetings. Subject to the provisions of Section 16 of this Article, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any member may speak.

Section 16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote. An explanation of the action taken shall be posted at a predominate place or places within the Properties within three (3) days after the written consents of all the Board members have been obtained.

C. Powers and Duties

Section 17. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs with respect to the Subdivisions, and, as provided by law, may do all acts and things as are not prohibited by the Restrictions, the Articles of Incorporation of the Association, or these By-Laws or directed to be done and exercised exclusively by the Members or the Membership generally.

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

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

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner in the form of assessments (as provided in the Restrictions).
- (b) making assessments to defray the expenses of the Association, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of any common areas of the Subdivisions, as set forth in the Restrictions or any Final Record Plat pertaining to the Subdivisions;
- (d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and any common areas and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties.
- (e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the affairs of the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;
- (f) making and amending rules and regulations;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of any common areas in accordance with the other provisions of the Restrictions and these By-Laws after damage or destruction by fire or other casualty;
- (i) enforcing by legal means the provisions of the Restrictions, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;
- (j) obtaining and carrying insurance against casualties and liabilities, as provided in the Restrictions, and paying the premium cost thereof;

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

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

(m) make available to any prospective purchaser of a Lot, any owner of a Lot, any first mortgagee, and the holders, insurers, and guarantors of a first mortgage on any Lot, current copies of the Restrictions, the Articles of Incorporation, By-Laws, rules governing the Lot, and all other books, records, and financial statements of the Association; and

(n) permit utility suppliers to use portions of any common area reasonably necessary to the ongoing development or operation of the Subdivisions.

Section 18. Accounts and Reports. The following management standards of performance will be followed unless the Board of Directors by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the management agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the management agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first lot is sold and closed, financial reports shall be prepared for the Association at least annually containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all Association ledger accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Members who are delinquent in paying the monthly installments of assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent (any installment not paid within ten (10) days of the due date shall be deemed delinquent without notice or demand); and

(g) an annual report as of the end of the Fiscal Year consisting of at least the following shall be made available to all Members within one hundred twenty (120) days after the close of the Fiscal Year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the Fiscal Year. The annual report referred to above may be prepared on an audited, reviewed, or unaudited basis, as determined by the Board of Directors, by an independent certified public accountant for any Fiscal Year in which the gross income of the Association exceeds One Hundred Thousand Dollars (\$100,000.00). If said report is not prepared by an independent certified public accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

Section 19. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of any common areas without the approval of the Membership; provided, however, the Board of Directors shall obtain Member approval for any special assessments in the event that the proposed borrowing

is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for the Fiscal Year.

Section 20. Rights of the Association. With respect to the maintenance of any common areas, and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other owners or residents associations, both within and without the Subdivisions. Such agreements shall require the consent of two-thirds (2/3) of the Board of Directors.

Section 21. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or to use any common area for violation of any duty imposed under the Restrictions, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a lot. In the event that any occupant of a lot violates the Restrictions, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Restrictions, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, except the suspension of voting rights for nonpayment of assessments, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested in a timely manner, the hearing shall be held in executive session affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by

the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Restrictions, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

ARTICLE IV

OFFICERS

Section 1. Officers. The officers of the Association shall be a President, Vice-President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

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

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

Section 4. President. The President shall be the principal executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the Board of Directors, and shall, in general, perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 5. Vice-President. The Vice-President shall possess the power and may perform the duties of the President in his absence or disability. The Vice-President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; be custodian of the corporate records and of the seal of the Association and, as necessary or appropriate, see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provision of these By-Laws; keep a register of the post office address of each member and each director which shall be furnished to the Secretary by each such member and director; and, in general, perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board of Directors.

Section 7. Treasurer. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever; deposit all such monies in the name of the Association in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; keep an accurate account of the finances of the Association on the books of the Association prepared and furnished for that purpose; render an account at such times as the Board of Directors may require; and, in general, perform all the duties incident to the office of Treasurer and such other duties as from item to time may be assigned to him by the President or by the Board of Directors. However, the Treasurer may delegate all or part of the preparation and notification duties to a finance committee, the management agent, or both.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

Section 10. Compensation. Officers shall not receive compensation for their services as such, but may receive reimbursement for such reasonable expenses of conducting the business and affairs of the Association as the Board of Directors shall from time to time determine. Nothing herein contained shall be construed to preclude any director from serving the Association as an employee and receiving reasonable compensation therefor.

ARTICLE V

COMMITTEES

Section 1. Nominating Committee. The Board of Directors may appoint a Nominating Committee to recommend to the Board nominees for election to the Board of Directors pursuant to Article III, Section 4, of these By-Laws.

Section 2. Finance Committee. The Board of Directors may appoint a Finance Committee to assist the Treasurer, subject to such limitations as the Board of Directors by resolution may impose.

Section 3. Covenants Committee. In addition to any other committees which may be established by the Board pursuant to Section 1 of this Article, the Board of Directors may appoint a Covenants Committee consisting of at least five (5) and no more than seven (7) members. Acting in accordance with the provisions of these By-Laws and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and conduct all hearings held pursuant to Article III, Section 21(b), of these By-Laws.

Section 4. Other Committees. The Board of Directors may appoint from time to time such other committees to serve such purposes of the Association as the Board of Directors shall deem appropriate.

Section 5. Committee Requirements and Limitations. Notwithstanding any other provision of these By-Laws, each committee appointed by the Board of Directors shall: (a) be subject to such limitations as may be imposed by the Board of Directors, these By-Laws, the Articles of Incorporation, or applicable law; (b) include at least two (2) directors of the Association; and (c) keep regular minutes of its meetings and shall present the same to the Board of Directors at the meetings of the Board of Directors.

ARTICLE VI

MISCELLANEOUS

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

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Kentucky law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Kentucky law, the Articles of Incorporation, the Restrictions, and these By-Laws, the provisions of Kentucky law, the Restrictions, and Articles of Incorporation, and these By-Laws (in that order) shall prevail.

Section 4. Books and Records.

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

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

- (i) Notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made;
and

(iii) payment of the cost of reproducing copies of documents requested.

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

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

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

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

Section 6. Amendment. Prior to the conveyance of the first Lot, the Developer may unilaterally amend these By-Laws. After such conveyance, the Developer may unilaterally amend these By-Laws so long as the Developer still owns any property within any of the Subdivisions and so long as the amendment has no material adverse effect upon any right of any Member. Thereafter and otherwise, these By-Laws may be amended only by the affirmative vote (in person or by alternate) or written consent of Members representing sixty percent (60%) of the total votes of the Association, including sixty (60%) percent of the votes of Members other than the Developer. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. No amendment shall be effective until recorded in the Fayette County Clerk's Office in Lexington, Kentucky.

Section 7. Annexation. For so long as it owns any lots within any of the Subdivisions, including any addition to any of the Subdivisions which may be annexed in the future, the Developer shall have the unilateral authority to annex to the

Subdivisions and the jurisdiction of the Restrictions any lands adjacent to any portion of the Subdivisions. After the Developer no longer owns any lots within any of the Subdivisions, or after the Developer has relinquished control of the affairs of the Association over to the Association, the Association shall have the authority to annex any lands adjacent to any portion of the Subdivisions, upon the affirmative vote of a majority of the votes cast by the Members at an election held for such purpose. Annexation shall be accomplished by the filing of record in the Fayette County Clerk's Office, in Lexington, Kentucky, of a written instrument with respect to the property(ies) being annexed. Any such instrument shall be signed by the president and secretary of the Association and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of these By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 7 and to ascertain the presence of a quorum at such meeting.

Section 8. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the management agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 17 of Article III of these By-Laws. The Developer, or affiliates of the Developer, may be employed as management agent or manager.

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

Section 9. Assignment of Developer's Rights. The Developer shall have the right to assign its rights hereunder to such property management company or other third party as it shall deem appropriate in its sole discretion.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of the East Pointe Homeowners Association, Inc., a Kentucky nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 28th day of June, 2005.

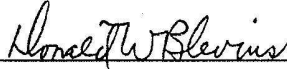
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association on this the 28th day of June, 2005.

Lucy A. Vanmeter
SECRETARY

GAH/050265gh

DEED BOOK 2564 PAGE 156

**I, Donald W Blevins, County Court Clerk
of Fayette County, Kentucky, hereby
certify that the foregoing instrument
has been duly recorded in my office.**



By: Doug BRADLEY, dc

200507050289

July 5, 2005	13:29:07 PM		
Fees	\$67.00	Tax	\$0.00
	Total Paid	\$67.00	

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33 Pages

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