



# Shelby County Tennessee

## *Shelandra Y Ford*

Shelby County Register

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As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

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VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	200.00
DP FEE	2.00
REGISTER'S FEE	0.00
EFILE FEE	2.00
TOTAL AMOUNT	204.00

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SHELANDRA Y FORD

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

PREPARED BY AND RETURN TO:  
M. Wayne Mink, Jr.  
Dinkelspiel, Rasmussen & Mink, PLLC  
1669 Kirby Parkway, Suite #106  
Memphis, Tennessee 38120  
DRM File No.:

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR KENSINGTON MANOR**

**THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR KENSINGTON MANOR** (this "Declaration") is made as of this 8th day of October, 2019, by **REGENCY HOMEBUILDERS, LLC**, a Tennessee limited liability company (the "Developer"), for that certain residential development situated in the City of Lakeland, Shelby County, Tennessee, commonly known as "Kensington Manor".

**WITNESSETH:**

**WHEREAS**, the Developer owns that certain parcel of real property (the "Property" or the "Development") situated in the City of Lakeland, Shelby County, Tennessee, more particularly described on **EXHIBIT "A"**, attached hereto and made a part hereof; and

**WHEREAS**, the Property is to be divided into residential Lots (each a "Lot") and certain common area as shown on those certain plat(s) of the Property to be prepared by the Developer and to be recorded in the Register's Office of Shelby County, Tennessee (the "Register's Office"); and

**WHEREAS**, the plat for Phase 1 of Kensington Manor has been recorded in the Register's Office in Plat Book 281, Page 11 (including any amendments or re-recordings thereof, the "Plat"), with a copy of such plat being attached hereto and made a part hereof as **EXHIBIT "B"**; and

**WHEREAS**, Kensington Manor Homeowners Association, Inc., a Tennessee non-profit corporation (the "Association"), has been formed to perform the maintenance, operation, repair, and replacement of certain common area (the "Common Area"), as such will be shown on the Plat of the Property, and any plats of any Additional Property including any amendments or re-recordings thereof, and as may be conveyed to the Association, and to govern and administer the Property as provided by this Declaration; and

**WHEREAS**, the Association was created by the filing of that certain Charter (the "Charter"), attached hereto as **EXHIBIT "C"**, with the Tennessee Secretary of State and is governed by those certain Bylaws of Kensington Manor Homeowners Association, Inc. (the "Bylaws"), attached hereto as **EXHIBIT "D"**; and

**WHEREAS**, the Common Area either has been or will be conveyed to the Association by the Developer; and

**WHEREAS**, it is to the benefit, interest, and advantage of the Developer, the owner of record of the Property and of each Lot (each a "Lot Owner"), and each and every person or other entity hereafter acquiring any interest in the Property that certain covenants, conditions, restrictions, easements, assessments, and liens governing and regulating the use and occupancy of the same be established, fixed, set forth, and declared as covenants running with the Property.

**NOW, THEREFORE**, in consideration of the premises, the Developer does hereby publish and declare that all of the Property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses,

limitations, and obligations all of which are declared and agreed to be in furtherance of a plan for the development and improvement of the Property, and the said covenants, conditions, restrictions, uses, limitations, and obligations shall run with the land and the Property and shall be a burden and a benefit to the Developer and any person or legal entity acquiring or owning any interest in any portion of the Property or any improvements thereon, their grantees, successors, successors in title, heirs, executors, administrators, devisees, and assigns.

## **ARTICLE I** **PROPERTY**

**Section 1.** Property Subject to this Declaration. Kensington Manor is more particularly described on **EXHIBIT "A"** and is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration. For the purposes of this Declaration a "Lot" shall be a Lot shown on the Plat, or any plats of the Property or Additional Property, including any amendments or re-recordings thereof. The Developer may add Additional Property, as defined herein, to the Property as more particularly provided by this Declaration.

**Section 2.** Easements. Easements for the installation, operation, repair, and maintenance of utilities, fences, sidewalks, drives, walls, drainage facilities, and access thereto, landscaping, and planting and screens have been granted as shown on the Plat and any plats of the Additional Property; and the conveyance of any of Lot within Kensington Manor shall be made subject to such easements. From time to time, the Association, acting through its Board, may grant additional easements for similar purposes over the Common Area. Anything to the contrary notwithstanding during the Developer Control Period, the Developer shall have the authority to grant easements for the installation, operation, repair, and maintenance of utilities, fences, sidewalks, drives, walls, drainage facilities, and access thereto, landscaping, and planting and screens across the Common Area.

**Section 3.** Additional Property Subject to this Declaration. During the Developer Control Period, as such term is defined in Article II, Section 9 of this Declaration, the Developer, or its assigns, may, in its sole and absolute discretion, amend this Declaration to add additional property ("Additional Property") to the Property encumbered by this Declaration as more particularly provided herein. Such Additional Property shall be encumbered by this Declaration. Upon the subdivision of the Additional Property as evidenced by the recordation of a plat of the Additional Property in the Register's Office, each lot on such plat shall be deemed a Lot in accordance with this Declaration and shall be bound and assessed as provided herein. Until such time as a plat of the Additional Property is recorded, such Additional Property shall be burdened by this Declaration, but it shall not be subject to any of the assessments provided herein. Upon the recordation of such a plat, any owner of a Lot in such Additional Property shall be a Member of the Association and bound by the covenants, conditions, and restrictions of this Declaration.

## **ARTICLE II** **THE ASSOCIATION**

**Section 1.** Members. Every person, being an individual, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof, who is a record owner of a fee or undivided fee interest of any Lot within Kensington Manor shall be a Member of the Association, provided, however, that anyone who holds such interest solely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot within Kensington Manor. Ownership of such Lot shall be the sole qualification for membership in the Association.

**Section 2.** Voting Rights. The Owner(s) of record in the Register's Office of each Lot within Kensington Manor each shall be entitled to one (1) vote per Lot. If a husband and wife are the Owners, collectively, of a Lot in Kensington Manor such husband and wife, while both Members, will have one (1) vote between them in all matters put before the Membership. If a corporation, partnership, limited liability company, or any other such legal entity shall own a Lot, then such entity shall register with the Secretary the name and office of the individual who will represent such entity at any meeting of the Members and cast such entity's vote.

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

**Section 4.** Voting. At every meeting of the Members, each of the Members shall have the right to cast his votes on each questions. The vote of the Members, in person or by proxy, representing fifty-one percent (51%) of the total votes cast at such meeting, provided a quorum exists, with respect to any questions shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute or of the Charter, or this Declaration, or of the Bylaws, a different vote is required, in which case such express provision shall govern and control. The vote for any membership which is owned by more than one (1) person may be exercised by any of them present at any meeting unless any objection or protest by the other Owner of such membership is noted at such meeting. In the event all of the co-Owners of any membership who are present at any meeting of the Members are unable to agree on the manner in which the vote for the membership shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question. Anything in this Declaration or the Bylaws to the contrary notwithstanding, so long as the Developer owns a Lot in the Property, the Developer shall be allocated one hundred (100) votes per Lot on any matter before the Association.

**Section 5.** Proxies. Every Member entitled to vote at a meeting may do so either in person or by written proxy, which proxy shall be filed with the Secretary before being voted. Such proxy shall entitle the holders thereof to vote at any adjournment of such meeting, but shall not be valid after the final adjournment thereof. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy.

**Section 6.** Quorum. The presence, either in person or by proxy, of Members representing at least thirty-five percent (35%) of the total votes entitled to be cast shall be requisite for and shall constitute a quorum for the transaction of business at all meetings of the Members. If the number of Members at a meeting drops below the required quorum level and the question of a lack of quorum is raised, no business may thereafter be transacted. After two (2) successive meetings of the Members, held with due notice, at which a quorum is not obtained; howsoever many Members as may attend the third consecutive meeting shall constitute a quorum.

**Section 7.** Bylaws. The Association shall be governed by those certain Bylaws attached hereto and made a part hereof as EXHIBIT "D".

**Section 8.** Management. After the termination of the Developer Control Period, the Association shall not be self-managed, but shall retain professional management to assist the Board in the management of the Common Area and the operation of the Association.

**Section 9.** Developer Control Period. Any provision of this Declaration, the Bylaws, or the Charter to the contrary notwithstanding, the Developer, its successors or assigns, shall retain total and absolute control over the Property, the addition of property to this Declaration, and the development of the

Property and any Additional Property, and the improvements thereon (including without limitation, the Architectural Control Committee), until: (i) all of the Lots or other property (being raw land which is otherwise unsubdivided) at Kensington Manor has been sold to parties intending to use such property for solely residential purposes; (ii) all single-family residences on such Lots are substantially complete; and (iii) any development bond or similar security instrument securing the Developer's orderly development of Kensington Manor has been properly released by the appropriate governmental parties. Upon the termination of the Developer Control Period the Developer shall record in the Register's Office at the Association's sole cost and expense a notice terminating the Developer Control Period (the "Termination Notice"). Within thirty (30) days of the recordation of the Termination Notice in the Register's Office, the Developer shall call the first (1<sup>st</sup>) annual meeting of the Association in accordance with its Bylaws in order to elect Directors for the Association from the Lot Owners. The period described in this Article II, Section 9 shall be known and defined in this Declaration as the "Developer Control Period".

If the Developer fails to timely convey the Common Area to the Association within ten (10) years of the date of this Declaration, then: the Developer hereby duly appoints the Association as its true and lawful attorney for it and in its name, place, and stead to do, execute, and perform all and every act or acts related conveying the Common Area to the Association to ensure that the Common Area is properly conveyed and quitclaimed to the Association. It being the intent of the Developer that the Common Area shall be owned and maintained by the Association as provided herein.

### ARTICLE III PROPERTY RIGHTS

**Section 1.** Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Board of the Association to adopt reasonable rules and regulations (the "Rules and Regulations") for the benefit of the Owner in accordance with the Bylaws;
- (b) The right of the Association, in accordance with its Charter and Bylaws to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to manage said Common Area; and
- (c) No action by the Association affecting the maintenance or use of the Common Area shall prevent any Lot Owner from using the appropriate Common Areas for ingress and egress to his Lot.

**Section 2.** Fence, Landscaping, and Entry Monument Easement. The Association, by and through its Board of Directors, may decide from time to time to construct and maintain fences on the Common Area, certain common landscaping, an entry monument sign(s), and certain other common amenities (collectively, the "Common Improvements"). In the event such Common Improvements are constructed, the Association shall be solely responsible for all costs and expenses associated with the maintenance, operation, repair, and replacement of the Common Improvements. Any Common Improvements constructed must comply with any applicable governmental regulations. The Developer, in its sole and absolute discretion and in accordance with this Declaration, may amend this provision to add additional Common Improvements on additional Lots located on the Additional Property as may be necessary.

**ARTICLE IV**  
**COMMON AREAS**

**Section 1.** Common Area. The Common Area of the Property includes those common open spaces conveyed to the Association, including but not limited to those shown on any plats of the Property and the Additional Property, and any easements in favor of the Association.

**Section 2.** Member Easement. Every Member shall have the right and easement of enjoyment in and to the Common Area, except as provided in Article III, Section 1, and such easement shall be appurtenant to and shall pass with the title to every Lot subject to the right of the Association to regulate such use and such other action as may be permitted by law in effect from time to time. The right of a Member to use the Common Area may be constrained by the Rules and Regulations of the Association, as promulgated in writing, from time to time, by the Board of Directors as noted in Article III, Section 1.

**Section 3.** Powers of the Association as to the Common Area. The Association may, at any time, as to the Common Area and Common Improvements controlled, conveyed, leased, assigned, or transferred to it, or otherwise placed under its jurisdiction or control, in the discretion of the Board of Directors, without any approval of the Members being required:

- (a) Operate, maintain, construct, reconstruct, repair, replace or refinish any improvements or portion thereof upon any such area in accordance with (i) the last plans thereof approved by the Board of Directors, (ii) the original plans for the improvement, or (iii) if neither of the foregoing is applicable and if such improvement was previously in existence, then in accordance with the original design, finish or standard of construction of such improvement as same existed;
- (b) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board of Directors deems necessary for the conservation of water and soil and for aesthetic purposes;
- (c) Do all such other and further acts which the Board of Directors deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration; and
- (d) The Board of Directors shall be the sole judge as to the appropriate maintenance of all grounds within the Common Area.
- (e) The Board of Directors may, from time to time, promulgate written rules and regulations regarding the use of the Common Area and Common Improvements.

**Section 4.** Destruction of Common Area and Common Improvements. In the event the Common Area or the Common Improvements area damaged or destroyed through the intentional or negligent act of any Member or any person for whom such Member is legally responsible, such Member does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good, workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall be paid by said Member, upon demand, to the Association, and the Association may enforce collection of same in the same manner and subject to the same conditions as provided elsewhere in this Declaration for collection and enforcement of assessments.

**ARTICLE V**  
**MAINTENANCE AND REPAIR**

**Section 1.** Association Responsibilities. The Association shall provide and pay for all maintenance, operation, repair, replacement, and expenses for the Common Area and the Common Improvements. The real property taxes for the Common Area, if any, shall also be paid for by the Association. These responsibilities are not exclusive and the Association, by appropriate vote, may elect to pay other items. The Developer may loan funds, as necessary, to the Association to cover the costs of any obligations of the Association to maintain and repair the Common Area and Common Improvements during the Developer Control Period.

**Section 2.** Individual Lot Owners. Each Owner of a Lot shall be responsible for all interior maintenance, painting, repair, and upkeep of his Lot and the improvements thereon. The exterior maintenance of improvements on individual Lots shall be the responsibility of each Lot Owner, subject to the architectural guidelines and covenants of this Declaration.

**Section 3.** Failure to Maintain a Lot. In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated on their respective Lot in a manner compatible with the other Lots and improvements in the Development, as reasonably determined by the Board of Directors of the Association in its sole discretion, then the Association, after approval by a three-fifths (3/5<sup>th</sup>) vote of the Board of Directors, shall have the right to notify said Lot Owner of the deficiency existing in writing and upon failure to correct said deficiency within a reasonable period of time, to take such legal action as the Board may deem appropriate, and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject as provided by this Declaration.

**ARTICLE VI**  
**ASSESSMENTS**

**Section 1.** Annual Assessments. Each Member hereby covenants and agrees to pay to the Association annual assessments or charges, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual assessments, together with any fees and attorney's fees related thereto and costs of collection thereof, as hereinafter provided, shall be a continuing lien and charge upon each Lot against which each such assessment is made and the sale or transfer of any such Lot shall not affect the validity of the assessment lien. Each such assessment, together with any fees related thereto, costs, interest, and reasonable attorney's fees shall also be the personal obligations of the owner of record of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2.** Use of Annual Assessments. The assessments levied by the Association shall be used exclusively for the purpose of maintaining the Common Area and any other purpose deemed reasonable by the Board of Directors.

**Section 3.** Setting of Annual Assessments. The initial annual assessment for each Lot for the year of recordation of this Declaration shall be set by the Board of Directors, in its discretion. Subsequent to the year of recordation of this Declaration, the annual assessment shall be set annually by the Board of Directors, after consideration of current operating and maintenance costs and future needs of the Association. Upon determining the budget and reserves of the Association, the Board of Directors shall assess each Lot in Kensington Manor equally on a *pro rata* basis.

**Section 4.** Procedure for Enforcement. The Association, by and through its Board, may also establish procedures to ensure compliance with the provisions of this Declaration.

**Section 5.** Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the recordation of this Declaration or at a later date as determined in writing at the discretion of the Developer. The calendar year following the recordation of this Declaration, the Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the due date of each annual meeting of the Members; but in the absence of such action by resolution of the Board of Directors, the annual assessment shall be in the amount last fixed. Written notice of the annual assessment shall be sent to every Member on an annual basis. The annual assessment shall be paid as set by the Board (i.e., the Board may require annual, quarterly, or monthly payment of assessments). The due dates of each installment of the assessments may be established by resolution of the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. Anything in this Declaration to the contrary notwithstanding, for each Lot, the annual assessment shall first become due on the date of the closing the sale of said Lot from the Developer to the Owner, unless the Owner is a Builder, in which case, said assessment shall first become due on the date of the closing of the transfer of said Lot by the Builder to an Owner who intends to occupy or otherwise use the residence constructed on said Lot or three (3) years from the date of closing of the sale of the Lot from the Developer to the Builder, whichever occurs first. The assessment shall be prorated for the month of its commencement. Anything in this Declaration to the contrary notwithstanding, the Developer shall be exempt from the payment of assessments. For the purposes of this Declaration, the "Builder" shall mean those entities designated in writing by the Developer during the Developer Control Period as a Builder which own Lots in Kensington Manor primarily for the purpose of constructing residential improvements for sale to third parties (for the purposes of this section a bank or other such financial institution cannot be a Builder). The Developer shall not be considered a Builder in Kensington Manor.

**Section 6.** Subordinate to Lien of Deed of Trust/Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any prior recorded mortgage or deed of trust on any Lot and to the lien of *ad valorem* real estate taxes. The lien established by this Declaration shall have preference over all other mortgages, deeds of trusts, assessments, liens, judgments, or charges of whatever nature. Foreclosure, sale, or other conveyance (such as a deed in lieu of foreclosure) pursuant to any such mortgage or deed of trust shall extinguish such lien for assessments due prior to such foreclosure or sale, but only if such assessments and all costs associated therewith, including attorney's fees, were paid in full prior to the date of recordation of the mortgage or deed of trust (but such assessment lien shall attach to any excess proceeds of the foreclosure), and no such foreclosure or sale shall relieve such Lot from liability for any future assessments or liens.

**Section 7.** Effect of Non-Payment of Assessments.

(i) Delinquent Payment of Assessments. Any payment of an assessment, which has not been received by the Association within thirty (30) days from the time when it becomes due, shall be delinquent without further notice to the Owner of record of the Lot which is delinquent. Such delinquent assessment, together with a reasonable late fee, subject to change from time to time by the Board in its sole discretion; the costs and expenses of collection; interest; and an attorneys' fee shall be a charge upon the Lot and shall be a continuing lien upon the Lot until fully paid, and shall further be a personal obligation of the persons who own such Lot at the time when the assessment was made. The personal obligation for a delinquent assessment, interest, costs, expenses, and a reasonable attorneys' fee shall not pass to such Owner's successors in title unless expressly assumed by them. The said lien securing any unpaid assessments shall be subordinate to liens for real estate taxes on the Lot and to mortgages and other liens of record on such Lot recorded or attaching prior to the time when said lien for unpaid assessments shall attach. The



said lien for unpaid assessments shall take precedence over any subsequent judgment, attachment, or claim of title of any trustee in bankruptcy.

(ii) Enforcement of Liens. A lien for unpaid assessments may be enforced by suit brought in the name of the Association, acting on behalf of the Lot Owners, in a like manner as the enforcement of a lien is provided by the laws of the State of Tennessee. Without prejudice to its right to bring such a suit for enforcement, the Association, at its option, may enforce collection of delinquent assessments by any other competent proceeding, in any event, or in the event the Association is required to defend in any cause, matter, or litigation brought by a Lot Owner or any party on behalf of a Lot Owner any lien created by this Declaration, the Association shall be entitled to recover in such action, suit, or proceeding, the assessments which are delinquent at the time of judgment or decree, together with interest thereon at the highest legal rate of interest per annum from the date of delinquency (or such other annual rate of interest as may be set forth in the Bylaws, which rate shall be permitted by Tennessee law) and all costs incident to the collection or defense in the action, suit, or proceeding, including, but not limited to, attorneys' fees and court costs.

(iii) Notice of Lien. This Declaration creates a lien on each and every Lot within the Property in favor of the Association and for the benefit of all Members to secure payment to the Association of any and all assessments and other sums levied against any and all Members and their respective Lots, together with late payment fees, interest, and all costs of collection therewith, including attorney's fees incurred.

(iv) Non-Judicial Foreclosure. The Association may non-judicially foreclose its lien as provided in this section and in accordance with Tennessee law: for and in consideration of the privileges, protections, mutual enjoyment and use of the Common Area and the premises contained herein, the receipt and sufficiency of which is hereby acknowledged and to secure the payment of assessments levied by the Association as provided in this Article VI of this Declaration, interest, and attorneys' fees, any and all other amounts which may be due the Association under any provision of this Declaration (such assessments, interest, attorney's fees, and the amounts due under this Declaration herein collectively being the "Assessments"), a lien is expressly retained by the Association on every Lot. And now, for the purpose of securing the payment of the lien of the Assessments; rendering unnecessary court proceedings for the enforcement of the lien in the event of non-payment of the Assessments and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners, for themselves, their heirs, successors, administrators, personal representatives, and assigns (herein "Trustors"), hereby transfer and convey unto M. Wayne Mink, Jr., or the then duly-elected President of the Association, Trustees (each a "Trustee"), either of whom may act, their respective successors and assigns, their respective Lots upon the following uses and trusts:

Trustors agree to pay their *pro rata* share of Assessments, when due, and further agree to pay all taxes and Assessments levied against their Lots, and to pay them when due, and, upon demand of the Trustee or the lawful owner of the Assessments, to discharge, or remove any liens (except a mortgage or deed of trust) which may be hereafter placed against Trustor's Lot and which shall adversely affect the lien of this instrument or enforcement of the terms and provisions hereof; to keep the Lot in good repair and preservation, and in case the Trustee or his successors or the lawful owner of the Assessments is required to enforce, or defend the title to, or possession of, the Lot, or the lien of this instrument, or to prove the Assessments, all the costs and expenses of such proceedings, together with an attorneys' fee, shall be allowed, and paid by Trustors upon demand and, upon failure to do any of these things the Trustee, or the lawful owner of the Assessments, may do any or all of these things, and the amounts paid shall bear interest from the date of payment at the highest legal rate and shall become a part of the Assessments secured hereby. Now, if Trustors shall pay their Assessments when due, and pay any other sums when due, then this trust conveyance shall be of no further force or effect. But if the Assessments or any interest thereon are not paid when due, or if Trustors fail to reimburse the Trustee or lawful owner of

the Assessments for all sums, with interest, so expensed by the Trustee or lawful owner of the Assessments within thirty (30) days from date of such payment, this trust conveyance shall remain in full force and effect, and the Trustee, or his successor in trust, is hereby authorized and empowered, upon giving twenty-one (21) days' notice by three (3) publications in any newspaper, daily or weekly, published or of common circulation in Shelby County, Tennessee, to sell the Lot, and any improvements thereto, at the southwest door of the Courthouse in said County to the highest bidder for cash, at public outcry, free from the equity of redemption, statutory right of redemption, homestead, dower and all other exemptions of every kind, which are hereby expressly waived; and the Trustee, or his successor in trust, is authorized and empowered to execute and deliver a deed to the purchaser. The Association may bid at any sale under this trust conveyance. The Trustee may, at any time after default in the payment of the Assessments, enter and take possession of the Lot, and shall only account for the net rents actually received by him. A foreclosure sale may be adjourned by Trustee and may be reset at a later time and/or date by announcement at the time and place of the originally advertised sale and without any further publication. It is further agreed that, in the event the Trustee fails before selling the Lot to enter and take possession thereof, the purchaser shall be entitled to immediate possession upon the delivery to him by the Trustee of a deed for the Lot. In case of sale hereunder, the proceeds will be applied by the Trustee as follows:

- (1) To the payment of all costs, charges, and expenses of executing this conveyance and enforcing said lien as herein provided; also, reasonable attorneys' fees which arise on account of the execution of this conveyance, or the enforcement of said lien and the expenses of any such litigation.
- (2) To the payment of all the Assessments herein secured, and any sums expensed in the protection of the Lot as herein authorized.
- (3) To the payment of all taxes and other recorded liens which may be unpaid on the Lot.
- (4) The residue, if any, will be paid to Trustors, their order, representatives, or assigns.

In case of the death, absence, resignation, inability or refusal to act of the Trustee, or for any other reason, the Board of Directors of the Association is hereby authorized and empowered to name and appoint a successor to execute this trust by an instrument in writing to be recorded in the Register's Office, and the title herein conveyed to the above-named Trustee shall be vested in said successor. The word Trustors when used herein shall apply to parties both singular and plural.

**Section 8.** Assessments Uniform. Subject to the provisions of Article VI, Section 5 of this Declaration regarding the commencement of assessments, any and all assessments must be fixed at a uniform rate for all Lots. It is the intent of this provision that assessments shall be uniform against any and all Lots upon which the levying of assessments has commenced.

**Section 9.** Special Assessments. In addition to the regular, annual assessments authorized by this Declaration, the Association may, from time to time, levy in any assessment year a special assessment or assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of an improvement for which the Association is specifically responsible, or for such other purposes as the Board may consider necessary, provided that such assessment is approved by the affirmative vote of Members at a duly-called special meeting. A special meeting of the Members shall be duly-called for this purpose, written notice of which shall be sent to all Members as provided in the Bylaws and which notice shall set forth the purpose of the special meeting. A Lot not subject to the regular assessments, pursuant to Article VI, Section 5 of this Declaration, shall also not be subject to special assessments. In other words, until such time as annual assessments commence against a Lot pursuant to Article VI, Section 5 of this Declaration, such Lot shall not be subject to any special assessments.

**Section 10.** Developer Maintenance. Until such time as the Membership holds the First Annual Meeting of the Association in accordance with Article V, Section 2 of the Bylaws: (i) the Developer shall be responsible for the maintenance, repair, and replacement of the Common Areas and any improvements located thereon; (ii) the Developer shall maintain an annual budget for the maintenance, repair, operation, and a reserve for future replacement for such Common Areas and any improvements located thereon; (iii) all Lot Owners are to contribute a *pro rata* amount of such annual budget based upon the number of Lots owned by such Lot Owner over the total number of Lots in Kensington Manor (subsequent to the First Annual Meeting the annual assessments shall be determined and set by the Board of Directors, in accordance with Article II, Section 11(G) of the Bylaws, and such annual assessments shall be collected in accordance with Article VI of this Declaration); and (iv) the Developer may be reimbursed by the Association for any maintenance, repair, and replacement of the Common Area and Common Improvements performed by it. Any and all assessments required by this section shall be deemed and treated as annual assessments pursuant to this Declaration and shall be subject to the provisions of this Article VI.

## ARTICLE VII RESTRICTIVE COVENANTS

**Section 1.** Residential Use. Except as may otherwise be provided herein, all Lots within Kensington Manor shall be known and described as residential lots except for the Common Area, which shall be for Common Area amenities.

**Section 2.** Architectural Standards.

- A. No structure shall be erected on any lot other than one (1) single family residence and additional structures expressly permitted by this Declaration and the Rules and Regulations.
- B. All single family residences shall have a minimum two (2) car garage with carriage style doors. There shall be no front loaded garages. Garages on corner lots to face the secondary street and shall have cedar arbors over the garage door openings.
- C. All single family residences shall have a minimum heated square footage of 2000 exclusive of any open porches or garages.
- D. All roofs on all improvements on a Lot shall be comprised of architectural shingles. Accent roofs may be copper or standing seam metal roofs. Re-roofing as to materials, weight, color and texture must be approved as provided in this Declaration. No awnings on the front or sides of any house will be permitted except as provided in this Declaration.
- E. All exterior colors for initial construction and any subsequent re-painting (or re-coloring, renovation or restoration) must be earth tones or neutral colors.
- F. No aluminum columns or aluminum siding are permitted.
- G. Additional structures may be erected in the rear yard provided such structures are no larger than 20' x 20' and are constructed in the same manner as the primary improvements on the Lot with regard to colors, shingles and paint. The structures are subject to the architectural approval provisions within this Declaration. No metal or plastic buildings are permitted.
- H. No colored exterior lighting is permitted except in the case of holidays.
- I. All single family home exteriors are to be a minimum of seventy percent (70%) brick and a maximum of thirty percent (30%) cementitious siding.
- J. The rear façade of single family homes on reverse frontage Lots must use the same materials and have similar architectural treatment as on the front and side facades.
- K. All single family homes constructed on a Lot must be substantially completed within eighteen (18) months from the date of commencement.
- L. Aluminum windows are not permitted unless approved by the ACC.

- M. For the purposes of this Declaration, the rear yard of a Lot shall mean that portion of a Lot opposite of the public right-of-way, or in the event the Lot is a corner Lot, opposite of the public right-of-way upon which the main entrance of the residence is located.
- N. All mailboxes are to be identical in design and will be selected by the Developer or the ACC.
- O. All driveways behind the drive inlet and sidewalk are to be washed aggregate.
- P. A private light fixture and post is required to be installed in the center of the front yard of each Lot and shall be owned and maintained by the Lot owner. The light fixture and post are to be identical in design and will be selected by the Developer or the ACC.
- Q. All exterior lights are to be constructed and maintained so as to provide illumination for that Lot only and so as not to become a nuisance to the adjacent property owners.

**Section 3. Prohibited Uses and Nuisances.** In order to provide for a congenial occupation of the homes within Kensington Manor and to provide for the protection of the values of the entire development, the use of the residences shall be in accordance with the following provisions:

(a) Each Lot shall be used primarily for residential purposes. Anything in this Declaration to the contrary notwithstanding, no recurring business activity of any kind whatsoever shall be conducted on any Lot (for the purposes of this Declaration, "recurring business activity" does not prohibit telecommuting, but does prohibit increased business traffic to and from the Lot and business activities that constitute a nuisance to the primarily residential use of the Development by the Lot Owners as determined by the Board in its sole and reasonable discretion). All buildings or structures erected upon the Property shall be of new construction, and no buildings or structures shall be moved from other locations onto the Property. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any portion of the Property at any time as a residence, either temporarily or permanently. This provision shall not prohibit builders from placing temporary construction or sales trailers on Lots during the construction of improvements thereon or the sale of such Lot. This provision shall not prohibit builders from placing temporary construction or sales trailers on Lots during the construction of improvements thereon or the sale of such Lot. This provision shall not be construed to prohibit accessory structures permitted by Article VII, Section 2(F) of this Declaration.

(b) No animals, livestock or poultry of any kind shall be raised, bred, or kept on any of the Property except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. All pets shall be confined within homes or fenced areas or restrained by leash at all times. Each Owner shall prevent its pet(s) from soiling walks, paths, and all portions of the Common Area and, if so soiled, shall immediately clean and properly dispose of such waste. For the purposes of this Declaration, "household pets" shall include such traditional animals, such as dogs, cats, birds, rabbits, and fish. No wildlife or domestic variations of farm animals shall be kept in or on the Property except as otherwise provided herein. Notwithstanding any of the foregoing, however, neither this Article VII, Section 3(b), any other provision of this Declaration, nor any rule or regulation of the Association shall be enforced, adopted or amended so as to prohibit or unlawfully restrict any right of the Owner or occupant of a Lot to keep and use a seeing eye dog or other documented assistive or service animal for purposes provided for in any local, state or federal law, statute or ordinance protecting the applicable person's right to do so.

(c) Advertising signs for the purpose of the sale of a single family residence as approved by appropriate governmental authorities are allowed. No "for rent" signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain in Kensington Manor nor shall Kensington Manor be used in any way or for any purposes which may endanger the health or unreasonably disturb the owner of any Lot or any resident thereof. No recurring business activity of any kind whatsoever shall be conducted on any Lot (for the purposes of this Declaration, "recurring business activity" does not prohibit telecommuting, but does prohibit increased business traffic to and from the Lot as determined by the Board

in its sole and reasonable discretion). Nothing in this provision or this Declaration shall be deemed to prohibit a builder from placing "for sale" signs on any Lot owned by such builder or larger directional and marketing signs in Kensington Manor for the purpose of selling and marketing homes. Additionally, nothing in this provision or this Declaration shall be deemed to prohibit a builder from actively soliciting his Lots in Kensington Manor. Nothing in this section shall be deemed to prevent the Developer or a Builder from placing any "for sale" signs on any Lot owned by the Developer or the Builder or on the Common Area.

(d) All equipment (excluding any and all equipment that is permanently affixed to the improvements on the Lot), garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of the drives and street. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. Wheeled garbage buggies, garbage cans, or other refuse shall not be placed at or near any street earlier than 6:00 p.m. the evening prior to garbage collection and said buggies shall be timely removed on the day of collection.

(e) Radio, television transmission receiving towers and/or antennae are not acceptable and will not be approved or allowed. Without prior written approval and the authorization of the ACC, as such term is defined herein in Article IX, Section 1, no exterior satellite dish shall be placed, allowed, or maintained upon any portion of the improvements located upon a Lot in Kensington Manor nor upon any structure situated upon a Lot in Kensington Manor. In the event such approval is granted, the size and location must be approved by the ACC. This section is intended to comply with existing OTARD (Over the Air Reception Device) regulations as such may be amended from time to time. Anything in this Declaration to the contrary notwithstanding, a Lot Owner may install or have installed one (1) satellite dish, of less than one (1) meter in diameter, on the improvements on his or her Lot without any authorization or approval from the ACC provided such satellite dish is installed on the rear of such improvements and is otherwise not readily visible from the right-of-way to the front of such improvements. The placement, erection, and construction of radio receiving and/or transmission towers, feedlines, supporting structures, and similar such antennae (each an "Antenna") shall be prohibited at the Development unless otherwise permissible under with the provisions of the Federal Amateur Radio Act, as such may be enacted, amended, interpreted by courts, and regulated by federal agencies. Any permitted Antenna shall follow generally accepted engineering standards, shall be grounded, and shall comply with the provisions of Article IX of the Declaration regarding architectural approval.

(f) No recreational or commercial vehicles, including but not limited to commercial trucks, boats, boat trailers, house trailers, camping trailers, or similar type items shall be kept on any portion of the Property or any Lot unless within the enclosed garage or behind a wood fence in the rear yard of a Lot. It is strictly prohibited to store or park junk or inoperable automobiles on or about any of said Lots. All motorized vehicles parked at the Property must be licensed and in operating condition. Nothing in this provision shall be deemed to prohibit the use of construction vehicles or trucks during the development of the Property or the construction of any improvements on a Lot.

(g) Grass, weeds, vegetation, and debris on each Lot shall be kept mowed and cleared at regular intervals by the Owner thereof so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines, debris, and plants which die shall be promptly removed from such Lots. No lawn ornaments of any kind will be permitted in yards facing streets or common areas without the written consent of the ACC, defined herein. The Association, at its option and its discretion, may mow and have dead trees and debris removed from such Lots and the Owner of such Lot shall be obligated to reimburse the Association, as appropriate, for the cost of such work should such Owner refuse or neglect to comply with the terms of this paragraph. The provisions of this section shall not apply to any Lot owned by the Developer or by a Builder.

(h) No obnoxious or offensive trade or activity shall be carried on upon any Lot in Kensington Manor nor shall anything be done thereon which may be or become an annoyance or nuisance to other Lot Owners within Kensington Manor. No sound shall be emitted on any part of a Lot in Kensington Manor which is unreasonably loud or annoying. No odor shall be emitted on any part of the property which is noxious or offensive to others. For the purposes of this Declaration, construction work shall not be deemed a nuisance.

(i) No building material of any kind or character shall be placed or stored upon any of the said Lots until the Owner is ready to commence improvements.

(j) No basketball standards, backboards, goals, or other fixed sports apparatus shall be permitted to be affixed to the front of any houses. Any and all basketball goals shall be located in the rear yard of the Lot.

(k) No wire or chain link fences shall be permitted and no fencing of any type shall extend beyond the buildings lines of the front yards or side yards of corner lots. All fencing must have written approval from the ACC and be permitted by the appropriate governmental authority. If any approved fence is located on a property line between two Lots, it shall be maintained and repaired jointly by the owners of both Lots. No fences, hedges, pillars, or exterior walls shall be erected or maintained in the Property except such as are installed in accordance with the initial construction of the dwellings located thereon or as approved by the Board of Directors or their designated representatives. The ACC may promulgate rules and regulations regarding the construction of fences. Anything in this Declaration to the contrary notwithstanding, any and all fences constructed or installed by a Builder are deemed approved and do not otherwise require any approval or consent from the ACC. Any and all fences located on corner Lots (defined as being at the intersection of two public rights-of-way) must be constructed and placed behind any and all building setback lines as designated on any recorded plat of the Property or required by any applicable municipal or governmental code, ordinance, regulation, or law.

(l) All buildings constructed on a Lot shall be no closer to the side property lines of the Lot than is permitted by the appropriate governmental authority.

(m) Clothes lines, temporarily installed basketball goals in the street, and excessive outdoor lighting are prohibited. Solar panels must be approved in advance by the ACC.

(n) There shall be no violation of any rules adopted by the Board of Directors and promulgated amongst the Members in writing.

(o) The Board of Directors of the Association may develop and maintain from time to time a written set of Rules and Regulations governing the day to day use of the Common Area by the Owners thereof. Such Rules and Regulations may be amended by a majority vote of the Board of Directors; however, such Rules and Regulations shall not unreasonably restrict an Owner's use of the Lots governed hereby. The Rules and Regulations shall be provided to all Lot Owners.

(p) Any and all covenants included on the Plats are hereby incorporated herein and are enforceable by the Association by and through its Board of Directors.

(q) No above ground swimming pools shall be allowed in Kensington Manor. The construction of any in ground swimming pool shall be subject to the provisions of Article IX of this Declaration.

(r) Stone, gravel, and artificial turf yards and/or landscape beds are strictly prohibited within the front yards of Lots within Kensington Manor but may be permitted in the rear yard provided that they are

adequately screened from view, as determined by the ACC in its sole and absolute discretion, from any public right-of-way by fencing and/or evergreen shrubs.

(s) No window mounted air conditioning or heating units shall be permanently allowed, permitted, or installed on any improvements within Kensington Manor.

(t) The Developer reserves unto itself, during the Developer Control Period, the right to approve additional and separate restrictions at the time of sale or any time during the Developer Control Period thereafter of any of the Lots, which restrictions may differ from Lot to Lot. This right shall not transfer to the Association nor any of its Members upon the termination of the Developer Control Period.

### **ARTICLE VIII** **INSURANCE**

The Association and each Lot Owner agree that (i) the insurance on the improvements on the Lots, including interior portions thereof, is the responsibility of the respective Lot Owners, and (ii) the Common Area shall be insured against risks as determined by the Association, including fire and extended coverage, in the amount of full insurable value. Public liability insurance shall also be maintained on the Common Area and shall be a common expense. Said insurance will be maintained by the Association for the use and benefit of the Lot Owners and absolute liability shall not be imposed on Lot Owners for damage on the Common Area. The premiums for any coverage regarding individual Lots and improvements thereon shall be an expense of individual Lot Owners. If it can be obtained, the Association shall maintain directors' and officers' liability coverage insurance. During the Developer Control Period, the Association shall insure the Developer in such amounts and with such coverages as deemed appropriate by the Developer in its sole and absolute discretion.

By virtue of taking title to a Lot subject to the terms of the Declaration, each Lot Owner covenants and agrees with all other Lot Owners and with the Association that each individual Lot Owner may carry blanket all-risk casualty insurance on the Lot and structures constructed thereon for the full replacement cost thereof. In the event of damage or destruction by fire or other casualty, the Lot Owner shall, with the concurrence of the mortgagee, if any, upon receipt of any insurance proceeds, construct to repair or rebuild such damage or destroyed portions of the improvements in a workmanlike manner in conformance with the original plans and specifications of the building (including landscaping). In the event the Lot Owner refuses or fails to so repair or rebuild any and all such damage to his improvements within (30) days, the Association, by and through its Board of Directors, is hereby authorized by such Lot Owner, upon written notice, to repair and rebuild the improvements in a good and workmanlike manner in conformity with the original plans and specifications. The Lot Owner shall then repay the Association in the amount expended for such repairs, including any and all costs, expenses, attorney's fee, and reasonable interest related thereto, and the Association will have a lien securing the payment of the same identical to that provided in Article VI, above, securing the payment of said sums expended and subject to the power of sale and foreclosure as set forth in said article.

### **ARTICLE IX** **ARCHITECTURAL CONTROL**

**Section 1.** Architectural Control Committee (ACC). An Architectural Control Committee (the "ACC") is hereby established. The Developer shall be the sole member of the initial ACC. The Developer shall have the sole and absolute right to name and control the ACC during the Developer Control Period. Upon termination of the Developer Control Period, control of the ACC shall be handed over to the Association and the Board of Directors shall name the members of the ACC. In the event the Developer turns over control of the Association prior to the termination of the Developer Control Period, then the Developer, in its sole discretion may retain control of the ACC until the termination of the Developer

Control Period. The ACC, upon turnover of the Association, shall be composed of three (3) individuals (at least a majority of whom must be Members and one of whom shall be a Director) once control of the ACC is turned over to the Association). A Director may also serve on the ACC. A non-Member professional, such as an architect or an engineer, may serve on the ACC.

The affirmative vote of a majority of the membership of the ACC shall be required to adopt or promulgate any rule or regulation, or to make any findings, determinations, ruling or order, or to issue any permanent authorization or approval pursuant to directives or authorizations contained herein. The Board, in its sole discretion, may override any decision of the ACC.

**Section 2.** Approvals Necessary, Rules of Committee and Remedies for Violations. No structure of any kind or nature or any fence or barrier shall be commenced, erected, placed, moved onto, or permitted to remain on any of the Lots within Kensington Manor nor shall any existing structure, fence, or barrier upon any Lots be altered in any way which changes the exterior appearance (which includes but is not limited to changes in paint color and re-roofing) thereof, nor shall there be any additions, attachments, or deletions to improvements, nor shall there be any changes in landscaping, without the written consent of the ACC; nor shall any new use be commenced on any Lot unless plans and specifications (including a description of any proposed new use) shall have been submitted to and approved in writing by the ACC. Such plans and specifications (the "Plans") shall be in such form and shall contain such information as may be required by the ACC, but in any event shall include:

- A site plan of the Lot showing the elevation, nature, exterior, color scheme, kind, shape, height, materials, and location with respect to said Lot (including proposed front, rear and side setback) of all structures, fences or barriers, and location of all parking spaces and driveways on the Lot; and
- The ACC may require: landscape and grading plans of the particular Lot.

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

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

If any structure, fence, or barrier shall be altered, erected, placed, or maintained (including exterior maintenance) upon any Lot or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the ACC as required herein, such alteration, erection, maintenance, or use shall be deemed to have been undertaken in violation of the restrictions herein and without the



approval required herein, and upon written notice from the ACC any such structure, fence, or barrier so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or re-altered, and such use shall be terminated so as to extinguish such violation.

If thirty (30) days after the notice of such violation, the Owner or Owners of the Lot upon which such violation exists shall not have taken reasonable steps towards the removal or termination of the same, the Association, upon obtaining a judicial order, by its officers or directors shall have the right through its agents and employees to enter upon such Lot and to take such steps as may be necessary to extinguish such violation, and the costs thereof, including attorney's fees and the expenses of enforcement, shall be a binding personal obligation of such Owner as well as a lien upon the Lot in question upon the recording of such with the Register's Office. The Association shall have the right to bring any action in law or equity, including but not limited to seeking injunctive relief, to extinguish any such violation of this Declaration.

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

Any agent of the ACC may, at reasonable times, enter upon and inspect any Lot and any improvements thereon for the purposes of ascertaining whether the exterior maintenance of such Lot and the maintenance, construction, or alteration of structure thereon are in compliance with the provisions of these restrictions, and no such person shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

The Association or any Owner of any Lot contained within Kensington Manor shall have the right to enforce by any proceeding at law or in equity all conditions, restrictions, covenants, reservations, and easements herein or hereinafter contained or otherwise contained in any deed to any Lot in Kensington Manor. Failure by any owner to enforce any such proceeding shall in no event be deemed a waiver of the right to do so thereafter.

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

Anything to the contrary herein notwithstanding, the Developer and/or a builder (defined as an entity which owns a Lot primarily with the intent to improve such Lot for sale to a third party) may comply with the provisions of this Article IX, Section 2 by providing the ACC with its standard elevations, colors and such building materials (unless otherwise waived by the ACC), and floor plans (collectively, the "Materials") for review and approval. The ACC shall review the Materials and approve or disapprove of the Materials in writing as otherwise provided herein. Individual Plans or site plans for each Lot shall not be necessary for builders. Provided the builder's Materials have been approved by the ACC, then the builder may opt to use any such Materials, in any combination, on any Lot owned by such builder within Kensington Manor without additional approval required from the ACC, provided such combination otherwise complies with the terms and provisions of this Declaration. Once the ACC has approved a builder's Materials in writing, such approval cannot be withdrawn. The failure of the ACC to act within the thirty (30) day review period provided in this Article shall be deemed the written approval of such submission.

Anything to the contrary herein notwithstanding, the Developer and/or a builder need not submit the construction and installation of an initial fence on a Lot to the architectural review process outlined herein, provided such fence comply with any and all governmental provisions applicable to the Property, all zoning regulations, and this Declaration. In addition, any Lot Owner may install a six foot (6') tall wooden fence without ACC approval provided such fence: (i) is constructed of cedar wood planks (dog-

eared; 2x6 treated wood caps are permitted, but not required), treated posts, and treated cross members , with the finished side facing outward from the lot, if visible from the public right-of-way, and (ii) is constructed such that it is located behind the front façade of the home, closest to the fence section. Under no circumstances, inclusive of corner lots, may a fence be constructed closer to the street than the front yard setback.

**Section 3.** Architectural Control Committee's Duty. The primary duty of the ACC shall be to examine and approve or disapprove all plans, including site plans, for construction of improvements, except the construction of the initial single family residences, on Lots within Kensington Manor in accordance with the provisions of this Declaration.

**Section 4.** Exculpatory Provision. Neither the ACC, the Association, nor any agent thereof, shall be responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with the foregoing provision, nor for any structural or other defects in any work done according to such Plans and specifications. Neither the ACC, the Association, nor any agent thereof, shall be responsible in any way should any Plans approved by the ACC fail to substantially comply with the terms and provisions of this Declaration.

#### ARTICLE X AMENDMENTS

**Section 1.** Amendments. Amendments to this Declaration may be effected as follows:

**Section 2.** By The Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either (i) by a majority of the Board of Directors of the Association or (ii) by not less than thirty-five percent (35%) of the Members of the Association. Except as elsewhere provided, approvals of proposed amendments must be by the affirmative vote of Lot Owners holding two-thirds (2/3) of all Owner votes. No amendment to this Declaration may be made during the Developer Control Period without the written consent of the Developer.

**Section 3.** By The Developer. The Developer, during the Developer Control Period, may amend this Declaration, the Charter, or the Bylaws of the Association unilaterally in whole or in part in order to conform this Declaration to the requirements of any applicable governmental agency; to conform this Declaration to the requirements any mortgage lender; or to ensure, in its sole and absolute discretion, the reasonable development of the Property.

**Section 4.** Execution and Recording. In order to be effective an amendment must be (i) executed by the President and Secretary of the Association, with evidence authorizing such execution placed with the minutes of the Association and (ii) recorded in the Register's Office.

**Section 5.** Amendment to Add Additional Land. As provided in Article I, Section 3 of this Declaration, in addition to the provisions provided in Article X, Section 3, the Developer, during the Developer Control Period, may amend this Declaration to add additional property to the Property, by changing the legal description of the Property. In such event, the Developer shall record an amendment in the Register's Office executed by the Developer and the Association, as provided in Article X, Section 4, amending **EXHIBIT "B"** attached hereto and substituting a new **EXHIBIT "B"**. Such an amendment may add additional Common Area and Lots to Kensington Manor and the Association. Any and all such Additional Property so added to this Declaration shall be bound by the terms hereof as if it were originally included in and encumbered by this Declaration, as provided in Article I, Section 3.

**ARTICLE XI**  
**PROHIBITION AGAINST LEASING**

(i) Notwithstanding anything to the contrary herein stated, any person (including any individual or business entity permitted by Tennessee law to hold title to real estate) who becomes an Owner of a Lot at Kensington Manor after the date of recordation of this Declaration is prohibited from leasing, or entering into a lease-purchase or similar contract for, that Lot or any portion thereof. It shall be a violation of this Article subject to written waiver by the Board of Directors, in their sole and absolute discretion, if an Owner, or if more than one Owner, at least one of the Owners (including an Owner who may own less than 100% of the ownership interest in any Lot) shall not occupy the Lot on a permanent basis. It shall also be a violation of this Article, subject to written waiver of the Board of Directors in their sole and absolute discretion, if any person lives in any Lot without paying any rental or lease payment unless an Owner also occupies such Lot. For purposes of the preceding sentence, it shall not be a violation of this Article if, while an Owner is temporarily absent from the Lot, a person who is not an Owner of that Lot temporarily resides in such Lot. A person who "temporarily resides" in the Lot without violating this Article is meant to include persons commonly known as house sitters or other persons who stay in the Lot while the Owner is absent for the purpose of providing security, or caring for pets, or the like which belong to the Owner, and remain in the Lot while the Owner is absent. Such "Temporary Residence" by a person not an Owner shall not exceed a total of six weeks in any one calendar year.

(ii) Notwithstanding the foregoing, in the event that an Owner, due to medical or health reasons, or for any other good cause, desires to lease a Lot or any part thereof, or if an Owner wishes to extend any period of Temporary Residence as described in the preceding paragraph for a period longer than six weeks, then such Owner shall make application to the Board of Directors which may, by a majority vote, grant to such Owner an exception to the prohibition against leasing set forth in this Article upon such conditions and under such circumstances as the Board of Directors, in its sole and absolute discretion, may deem proper or necessary. The Board shall provide written approval or disapproval to any Owner who makes application for an exception to the prohibition against leasing under this Article.

(iii) It is the express intent of this Article that the prohibition against leasing shall apply only to persons who obtain title to their Lot subsequent to the date of recordation of this Declaration. Lot Owners who acquired title to their Lot prior to the date of recordation of this Declaration or who are otherwise exempted from the prohibitions of this Declaration shall be permitted to lease such Lot acquired prior to the date of recordation of this Declaration except as expressly provided in Article XI(vi) below.

(iv) Further, the prohibition contained herein shall not apply to institutional holders of a mortgage or deed of trust who obtain title to a Lot pursuant to foreclosure of such mortgage or deed of trust, as a result of a judicial sale, or any proceeding in lieu of foreclosure (the provisions of this prohibition against leasing shall apply to the holders of a mortgage or deed of trust, involved in seller financing or a similar transaction, who obtain title to a Lot pursuant to foreclosure of such mortgage or deed of trust, as a result of a judicial sale, or any proceeding in lieu of foreclosure). The prohibition against leasing herein contained shall also not apply to: a) individual persons who acquire title to a Lot by devise, inheritance, or operation of law from an Owner who is an Owner on the date of recordation of this Declaration in the Register's Office of Shelby County, Tennessee; b) to any person who is an Owner on the date of recordation of this Declaration and who conveys their Lot to a living trust the beneficiaries of which are the Owners or their spouse, child, parent or sibling; or c) to any spouse, child, parent, or sibling of an Owner who acquires title by *inter vivos* conveyance from an Owner who is an Owner on the date of recordation of this Declaration. In the event of any inconsistencies or contradictory language between this Article and any other provisions of the CCRs, then the provisions of this Article shall control.

(v) If a Lot is owned by a limited liability entity (the "Limited Liability Entity") including, but not limited to, a corporation, whether for profit or not for profit, a limited liability company, limited liability partnership, professional corporation or professional limited liability company, it shall be a violation of this Article, subject to written waiver by the Board of Directors, if the Lot is not occupied on a permanent basis by one of the following: an officer, director, shareholder, member or partner of such Limited Liability Entity.

(vi) The foregoing notwithstanding, all Lot Owners, including those who took title prior to the recordation of this Declaration, are prohibited from leasing all or any portion of their Lot for any period of less than thirty (30) days (the "Temporary Leasing Prohibition"). It is the intent of this paragraph to prohibit transient or short term rentals under arrangements such as a home exchange or time share, and also under such programs commonly known as "vacation rental by owner" (VRBO), Airbnb, and the like. Notwithstanding the provisions of this Article XI(vi), any Lot Owner may apply for a waiver under Article XI(ii) to the Temporary Leasing Prohibition of this Article XI(vi).

(vii) In the event of any violation of this Article by an Owner, the Association shall be entitled to any remedy available at law or in equity from such Owner including, but not limited to, damages and injunctive relief together with any attorney's fees incurred by the Association and all costs and expenses of whatever type, kind or nature expended by the Association to enforce any of the provisions of this Article, whether such enforcement is by way of non-judicial or judicial action.

## ARTICLE XII MISCELLANEOUS

**Section 1.** Choice of Law. This Declaration has been executed in the State of Tennessee, and shall be construed, performed and enforced in accordance with the laws of the State of Tennessee.

**Section 2.** Severability. In the event any provision of this Declaration shall be determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this Declaration shall nonetheless remain in full force and effect so long as the substantial benefits of the parties to be derived from this Declaration and the performance hereof are not adversely affected by the elimination of such provision(s).

**Section 3.** Entire Agreement. This Declaration constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, writings, and agreements.

**Section 4.** Binding Effect. The terms of this Declaration and the respective covenants, provisions, terms, conditions, and agreements herein contained shall be binding upon the parties hereto, their heirs, devisees, successors, and assigns.

**Section 5.** Term. The covenants, conditions, and restrictions of this Declaration shall run with and bind Kensington Manor for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be terminated at any point during their term or any extension thereof by a written document executed and acknowledged by eighty percent (80%) of all the Members.

**Section 6.** Enforcement. The Association shall have the right to enforce the covenants and restrictions contained in this Declaration or applicable to Kensington Manor by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violations, to require specific performance, and/or to recover damages, and against the land to enforce any lien

created by these covenants. Failure by the Association or any Member to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement, including court costs, expenses, and attorney's fees, by the Association or Member shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

**Section 7.** Cost and Attorney's Fees. In any proceeding (i) arising because of an alleged failure of a Member to comply with the requirements of this Declaration, the Charter, the Bylaws, the Rules and Regulations adopted pursuant to this Declaration, all as such may be amended from time to time, or any provisions of the Tennessee Non-Profit Corporation Act, Tenn. Code § 48-51-101, *et seq.* (the "Act") or (ii) requiring the Association to defend any actions taken by it in accordance with the terms and provisions of this Declaration, the Charter, the Bylaws, the Rules and Regulations adopted pursuant to this Declaration, or the Act, all as such may be amended from time to time, the Association shall be entitled to recover the costs of the proceeding and its reasonable attorneys' fees (including appellate attorneys' fees).

**Section 8.** No Waiver of Rights. The failure of the Association or any Member to enforce any covenant, restriction, or other provision of this Declaration, the Charter, or the Rules and Regulations adopted pursuant to this Declaration, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

**Section 9.** Assignment of Developer's Rights. During the Developer Control Period, the Developer may assign its interest, rights, and authority under this Declaration and the Bylaws to another party (the "Assignee") by a written instrument to be recorded in the Register's Office. In the event of any such assignment, this Declaration shall be binding upon and inure to the benefit of the Assignee. For the purposes of this section, the interest, rights, and authority of the Developer include, but are not limited to, any and all control, management, and amendment powers. In the event the Developer assigns its rights hereunder to a subsequent party, the Developer is thereby released and discharged from the Declaration and shall have no liability hereunder. Any authority, power, right, or other such interest vested in the Developer pursuant to this Declaration shall be referred to and known as, collectively, the "Developer Powers". A Developer shall only exercise the Developer Powers for so long as such Developer owns a Lot or other portion of the Property at the Development. When a Developer no longer owns a Lot or other portion of the Property at the Development, then such Developer shall no longer exercise any Developer Powers and shall no longer be deemed a Developer. For the purposes of this section a bank or other such financial institution cannot be a Developer.

[THE FOLLOWING PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

**THE DEVELOPER:**

REGENCY HOMEBUILDERS, LLC,  
a Tennessee limited liability company

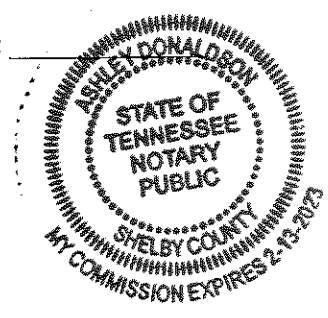
By: \_\_\_\_\_  
Name: Sean Carlson  
Title: President

STATE OF TENNESSEE  
SHELBY COUNTY

Before me, the undersigned, of the state and county mentioned, personally appeared Sean Carlson, President of Regency Homebuilders, LLC, a Tennessee limited liability company, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be President of Regency Homebuilders, LLC, a Tennessee limited liability company, the within named bargainor, a limited liability company, and that she/he as such President, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the limited liability company as its President.

WITNESS MY HAND AND OFFICIAL SEAL at office, this 2nd day of May, 2019.

Ashley Donaldson  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_



**JOINDER BY LENDER**

The undersigned Renasant Bank ("Lender") does hereby join in this Declaration to consent to the imposition of the covenants, conditions, and restrictions imposed by this Declaration upon the Property described herein, but only upon the express condition that nothing herein shall affect the priority of the Lender's security interest in the Property.

In witness whereof, the Lender has caused this Declaration to be executed this 8 day of October, 2019.

Renasant Bank,  
a Mississippi banking corporation

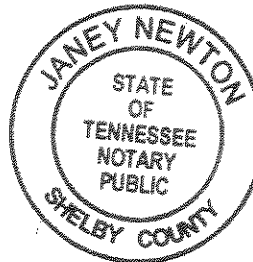
By: Maria Garrett  
Name: Maria Garrett  
Title: Sr. Managing Director

STATE OF TN  
COUNTY OF Shelby

Before me, the undersigned, of the state and county mentioned, personally appeared Maria Garrett, Sr. Mng. Director of Renasant Bank, a Mississippi Banking Corp, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be Sr. Mng. Director of Renasant Bank, a Mississippi Banking Corp, the within named bargainer, a Mississippi Banking Corp, and that she/he as such Maria Garrett, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as its Sr. Mng. Director.

WITNESS MY HAND AND OFFICIAL SEAL at office, this 8th day of October, 2019.

[Signature]  
NOTARY PUBLIC  
My Commission Expires: My Comm. Exp. 12-27-2022



**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF THE PROPERTY**



Beginning at an old PK Nail (found) at the intersection of the centerlines of Memphis-Arlington Road and Evergreen Road; thence with the centerline of Evergreen Road North  $05^{\circ} 03' 52''$  East a distance of 1,497.54 feet to a new PK Nail in the south Right-Of-Way line of U.S. Highway No. 70 (60 foot Right-Of-Way); thence with said south line North  $66^{\circ} 31' 27''$  East a distance of 928.86 feet to a new iron rebar; thence South  $11^{\circ} 14' 58''$  East a distance of 404.29 feet to an old iron pin (found), said point being the southwest corner of the Thelma L. Smalley Subdivision (Plat Book 68, Page 3); thence with the south line of said subdivision South  $86^{\circ} 50' 11''$  East a distance of 729.07 feet to an old iron pin (found), said point being the northwest corner of the Jerry Jenkins Subdivision (Plat Book 177, Page 61); thence with the west line of said subdivision South  $02^{\circ} 06' 43''$  West a distance of 1,508.66 feet to an old PK Nail (found) in the centerline of Memphis-Arlington Road; thence with said centerline along a curve to the right having a radius of 353.21 feet and an arc distance of 235.53 feet (chord = 231.19 feet, chord bearing = South  $70^{\circ} 35' 25''$  West); thence continuing with said centerline North  $84^{\circ} 00' 02''$  West a distance of 1,526.26 feet to the Point of Beginning, and containing 2,824,337.4296 square feet or 64.838 acres. All bearings are referenced to the Tennessee State Plane Coordinate System of 1983.

BEING THE SAME PROPERTY CONVEYED BY DEED AT 09065029

**EXHIBIT "B"**  
**THE PLAT OF PHASE 1 OF KENSINGTON MANOR**



Shelby County Tennessee  
*Shelandra Y. Ford*  
Shelby County Register

As evidenced by the instrument number shown below, this document  
has been recorded as a permanent record in the archives of the  
Office of the Shelby County Register.



19034458

04/09/2019 - 02:34 PM

2 PGS

BILL 1855902-19034458

PLAT BOOK : 281

PAGE : 11

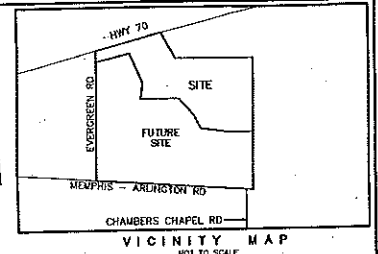
RECORDING FEE	15.00
DP FEE	2.00
TOTAL AMOUNT	17.00

Shelandra Y Ford  
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

**REQUIRED SIDEWALKS**

STREET NAME	S/W WIDTH	SIDE	LOCATION FROM BACK OF CURB
SANFORD SPRINGS RD	5 FT.	BOTH	9.0'
LAWRENCEBURG LANE NORTH	5 FT.	BOTH	9.0'
LAWRENCEBURG LANE EAST	5 FT.	BOTH	9.0'
BRANDON BLUFF LANE	5 FT.	SOUTH / WEST	9.0'

THE REQUIRED SIDEWALKS SHALL BE INSTALLED ACROSS THE FRONTS OF EACH LOT BY THE BUILDING PERMIT HOLDER PRIOR TO USE AND OCCUPANCY OF THE HOUSE. EXISTING SIDEWALKS SHALL BE REPAIRED AS NECESSARY BY THE BUILDING PERMIT HOLDER ACROSS THE LOT FRONTAGE PRIOR TO OCCUPANCY OF THE HOUSE.



**LOT DATA**

LOT	SF	ACRES	FTE
1	12871	0.30	300
2	13097	0.30	301
3	10087	0.25	302
4	10954	0.25	303
5	11502	0.26	304
6	15507	0.39	305
7	16938	0.39	306
8	12629	0.29	308
9	12629	0.29	309
10	12629	0.29	310
11	14195	0.33	309
12	17523	0.40	306
13	25628	0.59	304
14	36597	0.84	302
15	18766	0.43	308
16	17079	0.41	310
17	12946	0.30	312
18	12283	0.28	312
19	12460	0.29	306
20	12873	0.30	303
21	13484	0.31	308
22	10800	0.25	309
23	10800	0.25	304
24	11332	0.26	300

**C.O.S. DATA**

LOT	SQ. FT.	ACRES
C.O.S. 1	8527	0.13
C.O.S. 2	29709	0.68
C.O.S. 3	63619	1.45
C.O.S. 4	5527	0.127
D.T. AREA 2	28215	0.60
CF 1	68043	1.56

DELTA AREA 1 - 0.78 (AC) - 33929 (SQ. FT.) INCLUDED IN AREA SALES

**NOTES:**  
 THERE IS A 5' UTILITY EASEMENT ALONG THE REAR AND SIDE LOT LINES OF ALL LOTS, EXCEPT WHERE THERE IS A DRAINAGE OR SANITARY SEWER EASEMENT.  
 ALL DRAINAGE EASEMENTS ARE PUBLIC, EXCEPT WHERE NOTED AS PRIVATE.

**CURVE TABLE**

LINE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	25.3523	200.00	82.59	47.35	92.15	N10°09'22"W
C2	42.4952	350.00	288.07	151.57	278.18	N20°15'07"W
C3	42.4952	350.00	238.70	126.66	233.37	N20°46'40"W
C4	46.5838	125.00	102.42	54.28	86.57	S72°31'38"W
C5	46.5838	125.00	102.42	54.28	86.57	S72°31'38"W
C6	44.2827	250.00	194.05	102.21	189.22	S90°02'31"E
C7	44.2827	250.00	194.05	102.21	189.22	S90°02'31"E
C8	97.0306	225.00	357.58	229.17	321.11	N42°21'44"W
C9	57.1243	180.00	224.67	122.70	215.45	S34°30'20"W
C10	15.9244	180.00	53.03	26.71	52.83	S54°48'19"W
C11	54.4116	150.00	143.30	72.63	137.92	N07°53'37"E
C12	54.4116	150.00	143.30	72.63	137.92	N07°53'37"E
C13	307.0508	250.00	132.00	67.58	130.47	S10°20'57"W
C14	136.4201	60.00	143.18	151.16	111.53	S60°41'27"E
C15	33.5238	200.00	327.68	214.01	292.25	N5°38'02"E
C16	100.3748	67.50	118.55	81.33	103.89	S28°08'44"E
C17	61.0152	135.36	144.18	78.78	137.46	S22°41'08"W
C18	32.4110	150.00	64.40	43.39	83.28	S67°04'52"W
C19	14.2311	150.00	37.76	18.88	37.66	N64°21'34"E
C20	32.4219	225.00	128.43	66.02	126.70	N70°46'40"E
C21	34.3815	225.00	135.89	70.09	133.83	S72°45'44"W
C22	6.3597	225.00	29.63	12.63	25.61	N20°10'35"W
C23	20.0225	225.00	77.82	39.31	77.43	N08°51'24"W
C24	60.0000	25.00	39.27	25.00	35.36	N41°50'11"W
C25	28.3873	177.50	82.53	42.02	81.79	S10°09'22"E
C26	90.0000	25.00	39.27	25.00	35.36	S48°09'49"W
C27	90.0000	25.00	39.27	25.00	35.36	S41°50'11"E
C28	90.0000	25.00	39.27	25.00	35.36	S41°50'11"E
C29	90.0000	25.00	39.27	25.00	35.36	S41°50'11"E
C30	932.41	272.50	45.39	22.75	45.34	N20°03'50"W
C31	15.2426	272.50	73.28	36.88	73.06	N89°35'17"W
C32	15.2426	272.50	73.28	36.88	73.06	N89°35'17"W
C33	15.2426	272.50	73.28	36.88	73.06	N89°35'17"W
C34	21.0158	272.50	99.97	49.97	99.97	N34°40'25"W
C35	12.9477	272.50	57.85	29.03	57.74	N03°38'11"W
C36	30.0000	25.00	39.27	25.00	35.36	S42°53'17"E
C37	11.0841	247.50	48.14	24.15	48.07	S21°16'57"E
C38	16.1630	247.50	70.30	35.33	70.67	S08°19'22"E
C39	16.8254	247.50	72.82	36.73	72.66	S20°13'09"E
C40	16.8254	247.50	72.82	36.73	72.66	S20°13'09"E
C41	17.7705	247.50	75.35	37.89	75.09	S17°38'42"E
C42	12.2502	247.50	53.64	26.92	53.53	S03°02'42"E

**GENERAL NOTES:**

- BEARINGS SHOWN HEREON ARE BASED ON THE TENNESSEE COORDINATE SYSTEM OF 1983
- THE PERMETER BOUNDARY INFORMATION WAS FURNISHED BY LOUDENBECK SURVEYING, LLC.
- THIS PROPERTY IS CURRENTLY ZONED AC.
- MINIMUM REQUIRED SETBACK LINES:  
 FRONT YARD - 25'  
 SIDE YARD - 5-7'  
 REAR YARD - 25'
- MAXIMUM BUILDING HEIGHT = 35'
- MAXIMUM LOT COVERAGE = 40% (TOTAL FLOORSPACE OF PRIMARY STRUCTURE INCLUDING GARAGE / TOTAL LOT)
- SUBJECT PROPERTY BEING PARCEL ID. NO.'S L0151 00009 AND L0411 00205 AS SHOWN ON SHELBY COUNTY PROPERTY MAP NO. 76.
- BY SCALED MAP LOCATION AND GRAPHIC PLACING ONLY, THIS PROPERTY LIES WITHIN FLOOD ZONE "X", AS DESIGNATED ON CURRENT FEDERAL EMERGENCY MANAGEMENT AGENCY MAP NO. 47151C0215 WITH AN EFFECTIVE DATE OF FEBRUARY 6, 2011, WHICH MAKES UP A PART OF THE NATIONAL FLOOD INSURANCE ADMINISTRATION REGIONAL COMMUNITY NO. 47200, PANEL NO. 0215, SUFFIX "E", WHICH IS THE CURRENT NATIONAL FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PREMISES IS SITUATED. SAID MAP DENOTES ZONE "X" UNDER "OTHER AREAS" AS DETERMINED TO BE OUTSIDE THE 0.2% CHANCE FLOOD PLAIN.
- ALL COMMON OPEN SPACES AND DETENTION AREAS SHALL BE OWNED AND MAINTAINED BY THE HOMEOWNER'S ASSOCIATION. CONSERVATION EASEMENTS SHALL BE OWNED AND MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
- PROPOSED CHAMBERS CHAPEL ROAD HAS A 65' RIGHT-OF-WAY. THIS ENTIRE R.O.W. IS TO BE DEDICATED TO THE CITY OF LAKELAND. THE ROADWAY WILL BE IMPROVED AS A SCENIC CORRIDOR/URBAN FROM THE EASTERN PORTION OF THE SITE. THE ROADWAY WILL BE IMPROVED AS A SCENIC CORRIDOR/URBAN FROM THE EASTERN PORTION OF THE SITE. THE ROADWAY WILL BE IMPROVED AS A SCENIC CORRIDOR/URBAN FROM THE EASTERN PORTION OF THE SITE. TWO LANES PER THIS PLAN WILL BE CONSTRUCTED IN EACH PHASE. PROVIDING ACCESS FROM THE EASTERN INTERCHANGING WATER ENTRANCE TO MEMPHIS IN ITS RESPECTIVE PHASES, PROVIDING ACCESS FROM THE EASTERN INTERCHANGING WATER ENTRANCE TO MEMPHIS IN ITS RESPECTIVE PHASES, PROVIDING ACCESS FROM THE EASTERN INTERCHANGING WATER ENTRANCE TO MEMPHIS IN ITS RESPECTIVE PHASES. SUCH MAINTENANCE SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER AND/OR OWNER'S ASSOCIATION. SUCH MAINTENANCE SHALL BE PERFORMED SO TO ENSURE THAT THE SYSTEM OPERATES IN ACCORDANCE WITH THE APPROVED PLAN LOCATED IN THE CITY ENGINEER'S OFFICE. SUCH MAINTENANCE SHALL INCLUDE, BUT NOT BE LIMITED TO, REMOVAL OF SEDIMENTATION, FALLEN OBJECTS, DEBRIS AND TRASH, UPGRADE, OUTLET CLEANING, AND REPAIR OF DRAINAGE STRUCTURES.
- THE AREAS DENOTED BY "RESERVED FOR STORM WATER DETENTION" SHALL NOT BE USED AS A BUILDING SITE OF ANY KIND WITHOUT FIRST OBTAINING WRITTEN PERMISSION FROM THE CITY ENGINEER. THE STORMWATER DETENTION SYSTEM LOCATED IN THESE AREAS, EXCEPT FOR THOSE PARTS LOCATED IN A PUBLIC DRAINAGE EASEMENT, SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER AND/OR OWNER'S ASSOCIATION. SUCH MAINTENANCE SHALL BE PERFORMED SO TO ENSURE THAT THE SYSTEM OPERATES IN ACCORDANCE WITH THE APPROVED PLAN LOCATED IN THE CITY ENGINEER'S OFFICE. SUCH MAINTENANCE SHALL INCLUDE, BUT NOT BE LIMITED TO, REMOVAL OF SEDIMENTATION, FALLEN OBJECTS, DEBRIS AND TRASH, UPGRADE, OUTLET CLEANING, AND REPAIR OF DRAINAGE STRUCTURES.

B.M. - POINT BEING WITHIN THE NE QUADRANT OF AN EXISTING SANITARY SEWER MANHOLE RIM, LOCATED 304' NORTH OF US HWY 70 ALONG THE CENTERLINE OF SAFFRON SPRINGS DRIVE. ELEVATION: 281.37

**KENSINGTON MANOR P.D. PHASE 1**  
 CASE NO. #  
 FINAL PLAT  
 WARD LOT, BLOCK 51, PARCEL 00000  
 LANDLAD, TN  
 100 YEAR FLOOD ELEVATION: NONE  
 THIS PROPERTY IS NOT LOCATED IN THE 100-YEAR FLOOD PLAIN FROM 47151C0215 F. ZONE "X", EFFECTIVE DATE: SEPTEMBER 28, 2007  
 DEVELOPER: REGENCY HOMEBUILDERS, LLC  
 ENGINEER: W. H. PORTER CONSULTANTS, PLLC  
 6055 PRIMACY PARKWAY, SUITE 115  
 MEMPHIS, TENNESSEE 38119  
 (901) 363-9453  
 SCALE: 1" = 100' DATE: NOVEMBER 5, 2018  
 24 LOTS ACREAGE: 17.87 AC  
 ZONED: AC  
 1 OF 2

**CERTIFICATE OF PLANNING COMMISSION RECOMMENDATION OF APPROVAL OF THE PRELIMINARY PLAT**

I, Clara Kuylen do hereby certify that the City of Lakeland Planning Commission has approved this as the Preliminary Plat. The signing of this certificate in no way indicates approval or acceptance of the Final Plat.

Date: 2/6/2019

Clara Kuylen  
MPC Secretary

**CERTIFICATE OF CITY ENGINEER**

This Preliminary Plat is inspected and approved by the City Engineer this 6th day of February, 2019.

Clara Kuylen  
City Engineer

**CERTIFICATE OF SURVEY**

I, William D. Porter do hereby certify that I am a Registered Land Surveyor, and that I have surveyed the lands embraced within the plot or map designated as Kensington Manor P.D., a subdivision all lying within the corporate limits of the City of Lakeland, Tennessee; said plat or map is a true and correct plat or map of the lands embraced therein, showing the subdivision thereof in accordance with the Subdivision Regulations of the City of Lakeland, Tennessee; I further certify that the survey of the lands embraced within the said plat or map has been correctly monumented in accordance with the Subdivision Regulations of the City of Lakeland, Tennessee.

In witness whereof, I, the said William D. Porter, Land Surveyor hereunto set out my hand and seal this 6th day of February, 2019.



**CERTIFICATE OF ENGINEER**

I, Henry L. Porter, a Professional Engineer, do hereby certify that the design of public and private improvements provided for in these Secondary Detailed Development Plans are in accordance with acceptable engineering practices, the Tennessee Department of Environment and Conservation and the City of Lakeland subdivision regulations.

In witness whereof, I, the said Henry L. Porter, Professional Engineer, hereunto set out hand and seal this 6th day of February, 2019.

Tennessee Registration No. 113405



**CERTIFICATE OF OWNER(S) AND DEDICATION**

The undersigned, Regency Homebuilders, LLC, hereby certify that they are the owners of the foregoing plat and in with the free consent and in accordance with the desires of the above named owners, proprietors, do hereby grant to the City of Lakeland and private utility companies all utility easements and public streets as shown herein for the purposes of operation, construction and maintenance of these improvements, as needed for the proper development and maintenance of said subdivision. The following streets shall be dedicated to the City of Lakeland's Hwy 70 (24' dedication) and a portion of Chambers Chapel Rd (85' dedication) as shown hereon. The name of the Subdivision shall be Kensington Manor P.D.

Regency Homebuilders, LLC  
3420 S Highway 70  
Germantown, TN 38159

[Signature]

**NOTARY'S CERTIFICATE**

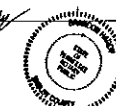
State of Tennessee  
County of Shelby

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared Clara Kuylen, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the president of Regency Homebuilders, LLC, and he such owner executed the foregoing instrument for the purpose therein contained by signing his name as owner.

In witness whereof, I have hereunto set my hand and affixed my seal this 6th day of February, 2019.

My Commission Expires September 4, 2019

Michael Harty



**CERTIFICATE OF MORTGAGEE AND DEDICATION**

We, the Mortgagee, Redevelopment Bank do hereby freely consent to the subdivision of this property in accordance with the Plat as shown herein; grant the following streets and easements, and common open spaces on this plot to the appropriate agencies as outlined in the documents accompanying this Plat and approved of by the Municipal Planning Commission of Lakeland, Tennessee for the purposes of operation, construction and maintenance of these improvements, as needed for the proper development and maintenance of said subdivision.

Date: 2-6-2019

Michael Harty

**NOTARY'S CERTIFICATE**

State of Tennessee  
County of Shelby

Before me, the undersigned, a notary public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared Michael Harty, with whom I am personally acquainted, and he as such representative executed the foregoing instrument for the purpose therein contained by signing his name as representative of the mortgagee.

In witness whereof, I have hereunto set my hand and affixed my seal this 6th day of February, 2019.

My Commission Expires 12-27-2022

[Signature]

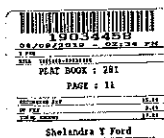


CASE No. 1  
FINAL PLAT  
WARD 101, BLOCK 54, PARCEL 00009  
**KENSINGTON MANOR P.D.**  
PHASE 1  
LAKELAND, TN

100 YEAR FLOOD ELEVATION: NONE  
THIS PROPERTY IS NOT LOCATED IN THE 100-YEAR FLOOD PLAIN  
FRM 47157C0215 F, ZONE "X", EFFECTIVE DATE: SEPTEMBER 28, 2007

DEVELOPER: **REGENCY HOMEBUILDERS, LLC**  
ENGINEER: **W. H. PORTER CONSULTANTS, PLLC**  
6555 PRIMACY PARKWAY, SUITE 115  
MEMPHIS, TENNESSEE 38119  
(901) 363-9453

SCALE: 1" = 100' DATE: NOVEMBER 5, 2018  
24 LOTS ACREAGE: 17.87 AC  
ZONED: AG



**EXHIBIT "C"**  
**CHARTER OF THE ASSOCIATION**

**CHARTER OF**  
**KENSINGTON MANOR HOMEOWNERS ASSOCIATION, INC.**

**TO THE SECRETARY OF STATE OF THE STATE OF TENNESSEE:**

The undersigned person, pursuant to the provisions of § 48-51-101, *et seq.*, of the Tennessee Nonprofit Corporation Act, hereby adopt(s) the following Charter for the above listed corporation:

1. Name: The name of the corporation is Kensington Manor Homeowners Association, Inc.
2. Benefit: The corporation is a mutual benefit corporation.
3. Non-Religious Purpose: The corporation is not a religious corporation.
4. Name and Address of Initial Registered Agent: The street address and zip code of the corporation's initial registered office, the county in which the office is located, and the name of its initial registered agent are:

Gery Carlson  
3420 S. Houston Levee Rd.  
Germantown, TN 38139

5. Name and Address of Each Incorporator: The name and address of each incorporator is:  
  
M. Wayne Mink, Jr.  
1669 Kirby Parkway, Suite 106  
Memphis, Shelby County, Tennessee 38120
6. Initial Principal Office: The street address and zip code of the initial principal office of the corporation is:

Kensington Manor Homeowners Association, Inc.  
c/o Gery Carlson  
3420 S. Houston Levee Rd.  
Germantown, TN 38139

7. Non-Profit Status: The corporation is not for profit.
8. Members: There shall be two classes of membership in the Association, Class A and Class B Memberships. The Class A Member shall be the Developer, as such term is defined in that certain Declaration of Covenants, Conditions, and Restrictions for Kensington Manor (the "Declaration"), dated October 8<sup>th</sup> 2019, and recorded in the Register's Office of Shelby County, Tennessee. The Class A Member shall be allocated one hundred votes (100) per Lot it owns. The Class A Membership shall terminate at the end of the Developer Control Period, as such is defined in Article II, Section 9 of the Declaration. The Class B Members shall be all other owners of record of Lots governed by the Declaration. Each Class B Member shall be allocated one (1) vote per Lot owned by such Member.

9. Distribution of Assets upon Dissolution: Upon dissolution of the corporation, other than incident to a merger or consolidation, the assets of the Association shall be distributed amongst the Members of the corporation pursuant to their interests as provided in the Declaration.
10. Purpose: The purpose of the corporation shall be: (i) to contract for the operation, maintenance and preservation of the common areas, if any, owned, managed and administered by the corporation; (ii) to assess and collect assessments, dues, and fees for the management, repair, operation, care and maintenance of the common areas from the Members of the corporation as more particularly described in the Bylaws of the corporation; (iii) to do all other things necessary and proper for the maintenance, repair, operation, use and enjoyment of the common areas by the members of the corporation; and (iv) to do all other necessary and proper things and acts permitted by law and the bylaws of the corporation.
11. Governance. The corporation shall be governed by the bylaws of the corporation and in compliance with the laws of the State of Tennessee.
12. Duration. The duration of the corporation shall be perpetual unless terminated earlier by the written consent of eighty percent (80%) of the Members.

IN WITNESS WHEREOF, the undersigned hereby adopts the Charter and hereby set his hands this 16th day of October, 2019.

---

M. Wayne Mink, Jr., Incorporator

**ARTICLE "D"**  
**THE BYLAWS**

**BYLAWS OF KENSINGTON MANOR HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**NAME AND GUIDELINES**

Section 1. NAME. The name of this Association will be the "Kensington Manor Homeowners Association, Inc., a Tennessee nonprofit corporation".

Section 2. GOVERNING LAW. The Association is and shall remain a non-profit corporation, governed by the provisions of the Tennessee Nonprofit Corporation Act, Tenn. Code § 48-51-101, *et seq.* (the "Act"), as amended from time to time, except as otherwise provided in these Bylaws, and no part of the net earnings thereof shall inure to any individual Member, except as expressly provided in the Declaration of Covenants, Conditions and Restrictions of Kensington Manor (the "Declaration"), dated \_\_\_\_\_, 201\_\_\_\_, of record in the Register's Office of Shelby County, Tennessee (the "Register's Office"), to which these Bylaws are an exhibit, or the Association's Charter of Incorporation.

Section 3. NON-POLITICAL. The Association shall not endorse or align with any political party or candidate for public office.

Section 4. PURPOSES. The Association is formed to serve as the means through which the Members administer, manage, and operate Kensington Manor as such term is defined in the Declaration, under the provisions of Act, as amended from time to time.

Section 5. PRINCIPAL OFFICE. The principal office of the Association shall be located at 3420 S. Houston Levee Rd, Germantown, Shelby County, Tennessee 38139, or such other place as may be designated by the Association.

**ARTICLE II**  
**MEMBERSHIP**

Section 1. MEMBERS. Membership in the Association shall be limited to the Members as such term is defined in the Declaration.

Section 2. VOTING RIGHTS. The Owner(s) of record in the Register's Office of each Lot within Kensington Manor each shall be entitled to one (1) vote per Lot. If a husband and wife are the Owners, collectively, of a Lot in Kensington Manor such husband and wife, while both Members, will have one (1) vote between them in all matters put before the Membership. If a corporation, partnership, limited liability company, or any other such legal entity shall own a Lot, then such entity shall register with the Secretary the name and office of the individual who will represent such entity at any meeting of the Members and cast such entity's vote. Anything in these Bylaws to the contrary notwithstanding, so long as the Developer owns a Lot in the Property, the Developer shall be allocated one hundred (100) votes per Lot on any matter before the Association.

Section 3. ROSTER OF MEMBERSHIP. The Secretary of the Association shall maintain a roster of the Membership entitled to vote at the meetings as hereinafter provided.

Section 4. PROXIES. Every Member entitled to vote at a meeting may do so either in person or by written proxy, which proxy shall be filed with the Secretary before being voted. Such proxy shall



entitle the holders thereof to vote at any adjournment of such meeting, but shall not be valid after the final adjournment thereof. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy.

Section 5. CONSENTS. Actions required or permitted by the Act, the Charter, or these Bylaws, to be taken at a Member meeting may be taken without a meeting if one or more written consents are signed by all the Members entitled to vote on the action and such consents are delivered to the Secretary.

### ARTICLE III BOARD OF DIRECTORS

Section 1. BOARD OF DIRECTORS. The Association shall be governed by a Board of Directors consisting of five (5) persons (each being a "Director"). Except as provided in Article III, Section 2, each Director shall be a Member, as such term is defined in the Declaration. Anything in these Bylaws to the contrary notwithstanding, during the Developer Control Period the Association shall be governed by a Board consisting of two (2) or three (3) persons (each being a "Director"), the size of the Board being determined by the Developer in its sole and absolute discretion.

Section 2. FIRST BOARD OF DIRECTORS. The Developer shall be entitled to appoint the members of the Board of Directors during the Developer Control Period. Upon the termination of the Developer Control Period, the first Annual Meeting of the Association shall be held and a Board of Directors, in accordance with Article III, Section 3 shall be elected. The members of the first Board of Directors shall serve until they are replaced by the Developer and any vacancies occurring before the election of their successors in accordance with Article III, Section 3, shall be filled through appointment by the Developer. The Developer Control Period shall terminate in accordance with the provisions of Article II, Section 9 of the Declaration.

Section 3. SUBSEQUENT MEMBERS OF BOARD OF DIRECTORS/FIRST ANNUAL MEETING. Within thirty (30) days of the recordation of the Termination Notice in the Register's Office, the Developer shall call the first Annual Meeting of the Members at which the initial Board of Directors composed of Lot Owners shall be elected. The Board shall consist of five (5) Directors, each of whom shall be a Member. The Board of Directors will be elected so that the terms of the Board shall be staggered, it being the intent of the Members that at least one (1) Director with corporate knowledge of the Association remain on the Board each year. To that end, at the first Annual Meeting of the Association, two (2) Directors shall be elected to a three (3) year term, two (2) Director shall be elected to a two (2) year term, and one (1) Directors shall be elected to a one (1) year term (the Director with the most votes shall be elected to the longest term, etc.). All subsequent Directors shall be elected to a three (3) year term.

Section 4. ELECTION OF DIRECTORS. Election of Directors shall be conducted in the following manner:

Except as otherwise provided herein, the Members of the Board of Directors shall be elected by written ballot or written proxy at the annual meeting of the Members and shall serve for a three (3) year or until their successors are elected and qualified. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another association mailing or delivery, including regularly published newsletters, to each Lot Owner entitled to vote, a first notice of the date of the election. Any Lot Owner or other eligible person desiring to be a candidate for the board of Directors must give written notice to the Secretary not less than forty-five (45) days before a scheduled election. Additional nominations may be taken from the floor at the annual meeting, but will not be included on any ballot or ballot/proxy sent to the Members in accordance with the notice provisions contained in these Bylaws. At the election of Directors, Members present must vote for

the number of open positions on the Board (i.e., if there are two [2] open positions on the Board, Members present must vote for two [2] candidates). The members of the first Board of Directors need not be elected in accordance with these provisions, with the nominees for such positions being made from the floor from such meeting.

Section 5. REMOVAL BY DEVELOPER. Any Directors or Officers appointed by the Developer may be removed and replaced by the Developer prior to the termination of the Developer Control Period. The original Directors and Officers, or any Director or Officer appointed by the Developer to fill a vacancy arising prior to the termination of the Developer Control Period shall not be capable of being removed by vote of the Membership.

Section 6. ELECTION OF OFFICERS BY BOARD OF DIRECTORS. The Board of Directors shall elect a President, Vice-President, Secretary, and Treasurer. The Board of Directors may, in its discretion, from time to time by a majority vote remove an officer from office with or without cause.

Section 7. QUORUM; VOTING. The attendance of a majority of the Directors of the Board shall constitute a quorum. A simple majority will be required for any binding action, except as otherwise provided herein. Each Director shall be entitled to one (1) vote on all matters before the Board of Directors.

Section 8. QUALIFICATIONS; REMOVAL OF DIRECTORS. With the exception of any Director or Officer appointed by the Developer, to be eligible for or to hold elected office in the Association, a person must be a Member. Except as otherwise provided herein, any Director or Officer may be removed by a vote of two-thirds (2/3) of the Members. If a Director is removed by the Members, then a replacement shall be elected at such meeting by the Members (with such replacement serving the unexpired term of the removed Director).

Section 9. VACANCIES. With the exception of the First Board, vacancies on the Board of Directors caused by any reason other than the removal of a Director by the vote of the Members of the Association shall be filled by the vote of the majority of the remaining Directors or by the sole remaining Director. Each individual so elected shall serve as a Director until a successor is elected to fill the unexpired term at the next annual meeting of the Owners of the Association or at a special meeting of the Owners of the Association called for that purpose. Any Director filling a vacant position shall serve until their successor is elected.

Section 10. NO COMPENSATION. Directors shall serve without compensation.

Section 11. POWERS/DUTIES OF BOARD OF DIRECTORS. Powers and duties of the Board of Directors shall include:

A. The appointment of the Architectural Control Committee (the "ACC"), as such is provided in the Declaration, and all other standing committees and chairpersons thereof. This power can be delegated to the President. All committees shall derive their direction from the Board of Directors. It is understood that the ACC and all committees shall be controlled by the Developer during the Developer Control Period.

B. The appointment of all persons or organizations to serve the Association, including, but not limited to, any professional management company.

C. The filling of vacancies on the Board of Directors until the next annual meeting.

D. The approval of expenditures of Association funds.

- E. The establishment of policy for the Association.
- F. The dissolution of all standing and other committees. This power can be delegated to the President.
- G. The setting and collection of all annual and special assessments provided in the Declaration.
- H. Such other powers and duties as given to them by the Members; or established by the Declaration; or which may be exercised for, on behalf of, and in the best interests of the Association.
- I. Promulgation of reasonable rules and regulations (the "Rules and Regulations") in accordance with the Declaration after written notice to the Members.

**ARTICLE IV**  
**OFFICERS**

Section 1. OFFICERS. Following the annual meeting of the Members, the Directors shall elect the following officers by a majority vote of the Directors: President, Vice-President, Secretary and Treasurer.

Section 2. PRESIDENT. The President shall preside at all meetings of the Association and the Board of Directors and shall perform such duties as directed by the Board of Directors. The President shall be the chief executive officer of the Association. He shall have all of the general powers and duties which are usually vested in the office of president of an association.

Section 3. VICE PRESIDENT. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other Member of the Board of Directors to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated to him by the Board of Directors.

Section 4. SECRETARY. The Secretary, or another Board Member as designated, shall be the official custodian of all records of the Association except Membership records, shall keep the minutes of the Association and Board of Directors meetings, shall send all official correspondence in the name of the Association, and shall give all required notices. In no event may the President and Secretary be the same individual.

Section 5. TREASURER. The Treasurer shall keep and be responsible for all funds of the Association and shall keep the Membership records. The funds shall be deposited in an account in the name of the "Kensington Manor Homeowners Association, Inc." The Treasurer shall make a list of all Members which shall include each Member's name, and date joined. The Treasurer shall provide a current list to the Secretary on a periodic basis. The President and Treasurer shall each, individually, have signature authority on bank accounts of the Association. All monies belonging to the Association shall be delivered to the Treasurer and all bills shall be submitted to the Treasurer for payment. The Treasurer shall provide regular reports of transactions and prepare financial statements as directed by the Board of Directors. In the event the Association is professionally managed, the Board may authorize such management company to have signature authority on bank accounts of the Association.

Section 6. DUAL OFFICES. A Director may also serve as an officer and on the ACC.

Section 7. EXECUTION OF INSTRUMENTS. Provided any such document has been approved by the Membership, if necessary and as provided herein, and evidence of such approval is kept with the Association's records, all agreements, contracts, deeds, leases and other instruments of the Association, except checks, shall be executed by such person or persons as may be designated by a resolution of the Board of Directors and, in the absence of any general or special resolution applicable to any such instrument, then such instrument shall be signed by the President and Secretary. All checks shall be signed by the Treasurer, or in his absence or disability, by the President or any duly elected assistant-treasurer or by such other person or persons as may be designated by resolution of the Board of Directors.

#### ARTICLE V MEMBERSHIP MEETINGS

Section 1. ANNUAL MEETING. The annual meeting of the Membership of the Association in each year shall be held between the months of January and April on the particular day, hour, and location as determined and designated by the Board of Directors. Written notification of the Annual Meeting shall be given to the Members as provided in these Bylaws.

Section 2. FIRST ANNUAL MEETING. The first annual meeting of the Membership of the Association, at which control of the Association shall be turned over from the Developer to the residential Lot Owners, shall occur within thirty (30) days of the termination of the Developer Control Period. At the first annual meeting, a Board of Directors shall be elected.

Section 3. INFORMATIONAL MEETINGS. Until such time as the First Annual Meeting of the Association has been held in accordance with Article V, Section 2 of these Bylaws, no less often than once annually once fifty percent (50%) of the Lots in Kensington Manor have been sold to parties intending to use such property for solely residential purposes, the Developer shall call an informational meeting of the Membership of the Association to update the Membership on the status of the development efforts within the subdivision and the status of the common area development. Once the First Annual Meeting has been held in accordance with Article V, Section 2 of these Bylaws, such informational meetings of the Association shall no longer be required or necessary.

Section 4. SPECIAL MEETINGS. Special meetings of the Membership for any purpose may be called (1) by the President or (2) by the Secretary upon written request of ten percent (10%) of the Membership. Written notice of all special meetings stating the time, location and objective thereof shall be given to the Members at least five (5) days before such meeting.

Section 5. QUORUM. The presence, either in person or by proxy, of Members representing at least thirty-five percent (35%) of the total votes entitled to be cast shall be requisite for and shall constitute a quorum for the transaction of business at all meetings of the Members. If the number of Members at a meeting drops below the required quorum level and the question of a lack of quorum is raised, no business may thereafter be transacted. After two (2) successive meetings of the Members, held with due notice, at which a quorum is not obtained; howsoever many Members as may attend the third consecutive meeting shall constitute a quorum.

Section 6. NOTICE. Written notice shall be given to all Members of annual and special meetings, stating the time, place, and purpose for which the meeting is called. Such notice shall be in writing and shall be mailed to each Member at his or her address as it appears on the books of the Association or may be delivered to his or her Lot not less than seven (7) days nor more than thirty (30) days prior to the meeting.

Proof of such mailing or delivery may be given by the written statement of the Secretary or other person giving the notice.

## ARTICLE VI ASSOCIATION RESPONSIBILITIES

Section 1. INDEMNIFICATION. The Association shall indemnify the Developer (for the purposes of this section, "Developer" shall include its officers, Directors, and members), every officer and every Director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such Developer, officer or Director in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors ) to which such Developer, officer or Director may be made a party by reason of being or having been a Developer, officer or Director, whether or not such person is a Developer, officer or Director at the time such expenses are incurred. The Developer, officers and Directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance or malfeasance. The Developer, officers and Directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such Developer, officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Developer, officer or Director, or former Developer, officer or Director, may be entitled, including the provisions of Tennessee Code § 48-58-501, *et seq.* The Association shall maintain adequate general liability insurance and if, obtainable, officers' and Directors' liability insurance to fund this obligation.

Section 2. INSURANCE. The Association shall, as determined by the Board of Directors in its sole discretion, obtain, and maintain at all times as a common expense insurance as required by the Declaration.

Section 3. LIMITATION OF LIABILITY: In accordance with the provisions of Tenn. Code § 48-52-106(d), no Director of the Association shall be liable to the Association or its Members for money damages for any action taken or any failure to take any action as a Director, except liability for: (i) the amount of a financial benefit received by the Director to which the Director is not entitled; (ii) an intentional infliction of harm; (iii) a violation of Tenn. Code § 48-58-302, as such may be amended from time to time; and (iv) an intentional violation of criminal law.

## ARTICLE VII PROCEDURE

The President shall regulate and govern all debate and action by the Board of Directors and the Membership at any meeting in a manner, which promotes a fair exchange of views, and the efficient dispatch of business. When resort to rules of procedure becomes necessary, business may be governed by Robert's Rules of Order.

## ARTICLE VIII AMENDMENTS

Section 1. AMENDMENTS. Amendments to these Bylaws may be effected as follows:

Section 2. BY THE ASSOCIATION. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered. An amendment may be proposed either (i) by a majority of the Board of Directors of the Association or (ii) by

not less than thirty-five percent (35%) of the Members of the Association. Except as elsewhere provided, approvals of proposed amendments must be by the affirmative vote of Members holding two-thirds (2/3) of all Member votes. Records of all votes authorizing an amendment to this Declaration shall be kept with the minutes of the Association. No amendment to these Bylaws may be made during the Developer Control Period without the written consent of the Developer.

Section 3. BY THE DEVELOPER. The Developer, during the Developer Control Period, may amend these Bylaws unilaterally in whole or in part in order to conform these Bylaws to the requirements of any applicable governmental agency; to conform these Bylaws to the requirements any mortgage lender; or to ensure, in its sole and absolute discretion, the reasonable development of the Property.

Section 4. EXECUTION AND RECORDING. In order to be effective an amendment must be (i) executed by the President and Secretary of the Association, with evidence authorizing such execution placed with the minutes of the Association and (ii) recorded in the Register's Office.

#### ARTICLE IX FINANCES

Section 1. FISCAL YEAR. The fiscal year shall commence on January 1<sup>st</sup> and end on December 31<sup>st</sup> of each year. The Board of Directors may establish a different fiscal year and must notify each of the then existing Members of the change.

Section 2. DEPOSITORY AND CHECKS. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. All checks or demands for money and notes of the Association shall be signed by one (1) of the following officers: President or Treasurer. The Board of Directors, by resolution, may require more than one (1) signature. In addition, the Board may authorize its professional managing agent to have signature authority on the bank accounts of the Association.

Section 3. ANNUAL BUDGET. The Board of Directors shall propose an annual budget each year and may mail a copy of the Association's proposed annual budget of common expenses to each Member not less than ten (10) days prior to the meeting of the Board of Directors at which the budget will be considered together with a notice of that meeting. Such meeting of the Board of Directors shall be open to all Members. Copies of the annual budget shall be available to all Members upon request.

Section 4. FIDELITY BONDS. The Board of Directors, in its sole and absolute discretion, may require fidelity bonds on all or any officers, employees, and agents of the Association or the Board and any other persons responsible for funds of the Association. The Board of the Administration shall determine the amount of such bonds. Premiums on such bonds shall be paid by the Association.

#### ARTICLE X NOTICES

Section 1. NOTICE. Whenever, under the provisions of the Charter or these Bylaws, notice is required to be given to any Director or Member, it shall be construed to mean either personal notice, or notice given in writing by mail by depositing the same in the Post Office or letter box in a postpaid envelope addressed to such Director or Member as their name appears on the books of the Association.

Section 2. WAIVER OF NOTICE. Whenever any notice is required to be given under the provisions of the Charter, the Declaration or these Bylaws, a waiver thereof in writing signed by the person

or persons entitled to such notice, whether before or after the time stated therein, shall be deemed to be equivalent to the required notice.

**ARTICLE XI**  
**OFFICIAL RECORDS**

The Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

- A. The plans, permits, warranties, and other items provided by the Developer.
- B. A photocopy of the recorded Declaration and all amendments thereto.
- C. A photocopy of the recorded Bylaws of the Association and all amendments thereto.
- D. A certified copy of the Charter and all amendments thereto.
- E. A copy of the current Association's rules and regulations, if any.
- F. A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of the Members, which minutes shall be retained for a period of not less than seven (7) years.
- G. A current roster of all Members, their mailing addresses, lot identifications, voting certifications, e-mail addresses (if possible), and if known telephone numbers.
- H. All current insurance policies of the Association.
- I. A current copy of any management agreement, lease, agreement, or other contract to which the Association is a party or under which the Association or the Members have an obligation or responsibility.
- J. Bills of sale or transfer for all property owned by the Association.
- K. Accounting records for the Association according to generally accepted accounting practices.
- L. Voting proxies, which shall be maintained for a period of one year from date of the meeting for which the proxy was given.

**ARTICLE XII**  
**PARTIAL CONDEMNATION OF COMMON AREA**

The Association, through the action of the Board of Directors, shall have the power to convey a portion of the Common Area to a condemning authority for the purpose of providing utility easements, rights of ways expansion, or other public purposes, whether negotiated or as the result of eminent domain proceedings.

**ARTICLE XIII**  
**WRITTEN INQUIRIES BY MEMBERS**

When a Member files a written inquiry by certified mail with the Board of Directors, the Board shall respond in writing to the Member within thirty (30) days of receipt of the inquiry. The Board's response shall either give a substantive response to the inquirer, or notify the inquirer that a legal opinion has been requested. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the complaint.

The Association may through its Board of Directors adopt reasonable rules and regulations regarding the frequency and manner of responding to Member inquiries, one of which may be that the Association is only obligated to respond to one written inquiry per Lot in any given thirty (30) day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent thirty (30) day period, or periods, as applicable.

**ARTICLE XIV**  
**MISCELLANEOUS**

Section 1. CHOICE OF LAW. These Bylaws have been executed in the State of Tennessee, and shall be construed, performed and enforced in accordance with the laws of the State of Tennessee.

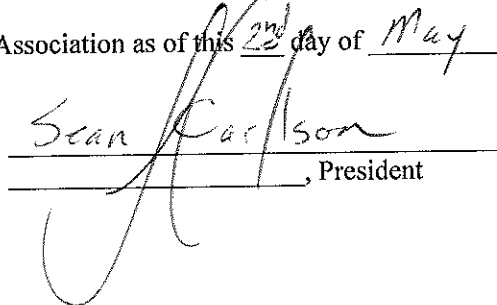
Section 2. SEVERABILITY. In the event any provision of these Bylaws shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remainder of these Bylaws shall nonetheless remain in full force and effect so long as the substantial benefits of the parties to be derived from these Bylaws and the performance hereof are not adversely affected by the elimination of such provision(s).

Section 3. ENTIRE AGREEMENT. These Bylaws constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, writings, and agreements.

Section 4. BINDING EFFECT. The terms of these Bylaws and the respective covenants, provisions, terms, conditions, and agreements herein contained shall be binding upon the parties hereto, their heirs, devisees, successors, and assigns.

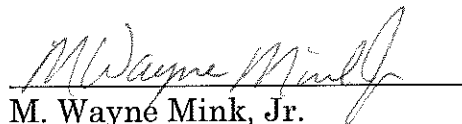
Section 5. CONFLICT WITH THE DECLARATION. In the event there is any conflict between the terms and provisions of the Declaration and these Bylaws, the Declaration shall control.

I certify that these Bylaws were adopted by the Association as of this 22<sup>nd</sup> day of May, 2019.

  
\_\_\_\_\_, President



I, M. Wayne Mink, Jr., do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

  
M. Wayne Mink, Jr.

State of: Tennessee

County of: Shelby

Personally appeared before me, Amber Stem, a notary public for this county and state, (name of person making certification) who acknowledges that this certification of an electronic document is true and correct, and whose signature I have witnessed.

  
Notary's Signature

MY COMMISSION EXPIRES: September 26, 2020  
Notary's Seal (If on paper)

