

BY-LAWS
OF
HARBORVIEW AT CHESWICKE HOMEOWNERS' ASSOCIATION

ARTICLE I

DEFINITIONS

The following words, when used herein, shall have the following meanings:

Section 1. "Association" shall mean Harborview at Cheswicke Homeowners' Association, a Tennessee not-for-profit corporation, its successors and assigns, which has as its members all owners of Lots in the Property.

Section 2. "Board of Directors" shall mean the Board of Directors of the Association as described in Article IV hereof.

Section 3. "Charter" shall mean the charter of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Lot Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is that described in the Declaration.

Section 5. "Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions for Harborview at Cheswicke recorded in the Register's Office for Davidson County, Tennessee.

Section 6. "Developer" shall mean TennSouth Properties, Ltd., a Tennessee limited partnership, its successors and assigns.

Section 7. "Lot" shall mean any numbered lot shown on the Plat.

Section 8. "Lot Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

Section 10. "Plat" shall have the meaning given it in the Declaration.

Section 11. "Property" shall have the meaning given it in the Declaration.

ARTICLE II

NAME AND LOCATION

The name of the Association is Harborview at Cheswicke Homeowner's Association. The principal office of the Association shall be located at 444 James Robertson Parkway, Nashville, Davidson County, Tennessee 37219, but meetings of members and directors may be held at such places within the State of Tennessee, County of Davidson, as may be designated by the Board of Directors.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular

annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, p.m. If the day for the annual meeting is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

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

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Charter, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to

vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. Unless a ballot vote is demanded prior to voting, voting shall be by voice or showing of hands. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease after eleven (11) months of its writing or upon conveyance by the Member of his Lot.

Section 6. Corporate Members. Corporate members may vote through the corporation's president or the president's appointed officer.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Number. The affairs of the Association shall be managed by a Board of not less than three (3) nor more than five (5) directors, who shall be members of the Association.

Section 2. Term of Office. At the first annual meeting, the Members shall elect one director for a term of one year, two directors for a term of two years and two directors for a term of three years; and at each annual meeting thereafter the Members shall elect as many directors for a term of three years as are required to fill the Board for the ensuing year.

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

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors may be made by a Nominating Committee and nominations may also be made from the floor at the annual meeting, as directed by the Board of Directors. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee, if any, shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such

annual meeting until the close of the next annual meeting and such appointment, if any, shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot cast at the annual meeting of the Members, or conducted by mail, as directed by the Board of Directors. The Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the

Association, or by any two directors, after not less than three (3) days notice to each director.

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

ARTICLE VII

POWERS AND DUTIES

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

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

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

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

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

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

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

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; and

(2) send written notice of each assessment to every Lot Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments or other charges are not paid within thirty (30) days after due date or to bring an action at law for said assessments and charges (together with reasonable attorneys'

fees and costs of collection, for which the defendant in any such action shall be liable) against the Lot Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability, hazard, and other insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as required by the Declaration;

(g) cause the Common Area and the front yards of Lots 1-18 to be maintained.

(h) perform such other duties as are set forth in the Declaration.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

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

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

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

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices

except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. Checks and promissory notes of the Association shall be co-signed by any two (2) officers of the Association. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; and shall sign leases, mortgages, deeds and other written instruments.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; keep proper books of account; cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE IX

COMMITTEES

The Board of Directors shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

Current copies of the Declaration, these By-Laws, and other rules concerning the Property, and the books, records and financial statements of the Association shall be available for inspection by any Member or to the holder, guarantor or insurer of any first mortgage at the principal office of the Association. For purposes of this paragraph, "available" shall mean available for inspection,

upon request, during normal business hours. Copies may be purchased at reasonable cost.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall be subject to a late charge in an amount established by the Board of Directors and shall bear interest from the date of delinquency at the highest rate permissible under the laws of the State of Tennessee. The Association may bring an action at law against the Lot Owner personally obligated to pay the same or foreclose the lien against the Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE XII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

Section 2. In the case of any conflict between the Charter and these By-Laws, the Charter shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XIV

INDEMNIFICATION

Section 1. Any person who is made a party to a suit or proceeding, whether threatened, pending, contemplated, civil, criminal, administrative, investigative, formal or informal, to procure against such person a judgment, settlement, penalty, fine or reasonable expenses actually incurred with respect to a proceeding by reason of the fact that he is or was a director, officer, employee or agent of the Association, may be indemnified by the Association in accordance with Section 2 hereof against

judgments, amounts paid in settlement, penalties, fines, and reasonable expenses, including attorney's fees, actually incurred as a result of such suit or proceeding, or any appeal therein, except in connection with a proceeding by or in the right of the Association in which such person is adjudged liable to the Association or in connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he is adjudged liable on the basis that personal benefit was improperly received by him. Any person made or threatened to be made a party to a suit or proceeding as described above, may be indemnified by the Association in accordance with Section 2 hereof, if such director, officer, employee or agent conducted himself in good faith and reasonably believed (a) in the case of conduct in his official capacity with the Association, that his conduct was in the best interest of the Association, and (b) in all other cases, that his conduct was at least not opposed to the Association's best interest and in addition, in the case of any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The termination of any such suit or proceeding by judgment, order, settlement (with or without court approval), or conviction, or upon a plea of nolo contendere, or its equivalent, shall not in itself create a presumption that any such person did not meet the standard of conduct described above.

Section 2. Any person referred to in Section 1 hereof who has been wholly successful, on the merits or otherwise, in the defense of any suit or proceeding of the character described in Section 1 hereof shall be entitled to indemnification against reasonable expenses incurred by him in connection with the suit or proceeding as of right without any further action or approval by the Board. Except as provided in the immediately preceding sentence, any indemnification under Section 1 next above shall be made at the discretion of the Association, but only if approved (a) by the Board, acting by majority vote of a quorum consisting of directors not at the time parties to such suit or proceeding, which shall find that the person has met the applicable standard of conduct set forth in Section 1 hereof, or (b) if no such quorum of the Board is obtainable, by majority vote of a committee duly designated by the Board (in which designation directors who are parties may participate), consisting solely of two (2) or more directors not at the time parties to the suit or proceeding, which committee shall make the same finding, or (c) by independent special legal counsel selected by the Board or its committee in the manner prescribed in (a) or (b) above, or if selection cannot be made in such manner then selected by majority vote of the full Board (in which selection directors who are parties may participate), which counsel shall deliver to the Association their written opinion that indemnification is proper in the circumstances because such director, officer, employee or agent has met such standard; however, authorization of indemnification and evaluation

as to reasonableness of expenses shall be made by those entitled to select independent special legal counsel under this Article XIV, Section 2(c), or (d) by the Association Members then entitled to vote for the election of directors which shall determine by majority vote that such person has met such standard, but directors, officers, employees or agents of the Association who are at the time parties to the suit or proceeding may not vote on the determination.

Notwithstanding the foregoing, any person referred to in Section 1 hereof who has been made a party to any suit or proceeding of the character described in Section 1 hereof may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction, which may order indemnification in the amount it considers proper if it determines (a) that such person is entitled to mandatory indemnification as described in Section 2 above, in which case the court shall also order the Association to pay such person's reasonable expenses incurred to obtain court-ordered indemnification; or (b) that in view of all the relevant circumstances, such person is fairly and reasonably entitled to indemnification, whether or not such person met the standard of conduct set forth in Section 1 above or was adjudged liable to the Association as described in Section 1 above, but if the person was adjudged so liable, indemnification is limited to reasonable expenses incurred.

Section 3. Expenses incurred in defending a suit or proceeding may be paid for or reimbursed by the Association in advance of the final disposition of such action, suit or proceeding, only if (a) authorized in the specified case by a determination made in the same manner prescribed in Section 2 above that the facts then known to those making the determination would not preclude indemnification; (b) the Association shall have received a written undertaking by or on behalf of the person receiving such advancement to repay such amount if he is ultimately found not to be entitled to indemnification; and (c) such person furnishes the Association with a written affirmation of his good faith belief that he has met the standard of conduct described in Section 1.

Section 4. The rights of indemnification provided in this Article XIV shall be in addition to any rights to which any such director, officer, employee or agent may otherwise be entitled under any by-law, agreement, vote of Association Members, or otherwise, and shall be in addition to the power of the Association to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, regardless of whether the Association would have the power to indemnify him against such liability under this Article XIV or otherwise; provided, however that no indemnification may be made to or on

behalf of any person if a judgment or other final adjudication adverse to such person establishes his liability:

(1) For any breach of the duty of loyalty to the Association or its Members;

(2) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
or

(3) For unlawful distributions under Tennessee Code Annotated 48-58-304.

Nothing contained herein shall affect any rights to indemnification to which corporate personnel, other than directors, officers, employees and agents may be entitled by contract or otherwise under law. Further, nothing contained herein shall be construed to limit the provision for indemnification codified at Tennessee Code Annotated Section 48-58-501 through 48-58-509.

Section 5. If any expenses or other amounts are paid by way of indemnification otherwise than by court order, by action of the Association Members, or by an insurance carrier pursuant to insurance maintained by the Association, the Board shall, not later than the next annual meeting of Association Members unless such meeting is held within three (3) months from the date of such payment, and, in any event, within fifteen (15) months from the date of such payment, mail to the Association Members at the time entitled to vote for the election of directors a statement specifying the persons paid, the amounts paid, and the nature and

status of the litigation or threatened litigation at the time of such payment.

Section 6. The indemnification provided for in this Article XIV shall be a common expense, assessable to the Lot Owners.